

OFFICE OF ZONING STAFF PRESENT:

SARA BARDIN, Director
SHARON S. SCHELLIN, Secretary
RICHARD NERO, Jr.
ESTHER BUSHMAN, General Counsel
ZELALEM HILL, Special Assistant
NYAMBI NYAMBI, Chief Technology
Officer

OFFICE OF PLANNING STAFF PRESENT:

HARRIET TREGONING, Director
JENNIFER STEINGASSER, Deputy Director,
Development Review & Historic
Preservation
JOEL LAWSON
ELISE VITALE

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.

The transcript constitutes the minutes from the Public Hearing held on November 04, 2013.

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

2 (6:00 p.m.)

3 CHAIRMAN HOOD: Good evening
4 everyone. It's now 6 o'clock. We're going to
5 start on time. Good evening, ladies and
6 gentlemen. This is a public hearing of the
7 zoning commission for the District of Columbia
8 for Monday, November 4, 2013.

9 My name is Anthony Hood. I'm a
10 Mayoral appointee. Joining me this evening are
11 Vice Chair Marcy Cohen, she's a Mayoral
12 appointee, Commissioner Robert Miller, he's a
13 Mayoral appointee, Commissioner Peter May, he's
14 appointed, representing the National Park
15 Service, and Mr. Michael Turnbull. He's the
16 Commissioner representing Architect of the
17 Capitol.

18 I'm going to start from my left and
19 let others on the bias introduce themselves.
20 So, starting to my left, staff and everyone if
21 you would introduce, even those sitting in the
22 back, if you can introduce yourselves so the

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1 public will know exactly the good work that
2 everybody does.

3 Make sure we're all on the mic.

4 MS. HILL: Zelalem Hill, Special
5 Assistant, Office of Zoning.

6 MS. BUSHMAN: Esther Bushman,
7 General Counsel, Office of Zoning.

8 MR. NERO: Richard Nero, Deputy
9 Director, Office of Zoning.

10 MR. BERGSTEIN: Alan Bergstein,
11 Office of the Attorney General for the District
12 of Columbia.

13 MS. BARDIN: Sara Bardin, Director
14 of the Office of Zoning.

15 MS. SCHELLIN: Sharon Schellin,
16 Secretary to the Zoning Commission.

17 MR. NYAMBI: And I'm Nyambi,
18 Nayambi, Chief Technology Officer for the Office
19 of Zoning.

20 MS. TREGONING: Sorry. Harriet
21 Tregoning, Director of the D.C. Office of
22 Planning.

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1 MS. STEINGASSER: Jennifer
2 Steingasser, D.C. Office of Planning.

3 MR. LAWSON: Joel Lawson, with the
4 D.C. Office of Planning.

5 MS. VITALE: Elisa Vitale, with the
6 D.C. Office of Planning.

7 CHAIRMAN HOOD: Okay, thank you,
8 everyone, very much. I want to welcome both our
9 directors from the Office of Zoning and the
10 office of Planning who are with us here this
11 evening.

12 This proceeding is being recorded by
13 a court reporter and it's also webcast live.
14 Accordingly, I must ask you to refrain from any
15 disruptive noise or actions in the hearing room,
16 including the display of any signs or objects.

17 The subject of this evening's
18 hearing is Zoning Commission Case, Number 0806A.
19 This is a request by the Office of Planning for
20 comprehensive revisions and amendments to the
21 zoning regulations.

22 The specific subject of tonight's

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1 hearing are proposed new Subtitles A, W, X, Y and
2 Z. Again, the subtitles for this evening, A, W,
3 X, Y and Z. Notice of today's hearing was
4 published in the D.C. Register on September 20,
5 2013, and copies of that announcement are
6 available to my left, on the wall near the door.

7 The hearing will be conducted in
8 accordance with Provisions 11 DCMR 3021 as
9 follows. We will have preliminary matters,
10 after which we will hear from the Chair of the
11 Board of Zoning Adjustment. Then we will go to
12 the presentation by the Office of Planning,
13 reports of other government agencies, testimony
14 from the public, questions by the Commissioner
15 of the Office of Planning.

16 Okay, that's right. The following
17 time restraints will be maintained in this
18 hearing, Office of Planning up to 60 minutes,
19 organizations 5 minutes, individuals 3 minutes.
20 The Commission intends to adhere to the time
21 limits as strictly as possible in order hear the
22 case in a reasonable period of time.

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1 The Commission reserves the right to
2 change the time limits for presentations, if
3 necessary, and notes that no time shall recede.
4 As noted in the Notice of Public Hearing, I will
5 be calling witnesses in the order in which the
6 Office of Zoning received a Notice of Intent to
7 Testify.

8 After those witnesses have been
9 called I will ask others who have registered to
10 testify this evening and ask others in the
11 audience if they wish to testify.

12 All persons appearing before the
13 Commission are to fill out two witness cards. I
14 would ask that you do that and pass them to the
15 reporter before you come forward. These cards
16 are located to my left on the table near the door.
17 Upon coming forward to speak to the Commission,
18 please give both cards to the reporter sitting
19 to my right before taking a seat at the table.

20 When presenting information to the
21 Commission, please turn on and speak into the
22 microphone, first stating your name and home

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1 address. It would also be helpful if you would
2 first identify the subtitle or subtitles to
3 which your testimony relates. When you are
4 finished speaking, please turn your microphone
5 off so that your microphone is no longer picking
6 up sound or background noise.

7 The decision of the Commission in
8 this case must be based exclusively on the public
9 record. To avoid any appearance to the
10 contrary, the Commission requests that persons
11 present not engage the members of the Commission
12 in conversation during any recess or at any time.

13 In addition, there should be no
14 direct contact whatsoever with any Commissioner
15 concerning this matter, be it written,
16 electronic, or by telephone. Any material
17 received by a Commissioner will be discarded
18 without being read and any calls will be ignored.

19 The staff will be available
20 throughout the hearing to discuss procedural
21 questions. As noted, testimony this evening
22 will be limited to proposed new Subtitles A, W,

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1 X, Y and Z. If you have testimony on other
2 subtitles and cannot come back on the scheduled
3 hearing nights for those subtitles, you may hand
4 in your written testimony or submit it before the
5 hearing date. We will read it.

6 I would also ask that you not repeat
7 testimony that has already been given. Rather
8 than repeating the same comments, I would
9 suggest that you state that you agree with
10 testimony that has already been given and add any
11 additional comments that we have not yet heard,
12 at that time.

13 Please turn off all beepers and cell
14 phones at this time as to not disrupt these
15 proceedings. At this time, the Commission will
16 consider any preliminary matters. Does the
17 staff have any preliminary matters?

18 COURT REPORTER: No, sir.

19 CHAIRMAN HOOD: Okay, I do have one,
20 for whatever time you're allotted, if you could
21 look at the clock, when you hear the first
22 buzzer, which means you will have one minute

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1 left. And we have a lot of folks who like to
2 testify, at least we have on our sheet, so we want
3 to be considerate of everyone.

4 We don't want to keep you here all
5 night with us, unless you want to be, so I would
6 ask that when you hear that first buzzer that you
7 start winding it down. And when you hear that
8 second buzzer you will stop. If you could do
9 that for me that would be very helpful. My
10 parents didn't raise me to be rude, but tonight
11 I'm going to be the rudest guy in the room if you
12 go passed that second buzzer, okay? So let's
13 work together on that so we can hear from
14 everybody.

15 All right, do we have agreement? I
16 guess not, so I'm going to have to be rude. All
17 right, so I'm going to ask the Chair of the BZA,
18 I'm used to working with him so I guess I won't
19 call him the Honorable Lloyd Jordan, but I will
20 ask the Chair of our BZA if he can come forward.

21 And we appreciate your taking time
22 out. We know you have a busy schedule tomorrow,

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1 and a hectic schedule, so we appreciate your
2 coming down to provide testimony. You may
3 begin.

4 BZA CHAIR JORDAN: All right, thank
5 you, Mr. Chairman, Commissioners Cohen, May,
6 Miller and Turnbull. I appreciate the
7 opportunity, on behalf of the Board of Zoning
8 Adjustment, to bring comments regarding
9 Subtitle Y. You have those comments which have
10 been submitted to you.

11 What the Board has been doing over
12 the past year and a half, we've been working
13 through different procedural issues, processes
14 and practices of the Board of Zoning Adjustment
15 in order to ensure that we come up with a more
16 effective, efficient operation of the Board of
17 Zoning Adjustment.

18 And so what you have in front of you
19 is more of a roll-up-your-sleeve redline kind of
20 perversion of some of our recommendations as it
21 affects Subtitle Y.

22 Our mission, in looking at these

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1 particular practices was to identify those
2 practices which we would call unnecessary delay
3 in processing of zoning relief.

4 And those which were not appearing
5 to be fair or equally balanced in allowing
6 proponents and opponents to present issues to
7 the Board. So each regulation or practice was
8 examined with the intent to see if it's
9 citizen-friendly and if it's equally fair to
10 proponents and opponents.

11 And so the initial question that
12 would answer whether the regulation was examined
13 to determine if it was transparent, predictable
14 and allows for review.

15 So, if you would, I'm to going just
16 point out just some highlights of what you've
17 already received in the Redline document of
18 Subtitle Y from the Board. And so, if you would,
19 if you, I'll just highlight those. If you wish
20 to follow I'll say what page that I'm on.

21 Beginning with Page 4, just as a
22 additive to the document under Title, Section

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1 101, excuse me, Page 5, Section 101.7, just
2 wanted to make clear, in this regulation, as
3 there's been some discussions of the Board's
4 authority, the Board of Zoning Adjustment's
5 authority, to issue supplemental rules within
6 the confines of those proposed or presented by
7 the Zoning Commission, and that recommendation
8 is in accordance with D.C. Code 6-641.03.

9 Additionally, on Page, it would be
10 page number 5, as a new section, excuse me, it
11 would be Page 5 or 7. It's right after Section
12 104.10, Section 104. I've added a new section
13 for what's called Members Qualification for
14 Electronic Attendance.

15 Initially, when the Board offered
16 this, after doing research and finding out that
17 other governmental entities throughout this
18 country, and particularly other Boards of
19 Adjustment, a zoning adjustment in other Boards
20 of Zoning allow for electronic attendance, the
21 submission was made.

22 But subsequent to that we, it was,

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1 the research found that the District of Columbia
2 already provides for, the Council of the
3 District of Columbia has already provided for
4 electronic meetings. And that's contained in
5 D.C. Code Section 2-577.

6 So I don't know if additional
7 approval is necessary or even if there is
8 authority to allow for any changes thereof, but
9 Section D.C. Code 2-577 provides for the
10 opportunity to use electronic meetings.

11 The electronic meetings are, as the
12 provisions or regulations are in most, in all the
13 jurisdictions, it's not something that becomes
14 regular. It's something that becomes an
15 exception to the rule based upon a lot of
16 criteria. And that which we submitted under
17 Section 104, thereafter Point 11, you'll see it
18 after 104.11.

19 It sets the criteria when a member
20 of the Board of Zoning Adjustment can attend
21 electronically and the conditions thereof which
22 allows for notice, rejection by the rest of the

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1 Board before it's allowed if there is an issue,
2 but certain criteria.

3 Usually they're done in cases of
4 emergency or there's an issue presented whether
5 or not the Board's going to be able to operate
6 properly if there's a quorum or the lack of
7 quorum. And so that has been submitted to you.

8 Under Section 105 the Board's
9 recommended a change as in Section 105 regarding
10 ethics, just as a heads-up to the Zoning
11 Commission, that the District of Columbia
12 already has a ethics law. It has an Ethics
13 Commission.

14 And just to be, we just want to
15 recommend that the Zoning Commission look at
16 simply referring to that so we don't get
17 cross-wires, in regard to conflict in what might
18 be considered allowed under D.C. law, what might
19 be allowed in regard to ethics decisions coming
20 from that particular commission that handles
21 these.

22 So we don't want to have anything

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1 that, where someone can slip through the middle
2 and say well, it's okay here but not okay there.
3 So, simply, we already have a ethics law provided
4 by the District of Columbia.

5 The other would be Section 200. I
6 have it as my Page 11. I'm not certain what it
7 may be for you but it's Section 200, added under
8 a provision under Appearance and
9 Representation.

10 I want to talk about this just so we
11 really understand what the Board has been faced
12 with. That is, if you can see the provision, it
13 requires, it allows for owners or the owner's
14 representative to participate in 223s on a
15 regular basis, like we already have.

16 However, anything other than a 223,
17 the person who's representing and from the Board
18 out to certify that they have working knowledge
19 of the zoning regulations.

20 It's absolutely essential that that
21 person have working knowledge of the zoning
22 regulations, particularly those who hold

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1 themselves out for hire. And we have citizens
2 who become victims by those who have gotten their
3 money and sit before the Board, and we learn
4 that they don't really know what they're talking
5 about.

6 But, more importantly, what it does,
7 it works as a benefit for the neighborhoods
8 because a lot of times the neighborhoods are up
9 in arms over some provision or some request for
10 relief that clearly can't happen.

11 But the person who is not
12 comfortable or knowledgeable of the zoning
13 regulations that put it forth, and the community
14 realizes it can't happen, but you have an
15 applicant now who's been pushing forth an effort
16 that never, if someone had had the knowledge of
17 the zoning regulations, would not have brought
18 forth.

19 So please take a look at that and
20 take strong consideration of that particular
21 matter. And also it provides for a provision
22 for it to be waived, if necessary.

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1 Section 200.7, the recommendation
2 to add the words "substantial involvement" with
3 those former members of the Board who may be
4 involved afterwards, who try to represent in
5 front of the Board.

6 The issue there is being consistent
7 with the law of the District of Columbia and the
8 numerous opinions of the Office of the Attorney
9 General which requires that an exclusion, if
10 you've had substantial involvement and not as we
11 have stated here and as proposed in 200.7.

12 The next provision is under Section
13 203 and, as you know, there's other changes.
14 Some of them are minor. I'm just hitting the
15 real ones I want to highlight for you.

16 Under Section 203, under Evidence,
17 and that's to require the filing of evidence 21
18 days in advance of a hearing and also requiring
19 those people who are parties or persons who are
20 seeking party status to also submit their
21 documents ahead of time.

22 What we've learned is that people

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1 who seek party status, whether or not they get
2 granted or not, and usually they're granted at
3 the time of the hearing, may sit here and bring
4 documents into evidence that a party has not had
5 the opportunity to go, it really becomes unfair
6 and, additionally, it may lead to unnecessary
7 delay.

8 Moreover, with others, each person
9 or parties knowing the existence of opposition,
10 then it gives them an opportunity to try to
11 meet, confer and work out their issues, and
12 everybody can be on equal footing. And I'll
13 come back to that when we confer a little bit
14 later.

15 Added and, proposed adding a new
16 Section 203.12 which allows for, to eliminate
17 the practice of witnesses, prior to testifying
18 before the Board, to stand and take a group
19 swearing in of oath or affirmation which you got
20 to try and track, in the back of your mind, who
21 actually stood up and who didn't stand up and
22 what it meant.

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1 But, in an effort to be more
2 effective and efficient and to have more force
3 of law, that we'd require the witness card to
4 carry the affiant statement that they simply say
5 that their statements that they're presenting is
6 based upon their oath, as they would normally
7 stand.

8 That way we can track it. That way
9 we can come back to it any time we need to, and
10 we have a record that someone actually did take
11 the oath and affirmation.

12 Section 206.1, it's on my Page 14.
13 I don't know how that printed out for you. That,
14 it's a question, it's a bit confused and I'm
15 going to ask the Zoning Commission or those who
16 proposed this provision to see whether or not
17 this is excluding paper filing of applications
18 and not just limiting it to electronic.

19 It's just confusing, this
20 provision, to me and to the Board, whether or
21 not, and it's one of the questions that I, I don't
22 necessarily understand it so I don't know if

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1 others will. Just to take a look at 206.1.

2 Under Page 19, and it's Section 301,
3 Expedited Reviews, the Board's talked about this
4 a lot. And many of you sat in some of our
5 hearings on expedited reviews.

6 If a person has submitted all the
7 requirements for a 223 Review and meet all the
8 requirements of a Expedited Review, it's really
9 a ministerial function.

10 And those 223s are taking up time on
11 the docket and whether it's necessary even to
12 hold a party up in regard to that, would like the
13 zoning commission to take a serious look at
14 whether or not that could be something that's
15 deferred to the Office of Zoning through the
16 director and/or something that the Zoning
17 Administrator, if all the Is are dotted and Ts
18 are crossed, can process.

19 Is it an unnecessary step, then, to
20 have the Board hear expedited reviews if all the
21 Is are dotted and Ts are crossed?

22 The, skipping now to 400.5, what's

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1 provided as 400.5, excuse me, it provides for the
2 Order of Hearings and there needs to be some
3 leeway in how the hearings are processed. As
4 you know, we try to operate the hearings in an
5 effective manner.

6 As written, 400.5 says that the
7 hearings must be held in the order as they are
8 listed on the docket sheet or the agenda. And
9 there needs to be some leeway granted to the
10 Office of Zoning, the director and,
11 particularly, the presiding officer or the
12 Chairman of the Board of Zoning Adjustment to
13 manage that docket. Limiting it, as this
14 provision does, just doesn't, won't provide for
15 fairness.

16 Added a new provision, Section
17 404.7, this has become very, very helpful to us.
18 I'm going to say it's my Page 32. I don't know
19 if it's your 32, but provision 404.7. This
20 requires that persons who seek party status and
21 parties actually attempt to resolve their issues
22 before the hearing.

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1 We have learned that this had worked
2 out fabulously for the Board and for the
3 citizens. And we've had matters where there are
4 10 oppositions, parties in oppositions, and we
5 would ask them to go out and try to resolve their
6 issue.

7 And, remarkably, especially in a
8 certain area of town where you wouldn't think
9 that people would want to work together, came
10 back in the room and had a proposed agreement,
11 and it worked out.

12 And it's been working very
13 consistently and very successfully when we seek,
14 have people do attempt to resolve. Sometimes we
15 find that people simply don't give each other the
16 courtesy to talk about an issue and just the
17 common courtesy of doing it.

18 It's in line of what the courts
19 require in regards to some oppositions. Courts
20 require parties to meet and confer.

21 This is the same type of provision
22 and it absolutely does work out well. We've had

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1 maybe a few that have not worked out but, for the
2 majority part, they have been agreements worked
3 out with the various parties or parties in
4 opposition. So that added, that adds a new
5 section, 404.7.

6 Section 407.6, it allows for the
7 presiding officer or Chair to decide matters
8 and motions, for the presiding officer or the
9 Chair to render motions instead of necessarily
10 having the full Board. But it also provides
11 that if there are decisions made by the presiding
12 officer and/or Chair that the Board can simply
13 reverse that by a simple motion.

14 It'll allow for a more effective and
15 efficient operation of motions. And we get
16 motions all the time to the Board of Zoning
17 Adjustment. And it also, under 407.7, to allow
18 the Director of the Office of Zoning to grant
19 continuances based upon certain criteria which
20 has been offered here under, with the Redline
21 changes.

22 On Page 37 we're adding, on my Page

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1 37 which would be right after 410, to add a
2 consent calendar, allow for the Board of Zoning
3 Adjustment to operate with a consent calendar.
4 We basically try to operate with one and, as many
5 of you know, there are times when there is no real
6 controversy on something that's what you would
7 call a slam/dunk.

8 It's very clear that the relief
9 needs to be granted. There's no opposition,
10 everybody's onboard. The A&C is onboard, the
11 Office of Planning's onboard, Transportation's
12 onboard. And we've, otherwise, it requires to
13 have a full hearing on the matter, and we try to
14 expedite it through a process of a hearing.

15 But to allow for a consent calendar
16 which would be in conformity with most operating
17 bodies to allow for a consent calendar, I'm not
18 going to go into detail but it does specify and
19 allows that. The recommendation is to allow
20 that consent calendar.

21 On Page 38 or Section 501 it makes
22 a recommendation to the Zoning Commission that

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1 designates the beneficiary of the decision of
2 the governmental official, the beneficiary of
3 that decision to actually be the real party of
4 interest, to really be the ones to require to
5 carry that proponent issue.

6 It's consistent with what happens in
7 other jurisdictions, it's consistent with what
8 happens, particularly in the courts, when a
9 government official is involved. It allows the
10 government to get their option to participate in
11 that particular hearing or appeal, but it's an
12 elective matter.

13 So when the Zoning Administrator,
14 for instance, gives relief for a building owner
15 or a developer of a building the real party in
16 interest is the developer or the owner of the
17 building. That's the real party in interest.
18 But the government, our government, spends money
19 and time and activity defending the interest of
20 a department, of a developer or a owner of a
21 building.

22 Here, it makes the owner of the

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1 building or the developer, or whoever the person
2 receiving that beneficial interest of the
3 decision that's being appealed to be the real
4 party in interest and that they must carry on the
5 appeal. And it certainly doesn't take anything
6 away from the government because the government
7 would have the opportunity, if it wants, to
8 participate. They don't lose their party
9 status.

10 Going down to Section 501.1, no,
11 excuse me, 507.5, excuse me 507.5, it allows for,
12 it just changed the wordings of what the Board
13 actually does in regards to an appeal. The
14 words have been, what has been used or said is
15 that the Board, if we don't agree with, if we
16 agree with the decision of the Zoning
17 Administrator it says that the Board denies the
18 appeal.

19 Well, we've already heard the
20 appeal. We read all the documents, we had the
21 hearing. We've already heard the appeal.
22 We're not denying the appeal. The appeal has

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1 happened.

2 But, more importantly, what the
3 action, what we're really doing is either
4 affirming or reversing or modifying the decision
5 of the Administrator, being appealed from. So
6 that's what that change does.

7 507.6, again, adds for attempt to
8 resolve regarding appeals. So moving to 600.3
9 is another matter that has come before the Board
10 in regards to appeals. And also, I am looking
11 now, that we did not use it for the provision on
12 applications.

13 But sometimes matters get withdrawn
14 or matters are dismissed, and the party has paid
15 money, paid a lot of money, and they don't get
16 a full refund. The money's gone.

17 And so it doesn't encourage someone
18 who may want to change their mind to really pull
19 back their document, but out of a sense of
20 fairness, as courts do, courts will assess a cost
21 based upon how much time, effort and et cetera
22 has gone on regarding a case to determine whether

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1 or not, what type of refund is given back or a
2 cost assessed in a particular matter.

3 Here we have all or nothing. Once
4 you file the money's gone. And that's what this
5 provision says. It says there's no refund.

6 So it's just, I want to ask the
7 Zoning Commission to take a look at it and see
8 if there could be some type of sliding scale
9 regarding refund. It's just something that the
10 Board has discussed.

11 When we get to those problems, when
12 we get to those matters and we're just, like, oh
13 my goodness, they're going to lose all this, then
14 we just dismiss this thing.

15 Those are some of the, I just wanted
16 to highlight the matter but, certainly, we would
17 like to ask the Board to consider all the changes
18 recommended by the Board of Zoning Adjustment.
19 And I'm here to answer questions if you wish,
20 come back at any other time, if necessary, when
21 you deliberate. I'd be glad to assist.

22 CHAIRMAN HOOD: Thank you, Mr.

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1 Chairman. I'm glad that you agreed to come back
2 because I would like for us to withhold our
3 questions of you at this point so we can get to
4 the Office of Planning and then hear from others.

5 But there, I know I have a number of
6 questions that I want to discuss. And I would
7 like to use you as a resource at another time.

8 Maybe we'll try to get you in another
9 time, if you don't have a major docket tomorrow.
10 But I appreciate you coming in and giving us
11 testimony. But I would ask my colleagues if we
12 can reserve our questions for a later time
13 because I have a few. I probably, this time I
14 have more than Commissioner May. I'm not sure.

15 COMMISSIONER MAY: Oh, no.

16 CHAIRMAN HOOD: But we would like to
17 have you back as a resource again at a later time.
18 So we'll try to work that out with you. But
19 thank you for coming in and providing us
20 testimony.

21 BZA CHAIR JORDAN: Thank you for the
22 opportunity. Thank you so much.

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1 CHAIRMAN HOOD: Okay, thank you.
2 Okay, I want to thank the Office of Planning for
3 giving us their time to do that. I thought that
4 was very important because a lot of us, we go once
5 of month or so on the BZA and the Chairman's there
6 and the board members are there constantly. So
7 we wanted to make sure we heard from them also.

8 So let's go to Director Tregoning,
9 if you want to start us off.

10 MS. TREGONING: Thank you very
11 much, Chairman Hood, Commissioners May,
12 Turnbull, Cohen and Miller. I'm very, very
13 delighted to be here this evening.

14 You have scheduled ahead of you a
15 whole series of hearings on very, very important
16 matters. And I'm honored to be able to be here
17 in front of you this evening to help kick off what
18 I know will be a very serious and important set
19 of conversations that occur in these chambers
20 over the next days and weeks as you hear
21 testimony and go over, section by section, the
22 different subtitles of the proposed new zoning

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1 regulations.

2 This is a zoning code that we've had
3 in the city for a long time, 1958, to be specific.
4 Many, many cities around the country have found
5 that every 50 years or so it makes sense to
6 update your zoning regulations and have. And
7 those cities have done so, Baltimore, Denver,
8 Philadelphia, New York and many others.

9 These were codes that were adopted
10 before we had the right to vote in presidential
11 elections, before we had home rule, before there
12 was ever a Metro running in the District of
13 Columbia. And there have been more than a
14 thousand amendments to the current code.

15 I love my friends in the legal
16 profession but we sometimes call the current
17 code a lawyer, Lanny's Lawyer Full Employment
18 Act. It's very difficult to know what can be
19 done with a piece of property.

20 And this was a code that saw a future
21 for the city, not a future that necessarily
22 turned out to be the case but it absolutely

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1 anticipated a future where automobiles would be
2 ascendent and they were right about that, where
3 everyone would enjoy automobilility.

4 And that the way that D.C. would
5 survive and thrive would be by making it as easy
6 as possible for people to commute into the city
7 from the suburbs and then leave as quickly as
8 possible at the end of the day.

9 It envisioned a downtown that was
10 exclusively office buildings circled by
11 surfaced parking lots with convenient moving
12 sidewalks that would get you from the ring of
13 parking into your downtown office with the uses
14 very religiously separated.

15 That's not the, it's not a code that
16 considered climate change, green buildings,
17 sustainable development, living downtown,
18 transit-oriented development, many, many things
19 that are now very much a part of what we see as
20 the future.

21 And the city is changing very much.
22 We have demographics that the rest of the U.S.

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1 will have in, I'm sorry, in 2050. We have much
2 smaller households compared to 1950. Our
3 household size is much smaller, 3.2 in 1950, just
4 over 2.1 today.

5 Forty-four percent of our
6 households are single-person households. Only
7 20 percent of our households have school-age
8 children. We're a highly racially and
9 ethnically diverse city and, increasingly,
10 highly educated.

11 I will put a little asterisk by a
12 couple of these statistics about household size
13 and school-age children because we have some of
14 the most aggressive school reform efforts, as
15 you know, commissioners, and that they are
16 beginning to have an effect on the percentage of
17 households that have school-age kids and on
18 household size.

19 And it's something that is very much
20 bucking the trends that are happening everywhere
21 else in the country, and we really think it's
22 because of our very aggressive and dedicated

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1 school reform, but it's an amazing thing.

2 We're a growing city, not just in
3 terms of households with children. But, in
4 fact, kind of across the board, 60-year-olds
5 increased by 7.2 percent in the last decade while
6 20 to 34-year-olds increased by 23 percent.

7 We had, in 2010, recorded our very
8 first decade of net population growth, in any
9 decade, since WWII. So we'd been steadily
10 declining until that point and our growth has
11 really turned around. In fact, we grew as much
12 in the two years after the 2010 census, between
13 2010 and 2012, as we did in the entire decade of
14 2000 to 2010.

15 Next, the household and population
16 size are increasing. And you see, by the shape
17 of this curve how dramatically different that
18 our growth and our city is becoming. Households
19 grew annually by 2.2 percent between 2007 and
20 2012. During the same time period we had a job
21 growth of 1.1 percent.

22 We're a growing and changing city

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1 and proposing a code that responds to this change
2 and that'll shape the city of the future. And
3 that's an important thing to think about, the
4 future. Even with our kind of torrid growth
5 we're still only building somewhere between 1
6 and 5 percent of the built environment new in the
7 District every year.

8 So it takes a long time for the kinds
9 of changes that the zoning code envisions to
10 actually be manifest in the city. It's going to
11 take place fairly gradually because of that rate
12 of growth.

13 We have a comprehensive plan that,
14 and an ambition for our city, that has been
15 wonderfully consistent over three mayors,
16 several councils and, I'm happy to also say,
17 several generations of this Zoning Commission to
18 be an inclusive city, to deliberately manage
19 growth and change, to make sure every
20 neighborhood is successful, to connect the
21 entire city, to build green and healthy, to make
22 sure people everywhere have access to quality

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1 education and employment opportunities, to have
2 affordable housing and provide transportation
3 choices and to be diverse.

4 And this vision of an inclusive city
5 really informs the proposals that are in front
6 of you. Guidance on so many of these issues are
7 provided by the comprehensive plan and addressed
8 in these zoning changes, including
9 sustainability, parking and transit,
10 residential development, neighborhood
11 commercial zones, a living downtown, how we
12 handle industrial land, parks, recreation and
13 open space.

14 And the zoning regulations
15 themselves, that they need substantial revision
16 and reorganization. They need to be simplified
17 and updated.

18 The Zoning Commission has adopted
19 zoning to implement many of the goals that are
20 identified in the comprehensive plan, including
21 H Street, Takoma, the Southeast Federal Center
22 overlays, St. Elizabeth's zoning, text

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1 amendments to facilitate the development of the
2 old convention center site, PUDs in almost all
3 of the areas that have allowed for publicly
4 vetted and carefully considered development in
5 neighborhoods like Petworth, Brookland and
6 central 14th Street.

7 So you're intimately familiar with
8 both the comprehensive plan and with how zoning
9 has positively affected our neighborhoods.

10 So now let's talk about the specific
11 issues facing our city and how these zoning
12 revisions will help to further the city's goals
13 and objectives, beginning with the built
14 environment. I mentioned before that we didn't
15 even have the Metro when the zoning regulations
16 in 1958 were adopted.

17 And what you see in front of you is
18 how much of our residential development, in
19 particular, but also our office development is
20 occurring around Metro stations.

21 More than 80 percent of new housing
22 units constructed were within a half a mile of

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1 Metro between 2000 and 2012 while 91 percent of
2 the office space and 100 percent of the hotel
3 rooms were within a half mile of Metro stations.
4 Almost all of the development or zoning
5 applications considered by the Commission are
6 close to transit areas, and this review of zoning
7 regulations is another critical way that policy
8 related to transit-oriented development can be
9 implemented to manage the growth and the change
10 that are coming, and expected, in the city.

11 We're also all about creating great
12 neighborhoods that are walkable and compact that
13 preserve historic character and create great
14 destinations and great convenience for people
15 living in our neighborhoods.

16 We recently opened The Yards Park
17 which was constructed through a partnership
18 between the General Services Administration,
19 the District of Columbia and Forest City
20 Washington in accordance with the zoning that
21 was established by this Commission.

22 It was a world class park space that

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1 now hosts visitors, residents, special events
2 and 5-1/2 acres and a half, sorry, a quarter mile
3 boardwalk. It's thanks to this action that city
4 residents are able to enjoy this beautifully
5 designed space. And it's that kind of amenity
6 that we think needs to be included in every
7 neighborhood and part of what makes those
8 neighborhoods attractive and convenient for
9 new residents.

10 I could go on about Petworth and
11 Columbia Heights and the Southwest Waterfront
12 but, in the interest of time, I'll try to move
13 quickly on.

14 Built environment initiatives in
15 low density areas that are part of this rezoning
16 revisions include new requirements for pervious
17 surfaces to be adopted and put in effect,
18 facilitate the development of nonconforming
19 in-fill lots, making accessory apartments
20 easier to provide, modifying building hit
21 measurement, et cetera.

22 For other zones we've adopted the

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1 Green Area Ratio. Extend, we propose to extend
2 existing waterfront setback requirements to all
3 zones to capture additional downtown density,
4 especially for residential, to add additional
5 buffering in industrial zones, particularly
6 when they're adjacent to residential, to
7 standardize PUDs, to protect solar panels and
8 reduce barriers to the provision of green roofs
9 and retain provisions of neighborhood
10 commercial overlays, but consolidate them with
11 base zones to make them much easier to use.

12 Our city's already distinguished
13 itself as a leader, a national leader in many
14 areas of urban sustainability. Business,
15 government and community actions, citywide have
16 made D.C. one of the most liveable and
17 sustainable places in the country.

18 We have already more than 430
19 certified, LEED-certified projects in the city,
20 84 million square feet of LEED-certified
21 building, two-thirds of which are gold or
22 platinum and an amazing amount of other

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1 sustainability outcomes, including 100 percent
2 of the District's own power procured from
3 renewable sources and 8.5 percent of all the
4 energy in the city from renewables.

5 To look at these buildings, as
6 another example, this kind of shows you, per
7 capita, how we are doing compared to a lot of
8 other places. And the Zoning Commission has
9 contributed greatly to these efforts. When we
10 talk about LEED building, between 2010 and 2013
11 PUD's proffered 41 LEED buildings.

12 And long before we had the Green
13 Building Act the Zoning Commission basically
14 paved the way with green buildings that were part
15 of proffers. It kind of made it safe and
16 demonstrated how it could be accomplished, to
17 build green in the district, with excellent
18 results.

19 Here's an example of green roof
20 construction. For the last two years we've lead
21 the nation, among cities of any size, with the
22 number of green roofs that were added to our

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1 city. And here, again, the Zoning Commission
2 lead the way through PUDs, providing a
3 significant amount of green roof as early as
4 2002. Our PUDs have proffered almost half a
5 million square feet of green roof on their own.

6 Sustainability initiatives as part
7 of the ZRR include the Green Area Ratio that's
8 been adopted and put into effect. Pervious
9 surface requirements adopted and in effect, TDM
10 measures as part of any parking relief request,
11 a minimum size and visual impact of surface
12 parking where we have to have that including
13 additional landscaping and tree canopy,
14 buffering for industrial, et cetera, et cetera.

15 Let me talk very briefly about
16 transportation. This is another area where
17 we've seen unbelievably rapid progress in the
18 city. We have the second highest share to
19 non-automotive trips for commuters behind only
20 New York City.

21 And you can see there, with the chart
22 on the left, that actually 54.6 percent of all

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1 D.C. commute trips are non-car. And look how
2 high the Bikeshare is. It's double what it was
3 three years ago, and no other city is growing
4 quite as fast as we are.

5 But transportation isn't just about
6 having choices, which is really a wonderful
7 thing. It's also about making D.C. more
8 affordable. Transportation is the second
9 largest household expense, second only to
10 housing. Households spend an average of 19
11 percent of their household income on
12 transportation. But in the district, near
13 transit that number is close to 9 percent.

14 So that means people have money to
15 spend on other things and it gives their
16 households resilience. In the case of economic
17 hard times, whether their economy-wide or just
18 a family hitting a bump in the road, it gives them
19 a lot of flexibility that they don't have in
20 other places.

21 And it really is, for many people,
22 becoming kind of a luxury to have the choices

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1 that we have, so many of them, that not only are
2 38.5 percent of all D.C. households now
3 households that don't have any vehicles, a total
4 of 82.4 percent of households have only one or
5 fewer vehicles, only, again, New York City has
6 a higher percentage of car-light household than
7 the District.

8 And this is very, very different
9 than it was in the city 10 years ago, 20 years
10 ago, 30 years ago. And this number continues to
11 evolve and change with many more multi-car
12 households being able to live with one less car
13 and, therefore, fewer cars out on the street.

14 Our transportation initiatives that
15 are part of the ZRR include parking minimums are
16 reduced or eliminated, increasing short and
17 long-term bike parking, added changing
18 facilities, TDM measures, facilitating shared
19 parking and doing things to provide more
20 neighborhoods serving retail and services so
21 that you can meet more of your daily needs in
22 walking distance.

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1 The best transportation policy,
2 however, is a really good land use policy. And
3 so there's not a lot that substitutes for putting
4 convenience in every neighborhood and giving
5 people access to daily needs, daily services.

6 So retail is a big part of that. Not
7 just in sustainable D.C. do we have a Food Goal
8 but, honestly, in almost every neighborhood
9 people desire to have groceries or a quart of
10 milk within walking distance. It's their
11 definition of convenience.

12 The Zoning Commission here, along
13 with the BZA, have done a lot to make food more
14 available throughout the city. We have allowed
15 and approved developments with grocery stores,
16 new grocery stores, in many, many parts of the
17 city, more than a dozen in just the last six
18 years.

19 ZRR retail initiatives include
20 facilitating walkable retail services,
21 especially corner grocery stores, capturing
22 additional density downtown, especially for

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1 residential, that will then in turn support new
2 retail options, retaining and reinforcing new
3 retail requirements in downtown and along major
4 corridors, reducing parking impediments to new
5 retail and slightly adjusting non-residential
6 FAR zoning to reflect small site redevelopment
7 and facilitate that redevelopment.

8 The biggest threat to a growing and
9 inclusive city, at this point in our history, is
10 the price of housing, the incredible expense of
11 housing. And that's something that is
12 critically I important to maintaining the
13 diversity of the city and being a place where
14 anyone can live if they want to be here.

15 The Comp plan includes a number of
16 objectives related to affordable housing
17 production. And there's been immense progress
18 in carrying out these measures since 2010,
19 including the adoption of inclusionary zoning
20 requirements in 2009.

21 And, of course, through PUDs, you've
22 regularly overseen the provision of additional

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1 affordable housing or housing at deeper levels
2 of affordability than IZ provides. There were
3 over 1500 affordable units added just in 2011 to
4 2012 and there's 1700 now under construction.

5 As you know, Mayor Gray has put aside
6 \$100 million for more affordability. But this
7 is a problem that's going to take continued
8 effort and attention, year-on-year, to be able
9 to address.

10 Our demand is outstripping supply
11 and really put a lot of price pressure on
12 housing. And so that's an area that we need to
13 continue to address.

14 We need diverse housing options to
15 meet the changing needs of residents, including
16 better utilization of our existing housing stock
17 and ways to encourage new and full development
18 and have new housing on larger development
19 sites. Accessory units like English basements
20 and alley dwellings and senior housing play a
21 role in helping to preserve mixed income
22 neighborhoods.

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1 ADUs are really an amazing example
2 that are often in neighborhoods, Accessory
3 Dwelling Units, with good access to jobs and
4 transit. We have, the nature of our households
5 has changed a lot, so in many of our
6 neighborhoods we might have half the population
7 density that we had in 1960. It might even be
8 the same family in that house, but maybe down to
9 one or two people, while that house might have
10 had six or eight in 1960.

11 Everybody wants to be able to age in
12 their own neighborhood, grow old in their own
13 neighborhood, but part of the challenge is, on
14 a fixed income, being able to afford to stay in
15 that neighborhood. And also being able to feel
16 comfortable as you get older, to live in a
17 neighborhood where there are fewer people around
18 you.

19 So accessory dwelling units help to
20 make housing more affordable for seniors and for
21 older households. It brings more income
22 diversity into a neighborhood but it also puts

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1 more people in that neighborhood where
2 neighbors can look after each other.

3 We're seeing more than a dozen
4 places around the city where senior villages are
5 forming informal associations to help people
6 enable aging in place, which is so important.
7 And we think accessory dwelling units are part
8 of that picture.

9 So the housing initiatives include
10 making those ADUs easier to provide, capturing
11 additional density downtown, maintaining IZ
12 requirements including an expanded downtown and
13 removing some barriers to converting buildings
14 to residential.

15 A big part of what this ZRR does is
16 reorganize the zoning regulations to make them
17 more friendly for users to combine some of the
18 provisions, to make them easier to understand
19 and find, so you don't have to hunt and peck all
20 over the code.

21 So the structure includes new
22 subtitles, tables and images, and replaces

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1 archaic uses with things, with user groups that
2 are less likely to go out of fashion in just a
3 few years or become obsolete.

4 To date we've done a lot on ZRR. I
5 like to sometimes say this, we're in the
6 beginning of the sixth year of a two-year zoning
7 rewrite. We've been at it a while. If you
8 recall, we began our first zoning commission
9 roundtable, roundtables, on June 21st and July
10 12th of 2007.

11 We did focus workgroups from 2007 to
12 2011, 81 meetings, with more than a thousand
13 participants, 36 task force meetings through
14 2012, zoning commission hearings, 19 to date, 58
15 ANC meetings and almost 200 public meetings to
16 date.

17 Working groups covered 20 topic
18 areas. It's been a lot, and a lot of very
19 positive changes to the zoning proposals as a
20 result of that outreach, a lot of community
21 participation.

22 In the 40 public meetings that we

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1 held, 15 were public meetings with the zoning
2 commission where guidance was given to the
3 Office of Planning, 3 where proposed action was
4 taken on general rules for parking, loading,
5 height uses that the Green Area Ration and
6 production, distribution and repair rules, two
7 where final action was taken on parking,
8 loading, GAR and industrial, and final text
9 adopted for GAR height measurement and several
10 administrative measures.

11 We've made lots of changes to the
12 proposal as a result of the extensive input we've
13 received, including changing our parking
14 requirements to eliminate the transit zone
15 concept. We removed the requirements for
16 parking maximums which were originally
17 proposed. We reinstated parking requirements
18 for low-density residential.

19 We clarified TDM requirements for
20 special exceptions to reduce the required
21 amount. We added TDM and environmental
22 measures for sites that were overparked. We

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1 adjusted requirements for private schools. We
2 made corner stores by special exception rather
3 than by right, except for groceries.

4 We allowed accessory apartments by
5 special exception rather than by right in new or
6 expanded accessory buildings. We established
7 access requirements for accessory apartments
8 and buildings. We retained the side yard at an
9 8-foot minimum in low-density areas. We
10 retained the number of residential stories at
11 three, maximum.

12 We added new zones for row house flat
13 zones to limit potential conversions. And I
14 won't keep going, but we made many, many changes
15 in response to the input that we've received in
16 many areas, including campus plans,
17 institutional uses, et cetera.

18 And I will just close by saying,
19 before I turn it over to Jennifer, the comments
20 that we've received have been really helpful and
21 very voluminous, and we've made changes to
22 almost every part of the proposal as a result.

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1 And I think what you have in front
2 of you is a much better proposal, and I
3 appreciate the input that we've gotten from so
4 many sources to lead us to those changes. Now
5 let me turn this over to Jennifer Steingasser,
6 our Deputy Director, and she can go over the
7 specific subtitles that you will be addressing
8 this evening.

9 FEMALE PARTICIPANT: Excuse me,
10 what's TDM?

11 MS. STEINGASSER: TDM is
12 Transportation Demand Management.

13 FEMALE PARTICIPANT: Thank you.
14 And if you will be using more acronyms can you
15 tell what those are so --

16 CHAIRMAN HOOD: Okay --

17 MS. STEINGASSER: We'll try to do
18 that.

19 CHAIRMAN HOOD: Let me say this.
20 We don't usually have a conversation. If you
21 have an issue with something you don't
22 understand, an acronym, just check with staff

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1 and they will get the message to me. But we will
2 ask, for those who don't know, Ms. Steingasser,
3 if you can tell them what TDM means. If we can
4 get away from acronyms I'd appreciate it.

5 MS. STEINGASSER: we'll do our
6 best.

7 CHAIRMAN HOOD: Okay, thank you.

8 MS. STEINGASSER: It's a profession
9 of jargon. We'll try to do our best to stay
10 away. I'm going to walk us through, really
11 quickly, the subtitles that are being considered
12 this evening and the major changes bases on the
13 guidance provided from the Zoning Commission.

14 The reports that OP has filed are
15 online and they walk the Commission through the
16 major changes based on the guidance provided.
17 It also starts with a brief history of how much
18 involvement has already taken place on each
19 particular case.

20 So Subtitle A is the Authority and
21 Administration subtitle. It basically is a
22 compilation of the existing Chapters 1 and 32,

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1 and it gets to the authorities and the
2 administration of the Commission and the Board
3 of Zoning Adjustment.

4 Our proposals include the
5 reorganization of the new zone groups and group
6 names. It addresses a coordinated and
7 consolidated flexibility of the zoning
8 administration, I'm sorry, the zoning
9 administrator. And it clarifies building
10 permits and investing and the zoning
11 regulations.

12 Subtitle W could be thought of as
13 Where. It's basically the mapping, all of what
14 we currently have in the zoning regulations are
15 a series of overlays. Those overlays are
16 defined by certain geographies that are laid out
17 by needs and bounds and, in some cases, squares
18 and lots in other cases.

19 We're proposing that those all be
20 consolidated into one particular subtitle.
21 It'll make the use of the actual zone subtitles
22 easier for the user because these will all be

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1 mapped and coordinated with the Office of Zoning
2 on a computerized system. It allows for them,
3 the user, once they've identified what that zone
4 is, the geography won't be as important as the
5 use.

6 Subtitle X is a subtitle of general
7 provisions. And in this subtitle we've
8 proposed to locate some of what you find in
9 Chapter 2 right now which has to deal with the
10 review of public school, I'm sorry, private
11 schools, university campuses, the diplomatic
12 overlay and the planned unit developments of
13 Chapter 24.

14 We've proposed, because they are
15 major procedures unto themselves, that they be
16 put together in this one subtitle. Within it
17 we've made some changes to the PUDs. We've
18 incorporated all the actions that the Zoning
19 Commission just recently took in Case 12-10.

20 We've also proposed that the PUDs
21 pretty much remain as they are now, with some
22 limitations on when a map amendment is

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1 considered and when it's not in the amount of
2 votes.

3 Right now, if a map amendment is not
4 associated with planning and development we're
5 recommending that the Commission only take one
6 vote and that there'll be no referral to the
7 National Capital Planning Commission for
8 federal interest because the limits and
9 boundaries are established within this
10 regulation and would not be considered a change
11 to the zoning map or the zoning regulations.

12 If, however, there is a map
13 amendment then that would require the standard
14 two votes and referral. The Commission had also
15 given us guidance to look at standardizing the
16 density achievable at 20 percent. We've done
17 that. There's a table in the report that lays
18 out what exactly that means in terms of density
19 increases. And that's probably something we'll
20 expect to get some feedback from you, again, on
21 as we continue into this procedure.

22 There had also been discussion very

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1 early on in 2010 on whether the benefits and
2 amenities should be more prescriptive. We have
3 since gotten away from that. We found it very
4 difficult to anticipate the cost of that and to
5 try to weigh that balance. The Commission was
6 very, you were open to the idea but you were very
7 tenuous in whether you were interested in going
8 forward.

9 There was concern both with whether
10 the low-hanging fruit would be that which
11 everyone would go after and whether the PUD
12 process would actually produce the developments
13 desired.

14 We've also formalized the
15 pre-application process for community input.
16 This was a very big deal. We've extended the
17 notice of intent to file. We've extended that
18 to, I believe it was, 45 days. That's sent to
19 each affected ANC.

20 The applicant is encouraged to meet
21 with that ANC and to document that conversation
22 and the changes that result from that particular

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1 meeting. And that would be prior to the case
2 being set down.

3 Campus plans and school plans, we've
4 tried to refine these as use groups. The
5 original guidance of 2008 set this out as one
6 institutional category. It included
7 educational and religious non-profits. There
8 was some concern by the Commission as well as the
9 public, as well as OP as to whether that was
10 fine-tuned enough.

11 We have since broken that group into
12 three educational groups, college and
13 universities, private education and public
14 education. Public education includes
15 traditional public schools as well as public
16 charter schools.

17 The institutional category remained
18 and we had general institutional, which includes
19 non-profits and social service providers. And
20 then we've also called out religious based
21 places of worship with their related schools and
22 residences.

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1 We then also looked at campus plans.
2 We set some standards. We tried to clarify how
3 students were counted, how the Commission and
4 the community and the university could have a
5 more transparent conversation about the
6 impacts. Based on the recent history of campus
7 plans that have, the Commission and the
8 communities have gone through in the last couple
9 of years, there was a lot of opportunity to look
10 at what was beneficial and what kind of
11 information was needed.

12 We also tried to put a limit on the
13 adjunct commercial uses and establish how the
14 Commission could evaluate that relationship.
15 We then proposed in our report some amendments
16 to what was actually advertised in the September
17 9th set down version.

18 Recognizing that there should be, we
19 were trying to recognize the fact that what this
20 was after was trying to keep students on the
21 campus, so we didn't want them to be too
22 restrictive but we did want them not to be in

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1 conflict with the comprehensive plan and begin
2 to compete with the commercial nodes that were
3 supposed to be neighborhood serving.

4 The Commission asked us to also look
5 at ways to address the issue of university use
6 of commercial property so we've proposed a
7 special exception for a university use when it's
8 within a C1 or a C2A which are the neighborhood
9 commercial, neighborhood serving commercial,
10 typically located as small nodes in residential
11 areas.

12 The reason we took that special
13 exception approach, or it could also be
14 incorporated within an existing campus plan, was
15 because the university uses are a little bit
16 different and they present a venue for uses that
17 might otherwise not be permitted, such as mail
18 sorting.

19 There's kind of these
20 semi-industrial uses that are necessary to the
21 operation of a large campus, like whether it's
22 food, maintenance, those kind of uses that

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1 would, as an independent use, not be permitted
2 in these zones. So we've proposed a special
3 exception improvement to a campus plan.

4 We also took a look at Chanceries,
5 and we worked with the Office of the Attorney
6 General on this issue. What we've proposed is
7 to remove the current diplomatic overlay to
8 allow Chancery use and diplomatic use citywide
9 in all of the lower density residential zones.
10 We have proposed that the unofficial, we call,
11 the one-third/two-thirds issue, that that be
12 raised to 50 percent.

13 And what that one-third/two-third,
14 now 50 percent, is is a unofficial rule that was
15 used in the original diplomatic overlay to
16 determine when a square, a full square in the
17 city, was at a point that a Chancery use was
18 considered compatible.

19 It has been very much to the
20 advantage of the Chanceries and to the
21 disadvantage of the neighborhoods because once
22 a square was one-third institutional or office

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1 it became eligible for diplomatic use.

2 We've looked at some of that,
3 issues, over the last year and determined that
4 50 percent is really much more of a point at which
5 a square becomes equally residential versus
6 non-residential in use. So we've proposed to
7 raise that. The, it would still be subject to
8 the FM, Foreign Missions, BZA and the Foreign
9 Missions Act.

10 We have gotten some unofficial
11 feedback that, perhaps, some of the way we worded
12 some of the special exception and variance
13 issues should actually be referred to more in
14 terms of flexibility. So that kind of language,
15 we'll probably be working with, with the Office
16 of the Attorney General in the future.

17 Subtitle Y and Subtitle Z get to the
18 issues of the general rules and procedures of the
19 Board's, the Board of Zoning Adjustment and
20 Subtitle Y and the Zoning Commission itself in
21 Subtitle Z.

22 Those regulations were worked

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1 through with the Office of Zoning and we'll be
2 working with them and the Office of the Attorney
3 General and the Commission and the Board to
4 clarify those rules as we move into the future.
5 That is all we --

6 CHAIRMAN HOOD: Okay. You can turn
7 the lights, thank you. Let me thank Director
8 Tregoning and also Ms. Steingasser. But just
9 for a quick note, Ms. Steingasser, can you tell
10 us what Zoning Commission Case 12-11 was?

11 MS. STEINGASSER: That was a case
12 the Commission heard at the end of last year
13 where we took two cases forward. One was 12-10,
14 which was that Green Area Ratio impervious
15 surface.

16 The other was an administrative set
17 of regulations that looked at, that included
18 PUDs, how we measure height, and there was a
19 third issue in there, and it was a quite clean-up
20 that we wanted. We felt it was important enough
21 that we wanted to bring it ahead of the zoning
22 rewrite and move it into the existing codes of

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1 the grouping.

2 CHAIRMAN HOOD: Okay. Thank you
3 very much. I want to thank both of you, Director
4 and Deputy Director, for your presentation to
5 us. What the Commission has decided to do is
6 we're not going to ask our questions because it
7 may take a while.

8 So what we would like to do is to hear
9 from the public. So we're going to start
10 hearing from testimony and we'll ask our
11 questions on the back end. Is that okay with
12 everybody? Okay.

13 I'm going to list the names in which
14 you called in. We're going to have Mr. David
15 Alpert, Tom Smith, Gayle Trotter, David Bardin,
16 Gary Peterson, Barbara Kahlow, Larry Hargrove
17 and Ellen McCarthy. I think we have eight
18 seats.

19 An announcement that I failed to
20 mention earlier, the Commission has agreed also,
21 because we're here every night, we want to be
22 comfortable, we don't want to start going to

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1 sleep at 11:30, so we're not going to wear ties.

2 We're going to come in loosely and,
3 I'm not going to say we wear our summer dress code
4 because it's short-sleeves and that's really not
5 the time of year to do that. But you can come
6 now and relax.

7 You don't have to wear a tie, you
8 don't have to look all fancy for us. So we want
9 you to come in in your relaxed attire, okay, from
10 this point on. And I see, Mr. Cochran has
11 already took note of it.

12 Okay, if you could begin. What I
13 think I'm going to do, I'd like to start to my
14 left, starting from my left to my right. And Mr.
15 Alpert, I know you were first on the list, but
16 I'm going to start from my left to my right and
17 you will be last, okay? All right, Mr.
18 Peterson.

19 MR. PETERSON: Thank you, Mr.
20 Chairman. I have filed a letter which has a few
21 technical corrections that should be made, and
22 I'm not going to discuss those because I'm sure

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1 they'll be picked up by the Office of Planning.

2 A couple things I would like to
3 discuss, however, are the party status
4 requirements. And those are in both Subtitles
5 Y and Z. First of all, the criteria for party
6 status keeps referring to persons or individuals
7 and the Capitol Hill Restoration Society is an
8 organization. And there are a number of parts
9 of that that you have to state, you know, how
10 close you are to the property, things, what
11 property you own, things like that.

12 And we don't fit any of those
13 criteria. So I think the criteria for obtaining
14 party status needs to be changed because
15 otherwise, it would appear to me, someone could
16 object just based on the fact that we don't meet
17 the requirements and the regulations.

18 The second thing on party status is
19 when party status is granted. I think it's too
20 burdensome and there's also a problem with
21 waiting until the hearing. This is for both the
22 BZA and the Zoning Commission to grant party

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1 status.

2 We had an instance where we've had
3 an expert witness ready to testify before the
4 Commission. We came in with a couple
5 neighborhood groups and, collectively, to
6 present evidence and to testify, and we were
7 denied party status. And so we had already paid
8 for an expert, had them show up, incurred
9 expenses and then had party status denied. I
10 think that should be changed, in some way, that
11 party status is acknowledged earlier on in the
12 process, in some fashion.

13 And then, also, as a subsidiary of
14 that, when you talk about service, the service
15 refers to only service to parties. So if you've
16 applied for party status you don't get, you're
17 not, it doesn't automatically mean you get
18 service of things.

19 So that's another reason why either
20 of the service part needs to be changed. But I
21 would suggest resolving party status early on
22 would be the better solution.

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1 And then I'd like to call your
2 attention, it's to Subtitle X. It's Page X34
3 that is referring to the proffer of benefits and
4 amenities.

5 And, ultimately, you are to get
6 advice on this from the Office of the Attorney
7 General. However, in Section 308.14, it says
8 that their opinion that they give you will be,
9 is treated as a confidential attorney/client
10 communication.

11 And I think that really goes against
12 the transparency of this organization in letting
13 us know why you've made a decision. If you're
14 relying on the OAG that opinion should be part
15 of the record.

16 CHAIRMAN HOOD: I think we made a
17 mistake. You actually have 50, 40 seconds.

18 MR. PETERSON: I'm --

19 CHAIRMAN HOOD: Okay.

20 MR. PETERSON: I'm --

21 CHAIRMAN HOOD: All right, thank
22 you very much. Mr. Bardin?

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1 MR. PETERSON: -- finished.

2 CHAIRMAN HOOD: Okay, thanks.

3 MR. BARDIN: Good evening, Chairman
4 Hood, members of the Committee. I'm testifying
5 tonight about Subtitle A, Authority and
6 Applicability and, specifically, the
7 interpretation provision where I'm asking you to
8 add two concepts, two phrases, to what has always
9 been in these zoning regulations.

10 The two concepts are urban tree
11 canopy and sustainability. The place that they
12 would be fitted into is a list of the minimum
13 standards, criteria, with which we interpret all
14 of the zoning regulations that follow. So it
15 does two things. On the one hand everything in
16 the detail is minimal and, in appropriate cases,
17 the Zoning Commission or the Board of Zoning
18 Adjustment, as the case may be, might consider
19 going further.

20 And in any event, these two concepts
21 are part of what we now think of as part of the
22 zoning regulations of the District of Columbia.

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1 I don't have to tell you that, 1958, there was
2 no question that we had a vast tree canopy with
3 a city of trees, not to mention, back in the 20s,
4 when Secretary of Commerce Herbert Hoover first
5 pushed for the original zoning code.

6 But nowadays it's a big issue, and
7 I think we want to focus on it. And
8 sustainability has increasingly been a matter of
9 attention. You've heard the director speak
10 about it tonight. You know that Office of
11 Planning and Department of Environment are
12 pushing it. So I'm urging you to add those two
13 concepts, and that's all the testimony for
14 tonight.

15 Tomorrow I'm scheduled to testify on
16 my proposed definitions of these two concepts
17 which would be new, as well as a request that you
18 amend the definition of another term. Thank you
19 very much.

20 CHAIRMAN HOOD: Okay, thank you.
21 Next?

22 FEMALE PARTICIPANT: Could

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1 everybody state their name, please? Just, some
2 of us don't know you well or at all.

3 MS. TROTTER: Chairman Hood,
4 Commissioners May, Cohen, Miller and Turnbull,
5 thank you very much for your time tonight. I am
6 Gayle Trotter. I am the Vice Chair of ANC 3D.
7 I am also the chair of our Zoning Committee for
8 our ANC.

9 Our commission has 10 commissioners
10 on it, representing approximately 20,000
11 residents. We oversee four universities,
12 Georgetown University, American University,
13 George Washington University at Mount Vernon and
14 the Wesley Theological Seminary.

15 We also have five private schools in
16 our ANC that we oversee, Georgetown Day School,
17 the Lab School, The Field School, the River
18 School and St. Patrick's.

19 So, as you can see, we are very
20 intimately involved with the campus planning
21 process. And these are issues that come before
22 our commission frequently, almost every month.

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1 We have a deep interest in these proposed changes
2 to the zoning rules and we all believe strongly
3 that the campus plan rules definitely need to be
4 updated.

5 We have very closely reviewed the
6 proposals of the Office of Planning and we
7 believe that, while the proposals, some of them
8 are very good and offer a good way to fix some
9 of the problems, there is a lot left to be desired
10 with the revisions. Office of Planning has
11 not gone far enough to fix these problems.

12 Our current process is
13 unnecessarily confrontational between the
14 university and the neighbors, and we value these
15 universities in our midst. They enrich our
16 lives, they enrich our communities.

17 But right now, the way the process
18 is set up, we are wasting an enormous amount of
19 resources, not just money but also time.

20 And when we look at the way the
21 campus plan process has been handled in the past
22 we understand that we need more transparency in

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1 the process, and that's not just a buzz word.

2 We really need the input of the
3 neighbors, we need to understand what the
4 universities are doing in this process and we
5 need to have more communication and dialog.

6 We need a balanced process that
7 protects the needs of the neighbors and also
8 respects that universities in this day and age
9 need to respond to the changing educational
10 marketplace that they need to be flexible and
11 respond to.

12 Now we, as in our experience, we see
13 that universities generally come up with overly
14 ambitious plans. And when they do this it makes
15 it very difficult for the commissioners who have
16 to review all of the plans and also for neighbors
17 who have limited amount of time to engage on
18 these issues to understand their plans, and it
19 really can drag out the process.

20 Now, we think that maybe we should
21 set some kind of a deadline on the proposal and
22 also maybe allow the plans to stretch more than

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1 10 years at a time. We are definitely in favor
2 of consolidating all of these rules applying to
3 the campus planning process into one section.
4 That was a good change.

5 We support the new rules applying
6 not only to universities but also to private
7 schools and we applaud the new requirement to
8 have a review by the DDOE and a report issued that
9 we can reflect upon because in our community
10 storm water management is really a vital issue.

11 So having DDOE's input on this would
12 be very helpful, not only for the commissioners
13 but also for the residents to understand the
14 impact of any proposed changes.

15 We also have some resolutions that
16 we adopted on the further processing issues and
17 also the university use of commercial property.
18 Commissioner Smith, who's also on our
19 commission, will address those in his testimony.

20 Now further on, the specific
21 proposals being put forward to you today in
22 Section 101.3(b) the Commission opposes the new

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1 rule allowing up to 10 percent of the gross
2 floor-area of the total campus plan floor ratio
3 to commercial use in residential areas.

4 I have attached, our testimony
5 attaches the resolution that our ANC adopted at
6 our meeting earlier this month, which goes into
7 more depth about that. But, because of time
8 constraints, I'll just leave it at that.

9 We also support that there should be
10 a continuing consideration on a case-by-case
11 basis by the Zoning Commission of any uses of
12 commercial space by universities.

13 In Section 101.18 we oppose this,
14 which allows the zoning administrator to
15 unilaterally amend an approved campus plan.
16 This goes completely against the type of
17 transparency and dialog that we want to have
18 between the universities and the neighbors as
19 well.

20 Any proposed change should be
21 submitted back to the ANC so that the neighbors
22 have input on the things at hand.

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1 CHAIRMAN HOOD: Thank you. Next.

2 MR. SMITH: My name's Tom Smith, ANC
3 Commissioner at 3D/O2 and I'm here tonight to
4 also talk about Subtitle X. As commissioner for
5 3D/O2 I represent residents of Spring Valley,
6 located immediately adjacent to the AU Main
7 Campus, the Washington College of Law and the
8 Wesley Theological Seminary.

9 In the 30 years I've lived in Spring
10 Valley AU has grown beyond its main campus
11 borders, purchasing both residential and
12 commercial property in Spring Valley to enlarge
13 its footprint. This expansion has displaced
14 neighborhoods serving retail, medical offices
15 and other business services.

16 The changes in the new campus plan
17 rules, as proposed by OP are a good beginning but
18 fall far short of what is needed to create a set
19 of balanced rules and far short of what we should
20 expect as part of a major revision of the city's
21 zoning rules.

22 OP has outlined four objectives for

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1 the new rules that look good on paper, but there
2 is little in the new rules that will achieve
3 those objectives. I want to focus my comments
4 on two issues tonight. First, the Zoning
5 Commission needs to revisit its rules on second
6 stage further processings. The new rules
7 propose no real change, yet experience shows the
8 current rules are severely flawed. As
9 a reminder, the AU campus plan proceedings
10 included a campus plan and four separate further
11 processings that were being held simultaneously
12 for more than 750,000 gross square feet of new
13 construction.

14 This is a significant amount for any
15 low-density residential neighborhood. On one
16 major project that already received second stage
17 approval in 2012 ground will not be broken for
18 more than another year and the university is
19 already talking about making significant
20 changes to its building plans.

21 ANC 3D has suggested that second
22 stage further processings be filed only once the

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1 Zoning Commission has issued its order in a
2 campus plan case. This would create a more
3 orderly, consistent and transparent process
4 while at the same time ensuring the type of
5 review by the ANC and the Zoning Commission that
6 residents have a right to expect.

7 Second, OP should be applauded for
8 new rules requiring a special exception to use
9 commercially zoned property for educational
10 purposes. This is a significant change that may
11 check the matter of right rules that enable a
12 university to displace existing neighborhoods
13 serving retail. But the rules do not go far
14 enough.

15 The rules give the applicant the
16 option to include its use of commercial property
17 in the campus plan and the Zoning Commission he
18 option to consider uses of commercial property
19 as part of the campus plan review process.
20 Neither should be optional. These commercial
21 properties are only a few blocks from the main
22 campus.

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1 There is a link between what happens
2 in these commercially zoned buildings and what
3 happens on the main campus and in our
4 neighborhoods, including parking and
5 transportation impacts.

6 The Zoning Commission cannot
7 adequately assess the overall impact of a campus
8 plan if you limit your review of the university's
9 facilities in our neighborhoods.

10 The failure to consider these
11 impacts is inherently unfair to residents living
12 in the neighboring R-1 districts and
13 counterproductive to achieving the objectives
14 outlined by OP in their proposed new rules.
15 Thank you.

16 CHAIRMAN HOOD: Okay, thank you.
17 Next?

18 MS. KAHLOW: I'm Barbara Kahlow. I
19 live at 800 25th Street, NW. I am testifying on
20 behalf of the West End Citizens Association, the
21 oldest citizen's organization in the Foggy
22 Bottom West End area of Ward 2.

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1 The WCA is primarily interested in
2 maintaining and improving the quality of life
3 for the existing residential community in Foggy
4 Bottom West End. Before the Commission's
5 deadline we submitted detailed section by
6 section comments.

7 We also testified at four zoning
8 commission hearings on ZRR and three city
9 council hearings on ZRR. I hope those
10 testimonies are in the hearing record. If not,
11 I'd be happy to supply them.

12 Tonight I will cover, first,
13 procedural issues and substantive issues.
14 First, in term, I sound like a broken record. I
15 want to reiterate the WCA recommendations, one,
16 that the Commission require OP to produce
17 Redline version. The crosswalks are neither
18 equivalent nor sufficient.

19 Two, and the most important, that
20 the Commission require OP to produce an
21 identification of an explanation for each and
22 every substantive change for public review and

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1 before any commission vote on the proposed text.
2 Tonight I will providing you an important
3 example of this problem so you can better
4 understand it.

5 And then, three, that the Commission
6 continue the current easy to understand and use
7 zoning categories since the WCA opposes OP's
8 very complex replacement zones. For example,
9 from 3 low-density residential zoned to 20.

10 An identification of an explanation
11 for substantive changes is essential. For
12 example, OP has identified its proposed
13 expansion of the downtown and amplifications has
14 not identified its proposed expansion of the
15 downtown amplifications. This proposal, for
16 example, limiting parking requirements.

17 My review of the set down ZRR text
18 was frustrating, time consuming and, frankly,
19 unable to be completed without this essential
20 aid. It is unreasonable to ask the public to
21 search the current zoning provisions and enact
22 a comp plan protections and then compare them

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1 without these proposed ZRR test.

2 The most serious issue for our
3 neighborhood is OP's attempt to redefine large
4 parts of our neighborhood, including where
5 long-term and short-term residents reside, as
6 being part of the downtown. The WECA repeatedly
7 and successfully fought to contain the
8 boundaries of the central employment area and
9 contends that a change in law is required before
10 OP's redefinition, including its expanded
11 transferrable development rights. TDR and its
12 receiving zones can be legally included in ZRR.

13 I raised this issue in OP's December
14 13, 2012 ZRR public meeting in Anacostia and I'm,
15 was assured by Ms. Tregoning during the question
16 and answer period that ZRR would not include any
17 language inconsistent with prior law.

18 I asked the Commission to compare
19 three things, one, the statutory definition for
20 the CEA, as indicated in the detailed section by
21 section on Page 2 of our comments.

22 Two, the Page 3-11, the map and the

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1 2006 comprehensive plan that shows the actual
2 boundaries and, three, OP's two ZRR maps, also
3 cited in our section by section, Figures 4 and
4 20. Proposed expansion is clear and not
5 identified anywhere to you. How would you know
6 this except for that I'm telling you?

7 In terms of substantive issues on a
8 related matter in Title X, the OP proposes OP's
9 new allowable increases in density, percent non
10 and residential uses and height for PUDs. In
11 addition, since much of the West End is zoned C2C
12 OP's automatic height increases from 90 to 110
13 feet and C2C zones would dramatically change the
14 character of this mixed use neighborhood.

15 The next most important substantive
16 issue is OP's proposed revised rules governing
17 future acceptable PUD benefits and amenities.
18 I'm happy to say some change is not enough.
19 Attached to today's testimony is another copy of
20 my detailed WCA testimony from October 4, 2010
21 where we talked about the kinds of amenities our
22 neighborhood is used to. And we think that we

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1 should continue to be able to have those.

2 The WCA strongly recommends the
3 Commission continue to allow identification of
4 non-public PUD benefits and amenities which are
5 desired for an immediately impacted community.
6 The WCA assisted the ANC in preparing a
7 resolution which they passed unanimously and it
8 should be given great weight.

9 Lastly, the WCA asks the Commission
10 to require OP to add the coverage areas which we
11 recommended for ZRR in 2007, such as an
12 identification of provisions governing Omnibus
13 PUDs, especially for campus plans where they're
14 non-contiguous areas, sequencing to the
15 Environmental Policy Act, sequencing for other
16 review agencies.

17 And tonight I learned that there's
18 yet another change, there' more changes, to the
19 Campus Plan Rules in the 99 version, which I read
20 in the library, which I read in the Office of
21 Zoning, which I read online. How are we
22 supposed to know with testimony today and those

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1 changes to the campus plans since we had no
2 knowledge of it? Thank you for considering our
3 views.

4 CHAIRMAN HOOD: Okay, thank you.
5 Next.

6 MR. HARGROVE: Chairman Hood and
7 members of the Commission, I'm Larry Hargrove.
8 I'm testifying on my own behalf and that of my
9 wife, Ann Hughes Hargrove, who is prevented by
10 illness from attending tonight.

11 We've owned a home in Adams Morgan
12 for half a century and Ann is, was a member of
13 the task force. I'm currently looking on the
14 current copy that's planned in which these
15 proposed regulations are intended to implement.

16 Today I want to address only one
17 narrow subject related to Subtitles Y and Z and
18 that is procedures for dealing with cases
19 remanded to an agency from the Court of Appeals,
20 especially to the BZA. Remand happens with some
21 frequency. So far as I've been able to discern,
22 the proposed regulations, like the existing

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1 ones, do not prescribe how the remanded case is
2 to be handled or on what schedule.

3 The fashionable results of this have
4 been that a remanded case may disappear into a
5 sort of procedural black hold, sometimes
6 emerging only two or three or more years later.
7 And the current and proposed regulations do not
8 inform the parties as to what will be their
9 rights or what will be the governing procedures
10 when the case finally does re-emerge.

11 The new regulations should
12 prescribe procedures for the Board's handling of
13 these remanded cases, just as they do in the BZA
14 case, for example, for application zoning
15 appeals, Chancery cases and so on. Drafting
16 these procedures, we suggest, should be based on
17 the following two considerations.

18 One, an ordered delay of this sort
19 is injurious to the parties and undermines the
20 integrity of the judicial and administrative
21 processes. A remanded case, unlike a newly
22 filed case is one in which the parties have

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1 already suffered the cost of significant time
2 elapsed in prosecution of the case.

3 A remanded case should, therefore,
4 be given preferential treatment in scheduling
5 and there should be a finite time limit between
6 remand by the court and the initiation of the
7 case by the agency. I would suggest, perhaps,
8 60 days.

9 Two, in general the same procedures
10 for hearing and argument should be followed in
11 the case of a remand as were applicable to the
12 remanded issue or issues in the first instance.
13 A remand by the Court of Appeals is a statement
14 that the agency's previous determination was, in
15 some particular respect, deficient.

16 The interest of all concerned in
17 getting the decision on that issue or issues
18 right the second time is not less compelling on
19 a remand than it was in the first instance and
20 there should be no cutting of corners on the due
21 process afforded toward reaching that end.

22 So we would urge the Commission to

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1 request OP, working with the Office of Zoning,
2 to draft regulations responding to these needs.
3 Thank you, sir.

4 CHAIRMAN HOOD: Okay, thank you.
5 Next?

6 MR. ALPERT: Thank you very much,
7 Chairman Hood and members of the Commission. My
8 name is David Alpert. I live in, on Church
9 Street in Dupont Circle in an historic townhouse
10 along with my wife and 10-week-old daughter.

11 Our neighborhood is a wonderful one
12 with multi-generational residents, many shops
13 within walking distance, large apartment
14 buildings, single-family townhouses and
15 everything in between and even a theater and a
16 zoning commissioner.

17 But the authors of the 1958 zoning
18 code felt that our neighborhood was
19 inappropriate, obsolete and should be forbidden
20 and, in many sections of the code, indeed, make
21 it illegal to construct blocks like ours.

22 But we now know that the authors of

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1 this code were mistaken about the future of this
2 city and mistaken in their statements that they
3 made at the time. Increasingly, Baby Boomers
4 who wanted to move into the suburbs want to move
5 back to the city. And young people, the
6 children of those Baby Boomers, want to remain
7 in the city and raise their families, as we are
8 doing.

9 But we face a very severe problem and
10 danger, that the city could become essentially
11 a gated city accessible only to the most affluent
12 and most privileged among us because, as prices
13 continue to rise and other zoning restrictions
14 place the dream of being able to live in the city
15 and raise a family out of reach.

16 So I hope you will not only consider
17 in the subsequent hearings the needs of all the
18 people who testified who will have very
19 important points of view to consider but also all
20 of the residents of our city and the potential
21 residents who don't was the financial or family
22 freedom to be able to spend so much time speaking

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1 to you.

2 I think that the Office of Planning,
3 in crafting many of their proposals, has tried
4 to keep in mind these disparate groups as well.
5 And when I differ from their recommendations, as
6 we'll discuss in subsequent nights, it's where
7 I think that they have been too ready to put aside
8 the needs of the groups that might be being
9 pushed out by the sorts of changes in our city
10 that, if unchecked, will indeed make the city out
11 of reach for so many people.

12 There is an urgency to pass this
13 zoning update. It has been five years in the
14 making now, hundreds of community meetings, and
15 every year these problems become more and more
16 acute and closer and closer as more
17 neighborhoods see longtime residents being
18 pushed out and young people who want to start
19 their careers or families in the city unable to
20 do so.

21 I wanted to also talk to a
22 particular, talk about two other

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1 recommendations, subtitles Y and Z, which is
2 that one way to hear voices of more residents
3 would be to make it easier for more people to give
4 you their comments.

5 Right now, if someone wants to talk
6 to their council member or they need to reach a
7 council member they can send an email. If they
8 want to give comments to the National Capital
9 Planning Committee they can fill out a Web form.

10 But if they want to talk to you
11 they'd have to write a testimony, print it out,
12 sign it, scan it back in, create a PDF and submit
13 it to you.

14 I believe the Office of Zoning is
15 concerned with making sure they can authenticate
16 people's comments and I'm not looking to
17 suddenly start a deluge of completely
18 unattributed mass emails to all of you, but it
19 is important for you to be able to make sure you
20 can hear from people who, for whom all of these
21 steps create a speed bump that is too significant
22 that it deters them from commenting.

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1 I think you can very simply continue
2 to require the name and address and other
3 elements that are required in Y and Z but not
4 require them to create a PDF and not require them
5 to sign electronic communications. And in my
6 testimony I point out the specific sections that
7 could be amended in a very minor way to make this
8 possible.

9 As I said before, it has been five
10 years. This was actually one of the first
11 issues that I was tracking when I started the
12 website, Greater Greater Washington, which I
13 run.

14 And at the time it was actually, what
15 OP said about the process was we were going to
16 have these hearings before the Zoning Commission
17 in 2008/2009, make the, essentially, the large
18 scale policy decisions about whether to reduce
19 parking units, whether to allow accessory
20 dwelling, whether to change this or that. And
21 then the subsequent round of hearings would be
22 to just decide the specifics and the actual code.

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1 But another one to, another three
2 years have now passed where they've had multiple
3 levels of public input. And public input is
4 good, and OP has made a number of changes in
5 response to that input.

6 Some I agree with, some I think they
7 have caved unnecessarily. But what I wanted to
8 urge all of you is that now that it has been so
9 long it is time to let this current process
10 conclude and then move forward with the zoning
11 update, with whatever changes you think are
12 necessary, allow this to go into effect because
13 there really isn't the opportunity for more
14 delay.

15 CHAIRMAN HOOD: Thank you. Thank
16 you very much. Okay, commissioners, any
17 questions of this panel? Commissioner May?

18 COMMISSIONER MAY: Yes, I have a
19 few, and I hope they're quick and quick answers.
20 The, Ms. Trotter, the, you proposed a 10 percent
21 cap on commercial use. I saw that in your
22 letters as well. What, I mean, presumably

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1 because it's too high, so do you have a
2 recommendation for what percent it, you think it
3 should be?

4 MS. TROTTER: Not a particular
5 percentage, but just the idea that anything has
6 to go through the process where it's done on a
7 case by case basis. So the 10 percent is too
8 high, so that should be lowered, and we don't
9 have a set, we didn't, our commission didn't --

10 COMMISSIONER MAY: But there should
11 be a cap.

12 MS. TROTTER: Yes.

13 COMMISSIONER MAY: Okay, I just
14 want to be clear about that because, I mean,
15 there is, I think there is provision for the
16 process. It's just a question of where you cap.

17 Okay, so Mr. Smith, with regard to
18 the, or Commissioner Smith, with regard to the
19 commercial use outside of the campus plan
20 context, as I understand it, it's an either/or.

21 It's either in the campus plan and
22 you plan for it and it's handled in that, what

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1 is essentially a special exception process, or
2 that there will be a separate special exception
3 for placing a commercial use in C1 and C2 zones,
4 which, I guess, now are N zones.

5 MR. SMITH: M?

6 COMMISSIONER MAY: M --

7 MR. SMITH: N, as in --

8 MS. TROTTER: Meaning --

9 MR. SMITH: -- neighborhood?

10 MS. TROTTER: -- zones.

11 COMMISSIONER MAY: Mixed use.

12 CHAIRMAN HOOD: Still not right.

13 MS. TROTTER: M, for Mixed use?

14 COMMISSIONER MAY: Yes.

15 MS. TROTTER: Neighborhood mixed
16 use are those zones which are currently covered
17 by overlays.

18 COMMISSIONER MAY: Oh, okay. Try
19 to keep it straight. Yes, so anyway, but you
20 think that special exception process that's, the
21 separate special exception process, to allow
22 that use in those other zones is not sufficient?

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1 MR. SMITH: No, I don't.

2 COMMISSIONER MAY: Okay, so, I
3 mean, how would you have them do it? I mean,
4 everything has to be done in 10, you know, 10
5 years in advance potentially? Or what if
6 something comes up and they want to move
7 something off-campus halfway through? They're
8 out of luck until next campus plan renewal or do
9 they have a --

10 MR. SMITH: There's an amendment
11 process.

12 COMMISSIONER MAY: So that would be
13 a special exception.

14 MR. SMITH: Well, what I'm saying,
15 in my best language, which is consistent with the
16 ANC's --

17 COMMISSIONER MAY: Yes, I noticed.

18 MR. SMITH: -- is that the campus
19 plan process, when they submit their campus plan
20 document to you --

21 COMMISSIONER MAY: Yes.

22 MR. SMITH: -- currently, they

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1 submit, they do not include any of the commercial
2 property that they currently use.

3 COMMISSIONER MAY: I'm well aware
4 of it.

5 MR. SMITH: Okay? And what we're
6 saying is they should be including that as part
7 of the campus plan process.

8 COMMISSIONER MAY: Right.

9 MR. SMITH: Because how that
10 property is used affects the neighborhood,
11 including --

12 COMMISSIONER MAY: No, and I don't,
13 I understand that --

14 MR. SMITH: Okay, so that's what
15 I'm saying.

16 COMMISSIONER MAY: -- completely.
17 All I'm --

18 MR. SMITH: Okay.

19 COMMISSIONER MAY: I'm just trying
20 to understand, well what happens when you're
21 five years in and they see a need and an
22 opportunity to use some other commercial space.

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1 MR. SMITH: Right.

2 COMMISSIONER MAY: You would
3 suggest that they have to amend the campus plan?

4 MR. SMITH: No, what, I think the
5 language, though, PO's suggested would cover
6 that because they would be required to get the
7 special exception, okay.

8 COMMISSIONER MAY: Right.

9 MR. SMITH: So that's why we
10 embraced that idea. But what we're saying is
11 that the overall approach that's being taken to
12 the commercial property owned by the university
13 is not complete.

14 COMMISSIONER MAY: Okay, so I mean,
15 it sounds like you're actually fairly close to
16 being in sync.

17 MR. SMITH: I think so.

18 COMMISSIONER MAY: Okay.

19 MR. SMITH: I think so.

20 COMMISSIONER MAY: All right.

21 MR. SMITH: I would say,
22 Commissioner May, if you go back 20 years ago,

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1 actually let me take that back, 12 years ago to
2 the Zoning Commission, the Zoning Commission,
3 when they did the campus plan for AU in the past
4 generation did consider impacts of commercial
5 property. They made a conclusion that it could
6 be done.

7 You all, when you did a campus plan,
8 made a conclusion that it couldn't be done. So
9 what we're saying is let's be very clear, let's
10 not make it vary by who's sitting on the
11 Commission. Let's have some very clear rules
12 of the road going forward.

13 COMMISSIONER MAY: Okay, thanks.
14 So, Ms. Kahlow, I'm a little confused by your
15 emphasis on the essential employment area which,
16 as you state, is defined by statute and what's
17 being defined here as zones, not essential
18 employment area. So, I mean, does the statute
19 dictate that it follow what we decide in terms
20 of zones?

21 MS. KAHLOW: I think it's an attempt
22 to backdoor and avoid a statutory change. If

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1 you look at the whole idea, this essential
2 employment area was downtown, not in a
3 residential neighborhood.

4 By redefining what downtown is and
5 what transfer with development rights are into
6 lots and lots of squares, you've basically
7 turned us into downtown, and that's what she
8 calls us, downtown.

9 And that's not what we are. So this
10 is a way of not amending the statute to do what
11 they have intended to do. And I think they need
12 to amend the statute.

13 COMMISSIONER MAY: So what is it
14 that they, oh, all right, I guess I need to
15 understand more about what the CDA is --

16 MS. KAHLOW: We testified six times
17 in front of the National Capital Planning
18 Commission after the city council agreed with
19 us.

20 And, finally, NCPC said okay, we'll
21 let you have what you want, which is a very small
22 CEA, not in your neighborhood. And Mr. Miller

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1 was there. He knows that.

2 COMMISSIONER MAY: Okay. Thanks.

3 That's it for me.

4 CHAIRMAN HOOD: Okay, Vice Chair.

5 VICE CHAIR COHEN: Thank you, Mr.
6 Chairman. Again, I have a question for Ms.
7 Trotter and Mr. Smith with regard, again, to the
8 commercial space. I'm not sure I understand
9 what the problem is as long as it's on campus.

10 One of the things that I would be
11 concerned about is there are uses such as like
12 a bio-tech facility that may end up being more
13 of a commercial venture but takes advantage of
14 its location on a campus, close to resources.
15 That would be prohibited by use. So I guess I'm
16 --

17 MR. SMITH: No, what we suggest in
18 our testimony, we're talking about the
19 commercial uses on campus, am I correct?

20 VICE CHAIR COHEN: Right.

21 MR. SMITH: Okay, what we're
22 suggesting is that you would take that up on a

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1 case by case basis. In other words, that you
2 would not set a floor or a ceiling, whatever you
3 want to call it.

4 But, rather, the way you do it now,
5 when the university comes forward with using a
6 residentially zoned property on campus for a
7 commercial purpose, you take that up on a case
8 by case basis now. We're saying you should
9 continue to do it that way. That's all.

10 VICE CHAIR COHEN: Thank you. I
11 have no other questions.

12 CHAIRMAN HOOD: Okay, thank you.
13 Next, Mr. Miller?

14 COMMISSIONER MILLER: Thank you,
15 Mr. Chairman. I don't have any questions. I
16 thank you, each of you, for your testimony.
17 It's very clear and very thoughtful. And I may
18 have some questions of the Office of Planning
19 about their reaction to some of the testimony.
20 But I appreciate all of your commitment to the
21 city.

22 CHAIRMAN HOOD: Okay, Commissioner

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1 Turnbull.

2 COMMISSIONER TURNBULL: Thank you,
3 Mr. Chair. I've just got one question for
4 Commissioners Trotter and Smith. And I have
5 kind of struggled through the campus plan, the
6 whole thing of campus plans.

7 What you would like to see, somehow,
8 is basically a campus plan come forward as a
9 campus plan, no second stage, just a clean campus
10 plan or a second stage processing, no?

11 MR. SMITH: What we want to see is
12 when the campus, yes, in answer to your question,
13 yes, actually.

14 COMMISSIONER TURNBULL: Okay.

15 MR. SMITH: But what we want to see
16 is that the campus plan, that the university puts
17 forward its first stage campus plan, it is
18 reviewed and once you've made that decision on
19 that campus plan that then we go to the second
20 stage. Not to have multiple proceedings
21 running at that same time, as we have with the
22 AU campus plan. It is too overwhelming. It's

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1 overwhelming for you, for us, for the residents
2 and it's just not very efficient.

3 COMMISSIONER TURNBULL: Do you
4 think, and I think in the case of AU, it,
5 obviously, that was an aggressive plan to moving
6 it with the floor. Do you think there is an
7 opportunity if there was, they have a deadline
8 to meet, either it's their academic needs, if
9 there was one project that wanted to be part of
10 the first stage or are you saying none at all?

11 MR. SMITH: I think the position
12 that the ANC took, and I would agree with this
13 from my own perspective, is that it would be none
14 at all. And, you know, there is, this also comes
15 down to what OP says is one of the higher
16 priorities of the campus planning process, which
17 is effective planning.

18 So I think the question you have to
19 ask and that we have to ask as the ANC
20 commissioners is how effective is this planning
21 process that's going forward.

22 How do you wake up one day and decide

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1 that you need to build this major dorm, for
2 example, and it has to be open tomorrow? I mean,
3 what kind of planning is that?

4 If you've planned it for several
5 years ahead of schedule then you could have
6 always come back and amended that campus plan
7 before you had to submit your new campus plan as
8 part of the cycle.

9 And that's also, I think, one of the
10 values in extending the length of the campus plan
11 process is that it does force some of these
12 discussions but it also opens up the potential
13 for an amendment to the campus plan process.

14 It makes it so that neighbors,
15 residents, don't have to every, I mean, we're
16 looking at beginning a new campus plan. I hate
17 to say this but, as a resident, as a neighbor,
18 as a neighborhood, I'm in about five or six
19 years.

20 And do you think any of us really
21 want to go through that again? I mean, we don't.
22 And so somewhere along the line it would be

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1 helpful to address that piece of it as well.

2 COMMISSIONER TURNBULL: So are you
3 guys, are you looking at campus plans to be
4 longer than a 10-year period?

5 MR. SMITH: I think our position
6 would be that that should be an option on the
7 table. This is something that we did do, as you
8 may recall, with the Wesley Theological
9 Seminary. The community, as a Seminary, agreed
10 and they came to you all and asked you all for,
11 I believe it was, a 15-year campus plan.

12 MS. TROTTER: And my single member
13 district is closer to Georgetown University.
14 And when we look at the issues that have gone on
15 with Georgetown University, the university is
16 trying very hard to be a good neighbor to Foxhole
17 Village and Foxhole Road and Reservoir Road.

18 And we just feel like these changes
19 that we're suggesting, that the Commission has
20 adopted for your consideration would help all of
21 us to have a less confrontational process.

22 And the idea that the university's

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1 can pull back from these overly ambitious plans
2 as well, as Commissioner Smith was saying, would
3 just benefit us all in terms of resources of time
4 and money as well.

5 And so extending that timeframe on
6 the campus plan and also, as I mentioned in my
7 testimony, setting a deadline on when it should
8 be resolved would be helpful for all parties.

9 And we're just trying to create an
10 environment of consensus that reflects the
11 interests, a balanced interest, of the
12 universities and the neighbors as well. And
13 that's why we feel so strongly about the
14 resolutions that we've passed and bring before
15 you tonight.

16 COMMISSIONER TURNBULL: Okay,
17 thank you.

18 CHAIRMAN HOOD: Okay, I really
19 appreciate, as my colleague, Commissioner
20 Miller mentioned, all your testimony. It has
21 been very helpful. I have a lot of questions.
22 Ms. Kahlow, you can see I have question marks on

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1 some of your testimony that I want to ask the
2 Office of Planning.

3 MS. KAHLOW: Thank you.

4 CHAIRMAN HOOD: I dare not ask you
5 because I want to make sure that I hear from
6 people. That's what my goal is tonight, to
7 listen to the public.

8 But I will ask this, and everybody
9 can just tell me, if you don't mind, can you just
10 tell me which ward you live in? Mr. Peterson?
11 I probably already know but I just want it for
12 the record.

13 MR. PETERSON: I'm in, I live in
14 Ward --

15 CHAIRMAN HOOD: Use your
16 microphone.

17 MR. BARDIN: I'm David Bardin.

18 MR. PETERSON: I'm Gary Peterson.
19 I live in Ward 6.

20 CHAIRMAN HOOD: Okay.

21 MR. BARDIN: I'm David Bardin. I
22 live in Ward 3, former ANC 3F04.

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1 MS. TROTTER: Gayle Trotter, Ward
2 3, ANC 3D.

3 CHAIRMAN HOOD: Okay.

4 MR. SMITH: Tom Smith, Ward 3.

5 CHAIRMAN HOOD: Okay.

6 MS. KAHLOW: Barbara Kahlow, Ward
7 2.

8 MR. HARGROVE: Larry Hargrove, I
9 live in Adams Morgan, Ward 1, ANC 1C.

10 CHAIRMAN HOOD: Okay.

11 MR. ALPERT: David Alpert, Ward 2.

12 CHAIRMAN HOOD: Ward 2. All right,
13 any other questions? Commissioner May?

14 COMMISSIONER MAY: Not a question,
15 but a comment. I'm so eager to get down to
16 business and ask questions that I sort of skipped
17 over and I see, I just wanted to echo
18 Commissioner Miller's compliment and the
19 Chairman's compliment for everybody who
20 testified and everybody who provided comments in
21 advance.

22 I found everything exceedingly

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1 helpful, very clearly written, directed to the
2 specific sections, sometimes citing exact
3 paragraphs, much, very easy to follow and
4 concise, which is really, really important too.
5 So I'm just very, very grateful that we're
6 getting off to a really good start.

7 I hope it continues in the same vein,
8 and I thank you for coming out tonight and coming
9 back again, since we're making everybody come
10 back again on other nights that they want to hit
11 all these different topics. So that's all.

12 CHAIRMAN HOOD: Okay, thank you all
13 for your testimony. We appreciate it. Okay,
14 I'm going to ask Ms. Nancy MacWood, Kris Auden,
15 Dr. John Cavanaugh, Katherine Witt, Marilyn
16 Simon, Florence Harmon, Christopher Collins and
17 Paul Tummonds. That's eight.

18 VICE CHAIR COHEN: Five, six, okay.
19 All right.

20 CHAIRMAN HOOD: That's supposed to
21 be eight, but maybe some people are not here. So
22 let me just make sure I filled up the table.

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1 Okay, Holly Mohammed? Holly Mohammed, Loretta
2 Neuman and Alma Gates.

3 Okay, this time, since I usually
4 start from my left and Ms. Gates is not here, so
5 I'm going to start from my right. Maybe we'll
6 switch it up a little bit. I'll start from my
7 right and just go down. Mr. Collins.

8 MR. COLLINS: Good evening, Mr.
9 Chair and members of the Commission. My name is
10 Christopher Collins with the law firm of Holland
11 & Knight.

12 I'm here to testify on Subtitle X,
13 Chapter 200 with regard to Chanceries. And I
14 can be very brief. I submitted a letter dated
15 October 28th that when through some of concerns
16 that we have, and that's in the record.

17 But in summary, the proposal is, in
18 many respects, contrary to the express language
19 of the Foreign Missions Act and the intent of
20 Congress in enacting that act.

21 And the proposal that's before you,
22 I understand, does not have the input of either

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1 the State Department or the National Capital
2 Planning Commission.

3 And so I would ask that you table
4 Subtitle X, Chapter 200 and any other sections
5 that deal with Chanceries in order to allow for
6 a full review and discussion with input from the
7 State Department and the NCPC. Thank you.

8 CHAIRMAN HOOD: Okay, thank you.
9 Next.

10 MS. SIMON: My name is Marilyn Simon
11 and I'm speaking tonight on behalf of Friendship
12 Neighborhood Association. FNA has been
13 involved in the zoning rewrite since July, 2007
14 and over the past six years I have testified
15 before the Zoning Commission on many sections of
16 the proposed zoning code.

17 We ask that our previous testimony
18 on the zoning rewrite be included in the record.
19 This process began with the revised
20 comprehensive plan which required a revision of
21 the zoning regulations so that the regulations
22 would reflect policy changes in the comp plan.

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1 Ease of use was another goal of the ZRR.

2 Instead of a revision OP did a total
3 rewrite of the zoning regulations. The revised
4 document, if approved, implements many broad
5 policy changes which were not part of the comp
6 plan and fails to implement some of the major
7 policies listed in the implementation element of
8 the comp plan for implementation the ZRR.

9 The addition of diagrams makes some
10 of the provisions clearer and the inclusion of
11 some hyperlinks makes navigation, at times,
12 easier but many find that, on balance, the new
13 regulations are difficult to use, more difficult
14 than the current regulations.

15 More importantly, regulations
16 should be clear and should be enforceable. The
17 advertised text was lacking in these areas.
18 Lack of clarity is obvious from some of the
19 provisions, including a few provisions where I
20 asked OP what they intended to in that section
21 and OP could not answer the question.

22 So the loss of enforceability stems

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1 from the shift for requiring special exception
2 to allowing this as our development standards as
3 a matter of right, sometimes with conditions.

4 The enforcement and reporting
5 mechanisms available through the special
6 exception process were not incorporated into the
7 regulations so in many instances there is no
8 mechanism to assure continued compliance.
9 Further, the conditions were frequently
10 inadequate to protect neighboring properties
11 from negative impact.

12 The deficiencies in this document
13 cannot be addressed with a few line edits,
14 especially given the compressed hearing
15 schedule.

16 The ZRR was a multi-year process but
17 concerns about the amount of time that has passed
18 since the process began should not lead the
19 Commission to rush to adoption of regulations
20 that, one, do not implement the comp plan
21 policies that were to be implemented through the
22 ZRR.

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1 Two, include new policies that were
2 not in the comp plan, some inconsistent with
3 explicit policies in the comp plan and, three,
4 include regulations that lack clarity and lack
5 enforcement mechanisms.

6 FNA has submitted specific
7 recommendations on Subtitles X and Z. Given the
8 limited time available access and comments on
9 any section of the September 9th's draft should
10 not be interpreted as concurrent with the
11 proposed language.

12 In this section we were concerned
13 that OP did not implement the recommendations by
14 many of the working groups to increase the
15 minimum land area for PUDs in some zones.

16 The proposed regulations have a
17 minimum land area of 15,000 square feet for a PUD
18 in commercial zones in Friendship Heights. The
19 minimum land area should be increased to at least
20 one acre in those zones. PUDs were originally
21 conceived to develop large tracts of land more
22 creatively than could be done as a matter of

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1 right. Having a minimum land area of 15,000
2 square feet for low and moderate, low and
3 medium-density development meets this flat
4 zoning.

5 Section 305.5 defines additional
6 market rate housing to be of public benefit which
7 could be used to justify additional density.
8 This should be omitted, especially when it is
9 cited in a residential zone. Increased
10 residential density should not be available as
11 an amenity to justify that very increase in
12 density.

13 Section 305.7 limits off-site
14 benefits to areas within the same ANC as a PUD
15 site. ANCs are quite large. For example, in
16 our ANC this would mean that a PUD amenity might
17 be over a mile away from the project, in a
18 different neighborhood, and would not benefit
19 the neighbors who are impacted by the project.

20 Further, ANCs are redistricted with
21 every census. We suggest that any offsite PUD
22 amenities, if allowed, be within a quarter-mile

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1 of the project. We also ask that the Zoning
2 Commission reconsider being allowed to read
3 letters from the public prior to a set down
4 meeting so that they can benefit from the
5 additional knowledge about the area and issues
6 of concern to the community, and can provide
7 guidance to developers on what they might
8 consider changing in the pre-hearing
9 submission, perhaps resulting in a less
10 contentious project.

11 We also think it is critical that
12 agency reports be available in advance and ask
13 that the recent proposed edits on inclusion of
14 agency reports, the open set down reports be
15 reversed. Thank you.

16 CHAIRMAN HOOD: Thank you. Next.

17 MR. TUMMONDS: Good evening, Mr.
18 Chairman, members of the Commission. I'm Paul
19 Tummonds, with the law firm Goulston & Storrs.
20 This evening I am also here as DCBIA, as
21 representative from the ZRR task force.

22 Before I provide comments and some

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1 specific provisions of Subtitle A and X I want
2 to commend the Office of Planning and
3 acknowledge the work that they have done taking
4 on the daunting task of the rewriting of the
5 District's zoning regulations.

6 From the very beginning of the
7 rewrite process I have participated in numerous
8 working groups and dozens of task force
9 meetings. My firsthand experience with this
10 process is that the Office of Planning
11 representatives spent a huge amount of time and
12 energy discussing and explaining the rationale
13 for a proposed modification or refinement to the
14 current zoning regulations and have actively
15 sought comments from stakeholders in this
16 process.

17 I found the OP representatives have
18 thoughtfully reviewed comments that they have
19 received and have often modified their proposals
20 in response to those comments. I believe the
21 Office of Planning has done exactly what we would
22 expect of a world class planning department.

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1 They researched best practices of what other
2 jurisdictions in the region, the country and
3 even in the world were doing and then sought to
4 tailor those practices to our unique city.

5 They have pushed us to take a look
6 at new ideas for the District while still
7 retaining protections and standards that
8 maintain and foster the vitality and vibrancy
9 that we aspire to have in all of our
10 neighborhoods.

11 Now, with regards to the specifics
12 of this evening, Subtitle A, Authority and
13 Applicability. The effective date of the
14 proposed zoning regulations is unknown, which
15 provides a great deal of anxiety for D.C. guide
16 members as they contemplate new development
17 projects.

18 Accordingly, the proposed
19 regulations need to enumerate time lines for
20 transition to the new regulations that will
21 clearly establish when property owners will be
22 subject to the new regulations and allow design,

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1 development and zoning review that is currently
2 underway to continue to proceed under those
3 existing regulations.

4 In our October 28, 2013 written
5 submission to the record we proposed specific
6 additions to the text of the zoning regulations
7 which include phase-in language for projects
8 that have begun as zoning for historic review
9 process. These phase-in proposals are based on
10 the language that was recently adopted by the
11 Zoning Commission with regards to the GAR.

12 Given the significant learning
13 curve that we expect everyone, including land
14 use attorneys, will have with understanding
15 these new regulations and the recent experience
16 that we have had with the implementation of the
17 IZ and GAR regulations, it is entirely
18 appropriate for the Zoning Commission to
19 establish a date-certain as to when these
20 regulations will become effective.

21 In order to give all the parties
22 sufficient time to truly understand the new

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1 zoning regulations and their impact, this
2 date-certain must be at least six months after
3 the zone, final zoning regulations are published
4 in the D.C Register.

5 With regards to the campus plan
6 procedure, Dr. Cavanaugh, of the Consortium, is
7 here to discuss in detail some of the concerns
8 that universities have. But, more importantly,
9 we believe draft zoning regulations which will
10 require special exception approval for college
11 or university uses in the low-density commercial
12 zones, in fact, improperly treat a college or a
13 university use different than a similar use.

14 For example, a college or university
15 general counsel's office would not be permitted
16 in the C1 or C2A zone while a law firm office
17 would. Similarly, for an architect's office.
18 Moreover, a theater that would be permitted in
19 the C2A zone as a matter of right, such as the
20 Gala Theater, the Studio Theater, those would
21 not be permitted as a matter of right in the C2A
22 zone, like AU's Greenberg Theater at 4200

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1 Wisconsin Avenue.

2 DCBIA believes that this provision
3 should be deleted from the draft zoning
4 regulations as it clearly reflects a
5 discriminatory intent to treat college and
6 university uses differently than similarly
7 situated users of real estate.

8 Thank you for your time this
9 evening. The issues that I have highlighted in
10 my testimony are addressed in greater detail in
11 our written submission, and I look forward to
12 answering any questions you may have.

13 CHAIRMAN HOOD: Great. Thank you.
14 Next.

15 MS. HARMON: Chairman Hood and
16 members of the Zoning Commission, for the
17 record, I am Florence Harmon, Chair of the
18 Advisory Neighborhood Commission ANC 2A. ANC
19 2A includes both Foggy Bottom and West End
20 neighborhoods.

21 The ANC has filed its resolution
22 dealing with the zoning regulations review and

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1 I'd like to summarize some of the highlights.
2 First and foremost, ANC 2A opposes Office of
3 Planning's new allowable increases in density
4 percent non-residential uses and height for
5 planned unit developments. In addition, since
6 much of the West End is zoned C2C, Office of
7 Planning's automatic height increase from 90 to
8 110 feet in C2C zones would dramatically change
9 the character of this mixed used area.

10 And we would note that there is a
11 rapid growth of residential use in the West End
12 area and our concern with some of these proposals
13 is that it seems to assume that it's mainly
14 commercial only.

15 The next most substantive important
16 issue is OP's proposed revised rules governing
17 future acceptable PUD benefits and amenities.
18 We've had long-term experience with identifying
19 and negotiating appropriate PUD amenities for
20 our neighborhood, most of which do include
21 upgrades of public land or governmental services
22 which we believe should be paid by the tax

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1 payers, paid by tax payer funds, not developers.

2 An example of a recent amenity that
3 the ANC 2A negotiated was the amenity that
4 supported the Foggy Bottom West End Village, an
5 established non-profit that serves the needs of
6 many elderly in our community and sort of
7 supports the stated goals of Office of Planning
8 tonight.

9 Mayor Gray recently cut the
10 ceremonial ribbon, marking the start of this
11 aging-in-place non-profit and it was PUD amenity
12 monies that provided the seed money for this
13 valuable non-profit to begin operations in our
14 neighborhood.

15 Therefore, we strongly recommend
16 the Commission continue to allow the
17 identification of non-public PUD benefits and
18 amenities, let the ANC continue to do that. We
19 also urge the Zoning Commission to give
20 attention to our concerns articulated in our
21 resolution, our October 16, 2013 resolution to
22 give our ANC's position great weight.

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1 I'd also like to personally thank
2 Sharon Schellin and Donna Hanousek, I'm sorry,
3 I just massacred her names, but I am not a zoning
4 attorney. I do not have an in-depth background
5 and I cannot tell you how incredibly helpful they
6 were to me from the numerous phone calls I made
7 to try to sort out where our issues belonged
8 during this process. So thank you very much.

9 CHAIRMAN HOOD: Okay, thank you.
10 Next.

11 DR. CAVANAUGH: Good evening,
12 Chairman Hood, members of the Commission. My
13 name is John Cavanaugh and I am the President and
14 CEO of the Consortium of Universities of the
15 Washington Metropolitan Area.

16 I thank you for the opportunity to
17 comment this evening around the proposed changes
18 in the zoning regulations and also deeply
19 appreciate all of the time and energy that you've
20 put into what is a very difficult and complex
21 task. Recently we have also filed a document
22 providing some details of specific concerns we

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1 have so I will not reiterate all of those
2 details, but refer you to that for them.

3 For purposes of my testimony this
4 evening I'm just going to highlight four of our
5 major concerns around Subtitle X. I'd like to
6 reiterate Paul Tummonds' comment earlier about
7 university uses in commercial zones. He
8 clearly articulated our concerns with that so
9 I'm not going to, in the interest of time, I'm
10 not going to repeat the comments he made but
11 simply ask for fair treatment around that
12 particular issue.

13 With regard to commercial uses on
14 university campuses, university campuses often
15 do include retail and service establishments
16 that serves students, faculty and staff of the
17 university as well as neighbors in the nearby
18 neighborhoods with amenities such as sandwich
19 and coffee shops and small grocery and
20 convenience stores.

21 In many cases these uses are also
22 open to the public and help contribute to the

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1 vibrancy of the neighboring communities. The
2 proposed regulations would limit commercial
3 uses on campus to those with, and I quote,
4 "demonstrated and necessary relationship
5 between commercial use and university
6 function".

7 The recommended language is overly
8 restrictive as it requires such commercial uses
9 to be located as "internally central to the
10 campus as possible" and would only permit them
11 if there was a "demonstrated and necessary
12 relationship".

13 The Consortium recommends that the
14 Commission relax this language to allow
15 consideration of the relationship of such
16 commercial use as not only to the university's
17 operation and academic mission but also to the
18 student experience and to the good of the
19 surrounding neighborhood.

20 In many circumstances, neighborhood
21 serving retail uses is at the periphery of the
22 campus would be viewed as an amenity for both the

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1 university and the neighborhood.

2 The third point we'd like to comment
3 on is the building height measurement. The
4 draft regulations carry forward the recently
5 adopted requirement that building height be
6 measured from the midpoint of the building
7 facade along the street or lot line nearest to
8 a public street.

9 The application of this new
10 requirement has proven to be a challenge when
11 applied at the large or highly dense campuses for
12 buildings in the interior of the campus that do
13 not have a clear facade that is "closest to a
14 public street".

15 The Consortium recommends that the
16 Commission return to the longstanding practice
17 of permitting the property owner to select the
18 most appropriate front for measuring building
19 height. The Commission would still, of course,
20 retain the ultimate discretion to conclude
21 whether the building height is appropriate as
22 part of this special exemption review process.

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1 In terms of the changes for the
2 Floor-Area Ration calculation, the proposed
3 changes would deprive universities of
4 significant well-established development
5 rights and undermine the core principle of the
6 District's campus planning scheme, which is that
7 universities should focus development on
8 existing campuses, that is, focus on density.

9 For decades the campus planning
10 regulations have granted universities
11 additional density rights to permit growth
12 within their campus boundaries in order to avoid
13 encroaching on surrounding residential
14 neighborhoods.

15 And you heard earlier in Ms.
16 Tregoning's presentation, the notion that a goal
17 should be to keep students on campus as much as
18 possible and to encourage that higher density
19 development on campus.

20 The proposed regulation which would
21 be retroactively applied to universities within
22 existing campuses would reduce the amount of

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1 permitted development on large campuses and
2 would take away existing density that these
3 campuses have relied on as being available for
4 decades.

5 This concludes our testimony this
6 evening and, in closing, I, again, draw your
7 attention to our previously submitted document.
8 And thank you, again, for your attention and your
9 dedication to these revisions. Thank you very
10 much.

11 CHAIRMAN HOOD: Thank you very
12 much. Next.

13 MS. MACWOOD: Good evening,
14 Chairman Hood, members of the Commission. I'm
15 Nancy MacWood, representing the Committee of
16 100.

17 Since this is the first hearing on
18 the zoning code text amendments I want to express
19 our hopes for how you will approach the
20 significant task and offer some context that may
21 be helpful as you hear conflicting views on many
22 of the Office of Planning's proposals.

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1 There is a little red bit of candor
2 in the implementation element of the
3 comprehensive plan. The statement describes
4 the document as a city plan but adds that its
5 implementation is dependent, in large part, on
6 the Zoning Commission. The legal concept that
7 zoning laws should not be inconsistent with comp
8 plan policy seems, at times, as less a
9 restriction than an archaic check-off.

10 But D.C. residents are increasingly
11 aware of the significance of the comp plan and
12 we wanted to inform your deliberations, and not
13 just a phrase from a policy but the intent the
14 body of the policies that are relevant to a
15 zoning topic.

16 The Committee of 100 also urges
17 caution. The city has experienced an unusual
18 growth spurt but an unprecedented recession
19 contributed to the large population growth rate
20 increase. And the CFO has told Council that
21 population growth rates are declining and they
22 forecast a 0.8 percent rate in FY 2017.

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1 It would be a terrible mistake to
2 base land use law on an assumption about an
3 unstable trend. Similarly, we should not leap
4 to assume that the comp plan targets for
5 development are not sound.

6 We have large parcels, vacant or
7 underdeveloped land and unmet capacity within
8 current zoning limits. There is no need to act
9 quickly to make drastic decisions about use of
10 developed land based on short-term trends or
11 market interests.

12 Most importantly, the Zoning
13 Commission should not make policy and should be
14 skeptical of zoning proposals that clearly were
15 not considered by the Council when it adopted the
16 comp plan. Likewise, we hope you will use
17 caution for adopting unproven planning theories
18 that have not been analyzed using D.C. facts.

19 Our city has some unique aspects
20 which may render some proposed zoning changes
21 based on theory actually quite unreasonable.
22 Whether or not they are in vogue right now within

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1 the planning industry, most of our zoning
2 concepts are working.

3 You will hear a lot about affordable
4 housing throughout these hearings and we hope
5 you will find that there are meaningful
6 opportunities that aren't being fully explored.
7 Token proposals will not achieve the goal of
8 reversing the trend of expensive market rate
9 housing, out of reach for most D.C. residents.

10 And, finally, we urge you to use your
11 common sense as you evaluate the enormous task
12 before you. You know that there are different
13 challenges faced by neighborhoods and that each
14 has different strengths.

15 We hope you will look for practical
16 proposals that don't jeopardize what is working
17 and not for judicious changes that are unlikely
18 to have unintended consequences.

19 The mission is not to transform the
20 city but to translate the Council's land use plan
21 into regulations. The task is manageable if you
22 approach it from the perspective that we don't

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1 want solutions for problems that the Council has
2 not identified and proposed a solution.

3 Since I have provided you with
4 detailed bullets I want to highlight a few areas
5 with regard to Subtitles A, X and Y. Many of
6 these topics will be considered again in other
7 Subtitle hearings.

8 One of the most ill-considered
9 proposals is the consolidation of overlays with
10 underlying zones. The Office of Planning is
11 ignoring the comp plan policies that endorse
12 overlays and encourage more of them.

13 OP has been tone-deaf to residents
14 who spent years creating overlays and stand by
15 them. By definition, overlays distinguish
16 underlying zoning proposed provisions. They
17 work. The Zoning Commission should reject this
18 significant change.

19 Apartment zones should be
20 identified as residential zones. These zones
21 are residential and they share the attributes of
22 our neighborhoods. The Office of Planning is

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1 stressing in the purpose statements for Subtitle
2 F that these zones are intended for
3 institutional semi-public buildings. But the
4 residents and neighborhoods zoned R5 would say
5 that they live in multi-family neighborhoods.

6 This potential transformation of
7 multi-family zones into a non-residential zone
8 should not be allowed, and the Zoning Commission
9 should make that point by inserting residential
10 into the title.

11 The zoning administrator's
12 authority to grant deviations and modifications
13 to development standards is missing a very
14 important requirement. The ZA should be
15 required to notify the relevant ANC that he is
16 considering taking action, and again, when he
17 takes action. The ZA's action is appealable to
18 the BZA but only if an appeal is filed timely.

19 The lack of notice requirement puts
20 an ANC at a terrible disadvantage if it finds
21 that the ZA's action was unwarranted or harmful.
22 ANC should not be expected to constantly monitor

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1 the D.C. Register in order to represent
2 neighborhoods and the ZA should be transparent
3 in actions he takes that affect an ANC area.

4 I think my time has expired so I'll
5 have to just submit the rest of my testimony.

6 CHAIRMAN HOOD: Yes, thank you.
7 Thank you very much. Next.

8 MS. NEUMANN: Good evening.

9 CHAIRMAN HOOD: Is your microphone
10 on? No, it's not.

11 MS. NEUMANN: Oh, okay, thank you.
12 My name's Loretta Neumann. I'm representing
13 Neighbors, Incorporated. I live in Ward 4.
14 Neighbors, Inc. is a non-profit D.C. corporation
15 founded in 1958 to foster and maintain
16 integrated neighborhoods in north Washington,
17 D.C.

18 We include several neighborhoods,
19 including my own of Takoma, but also Shepherd
20 Park, Manor Park and Brightwood. I am a
21 longtime resident of the area. I am past
22 president of Neighbors, Inc. I've been an ANC

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1 commissioner. I've been active on many
2 organizations including the Committee of 100.
3 And I have worked on many zoning matters in our
4 ward.

5 Our current Board was not even
6 elected until September at our membership
7 meeting and didn't have its first meeting until
8 last week. And so we couldn't respond in time
9 and, in fact, hadn't decided to until we saw,
10 several of us, this document led to us by our ANC
11 commissioner, which is the ZRR rewrite.

12 We were shocked at the thickness of
13 it but also surprised because when you open it
14 up all you see, and you can tell I've been
15 reviewing this considerably in this one week
16 I've had, all this text, and yet there's no way
17 to tell where the, what the changes are, what's
18 being added, what's taken out, what's revised.
19 We were very disturbed because there are a number
20 of changes we were told were going to be made.
21 We can't tell whether they are being made.
22 Excuse me.

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1 I went online to the OP Summary of
2 General Changes and I found it to be so vague that
3 it's virtually useless. So it doesn't tell us
4 what these mean.

5 I would expect, and I think the, on
6 the previous panel a woman I don't know, but she
7 said exactly what I feel, is that there should
8 be like a Redline version that shows you what the
9 changes are. If not, a tracking and then maybe
10 a side-by-side version, this side is what, the
11 way we're proposing and this is what we'll
12 change. And not just saying in generalities,
13 but specifically in terms of feet and density and
14 FAR and all of that, what are the changes that
15 are being proposed.

16 We were also surprised to find a
17 whole new section we didn't even know about.
18 And I did attend a lot of the meetings that OP
19 had. I was on a co-regional working group early
20 in the zoning process. At the Takoma one I do
21 not recall them ever mentioning that there is a
22 new Takoma neighborhood mixed use zone which we

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1 discovered in this book.

2 And I will be testifying next week
3 on it, but I do have some concerns about it, but,
4 again, we can't tell what the changes are,
5 whether it's the same, is it different than
6 what we currently have. I have checked with
7 other organizations around these and found them
8 to be equally perplexed.

9 Despite the fact that OP has spent
10 several years in developing the proposed changes
11 residents of D.C. have not been supplied
12 sufficient information to make an informed
13 decision.

14 Clearly, more time and attention is
15 needed. The hearings this week are too cursory
16 to provide sufficient response from the
17 community. I'm sorry, I have a little bit of a
18 cold.

19 Therefore we cannot, Neighbors,
20 Inc., and will not respond now to the ZRR
21 document developed by the Office of Planning
22 but we do have some suggestions to make.

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1 Our major recommendation is that the
2 Zoning Commission consider these hearings as
3 merely preliminary and that you delay any
4 further consideration for at least six months,
5 until the Office of Planning has provided new
6 text that reflects the concerns of the citizens.

7 During this time the Commission
8 should require OP to immediately prepare a new
9 document for citizen review that clearly shows
10 the changes that are being proposed from current
11 zoning. The current cross-walk that OP Web site
12 has is still too general to be of use for most
13 residents.

14 Two, direct OP to meet in smaller
15 groups, at least at the ANC level to discuss the
16 ZRR document with the ANCs and go through it with
17 them and community leaders and residents who
18 seek clarifications of the text to try to develop
19 a consensus position.

20 Three, alternatively or in addition
21 to face-to-face meetings, ask OP to provide an
22 online means of direct communication via a Chat

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1 function or a webinar in which community
2 residents can raise questions to OP and discuss
3 their concerns, make further recommendations,
4 et cetera.

5 Therefore, as proposed in your
6 announcement of these hearings, hold another set
7 of hearings to receive public response to the
8 zoning text proposed by OP. Thank you, again,
9 for the opportunity to testify.

10 CHAIRMAN HOOD: Okay, thank you.
11 Next.

12 MS. GATES: Good evening, members
13 of the Zoning Commission. My name is Alma
14 Gates. Tonight I want to address Subtitle X,
15 Section 102, Private School Plans and Special
16 Exception Requirements.

17 On December 11, 2008 the Office of
18 Planning informed the Zoning Commission in many
19 instances the impact of smaller institutions are
20 just as wide-ranging if not as pervasive as those
21 of other large institutional uses. Therefore,
22 in the interest of consistency and

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1 predictability, OP recommends that they be
2 regulated within the same comprehensive
3 framework of regulations.

4 OP also noted that many private
5 schools don't come back to the BZA, preserving
6 relief for years, and it would be useful to have
7 periodic reporting on how Special Exception
8 conditions are being met. Recommendation,
9 Subtitle X substantially expands the
10 application criteria for special exceptions for
11 private schools over current Section 206
12 requirements. This is a good thing.

13 These would be further enhanced by
14 a reporting requirement and establishment of a
15 clean hands threshold which would be filed
16 annually with the Compliance Officer in the
17 Office of Zoning.

18 The group I represent, Neighbors
19 United Trust, was formed in response to the
20 proposed establishment of a junior high school
21 for 60 7th and 8th graders in the midst of a
22 residential neighborhood. The property, one of

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1 the original Victorian homes on MacArthur
2 Boulevard, was built for a family of six.
3 Nevertheless, the BZA granted the special
4 exception with a list of conditions and the
5 junior high has settled into its surroundings.

6 This zoning relief has worked
7 because then it will serve as a constant reminder
8 there are conditions associated with zoning
9 approval and the school understands it must
10 abide by its BZA order.

11 Quarterly meetings are faithfully
12 attended and have proven to be an excellent
13 lesson in how we handle relations, away from the
14 school and neighbors to discuss our different
15 culture, what's working, what isn't.

16 Recommendation, special exception
17 conditions should be clearly constructed and
18 worded to protect neighborhood quality of life
19 and ensure enforceability. Quarterly meetings
20 are strongly suggested as a requirement for
21 private school's special exception approval.

22 A major issue faced by private

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1 schools is faculty/staff parking. While
2 Subtitle X, Section 101.8 gave requirements for
3 location or parking facilities, the actual
4 formula for numbers of spaces is found in
5 Subtitle C.

6 The new private school parking
7 formula was highly contested by the task force
8 but objections fell on deaf ears. It is
9 unreasonable of OP to change the basis of the
10 parking formula until it can demonstrate there
11 is a need for change and the change will not
12 result in an otherwise objectionable condition.

13 Recommendation, retain current
14 parking formulas for private schools and
15 Reference Zones, Subtitle X, Student Driving and
16 Parking Policy, should be clearly outlined in
17 the school's operations manual and made a
18 condition of special exception approval.

19 Finally, staff caps, Section 101.15
20 refers to full and part-time employee counts.
21 Some time ago, the matter of private school
22 part-time employees was addressed by the BZA and

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1 it was decided full-time equivalent, part-time
2 faculty staff counts represent employment
3 policies at budgetary considerations.
4 However, these individuals represent a real
5 neighborhood presence when on campus.

6 Recommendation, each faculty and
7 staff member of private schools would, will be
8 counted as one employee for purposes of
9 establishing total counts. Clinicians and
10 volunteers who are on campus more than two days
11 a week will be included in the total
12 faculty/staff count.

13 I have some additional, just random
14 areas but I will leave them for later. Thank
15 you.

16 CHAIRMAN HOOD: Okay, thank you.
17 Commissioners, any questions? Vice Chair?

18 VICE CHAIR COHEN: Thank you, Mr.
19 Chairman. I want to be considered a nice person
20 too, so thank all of you for coming here tonight.
21 I really appreciate it, everybody out there
22 who's testifying tonight.

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1 I have a question for Ms. Simon.
2 One of the things that, when I came into this
3 position, I felt that it was a difficult document
4 to use. And one of the things that I was pleased
5 with the Office of Planning is that they started
6 showing, actually drawings, pictures. And I
7 felt that that did simplify quite a bit. I'd
8 like your comment about that.

9 MS. SIMON: I think that, as I said,
10 the diagrams that they included were definitely
11 and improvement over the old technology where
12 you basically had to rely on text to see exactly
13 where side yards would be measured and how
14 various things would be measured. That was an
15 improvement.

16 But still, most people consider it
17 very, very difficult to use, and it's not just
18 because we're familiar with the old text. It's
19 more difficult to use.

20 VICE CHAIR COHEN: And, again, I
21 think that, from my perspective, it's because I
22 don't have maybe the baggage or the knowledge to

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1 the extent that people who have been doing this
2 for 20 years, like our Chairman, I mean, is it
3 20 years?

4 CHAIRMAN HOOD: No, it's 16, and
5 after this is might be sooner, but it will still
6 be 16.

7 VICE CHAIR COHEN: Well that's a lot
8 of time compared to my coming up to my third year.
9 So I felt that there was a lot of simplification
10 but that's, of course, a matter of opinion as
11 well as you've used the old and I'm using mostly
12 the now and new.

13 So I have a question for Ms. MacWood.
14 I know you said that we should not rely on some
15 of the policies that are in vogue today.
16 However, I don't believe that we also have the
17 luxury of ignoring what's happening, so there
18 has to be a balance.

19 So I would like for you to, at least,
20 describe to me some of the areas that you think
21 we should be looking at so that we do continue
22 to have a city that is liveable. I mean, if we

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1 don't do some of the things that the zoning
2 rewrite is doing I think, maybe some other people
3 may think, that we are becoming like the deniers
4 of global warming. So I would like to hear some
5 comments from you.

6 MS. MACWOOD: The context of my
7 comment was that, one, we need to evaluate some
8 of those theories within the D.C. context. We
9 need to apply facts about D.C. For example, I
10 suppose the most obvious zoning topic to bring
11 up would be parking because there are a lot of
12 national theories about parking and congestion.

13 Well, in D.C., one of the unique
14 things about D.C. is that while we have more jobs
15 than we have D.C. residents, the vast majority
16 of our jobs are held by people who live outside
17 of D.C. So a lot of our congestion is not caused
18 by our own residents, so when you're creating
19 zoning laws regarding parking you have to be able
20 to put into that sort of context of what's
21 creating the situation.

22 The other is that we have a lot of,

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1 and I know Ms. Tregoning said that the transit
2 zones have been eliminated from the text, but
3 there still are parking requirements, minimum
4 parking requirements, that would be relieved up
5 to 50 percent based on transit zones, really,
6 being near a Metro station.

7 I mean, one of the things the comp
8 plan says is that, yes, by all means, go ahead
9 and look at that but look at it within the
10 context, do a study is actually what they called
11 for, neighborhood by neighborhood, Metro
12 station by Metro station to determine whether
13 there is, what the situation is in that
14 particular neighborhood.

15 Is there unmet need at the Metros or
16 a capacity that hasn't been met, is there
17 economic development that can be jump-started by
18 having transit zone policies. It's different
19 for different neighborhoods and that was the
20 point that I was trying to make.

21 VICE CHAIR COHEN: Thank you.
22 That's all my questions.

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1 CHAIRMAN HOOD: Okay, any other
2 questions? Commissioner May?

3 COMMISSIONER MAY: Thank you. So,
4 Mr. Thomas, Mr. Cavanaugh, you guys could,
5 either one of you could try to answer this, maybe
6 both. So I understand that you have an
7 objection to the requirement to treat commercial
8 use or a university use in a commercial area as
9 part of the overall campus plan or as a special
10 exception process.

11 But, clearly, you must understand
12 that this has been an issue and it has been a
13 problem for certain neighbors. And you must
14 also understand, in principle, that a
15 university, as an organic hold, has many
16 functions.

17 And while it's simple enough to say
18 that the general counsel could be in a commercial
19 office building somewhere else, not every
20 operation is going to be as completely separable
21 as what the general counsel might do and there
22 may be interaction with the university, whether

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1 it's shuttle buses or other vehicles going back
2 and forth or, frankly, just even displacement of
3 other local retail, conceivably. That's even
4 come up in the past.

5 So there has to be something else.
6 I mean, you can't just come up and say, no, we
7 don't like this and it's discriminatory, which,
8 I think that's a bit over the top. Tell me what
9 you would suggest. You don't have to tell me
10 now. You can come up with something else.

11 But if you think that's an onerous
12 requirement, suggest something else that rests
13 this issue and satisfy the concern that doing
14 this just sort of spreads out the universities,
15 I mean, it makes the universities operations
16 kind of sprawl out and encompass more of a
17 neighborhood and cause greater impacts. So, I
18 mean, do you have other ideas?

19 MR. SMITH: Well, I think, first I
20 would start with the idea that the vast majority
21 of what we kind of usually associate the
22 university uses with, students coming to and

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1 from class, those do occur on the campus. When
2 you look at the university's use of some of these
3 C1 and C2A zones they are pretty much
4 indistinguishable from the permitted matter of
5 right uses.

6 So to have a, we have the C2A zone
7 on Wisconsin Avenue and Tenley, it is right by
8 the Metro station. It makes sense to have
9 office use there. We say that the zoning
10 regulations allow that. I think that there are
11 certain instances which obviously have, even use
12 of the AU Law School which was a really, a
13 distinct fact pattern about 4801 Massachusetts
14 Avenue because it was one instance where you had
15 a discreet --

16 COMMISSIONER MAY: All right, so
17 how do you catch that one thing that --

18 MR. SMITH: I think it needs to be
19 tied more to, like, the ability for the, it is
20 when you have the, I would say, the true academic
21 use, when there are people, students in large
22 part, that are going to that --

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1 COMMISSIONER MAY: So what I
2 suggest is that you put your highly developed
3 zoning thinking cap on and come up with some
4 language that might actually separate --

5 MR. SMITH: Okay.

6 COMMISSIONER MAY: -- between these
7 uses that are not academic or that wouldn't, be
8 certain not to have impacts. I'm not sure that
9 it's going to be persuasive for many of the
10 neighbors --

11 MR. SMITH: Sure.

12 COMMISSIONER MAY: -- but it's a lot
13 more effective than simply saying, no, we think
14 it should just be allowed because we know there
15 have been impacts.

16 MR. SMITH: Sure. I mean, we'll be
17 happy to put our heads together and submit some
18 ideas.

19 COMMISSIONER MAY: Okay. I do
20 appreciate that. Ms. MacWood, with regard to
21 your overall preference to maintain the current
22 overlay system and zone designations, generally

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1 speaking, is if by, you know, I didn't compare
2 everything line by line, but generally speaking,
3 the overlay and the new zones that have been
4 created that are customize seem to reflect all
5 of the restrictions that were in the overlays.

6 So is it your concern that maybe they
7 don't, that they're not as complete as the
8 overlays were? Or is it just your concern that
9 they, that it's a more confusing way of
10 describing the zoning of these properties that
11 have both a zone and an overlay or, in some cases,
12 two overlays?

13 MS. MACWOOD: Well, take, let's
14 take, for example, the neighborhood commercial
15 overlays. What's happened is that some of the
16 general purpose statements have been
17 transferred over to some of the specific
18 overlays. Some of the specific overlay
19 statements have been transferred over to the
20 general purpose statements for all of them.

21 The hierarchy of the purpose
22 statements has been changed. There's been the

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1 addition of the underlying zone purposes that
2 have been added into it. And what it does,
3 substantively, is that it dilutes the intent of
4 the overlay because now it's no longer standing
5 alone with very discreet purposes and
6 intentions. It's now that, plus all these other
7 things that were part of the underlying zone.

8 And the whole purpose of overlays is
9 to distinguish them from the general zoning.
10 And it's when a neighborhood or a commercial area
11 or whatever, wherever the overlay is, when it's
12 determined that the general provisions haven't
13 been working. They're not meeting the specific
14 needs or interests of that particular area and
15 so that's why, and bottom up zoning.

16 And I think one of the, I mean, it
17 really does substantively change things. But -

18 COMMISSIONER MAY: I'm sorry --

19 MS. MACWOOD: But even more
20 important --

21 COMMISSIONER MAY: You said it
22 really does substantively change?

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1 MS. MACWOOD: It does because it's
2 diluting the principles.

3 COMMISSIONER MAY: But can you do
4 things under the new zone designation that you
5 couldn't do under the old overlay in any of these
6 examples?

7 MS. MACWOOD: Well, with the
8 category system, yes, absolutely, because
9 you're adding in, for example, in the
10 neighborhood commercial overlay districts
11 they've gone from having a discreet list of
12 retail and service uses, which is the whole point
13 of them --

14 COMMISSIONER MAY: Right.

15 MS. MACWOOD: -- is to have
16 neighborhood serving retail and service uses to
17 taking, for example, a pet shop. I'll use that
18 as an example. A pet shop is one of the discreet
19 uses that is currently allowed, but the Office
20 of Planning has taken that and expanded that.

21 Well, that fits into the category of
22 this larger category so now all of the uses

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1 within that larger category are now allowable.
2 Hotels and lodging, which are currently not
3 allowed in neighborhood commercial overlay
4 districts, have been added in. So you've got
5 more competing uses that are authorized.

6 COMMISSIONER MAY: So, I think, I
7 mean, I don't want to predict exactly how this
8 is going to go but it seems like the renaming and
9 the restructuring is a critical piece of what's
10 being proposed here. And if it's not fitting
11 the bill it would be helpful to know how it might
12 be changed to do the job more effectively rather
13 than simply saying, no, you've got to go back to
14 where you were before.

15 I'm not sure, you know, maybe we will
16 go back there. But it might also be good to know
17 how you might change what we have now. And I
18 don't want to just keep giving assignments out
19 to people who come before us, but, you know,
20 sometimes it's very helpful, even if it's just
21 anecdotal. You know, in this circumstance,
22 this is what will happen, and this is what we're

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1 concerned about. It gives us something meaty to
2 latch onto, if you understand.

3 MS. MACWOOD: I'm happy to do that.
4 The other thing I would point out though is,
5 while it's fine for me to do that, these overlays
6 were developed by people in communities and it
7 seems, it's very surprising and certainly I
8 think it's going to be surprising to them that
9 they haven't been conferred with.

10 They haven't been brought into this
11 process and have it discussed with them, do you
12 want your overlay changed and do you want it
13 changed in this particular way, this is what
14 we're talking about doing.

15 Because, quite to the contrary, what
16 the Office of Planning told all of the
17 communities that had overlays is we are changing
18 nothing. And this is a change.

19 MS. NEUMANN: Well, can I have,
20 because that was my comment about the Takoma one
21 that turned out, I didn't even know until I
22 opened this book and I'm going through it and all

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1 of a sudden I see Takoma, and it's been turned
2 into a neighborhood commercial area or
3 something. N2, I think, is our code number.
4 And I don't know what it means. I plan to look
5 at it more --

6 COMMISSIONER MAY: In theory, it's
7 supposed to mean the underlying zone you had
8 before, plus the overlay. That's what it's
9 supposed to mean.

10 MS. NEUMANN: Well, that's what I'm
11 told, and I'm going to look very closely and I'll
12 be back next week --

13 COMMISSIONER MAY: Right.

14 MS. NEUMANN: -- to let you know.

15 COMMISSIONER MAY: Okay. Thank
16 you.

17 CHAIRMAN HOOD: Okay, any other
18 questions? Mr. Turnbull?

19 COMMISSIONER TURNBULL: Thank you,
20 Mr. Chairman. Ms. MacWood, don't mean to keep
21 putting you on the spot here. One of your, you
22 didn't get a chance to talk about it, but one of

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1 your items in your paper was the, you were
2 concerned about the policy considerations on
3 PUDs, and you were very concerned.

4 One of your comments is, "Are we
5 maintaining outdated incentives for
6 developers?"

7 MS. MACWOOD: Yes.

8 COMMISSIONER TURNBULL: I wonder if
9 you might get into that.

10 MS. MACWOOD: Well, I intended to
11 get more into it when we discuss Subtitle I,
12 but, you know, we're with --

13 COMMISSIONER TURNBULL: Well here
14 I'm merely talking about the C2C or you had other
15 items about that too.

16 MS. MACWOOD: Right, right, the C2C
17 and the C4 and C5. What we seem to be doing is
18 we are giving developers in downtown, and,
19 again, we're, as Barbara Kahlow said, the
20 proposals expand downtown area threefold.

21 And then what we're doing with many
22 of these zones is we are, we would be offering

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1 developers the maximum height under the Height
2 Act. Then we would also be, and that would just
3 simply be by right.

4 But then, as far as FAR is concerned
5 we'd be saying the proposal is that if you
6 provide all residential or if you provide more
7 residential than you're required, there are a
8 few zones where there's a small amount
9 residential, but it's required. But in the vast
10 number of zones that are being proposed downtown
11 there's no residential that's being required.

12 So if you provide all residential or
13 more than what is required or you use TDRs then
14 you get unlimited FAR. And there's no leverage
15 for this. Well, what are the citizens of D.C.
16 getting for this? We're giving all of this
17 density, just simply giving it away. There's no
18 incentive to do a PUD. There's barely any
19 incentive for affordable housing.

20 There are only 3, I believe, of the
21 11 zones that are being proposed, maybe 4, that
22 are even requiring any inclusionary zoning, and

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1 it's minimal. And they are not in, it's not
2 being required in the zones that are being
3 offered the maximum density, both in terms of
4 height and FAR.

5 So what we're incentivizing is
6 market rate housing. And everyone in the city
7 is saying that's not what we want. So that's why
8 I really hoped to bring this to your attention,
9 because I think it's something that, we are
10 missing an opportunity.

11 COMMISSIONER TURNBULL: Okay,
12 thank you. Ms. Neumann, you made a comment and
13 you were echoing Ms. Kahlow's comment, and I
14 think Mr. Alpert made a comment too about
15 communication. And you're finding it difficult
16 to go through all of this.

17 You talked and, I think, Ms. Kahlow
18 had, you brought up her comment about the
19 redline. Do you see that as a useful tool,
20 having something out there that compares --

21 MS. NEUMANN: Yes, absolutely.
22 That's what I've asked for in here. Either,

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1 there are different ways it can be done but I
2 think that, for me, what would be the easiest is
3 to have this one page. Instead of having 900
4 pages we'll have 1800 pages, I guess, but you
5 have one page and then if there is a change you
6 show it on this side.

7 Or if this, I shouldn't be showing
8 a drawing because I don't know if there are any
9 drawings in the current one, but there is some
10 text here. But if you have something then the
11 other, it says what the changes are.

12 I know that it probably wouldn't be
13 easy to do but it has to be easier for us just
14 to understand this, if it is done, and it's
15 easier for them to do it than for most of us.
16 Because I know zoning reasonably well in my
17 neighborhood but not well enough to, I don't know
18 if I could still, not well enough to do this on
19 my own.

20 And for all these different
21 categories and for all these different Subtitles
22 and sections, it's just, I'm spending, you can

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1 see, I've been working at it but it's really
2 hard.

3 And we're not paid to do this. I'm
4 a citizen. I'm not a paid lawyer or anything.
5 And I print out my own stuff normally but this
6 is a lot of paper and a lot of ink out of my little
7 cranky little copier/printer. I couldn't do
8 this and, thankfully, my ANC Chairman had, got
9 a copy and lent it to me.

10 I went online, and I'm not good
11 online. I really do prefer seeing a real
12 document. I did find a couple places where I did
13 like, that you mentioned, about poking through.
14 You can get a few things that way, so that was
15 helpful.

16 But otherwise, and I actually think
17 that's what you could do. Maybe that's another
18 way to do it, say, you poke on this and then that
19 brings up, online, what the change is. So if it
20 was 100 and, it was 90 feet and now it's going
21 to be 120 feet, then say, don't just say it's
22 going to increase the height.

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1 I mean, that's largely what a lot of
2 this stuff says. Or density, if it's going to
3 be a FAR change then say what the change is, 1.2
4 to 2.0 --

5 COMMISSIONER TURNBULL: So a little
6 bit more, some more explanation on some of the
7 things that are changing.

8 MS. NEUMANN: Exactly, but it isn't
9 here. It is not here and it's not online either.
10 I've tried.

11 COMMISSIONER TURNBULL: Okay.

12 CHAIRMAN HOOD: Okay, Commissioner
13 Miller?

14 COMMISSIONER MILLER: Thank you,
15 Mr. Chairman. Again, I want to thank each of you
16 for your testimony and written comments that you
17 submitted. They're very helpful and I will have
18 questions about some of them that I'll be
19 proposing to the Office of Planning.

20 But, Ms. Gates, could you just take
21 a minute to expound upon why you think that the
22 proposed new parking formula for private schools

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1 which is based on the square footage?

2 MS. GATES: Why I think it should be
3 made to?

4 COMMISSIONER MILLER: Why, no, why,
5 yes, why you think the current formula, which is
6 based on use by faculty and staff at the lower
7 grades and then uses a common large base --

8 MS. GATES: It's based on fact.
9 You can actually do a count and sort of figure
10 out how many people are coming every day. As a
11 rule, teachers do not take public
12 transportation. They have all kinds of junk to
13 transport to school, projects, book, what have
14 you, so they drive.

15 And we've just seen an increase in
16 parking. And, basing it on the formula that is
17 being proposed doesn't give me the same sense of
18 comfort that the current one does, and even that
19 isn't terrific because I know their schools.
20 And the one that I talked about in my testimony
21 is maxed out right now. It has absolutely not
22 one space left.

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1 COMMISSIONER MILLER: Yes, I mean,
2 I can see, conceptually, why you might be think
3 and why I might share your concern that the
4 current, I might share your feeling, the concern
5 that the current formula provides more
6 protection because it's based on actual uses or
7 potential use of parking at the school.

8 But have you actually gone and
9 looked at some of the schools in your
10 neighborhood and applied what the square footage
11 formula would produce in terms of permission
12 versus what the current use space provides and
13 come up with a different number?

14 MS. GATES: The only way I could do
15 that would be if the school were to give me the
16 total number of square feet is occupies. That's
17 what it's based on.

18 COMMISSIONER MILLER: Don't they
19 have that, isn't that in the record in some of
20 these zoning cases?

21 MS. GATES: Pardon?

22 COMMISSIONER MILLER: That's not in

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1 the record in some of these zoning cases?

2 VICE CHAIR COHEN: OP had done a
3 spreadsheet for some schools, and for the most
4 part in that spreadsheet the new requirement was
5 significantly lower than the old requirement.

6 COMMISSIONER MILLER: Okay.

7 VICE CHAIR COHEN: But there was a
8 problem with their spreadsheet, though, because
9 they applied the elementary school formula for
10 high schools too and, obviously, the parking
11 requirement currently at the high schools is a
12 lot higher than elementary schools. But OP
13 could probably get you a copy of that.

14 COMMISSIONER MILLER: Thank you.
15 I will be asking them about that and other
16 issues. Thank you.

17 CHAIRMAN HOOD: Okay, no other
18 questions? Ms. Neumann, let me just ask, I
19 think it was you, was it you that asked us to,
20 forgive me because I go after everyone else, did
21 you ask us to maybe delay anything for six
22 months? Is that what you said? Was that --

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1 MS. NEUMANN: Yes, at least six
2 months.

3 CHAIRMAN HOOD: And the reason
4 being that you just found out about this recently
5 or --

6 MS. NEUMANN: No, I've been
7 involved for years, and as everybody else has.
8 It's just that I know that people don't really
9 know what this is about. And so they've had
10 meetings but it's still been generalities for
11 the most part. A lot of, there's been a lot of
12 good stuff. I don't want to totally, be totally
13 critical, but sufficiently critical that it
14 needs more time.

15 And, we've waited this long, what's
16 another six months to do it right for something
17 that's so important to our city? That's all.

18 CHAIRMAN HOOD: You know, and we
19 pretty much started this in 2007, right?

20 MS. NEUMANN: Yes, I started then
21 too.

22 CHAIRMAN HOOD: Okay, and my

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1 rationale, my question to you is how do we
2 achieve getting folks involved before we make
3 the decision because my experience, in the 16
4 years I've been here, when we do something, and
5 I'm in the neighborhood too. I'm a community
6 guy too.

7 And the first thing they say is,
8 after we did it, Anthony Hood, have you all lost
9 your mind? And I'll tell you the reason why, is
10 because when you try to get people to come to all
11 those charettes and everything the Office of
12 Planning had, I think the Office of Planning went
13 out, at our request, to the different wards.

14 And I'm not sure what we we're going
15 to do, but I can, I know that intensive actions
16 have been made to try to make sure that this
17 information is out there. We're doing a ZRR,
18 come down and get involved. Personally, I know
19 I've asked my community, please come down and get
20 involved, see what's going on and what's
21 happening. What suggestions do you have for us
22 to improve that?

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1 MS. NEUMANN: That's why I was
2 suggesting, perhaps, not everybody can go to the
3 meetings. They've got children. I'm lucky I'm
4 older and I don't have anybody to worry about
5 that way and I've got a very forgiving husband.
6 So I can go to those meetings. And a lot came
7 to Takoma. I also went to the one at Wilson.
8 I've been to several, to the one downtown. And
9 a lot of people did come.

10 But the fact that a lot of people
11 showed up and were just, there were lots of
12 pictures on the wall and then we could write on
13 little stickies and put them stickies around and
14 then we'd chat, chat, chat and then we'd leave.
15 I don't know if all the things that we were told
16 that were going to be done are reflected by this
17 document. That's my problem.

18 CHAIRMAN HOOD: Okay.

19 MS. NEUMANN: It's all generalities
20 and that's all I'm saying is if there's some way,
21 and, again, a webinar and a Chat kind of thing
22 could work for people who are unable to go to

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1 meetings. I'm sure you get more, don't feel
2 like you're having these hearings and you're
3 hearing from everybody in the city about their
4 concerns because you're not. They're not --

5 CHAIRMAN HOOD: Well, if you
6 noticed, one of my questions is the Ward question
7 and I'm going to ask this again right after this
8 question because I know pretty much what I see
9 and who's coming down quite a bit. And I'm
10 looking for the silence, I'm looking for the who
11 do not speak on these zoning issues, who are
12 going to be affected. That's what this
13 commission is looking for.

14 Let me just ask this right quick.
15 Thank you, Ms. Neumann. Ms. Gates,
16 Commissioner Miller's already asked you about
17 that. I will ask Office of Planning. It says
18 prior school plans were not discussed or
19 reviewed by the ZRR. I guess one of my questions
20 is, I will ask the Office of Planning, why. And
21 I don't want to get tied up with our questions
22 because I want to hear from the public.

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1 But let me, while I have you, Ms.
2 MacWood, I agree with you on the RA. I was glad
3 to see, that was something I had noticed, but
4 help me understand when it says the, and this is
5 full 6.1. It talks about the phrase, "wishes to
6 orally recite its written report should replace
7 with wishes to testify based on his written
8 report". Could you help me with that a little
9 bit?

10 MS. GATES: Oh, regarding the ANCs?

11 CHAIRMAN HOOD: Right, the ANCs.
12 Sorry.

13 MS. GATES: It seemed very strange
14 wording to me, and incredibly restrictive. The
15 way I would interpret that is an ANC
16 commissioner, who is a party to a case, could
17 some and testify but they would be limited to
18 simply be reciting the ANC resolution. That is
19 not the expectation, I think, of most ANCs, how
20 they're going to present this. So I thought the
21 language was overly restrictive and simply
22 needed to be broadened.

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1 CHAIRMAN HOOD: I thought that's
2 what you thought also, and that's one of my
3 questions. Okay, thank you very much. Any
4 other questions? Thank you all. The Vice
5 Chair's going to call the next --

6 FEMALE PARTICIPANT: The wards.

7 VICE CHAIR COHEN: Yes, our wards?

8 CHAIRMAN HOOD: Oh, well, you know
9 what, I probably think I have it right, anyone
10 lives in a ward other than 1, 2, 3, 4 and 6? See,
11 I'm pretty good. Thank you. The Vice Chair
12 will --

13 VICE CHAIR COHEN: Okay, I'm going
14 to apologize up front, if I mispronounce your
15 last name but I really didn't mispronounce Ms.
16 Judi Jones, David Avitabile, Dr. Gene Batiste,
17 Elaine Mittleman. This is a tough one, Peter
18 Espenschied?

19 MALE PARTICIPANT: Way to go.

20 FEMALE PARTICIPANT: I'm sorry, I
21 think you're too close to the mic.

22 VICE CHAIR COHEN: Elaine

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1 Mittleman, Larry Werner and John Chelen.

2 MR. CHELEN: Should I wait? I was
3 the last one called there are not enough chairs
4 over here --

5 VICE CHAIR COHEN: Oh, I'm sorry.
6 I thought, you know. I will start with Elaine
7 Mittleman on the left.

8 MS. MITTLEMAN: Is my mic on? I
9 can't tell. Okay, thank you. I'm Elaine
10 Mittleman and I'm an attorney. And first of all
11 I'd like to express my thanks to Donna Hanousek
12 who helped me try to use your Web site which I
13 somehow have trouble with. So she was very,
14 very nice and patient with me.

15 I'm an attorney but I don't really
16 do zoning law. But I, the extent I've dealt with
17 you is from the Skyland case, so my comments are
18 based on my experience with the Skyland case
19 which was Number 0903.

20 First is that I think that they, the
21 PUD application, it was a PUD, I guess you all
22 know that. The PUD application, I think, should

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1 include verification of the owner. From my
2 point of view there was an issue about who owned
3 the property. The applicant was Skyland
4 Holdings, LLC, which was not the owner.

5 And when I raised that issue I
6 researched other jurisdictions, and a lot of the
7 other jurisdictions seemed to have a requirement
8 that a deed or something be attached, a physical
9 piece of paper, to the application. And I think
10 that would have been helpful here.

11 And when I did raise the issue, in
12 other words, it wasn't addressed in the first
13 submissions, and I think that you all asked that
14 there be a document provided based on my enquiry.
15 And there was, I think it was Exhibit 109 which
16 purported to show who had title to the property
17 and, but it was submitted later and I never had
18 the opportunity to comment on it.

19 And I don't, from my point of view,
20 this is controversial, but I'm just saying I
21 don't think that the document that was submitted
22 shows that the District has title. So it would

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1 have been helpful to start off, day one, with who
2 was the owner of the property.

3 This may never come up again because
4 you wouldn't think people would be applying for
5 a PUD if they didn't own the property but I just
6 think that would be a very helpful thing to do.
7 I think there's still an issue because the
8 recorder of these records do not show that the
9 District has title.

10 Secondly, and kind of in contention
11 with that is the issue of recording the covenant.
12 For the Skyland case the covenant that was
13 recorded has the District as both the grantor and
14 the grantee.

15 And I don't, I just don't see how
16 that's a valid covenant. I'm not an expert in
17 covenants but when you have the same party on
18 both sides I don't think that's effective. So
19 I think there should be some process to verify
20 that, whether covenants can be enforced.

21 And then the third issue is that with
22 the PUD application the people at Skyland, which

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1 was the property owners, the business owners and
2 the tenants, they did not receive notice. The
3 people that get notice is ANC and then property
4 owners within 200 feet, which was like the
5 property owners down the street.

6 So they were involved but yet the
7 people at Skyland were basically left out of the
8 process. I guess they could have acted but I
9 think they should have received notice
10 originally. Thank you.

11 CHAIRMAN HOOD: Thank you. Next.

12 MR. WERNER: I'm Larry Werner. I'm
13 a --

14 CHAIRMAN HOOD: Make sure your
15 microphone is on.

16 MR. WERNER: I'm sorry. It must
17 have been on before. I'm Larry Werner. I'm a
18 citizen of Ward 3 and I'm somewhere between
19 confused and frustrated. I think Lewis Carroll
20 had a great deal to do with what's transpired.

21 We are going through the looking
22 glass and down the rabbit hole and it's as simple

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1 as the city is doing so well now and has been so
2 successful in its growth pattern that we need to
3 change the zoning rules. There's something
4 wrong with that. And I have, in my testimony,
5 a number of examples but let me just add one from
6 tonight.

7 Right now the average family is one
8 or two in some of these larger areas such as where
9 older people are still residing in homes they've
10 lived in for years. But the average household
11 in the city is 3.2, but Ms. Tregoning says that,
12 in 1960, that household was probably six or eight
13 people.

14 Now, all those numbers may be
15 correct but they don't add up very well, and I
16 think it's typical of the kind of structure that
17 underlays a zoning revision that is not in
18 compliance with the comprehensive plan. It is
19 not what was requested originally which was to
20 revise the existing code. Instead, it makes
21 massive changes and it does it in many ways, far
22 too often, under cover.

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1 There may no longer be a transit zone
2 but there's still, all the rules and changes that
3 apply to transit zones are still there. We
4 don't need parking because we have too few cars,
5 but we don't count the number of vehicles as the
6 DMV does, which is increasing. And, oh,
7 by the way, in every area where there's a transit
8 zone we are now seeing the city imposing
9 16-hour-a-day, 7-day-a-week parking
10 restrictions so that the people who live in those
11 areas who don't, supposedly, need the cars and
12 won't have them are there.

13 Other people have talked very
14 effectively about the problems about the
15 overlays, et cetera but, just in general, if the
16 structure of a plan is bad and if, when you go
17 to it, you can't find what was changed, you can't
18 find the purpose of it and you can relate purpose
19 to the new structure there's something wrong.

20 And I just implore you, let's not
21 rush this through. It's too important. It's
22 too vital. And it's too massive for the city.

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1 We don't need this much change this quickly. We
2 have time for public participation.

3 CHAIRMAN HOOD: Thank you. Next.

4 MS. JONES: Good evening. I hope I
5 get four minutes, like the first group did. But
6 my name is Judi Jones. I'm an ANC in Ward 4,
7 4B07, and I had kind of a prepared text except
8 that this transition, and I have a couple of
9 questions for OP because I just found out tonight
10 that the Industrial zone in my area is now a part
11 of the new zoning regs and I was not notified of
12 that.

13 And so I'm, I want to talk about
14 PUDs. There were a couple of things in there
15 that I think have, can be changed. But, for the
16 most part, we have eight to ten developments or
17 proposed developments in 4B and only one of those
18 is a PUD. And they are, it has been a nightmare
19 processing that PUD.

20 They have been allowed to sell parts
21 of that PUD and, therefore, we have to
22 renegotiate that PUD. So I don't see any

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1 changes happening that I saw in the PUD process
2 that the Office of Planning has planned.

3 Also, there are, you have campus
4 plans. There are a limited number of industrial
5 zones in the city. I have one in my SMD. And
6 there should be a process, a planned process, for
7 those industrial zones as well as overlays and
8 PUDs. And I am advocating that you add that in
9 to the Office of Planning rewrite, the zoning
10 rewrite, because what I heard tonight, I didn't
11 like.

12 The general uses for a zone for
13 commercial, industrial and repair, which is
14 counterintuitive to your green, environmentally
15 sustainable green process that you included in
16 the zoning rewrite. It has private clubs. We
17 have just closed, we finally got the land sold
18 from a private club when I first moved in that
19 area.

20 So I'm not, I will be back tomorrow
21 for the use of it, but I have just learned that
22 the industrial zone in my area, which I have

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1 asked Office of Planning to help me with for two
2 and a half years, is now included in the zoning
3 rewrite under another name.

4 So I just want to, otherwise, I agree
5 with Nancy MacWood and the comments of Loretta
6 Neumann. She has the copy I've been looking for
7 in order to read and get this done. It has been
8 a process getting this done. So I'm not really
9 happy with the outcome as of yet. Thank you.

10 CHAIRMAN HOOD: Thank you. Next.

11 MR. ESPENSCHIED: I'm Peter
12 Espenschied. I'm a member of the Ward 3
13 Democratic Community and the Cleveland Park
14 Citizens Association which I represent at the
15 Federation of Citizens Associations.
16 Previously, I've been Vice President of the
17 Cleveland Park Citizens Association and served
18 three terms as an ANC commissioner.

19 I am here speaking only for myself.
20 My testimony applies to Subtitles A and X. In
21 a unified city it is not feasible for each
22 neighborhood to have complete autonomy, nor even

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1 for individual neighborhoods to function as
2 separately incorporated small villages like
3 those of nearby Montgomery County, but who knows
4 what opportunities statehood will bring.

5 However, the Office of Planning's
6 massive proposed zoning revision would swing the
7 pendulum to the opposite extreme. It is a
8 top-down plan. It is top-down planning with no
9 content originated by affected communities and
10 little attention paid to the reactions of
11 residents when told what is planned.

12 When OP managers attend
13 neighborhood meetings their positions have been
14 that of explaining what will be done with only
15 a thin veneer of listening to what residents do
16 or don't want. OP is using the desirability of
17 specific minor repairs of the zoning code as an
18 excuse for a wholesale revision of that code.

19 This is a meta example of fixing
20 something that isn't broken and it is in many
21 ways expressive of contempt for the
22 comprehensive plan. The zoning code has

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1 functioned well over its 50 plus years,
2 providing with continual minor improvements the
3 background for the city's development that
4 successfully continues today.

5 Here are two easy examples of
6 proposed revisions that are totally unnecessary
7 and would have predictably bad results.
8 Example one, the neighborhood commercial
9 overlays district where a community-generated
10 concept that has worked well for over 20 years.
11 It is endorsed in detail by the comprehensive
12 plan.

13 It provides a presence, excuse me,
14 preserves a balance of community, of commercial
15 offerings, plenty of restaurants and bars, but
16 also retail shops and services that are so valued
17 by neighborhood residents. But the particulars
18 of the various NCODs are different from each
19 other, reflecting the different needs and
20 different desires of different neighborhoods.

21 OP would smooch these all together
22 in one standardized new zone. Why?

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1 CHAIRMAN HOOD: May I just ask that
2 you --

3 MR. ESPENSCHIED: May I continue?

4 CHAIRMAN HOOD: No, that's it.
5 Everybody else is, we, everybody else was doing
6 the same time, so I want make sure, you can, if
7 we don't already it, if we don't already have
8 your testimony you can submit it and we'll read
9 it. If we already have it, we'll read it.
10 Okay, next.

11 MR. BAAD: Good evening, my name is
12 David Baad and I'm the Assistant Headmaster of
13 St. Albans School. I'm here to read the
14 testimony of Vance Wilson, Headmaster of St.
15 Albans, who is very sorry he could not be here
16 tonight to read it himself. This is his
17 testimony.

18 "Good evening Chairman Hood and
19 members of the Commission. My name is Vance
20 Wilson. Since 1999 I have served as Headmaster
21 of St. Albans School, one of three private
22 schools that are part of the Protestant

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1 Episcopal Cathedral Foundation located on the
2 grounds of the Washington National Cathedral.

3 I also served as the head of the D.C.
4 Oversight Committee of Independent Education,
5 an association of independent private schools in
6 the Greater Washington Region including 25
7 schools in the District of Columbia.

8 My deep concern about the new zoning
9 regulations for independent schools is the
10 burden they will put on us. We will have
11 considerably more paperwork and more research to
12 do for all projects, no matter the scale. The
13 new requirements clump together independent
14 schools and area colleges and universities.
15 This seems unfair.

16 We simply do not have the staffs
17 comparable to those of area colleges. Our
18 campuses, our student bodies, our faculty, our
19 budgets and our future renovation and
20 construction projects are not on the scale of
21 local colleges and universities. Our budgets
22 are extremely tight. Our non-teaching staffs

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1 are lean. Adding to the staff means taking away
2 from the faculty. These regulations will make
3 us less effective in the classroom.

4 Let me comment specifically.
5 First, the Commission should recognize that
6 private nursery, elementary and secondary
7 schools are not the same as colleges and
8 universities. And the Commission should delete
9 Section 104.1(e) which requires private schools
10 to supply campus plan information under Section
11 101.15 with its applications.

12 For the first time ever regulations
13 would require every special exemption
14 application for a nursery school and elementary
15 school or high school to submit the same campus
16 plan information that a university or college
17 files, regardless of the scope of the request.

18 Second, the Commission should
19 delete the new standards introduced on 104.2 and
20 104.5. The new Section 104.2 requires private
21 schools to calculate FAR for existing and
22 proposed buildings on their grounds. However,

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1 most private schools are located in residential
2 zone districts that are not subject to FAR
3 limitations. This would be an expensive
4 undertaking for existing schools and serve
5 little purpose. We therefore recommend
6 deleting this provision.

7 Third, certain accessory uses
8 traditionally associated with private schools,
9 such as daytime care and before and after school
10 programs, have been eliminated under the new
11 regulations without explanation.

12 It appears that daytime care
13 facilities, which encompass child development
14 centers and before and after school programs are
15 only permitted as an accessory use in the new R2
16 district if certain conditions are met.

17 They can only be located in the
18 principle residence of the caregiver, only a
19 member of the caregiver's immediate family
20 residing on the premise can be employed at the
21 facility and only mechanical equipment that is
22 permissible for purely domestic or household

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1 purposes is allowed.

2 Daytime care facilities will no
3 longer be permitted as an accessory use to either
4 a religious institution or a private school for
5 use by its teachers and staff because they will
6 not be able to meet these very restrictive
7 conditions. These conditions should be
8 redrafted to allow daytime care facilities in
9 private schools and religious institutions.

10 Teaching is a science, an art, a
11 great human enterprise. Every adult carries
12 around, inside his head, a story about some
13 teacher who affected him. Always, these
14 stories speak of some kind of direct emotional
15 attention, she cared for me after we lost, he
16 talked to me when I was lonely, he carried me atop
17 his back, she disciplined me when I needed it.
18 She said something I've never forgotten.

19 My duty, as head of the D.C.
20 Oversight Committee of Independent Education,
21 as head of St. Albans School, as a teacher, is
22 to allow these stories to be told. Increased

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1 regulations will take away from the education we
2 provide students, one on one, day after day.

3 Private schools in the area are
4 educating students well. Please help them
5 continue to be as good as they can. Thank you
6 for the opportunity to present these comments
7 this evening."

8 CHAIRMAN HOOD: All right, thank
9 you. Next.

10 MR. LAYMAN: My name is Will --

11 CHAIRMAN HOOD: -- microphone on.

12 MR. LAYMAN: My name is Will Layman.
13 I'm the Director of Advancement at the Field
14 School, which is another one of the independent
15 schools located in D.C. in ANC 3D. We currently
16 enroll 357 students and we've had two recent
17 experiences in requesting and receiving changes
18 to our zoning that, I think, demonstrate the
19 wisdom in not requiring a full campus plan for
20 nearly all private school zoning approvals.

21 Field has fewer than 100 employees.
22 We can't employ professional campus planners or

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1 in-house legal staff. In fact, in our recent
2 presentations and work before the BZA I was the
3 primary strategist, along with our head of
4 school and our outside council. I teach class,
5 an English class every day. I lead the school's
6 jazz ensemble. But here I am tonight.

7 In 2012 the Field School admitted
8 its first ever sixth grade. We'd been a 7
9 through 12 school prior to that. And this did
10 not entail expanding our enrollment, increasing
11 our traffic, having any construction done or any
12 changes at all to the footprint or landscape of
13 our school.

14 As a result we were able to get
15 approval from the BZA to change the statement on
16 our zoning order to allow for the presence of
17 sixth graders on our campus without the expense
18 of a campus plan or a full hearing before the BZA.
19 It just made sense.

20 In 2013, this is the second story,
21 Field sought to expand its potential enrollment
22 from 320 students to as many as 400, an effort

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1 that would be supported by a building project.
2 In this case, of course, we hired the necessary
3 outside consultants and experts, at great
4 expense, to present our plans to our neighbors,
5 to the ANC where we actually won overwhelming
6 approval and to the various D.C. regulatory
7 agencies, DDOT, Office of Planning, and so on
8 and, ultimately, to the BZA itself.

9 And while this second effort
10 required greater expense and effort by our very
11 small school it still did not require as complete
12 an effort as what would be required for nearly
13 every zoning change by a private school under the
14 new regulations.

15 Rather, our two experiences
16 demonstrate that the current system which allows
17 for a proportional effort by schools, depending
18 on the extent of the change being made to their
19 properties or the extent to which there will be
20 a change and the affect that the school will have
21 on its neighbors, that proportional approach is
22 working very well for these smaller schools.

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1 The system is currently configured
2 and is proposed by the changes that are suggested
3 by our group, Independent Education. It
4 requires private schools to make their case
5 clearly and completely but not require that we,
6 with our limited resources and our relatively
7 limited ability to engage in campus planning,
8 relative to colleges and universities. It
9 would not require us to act like a university in
10 every case.

11 And this just makes sense. And in
12 the recent cases involving my school, the Field
13 School, it allowed a small school to make
14 important changes that expanded the services
15 that we can offer to the D.C. community without
16 incurring outrageous or even prohibitive
17 expense. Thanks for your time.

18 CHAIRMAN HOOD: Thank you. Next.

19 DR. BATISTE: Good evening,
20 Chairman Hood and members of the Commission.
21 For the record, my name is Dr. Gene Batiste, and
22 I'm the Executive Director of Independent

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1 Education. Independent Education is an
2 association of independent schools in the
3 Washington, D.C. region. We are here tonight on
4 behalf of 25 of our member schools that are
5 located within the District of Columbia.

6 Our D.C. based independent schools
7 enroll more than 12,000 students which saves the
8 District approximately \$130 million in public
9 school per pupil expenditures. We serve many
10 different types of students using different
11 educational strategies and approaches, and
12 provide families with a wide range of
13 educational options.

14 We are committed to the educational
15 excellence in safe, supportive environments and
16 we have high expectations for every student,
17 regardless of ability. More than 20 percent of
18 our students receive some form of financial
19 assistance and that financial assistance totals
20 nearly \$50 million.

21 Independent schools provide nearly
22 3000 jobs in the District. Our schools are the

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1 fourth largest non-profit employer in the
2 District of Columbia. We provide an array of
3 local community services including summer
4 programs that are open to all children in the
5 District of Columbia and a number of our campus
6 facilities are used for a variety of purposes,
7 including athletics, technology and the arts.

8 Our member schools are non-profit
9 organizations that are governed by Boards of
10 Trustees and independently financed. Unlike
11 colleges and universities, our schools do not
12 have professional staff devoted to campus
13 planning and land development.

14 When our schools seek new zoning
15 approvals the efforts are led by staff who are
16 diverted from their full-time jobs educating our
17 students or raising funds to support financial
18 aid in order to focus on application and
19 community outreach process.

20 Many of our schools also have
21 limited financial resources and the reports and
22 consultants required for these approvals divert

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1 funds from our educational mission. For these
2 reasons, we ask the Zoning Commission to remove
3 the requirement of a full campus plan for most
4 independent school zoning approvals.

5 Such a requirement would impose an
6 onerous and undue burden on our member schools,
7 our teachers and staff and our limited
8 resources. Instead, we ask that the Commission
9 adopt regulations that simply require
10 independent schools in the District to provide
11 information that is proportionate to the
12 requested zoning relief.

13 This is how the existing process
14 works and it provides the Board of Zoning
15 Adjustment, city agencies and community groups
16 with the appropriate information to evaluate any
17 potential impacts. Thank you for your time.

18 CHAIRMAN HOOD: Thank you. Next.

19 MR. AVITABILE: Thank you. Good
20 evening, Chairman Hood and members of the
21 Commission. For the record, I am David
22 Avitabile, with Goulston & Storrs. I am also

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1 here this evening on behalf of Independent
2 Education and the Consortium of universities.
3 Thank you for considering our comments and
4 suggestions on the rewrite and my comments on
5 Subtitles A and X.

6 First, as you've heard, we asked the
7 Commission to keep the existing system in place
8 for reviewing private school uses. As you've
9 heard, most independent schools do not have the
10 professional staff or resources to engage in
11 complex and detailed master planning efforts.

12 Furthermore, the scope and scale of
13 development on these campuses, which are largely
14 already built out, do not warrant a full campus
15 plan. Most development or change consists of a
16 modest enrollment increase or a new one-off
17 building here or there. And the existing impact
18 based proportional analysis is sufficient to
19 evaluate the appropriateness of the school's
20 expansion.

21 To the extent that campus plans are
22 required for independent schools, they should be

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1 reserved for the establishment of new schools or
2 new campuses. As you've also heard, we asked
3 the Commission to review the requirement for
4 private schools to certify their FAR.

5 Again, most private schools are
6 located in low-density residential zones
7 without an FAR limitation so the requirement
8 does not even really serve a purpose and it can
9 be actually quite expensive to bring in a
10 consultant to come through and document exactly
11 what the gross floor area of the building
12 currently is.

13 We also endorse the changes proposed
14 by OP in its October 25th report on Subtitles A
15 and X, eliminating theoretical lot requirements
16 and simplifying height measurement on
17 institutional campuses. The commons sense
18 changes reflect the realities of development on
19 university and private school campuses without
20 diminishing the protections afforded by the
21 zoning regulations.

22 To that end, we also urge the Zoning

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1 Commission to reconsider the proposed
2 requirement to exclude private streets from FAR
3 calculations for institutional campuses. I
4 know Dr. Cavanaugh addressed this earlier, but
5 please allow me to expand briefly.

6 Similar to theoretical lots, the
7 requirement to exclude private streets from the
8 FAR calculations doesn't make sense when applied
9 on a campus setting. Unlike the street network
10 in a PUD or other common development where an
11 orderly grid system is devised should
12 effectively extend the public street network for
13 the benefit of multiple homeowners, a campus
14 roadway is different.

15 Campus roadways are often ad hoc
16 networks that have been in place for decades and
17 vary over time. They are completely internal to
18 the campus and are not open to thru traffic or
19 public use. Rather, they are used often only as
20 limited, for limited access to buildings for
21 service and loading. In many cases the
22 vehicular use is actually subordinate to

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1 pedestrian use of these roadways.

2 It's an apples and oranges situation
3 and it doesn't make sense to apply the PUD rule
4 on private street networks that's evolved over
5 the last couple of years to campus roadways as
6 well. Also, as detailed in the Consortium's
7 letter that's in the record, the proposed
8 regulation would eat away at the FAR increase
9 that's been purposely afforded to campuses in
10 order to allow them to accommodate their space
11 needs within their campus boundaries and avoid
12 encroaching on surrounding residential
13 neighborhoods.

14 We also endorse the proposed
15 modifications in that October 25th report that
16 would allow the zoning administrator to have
17 discretion to approve minor modifications to
18 university campus plans and private schools.
19 We do not, and also support the concept that
20 those would, of course, be referred back to the
21 Zoning Commission to ensure that they're
22 consistent with the approved plan.

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1 I do want to note, however, that for
2 that flexibility to private schools the language
3 needs to be tweaked to allow the permits that
4 authorized by BZA order, which would be how the
5 private school is approved, basically tweak it
6 to allow for referral back to the BZA as well.
7 And that's all I have. Thank you.

8 CHAIRMAN HOOD: Thank you very
9 much. Thank you all. Mr. Espenschied, if you
10 could provide your testimony, if you haven't
11 already done so, we'll look at the ending of your
12 testimony at the appropriate time.
13 Commissioners, any questions at this time?
14 Vice Chair?

15 VICE CHAIR COHEN: Mr. Espenschied,
16 I have a question for you, if I understood you
17 correctly. The comprehensive plan is a very
18 broad plan, in my estimation and experience and
19 you did indicate that there was some
20 discrepancies between the zoning rewrite and the
21 comprehensive plan. Can you elaborate, please?

22 MR. ESPENSCHIED: Yes, I would

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1 first refer you to remarks that addressed that
2 directly from Nancy MacWood. The comprehensive
3 plan very explicitly and extensively endorses
4 the neighborhood commercial overlay districts
5 and, in fact, encourages expansion of them to
6 other areas of the city where they may be desired
7 by the community.

8 The tone, I would say, and the
9 overall effect of the proposed zoning rewrite
10 goes in completely the other direction by
11 ignoring the distinctions among neighborhood
12 commercial overlays, which is one of the most
13 important aspects of them, and essentially
14 merging them with larger zoning so that the
15 individuality and, particularly, the community,
16 I would almost say, control because they are all
17 generated from community concerns, they start
18 there, disappears.

19 I don't know if that adequately
20 answers your question but I think there's a very
21 large problem there.

22 VICE CHAIR COHEN: Thank you. I

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1 have no more questions.

2 CHAIRMAN HOOD: Okay, any other
3 questions of the, Commissioner Miller?

4 COMMISSIONER MILLER: Thank you,
5 Mr. Chairman. Thank you, too, for your
6 testimony. I don't mean to be focusing on this
7 one issue because I don't want to get overly
8 importance in my own mind, but since I have the
9 Field representative, St. Albans representative
10 and IE, which I didn't even know existed until
11 tonight, which I think it's good that it does
12 exist, and they have an Education Association.

13 The question I have is have you done
14 a calculation as to how the new private school
15 parking formula would affect the number of
16 parking spaces that are currently allowed at
17 your schools? Under the existing formula would
18 you have more? Would you be required to have
19 more spaces or less spaces?

20 MR. BAAD: I think it depends. I,
21 actually, I wasn't aware of that change. I
22 hadn't focused on it until earlier today when I

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1 was reviewing the OP reports. But I do think one
2 of the OP reports in Subtitle C includes a table
3 that specifically calls out how the change would
4 be implemented and it shows some schools would
5 require more parking, some schools would require
6 less parking.

7 Brief glance, it looked like it was
8 50/50 as to whether it was more or less,
9 depending upon the school. So I think it's
10 Appendix B to their report on Subtitle C.

11 COMMISSIONER MILLER: I thank you
12 for that testimony, for that answer. And, yes,
13 I think it's important that we make sure there's,
14 as we go through this, that we want to have the
15 protections there for the surrounding
16 residential communities.

17 But we want to also be able to retain
18 the flexibility that allows communities and the
19 Zoning Commission to, and the BZA to craft
20 formulas and responses that address the specific
21 needs of the school and the needs or the
22 protections of that adjacent residential area.

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1 So it's a balancing act that we always struggle
2 with but we need the flexibility to have, to make
3 that balancing work.

4 CHAIRMAN HOOD: Okay, any other
5 comments, questions? Ms. Jones, I know your
6 work. You're in Ward 4, right? I know of your
7 work and I know you're very involved. I didn't
8 hear you say that you didn't know about the
9 zoning, right? You just don't agree with it?

10 MS. JONES: I knew about zoning
11 rewrite. They had a series of meetings last
12 year and this year about the zoning rewrite.
13 What I didn't know is that there is an industrial
14 area in my SMD. And what I didn't know was that
15 it was included in the zoning rewrite until
16 tonight.

17 And that is part of the problem. I
18 wasn't notified, it wasn't processed through, I
19 have SMD meetings monthly and it wasn't
20 processed through the SMD meeting. They know,
21 I had, we had formed a Lamond Community
22 Corporation to address the redesign of that

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1 industrial area. They weren't notified of it.

2 So I am surprised to see it involved
3 and immersed in the overlay and that the
4 information is coming out piecemeal, even after
5 the community meetings. So I have been trying
6 to work with the Office of Planning in order to
7 redesign that industrial area.

8 And throughout the city it is, there
9 are very few industrial areas in the city and
10 they are fewer of them than there are campus
11 plans or campuses to plan. And so I'm urging
12 that there be a process by which the industrial
13 areas have PUD process or an overlay process.

14 CHAIRMAN HOOD: Okay. All right.
15 Okay, so thank you.

16 MS. JONES: Thank you.

17 CHAIRMAN HOOD: Any other questions
18 or concerns? Okay, thank you. Thank you all
19 very much. We appreciate all your testimony.
20 Okay, hopefully I don't mess this name up, John
21 Chillin? Chelen? Chelen? Okay, Clifton
22 Seagroves, Benedicte Aubrun, Cheryl Cort, Renee

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1 Bowser and John Timp or Tinpe, ANC 2C, John T-I,
2 oh, okay, Tinpe, okay. He'll correct me when he
3 comes up.

4 Now I think I have a few seats left.
5 Is there anyone else who would like to testify
6 tonight? Okay, you can come forward, or did I
7 give up all the seats? No.

8 Is there anyone else who would like
9 to testify, if you can come forward. Okay, this
10 is the last call because what I plan on doing is
11 closing the record or closing the testimony
12 list, so we can ask our questions of the Office
13 of Planning.

14 Commissioners, be thinking how long
15 you want to go. Plan on doing 10-minute rounds
16 so we can try to get as much of this done as
17 possible this evening. If the Office of
18 Planning is all right. I know it's late. I
19 appreciate your diligence. We plan on going to
20 maybe about 11:15/11:30. A lot of us ride
21 bicycles and take mass transit. I don't think
22 any of us up here drive, do we? Okay. All

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1 right, so we're already saving the carbon
2 footprint.

3 Okay, is there anyone else who would
4 like to testify? Okay, we want to, let me ask
5 my colleagues, disagree? We're going to cut the
6 list off here. We're going to ask our questions
7 and if we don't finish tonight, it gets too late
8 and Office of Planning wants to take a break and
9 we all want to go, we will find a overflow date
10 where we'll, all we're going to do is continue
11 in these Subtitles A, W, X, Y and Z, is ask our
12 questions of the Office of Planning, okay?

13 All right, we're all on the same
14 page. Let's start, let's start from my left and
15 go to the right. Thanks.

16 MS. BRAY: Thank you, Chairman
17 Hood. My name is Kinley Bray. I'm with the law
18 firm of Arent Fox and I'm testifying on behalf
19 of the Sheridan-Kalorama Neighborhood
20 Coalition. I've been working with SKNC for
21 about seven years on various issues related to
22 the diplomatic map overlay.

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1 I had not intended to testify
2 tonight because, frankly, we're quite pleased
3 with the amendments that have been proposed by
4 the Office of Planning as they relate to
5 diplomatic map overlays.

6 But, as the suggestion was made in
7 the earlier round of persons testifying that the
8 issues related to diplomatic map and the
9 location of Chanceries in residential zones be
10 tabled, I felt that it was important to step up
11 and say that the very organization who
12 originally brought the map amendment, seeking to
13 remove several squares which were largely
14 miscategorized as institutional in nature, when
15 in fact they're residential in nature, that case
16 was actually tabled by the Zoning Commission in
17 2005.

18 And it has yet to be resolved. It's
19 a still pending map amendment. The direction of
20 the Zoning Commission gave, at the time, was that
21 the Office of Planning go back and study the
22 unofficial one-third/two-third rule to see if it

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1 still applied and to make an attempt to codify
2 that rule.

3 And over the past six years we've had
4 various meetings with the Office of Planning,
5 with the Office of the Attorney General to try
6 to resolve that issue to the satisfaction of
7 Sheridan-Kalorama. And I'm pleased to say that
8 in the last year we have made significant
9 progress, and that is embodied in the text that
10 you see before you tonight, and it's noted in
11 OP's report.

12 So I wanted to thank the Office of
13 Planning for their tireless work on this
14 particular matter and state, for the record,
15 that the Sheridan-Kalorama Neighborhood
16 Commission is certainly in support of the
17 proposed 50 percent rule because that does
18 represent a true tipping point, the point at
19 which a square shifts from institutional, from
20 residential, strictly residential, to
21 institutional where there are various
22 non-residential uses that have crept into that.

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1 And if that is the threshold for
2 determining where a Chancery is appropriate in
3 a low-density residential zone, then,
4 certainly, one-third, it has always been
5 Sheridan-Kalorama's position that one-third is
6 too low and 50 percent represents a reasonable
7 compromise where there is clearly no argument
8 that there is a significant portion of
9 institutional uses within a low-density
10 residential square and, at that point, a
11 Chancery may be appropriate.

12 And so we support the text as
13 written.

14 CHAIRMAN HOOD: Okay, Thank you
15 very much. Next. Is your microphone? It's
16 lit up, so there you go.

17 MS. BOWSER: Yes, thank you. Good
18 evening, and thank you for holding these
19 hearings. My name is Renee Bowser. I'm Vice
20 Chair of the Advisory Neighborhood Commission
21 4D and Commissioner of Single Membership 4D02.

22 I'm testifying on behalf of ANC 4D

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1 which passed a resolution on October 15, 2013 at
2 a duly noted monthly meeting before a quorum
3 urging the Zoning Commission to adopt procedural
4 regulations which will allow advisory
5 neighborhood commissions to provide more
6 studied input in taking positions on matters
7 before the Zoning Commission and Board of Zoning
8 Adjustment on which ANCs are afforded great
9 weight.

10 So these proposals are with regard
11 to Subtitle Y, for BZA procedures and Subtitle
12 Z, for the Zoning Commission procedures. At the
13 outset, ANC 4D would request, and let me say that
14 on October 25th we submitted a resolution on the
15 proposals that we are urging the Commission to
16 adopt.

17 But at the outset we requested
18 additional public hearing dates as which the
19 public and ANCs can testify on the sweeping
20 1100-page zoning rewrite. Such additional
21 hearing dates should be scheduled only after
22 ANCs across D.C. are given more time to discuss

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1 the proposed changes, in detail, with their
2 constituents including evaluating their impact
3 on their communities, review studies and reports
4 and draft provisions to be voted on by their
5 commissions for great weight considerations.

6 ANC's were not given adequate time to
7 evaluate the final draft of the rewrite. As the
8 final draft was set down in September and copies
9 of the final draft were available in public
10 libraries and on disc to, one disc to each ANC,
11 in October.

12 So it's only been a month or less.
13 Accordingly, we're requesting an additional
14 90-day period to review and formulate positions
15 on the final draft of changes before the
16 scheduling of additional hearings.

17 I had concentrated and brought to my
18 ANC several issues. But, I'm learning here
19 tonight, there are other important proposed
20 changes that would impact our neighborhood that
21 we did not have time to go through.

22 And on Tuesday, October 29th, we met

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1 with, the ANCs met with Council Chair Mendelsohn
2 and many of the ANCs commissioners were unaware
3 of all the changes that may possibly go into
4 effect.

5 ANC 4D proposes a procedural change
6 in the length of time agency reports are due
7 before the Commission holds public hearings
8 pursuant to DCMR Title 11 3012, the Zoning
9 Commission may request the Office of Planning
10 and other public agencies to provide information
11 and assistance in contested cases and
12 rule-making cases to be heard by the Commission.

13 At DCMR Title 11 3012.5, ANCs are
14 authorized to participate in the contested case
15 in rule-making case process and file written
16 report. Currently, pursuant to Title 11
17 3012.3, the director of Office of Planning can
18 file a report up to ten days before the hearing.
19 ANC 4D believes that the filing of agency reports
20 so close to hearing dates deprives ANCs of the
21 opportunity to consider public agency reports in
22 their ANC decision making.

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1 Therefore, ANC 4D urges the Zoning
2 Commission to change what is currently DCMR
3 Title 11 3012.3 to provide that written reports
4 by the director of Office of Planning and other
5 agencies must be filed at least 60 days in
6 advance of public hearings.

7 ANC 4D proposes a similar procedural
8 change in the length of time agency reports are
9 due to the Board of Zoning Adjustment prior to
10 public hearings.

11 Pursuant to DCMR Title 11 3100 BZA
12 has jurisdiction to grant variances and special
13 exceptions. BZA can refer applications for
14 variances and special exceptions to any public
15 agency for a report or recommendation. ANCs are
16 part of this process and are to be accorded great
17 weight.

18 Yet DCMR Title 11 3114.2 authorizes
19 public agencies to file their reports or
20 recommendations up to 7 days prior to the hearing
21 date. ANC, again, believes that the filing of
22 agency reports so, even closer, to the hearing

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1 dates deprives ANCs of the opportunity to
2 consider public agency reports in ANC decision
3 making.

4 Therefore, ANC 4D urges the
5 Commission to change what is currently Title 11
6 3114.2 so as to provide that reports for
7 recommendations must be filed 60 days in advance
8 of public hearing.

9 Finally, and very importantly,
10 there have been situations which the Board of
11 Zoning Adjustment has issued oral decisions in
12 proceedings, but it's failed to issue a written
13 decision until long after the oral decision.

14 CHAIRMAN HOOD: Ms. Bowser, I'm
15 going to have to cut you off.

16 MS. BOWSER: Have I been given five
17 minutes? Okay.

18 CHAIRMAN HOOD: Five minutes start
19 at, yes, we --

20 MS. BOWSER: Can I just say that
21 we're asking that --

22 CHAIRMAN HOOD: Ms. Bowser, Ms.

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1 Bowser, now I'm, I did that to Mr. Espenschied.
2 I'm going to have to cut you off. We have your
3 testimony, okay? Next.

4 MR. LUMPUY: Good evening, Chairman
5 Hood and members of the Commission. I won't
6 speak as long. I speak only to one issue and
7 it's one issue that has -- oh, my name is Lumpuy,
8 Carlos Lumpuy, and I'll try not to speak about
9 myself, Champlain Street, N.W., 18th and
10 Columbia Road or what today we call Adams Morgan.
11 I've been there since 1960.

12 Fifty-three years, I've seen
13 changes on my street and the reason I'm here is
14 to speak to one issue, and one issue only. And
15 that is uniformity of height on an urban street.
16 Uniformity of height on an urban street. In
17 1987 I participated at the Zoning Commission
18 hearing at the District Building when we were
19 down-zoned from commercial to residential.

20 And we were told at that time exactly
21 how high we could build on an area so expansive
22 as Florida Avenue to Euclid Street and from

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1 Champlain Street all the way to 16th Street. I
2 complied. Both of my projects are matter of
3 right on Champlain Street, facing each other,
4 The Erie at 2351 and the Eden at 2360.

5 We have to live with the decisions
6 that the BZA makes and the Zoning Commission
7 makes. And when you do, you pit neighbor
8 against neighbor because you give favoritism to
9 some property owners. And they come with the
10 returns and then you raise the height limit, so
11 then we have a street, today, which now has
12 buildings higher and lower than others.

13 Why can't we have fair play and the
14 rule of law? Why can't we do what Abraham
15 Lincoln told us, government exists only to do
16 what citizens cannot do for themselves? And
17 that includes zoning and land use regulations.
18 And zoning and land use regulations includes
19 uniformity of height. Uniformity of height is
20 important.

21 Individual property owners,
22 citizens, tenants, property owners, they can't

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1 do anything about it. We look to you. But you
2 have failed Champlain Street and you have failed
3 Champlain Street big time. You have pitted
4 neighbor against neighbor.

5 We have lawsuits, we have new
6 tenants associations fighting with owners.
7 Why? Because it is your job. You are the
8 policemen of property owners, and you have
9 failed in your job. You're not social workers.
10 You must learn to say the word, No. If you don't
11 know how to say the word, No, you don't belong
12 in government.

13 We must have fair play and the rule
14 of law. That's all we ask as property owners.
15 Just give us a fair playing field. Give us a
16 fair playing field. Stop with the variances and
17 the exemptions and have a uniformity of code.
18 Thank you.

19 CHAIRMAN HOOD: All right, thank
20 you. Next.

21 MR. TINPE: Hello, thank you very
22 much. I'm John Tinpe, ANC for 2C and I represent

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1 an area that is increasingly popular with
2 residences as well as commerce. And we, our
3 area's a mixed commercial and residential area.

4 And it seems like, more increasingly
5 so, the commercial part of it prevails over the
6 residential part, such as the full motion signs
7 that went up on Verizon, for instance, that
8 reflect light into the residential windows.
9 Recently some parking spaces have been removed
10 in favor of a payment to the DCR for \$21,000 a
11 year so that his company could have their parking
12 over there.

13 So things like that are happening in
14 the neighborhood, so we would like to, when you
15 make these reviews, to consider the residences'
16 rights carefully when making rulings and with
17 reviewing the regulations. Thank you very
18 much.

19 CHAIRMAN HOOD: Thank you. Next.

20 MS. CORT: Good evening, Chairman
21 Hood and members of the Zoning Commission. My
22 name is Cheryl Cort. I'm with the Coalition for

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1 Smarter Growth.

2 And I just wanted to, first of all,
3 thank the Zoning Commission, the zoning office
4 staff and the Office of Planning for about five
5 years of hard work and extensive public outreach
6 in all sorts of different ways, touching
7 thousands of D.C. residents on a fairly obscure
8 topic for every day residents.

9 And just wanted to say that, given
10 the length of this effort, which, I'm exhausted
11 by, having been on the comprehensive plan task
12 force as well which came out with its report in
13 2006.

14 We are hopeful that we can move
15 forward with wrapping up this final set of
16 hearings after dozens and dozens of hearings and
17 all sorts of outreach to move quickly to revise
18 these zoning regulations after so many years.

19 We're eager to see a zoning code that
20 will make our city more walkable, more
21 sustainable, affordable, and a code that's more
22 understandable. And we think that the proposed

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1 code, overall, is going to do that for us.

2 Regarding tonight's topic I wanted
3 to note, for Subtitle X, related to planned unit
4 development benefits, a couple of concerns about
5 some provisions. We suggest eliminating the
6 provision for three or more bedroom units as a
7 public benefit. We think that should be
8 reserved for affordable housing and perhaps for
9 a three-bedroom unit, affordable housing, not
10 market rate.

11 We think that the, we'd like to see
12 clarification of the affordable housing public
13 regarding income level. I still haven't been
14 able to locate the definition of low-income and
15 moderate-income housing. It's supposed to be
16 in the inclusionary zoning section of Subtitle
17 C, but I haven't been able to find it and it
18 wasn't in Subtitle B which refers to Subtitle C.

19 Presumably, low-income is 50
20 percent AMI and moderate income is 80 percent
21 AMI. The, we would like to see preference for
22 the low-income households, that 50 percent AMI,

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1 as what we should be pursuing under a planned
2 unit development as that is particularly
3 beneficial, as opposed to 80 percent AMI.

4 Regarding Subtitle X and housing
5 linkage we suggest eliminating the section I've
6 noted here, 306.2(b) that limits being able to
7 institute, essentially, affordability into a
8 PUD related to a housing linkage for office space
9 in a bonus density, basically.

10 And a note on WMTA property. It
11 seems that it's not appropriate to limit this
12 housing language program related to WMTA
13 property.

14 And, further, we suggest that we
15 reconsider some of the provisions that are all
16 carried over from the existing zoning code
17 related to the housing linkage program for
18 office space to perhaps maybe look at a fee going
19 to the housing production trust fund as a simpler
20 way to address linking the benefits of this bonus
21 density for office to affordability.

22 Also note that there's a dwelling

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1 unit size minimum of 850 square feet which I
2 don't quite understand, given this is far, a
3 larger size than the standards that we have for
4 minimums for rezoning units. And the rental
5 unit term of 20 years, we'd suggest that we
6 follow the inclusionary standard of life of the
7 building.

8 Lastly we'd like to address the
9 provisions or Subtitle Y and Z related to filing
10 documents electronically and we suggest
11 eliminating the requirement to contain the
12 signature of the originator as David Alpert had
13 previously testified.

14 We think that email communications
15 are a standard way that people communicate today
16 and that it should be to provide email comments.
17 It is common in other jurisdictions, NCPC, to
18 provide input officially on cases.

19 And we ask that the provision for
20 requiring a signature be removed from the
21 standards for providing acceptable testimony
22 electronically to the BZA and to the zoning

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1 commission. Thank you for your consideration.

2 CHAIRMAN HOOD: Okay, thank you.

3 Next.

4 MS. AUBRUN: Good evening, Mr.
5 Chairman and members of the Commission. My
6 name is Benedicte Aubrun. I am a long-term
7 resident of Washington, D.C., more specifically
8 at the Adams Morgan area, Ward 1. I wanted to
9 thank the Commission for the opportunity to
10 testify on a very important topic today.

11 My testimony will be brief as I am
12 here to urge the commission to allow more time
13 for the residents to review the new zoning
14 regulations report that was presented by the
15 Office of Planning a little more than a month
16 ago.

17 Indeed, how can she resident's,
18 without the proper expertise in zoning, can
19 review and comment on such a massive document of
20 1000 pages in such short time. This process is
21 not sufficiently collegial for there to be
22 informed citizens' participation.

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1 Citizens review is further
2 complicated by failure of the OP staff to
3 indicate where the changes were made and are
4 being made for each date on the zoning
5 regulations rewrite as we go through this
6 process. Listening to Chairman Hood, I am,
7 myself, very involved in the community as a
8 volunteer. And the amount of work required
9 should be compared to a full-time job.

10 I can see why people are afraid of
11 getting involved, because of the extreme
12 difficulty to dissect the OP's document. So I
13 am asking the Commission what could be done to
14 continue assisting ANCs and residents willing to
15 work on that matter, to be more familiar and
16 educated on such a complex topic ZRR is.

17 The public feels lost and needs to relate
18 to the process, understand what the impacts of
19 the new zoning report will have on each
20 neighborhood. Tonight shows us there is still
21 some discrepancies that need to be addressed.

22 It is my understanding that some

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1 ANCs have passed resolution requesting the
2 Zoning Commission to delay on its final
3 decision, to allow more time for review.
4 Massive public reach out and input are crucial
5 to make our city liveable and better city. I
6 concur with Nancy MacWood, Ms. Neumann, Mr.
7 Hargrove testimonies. I will email and updated
8 version of my testimony. Thank you very much.

9 CHAIRMAN HOOD: Okay, Thank you.
10 Next.

11 MR. SEAGROVES: Good evening. My
12 name is Cliff Seagroves and I'm here to tonight
13 on behalf of the United States Office of Foreign
14 Missions. As the Zoning Commission is aware,
15 Section 206 of the Foreign Missions Act, which
16 has been both federal and D.C. law for three
17 decades, applies to the location, replacement
18 and expansion of Chanceries in the District of
19 Columbia.

20 This section explicitly states
21 where Chanceries are permitted to locate and
22 provides that any determination concerning the

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1 location of a Chancery or an appeal of an
2 administrative decision with respect to a
3 Chancery base it in whole in part upon any zoning
4 or map. So it bases it solely on the six
5 criteria established under the act.

6 It is federal law that serves as the
7 authority under which these types of cases are
8 reviewed. D.C. zoning regulations, as a
9 result, under the law, are required to be
10 consistent with the requirements of the act.
11 The Languages of Foreign Missions Act leaves
12 little doubt that Congress wished to create a
13 comprehensive process with a fair and
14 expeditious decision of issues relating to
15 foreign Chanceries in the District of Columbia

16 . With this said, the Department has
17 stated it only recently became aware of the
18 significant changes the Office of Planning is
19 proposing with respect to Chancery use cases.
20 We're still reviewing and analyzing those
21 provisions, but I can be sure, tonight, that we
22 believe the vast majority of what the Office of

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1 Planning has proposed is widely inconsistent
2 with the requirements of the Foreign Missions
3 Act and therefore would consistent a violation
4 of federal law and, for that matter, D.C. law.

5 This is unfortunate, given the
6 explicit requirement that any regulations,
7 proceedings or other actions of the Zoning
8 Commission and the Board of Zoning Adjustment
9 affecting the location, replacement of
10 expansion of Chanceries be consistent with the
11 Foreign Missions act.

12 New week the Department of State
13 will have its first opportunity to discuss the
14 Office of Planning's proposed revisions with the
15 Office of Planning concerning Chancery phases.
16 Therefore I am requesting that further review by
17 the Zoning Commission of all proposed changes to
18 the zoning regulations concerning Chanceries be
19 tabled until these issues can be appropriately
20 assesse.

21 I didn't intend to bring this up
22 tonight, but in response to other statements I

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1 believe it is important that the Commission also
2 review some of the history concerning how the
3 Foreign Missions Act came to be, specifically,
4 the environments associated with the location of
5 Chanceries. This came out of the history with
6 the last time the District government attempted
7 to restrict the location of Chanceries in lower
8 density residential areas.

9 That culminated in the District's
10 Location of Chanceries Act of 1979, a piece of
11 legislation that went down as the first time the
12 Congress used its authority to, the power of
13 disapproval of an act by the D.C. City Council.

14 So we look, we are concerned that
15 some of the changes that are proposed are very
16 similar to where we once were and we understand,
17 certainly, the concerns expresses by others with
18 respect to this issue, but I cannot understate
19 or highlight enough the seriousness in which the
20 Department of State views the impact of some of
21 these actions, that they could have with respect
22 to our conduct of foreign relations. Thank you.

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1 CHAIRMAN HOOD: Thank you. Next.

2 MR. CHELEN: Hello. My name's John
3 Chelen. I am a nearly 40-year-resident of Ward
4 3 in Cleveland Park. Today I'm going to testify
5 on behalf of the Ward 3 Democrats which perhaps
6 is the most fairly represented group of
7 grassroots activists in the city.

8 I was fortunate enough to be invited
9 to be the Chair of the zoning task force for the
10 Ward 3 Democrats. But I'm going to also go a
11 little bit further than that because, in my own
12 personal right, I served as the most immediate
13 prior president of the Cleveland Park Citizens
14 Association and I also served as legal counsel
15 to the Cleveland Park Business Association.

16 So I think I can synthesize the
17 viewpoints of a range of interests in Cleveland
18 Park. Now my own personal background is that
19 I'm a lawyer. I have been involved for nearly
20 30,40 years on international, national,
21 environmental energy and transportation issues.

22 I've done strategic planning for the

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1 World Bank. Vice President Al Gore personally
2 announced two of my major initiatives, and I
3 think I have a fairly decent understanding of
4 federal regulatory procedure. I have received
5 awards, I have sat in a similar position as you
6 all have on federal regulatory matters.

7 I cut my teeth on zoning, though, in
8 the contentious battle over the giant
9 development. It nearly tore apart the
10 neighborhood, I'm pretty sure you all recognize
11 the history of what went on there. I was
12 fortunate enough to survive that. I can't say
13 that I was radicalized but it lead people to
14 invite me to Chair the Ward 3 Dem Zoning Task
15 Force.

16 I had prepared written testimony
17 that I was going to read this evening, but I'm
18 going to forego that. And, I beg your
19 forbearance if I'm not as articulate as this
20 situation has called for. But I believe you
21 have a significant problem on your hands.

22 I don't believe you have been

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1 offered up the methodology, the research, the
2 public participation, the professional writing,
3 the collaboration, any of the things that we know
4 are called for in a fundamentally fair
5 regulatory development process.

6 You've seen this tonight. You've
7 seen a sampling of people with different points
8 of view. I think this is replicated on a very
9 deep, harmful basis across the city. In our
10 task force we split into tiger teams to take on
11 the essential issues that zoning had to face in
12 this rewrite. We had a team on ADUs, on parking,
13 overlays, PUDs, et cetera.

14 I learned quite a bit because we had
15 some very expert people working on that task
16 force. Every time I looked at an issue and when
17 it had been proposed I saw deep flaws. And, to
18 this day, I've not seen these flaws remedied.
19 You've heard very clear testimony about the
20 inadequacy of the process.

21 One of the simple things we called
22 for was the publication of black letter law, a

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1 complete revised text with adequate time for the
2 community to review and analyze it. Obviously,
3 that was not presented. Was there a need for
4 haste? No, because you yourselves know that
5 PUDs are generally successively obtained.
6 There is nobody who is suffering now under an
7 inadequate code or set of regulations.

8 You've heard from other people here,
9 ask about why does the formula need to be changed
10 when we were so successful. I could offer you
11 my interpretation. I could go into some of the
12 theories behind this, but I don't believe that
13 the simple matter of how you integrate Metro has
14 been well thought out.

15 From my own thinking, as a
16 transportation planner, I look at things such as
17 intermodal transitions. It is at the location
18 of Metros where we should actually have more
19 parking. That's how you get people out of cars
20 and into Metros. And we don't have an
21 alternative that's going to harm the developers.
22 They've already received an increase in the

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1 value of their real estate holdings because of
2 the location of the Metro.

3 I could go on and on and on. I
4 intend to revise my written testimony. I hope
5 I'm given the opportunity to submit it to you,
6 and lay out some of these deeper problems. I
7 think you have to go back and read the letter
8 submitted to you by council member Cheh and
9 council member Evans, representatives of the
10 environmental interests and the business
11 development of this community. And they call to
12 task the procedure, the theory and the ability
13 for OP to have developed and given you anything
14 of worthwhile note.

15 The same thing is true from other
16 letters that we have received as well. I think
17 you have to go back, read those letters, read
18 those resolutions passed by the Ward 3
19 Democrats, by the Plea of Parts Citizens'
20 Association. I thank you very much for my
21 opportunity to testify.

22 CHAIRMAN HOOD: Okay, thank you

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1 very much. And on that note, while the witness
2 list is cut off today for the Subtitles A, W, X,
3 Y and Z, you still can submit, as you asked to
4 do, you still can submit something in writing on
5 the Subtitle A, W, X, Y and Z. Do we have a
6 cut-off date for that, Michele? Not a cut-off
7 date.

8 Okay, so that's how we'll move in
9 that fashion. While we won't hear anymore
10 testimony, this is the last panel on the
11 Subtitles A, W, X, Y and Z, we will take written
12 testimony. Okay, let's open up any questions of
13 this panel.

14 Question? Come on.

15 VICE CHAIR COHEN: No, I'm just
16 curious, Mr. Chelen, you know, you have a vast
17 amount of knowledge that is useful. Have you
18 participated from 2007 onwards to share that or
19 did you just get involved?

20 MR. CHELEN: I did not testify, I
21 did not participate in the beginning. I was
22 highly involved in the Citizens' Association,

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1 trying to build bridges between a fractured
2 community, and I discovered how many people were
3 misled on what was being proposed and what the
4 arguments were. That took my time.

5 But then, discovering the Ward 3
6 Dems, I then began to dig into this. And I
7 attended several of the public sessions that
8 were held. I asked Ms. Tregoning specific
9 questions such as the flawed basis of the
10 projection that we have less vehicles being
11 owned in the city. Received a very incoherent
12 answer and asked why we weren't using DMV
13 statistics. I received no answer.

14 That was what I saw time and time
15 again in the times I did publicly participate.
16 I wish I had the opportunity to have been
17 involved years back. I had worked with some of
18 the leading national advocacy groups on federal
19 regulatory policy, working with ALIRA and OMB
20 and some of the leading political advocates as
21 well.

22 And, I'll tell you, I would've

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1 raised a ruckus if I had seen the kind of
2 procedure that was being done and set forth here.

3 VICE CHAIR COHEN: Thank you.

4 CHAIRMAN HOOD: Okay, any other
5 questions? Okay, let me just ask, Mr.
6 Seagroves, you mentioned that next week the
7 Department of State will be looking at these
8 regulations. Is this their first time?

9 MR. SEAGROVES: We are having a
10 meeting next week with the Office of Planning to
11 discuss --

12 CHAIRMAN HOOD: So is this the first
13 meeting?

14 MR. SEAGROVES: Correct.

15 CHAIRMAN HOOD: Okay. All right,
16 any other questions? Okay, I want to thank this
17 panel. We appreciate your testimony.

18 Okay, commissioners, take a deep
19 breath. What I will suggest is that we take
20 maybe 10-minute rounds. Office of Planning, if
21 you all are ready, the panel will try to go in
22 the same order. Well, our normal order.

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1 We'll start with Commissioner May,
2 Vice Chair Cohen, oh, you need, okay, we're going
3 to take a three-minute break. The court
4 reporter needs a break. Okay, let's go off the
5 record for a few moments.

6 We're back on the record. I'm going
7 to start with Commissioner May.

8 COMMISSIONER MAY: Okay, so first
9 question I have, I think, goes to a little bit,
10 some of the feedback we heard tonight about the
11 desire for a mark-up. I know that this is sort
12 of a complete restructuring. It's hard to do a
13 mark-up. But, at the very least, is it possible
14 to get some sort of commentary on it that
15 indicates where we have substantial changes?

16 Because it looks like a lot of the
17 language is just converted from old numbers to
18 new numbering, or slightly restructured, and
19 there really is no substantive change, and, but
20 it's very hard to know that. So is it possible
21 to get that kind of annotation?

22 MS. STEINGASSER: We can take

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1 another stab at it. We have, not only the
2 cross-walks, we have facts sheets that we've put
3 out, and then, of course, in our reports. This
4 document is a continuum. That's what you have
5 before you. So, but we're happy to take another
6 stab at putting everything together and we'll do
7 it --

8 COMMISSIONER MAY: I mean, I'd
9 rather not see another stand alone document but
10 have it kind of side by side with the existing.
11 I know it's hard --

12 MS. STEINGASSER: A side by side,
13 I'll be honest, is impossible. I don't even
14 want to fill the --

15 COMMISSIONER MAY: No, I'm not even
16 saying the side, I'm not even talking about a
17 side by side. I'm just talking about a mark-up
18 of the text with commentary kind of on the side
19 where this section is unchanged or, you know.

20 MS. STEINGASSER: From our existing
21 --

22 COMMISSIONER MAY: Yes.

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1 MS. STEINGASSER: -- eleventh. I
2 mean, we can go through the Subtitles, through
3 the chapters, and try to work through it that
4 way.

5 COMMISSIONER MAY: Yes, but, I
6 mean, chapter by chapter, even, would be, okay.
7 Something like that would be, I think would be
8 helpful.

9 MS. STEINGASSER: But I want to be
10 clear. I want to be very clear on what the
11 expectation is. It won't be line by line by line
12 by line.

13 COMMISSIONER MAY: And I'm not --

14 MS. STEINGASSER: It'll be like
15 sections or chapters.

16 COMMISSIONER MAY: I understand.
17 That's not really --

18 MS. STEINGASSER: Okay.

19 COMMISSIONER MAY: -- practical.
20 And that's why I wasn't asking for it. So, just
21 out of curiosity, when we're all done with this
22 are we going to be, I mean, because we're, it

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1 feels like we're adding a lot of complexity to
2 the structure and a lot of chapters.

3 And I know that when you go online
4 now and read zoning regs, because of the way it's
5 done, it's chapter by chapter. It's all these
6 Word documents that you have to pull up, one at
7 a time. It's a very, very difficult document to
8 read online. Didn't it used to be, when it was
9 just the regs that were published by the zoning
10 office, is there any hope that we're going to
11 wind up with a decent version of it, kind of like
12 what you were actually reviewing?

13 Because I'm reviewing it chapter,
14 I'm sorry, Subtitle by Subtitle using the
15 electronic version and it's very easy to
16 understand and to find things and so on. Really
17 hard to do that on the standard Web site for
18 reading regs like this.

19 MS. STEINGASSER: I'm not quite, we
20 have a compiled version.

21 COMMISSIONER MAY: I know. I know,
22 I'm not talking about the one that we're

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1 reviewing. I'm talking about when it's finally
2 published is it going to be as difficult to read
3 --

4 MS. STEINGASSER: Oh, no.

5 COMMISSIONER MAY: -- as the
6 current regulations are now --

7 MS. STEINGASSER: Oh, I see, .

8 COMMISSIONER MAY: -- online,
9 because of the way they are published online by
10 whatever, whoever does it. Sharon, who
11 actually publishes it? What office is that?

12 MS. SCHELLIN: It's ODAI, the
13 Office of Documents is really in charge.

14 COMMISSIONER MAY: ODAI. Yes, I
15 mean, if it's going to wind up in their format
16 it's going to be a nightmare to read
17 electronically.

18 MS. STEINGASSER: Well, the ODA Web
19 site, yes, is very difficult to maneuver. The
20 Office of Zoning's ability to post things
21 functionally is, I think, much greater. And I
22 think we'll be working with them to make sure

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1 that the final formatting is something that they
2 can work with.

3 COMMISSIONER MAY: Okay. I would
4 hope so. I just wanted to, I didn't, it just
5 dawned on me as I was reading it that we need to
6 do that. Okay, so the, on campus plans a big
7 issue was made of the inclusion of interior roads
8 on campuses, or rather, yes, the inclusion of
9 the, in the FAR calculation. And I
10 have a certain sympathy to that. I was big on
11 making sure that interior roads or private roads
12 were not counted on PUDs, but I'm not sure that
13 campuses kind of fall under the same thing.

14 I would think that if it is a private
15 road that is publicly accessible that it should
16 be excluded, perhaps. But if it's just a
17 roadway that's internal and you have to be in a
18 university vehicle or have a pass or something
19 to get in I'm not sure that there's really a
20 benefit to it.

21 Is there something else that we were
22 trying to get at?

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1 MS. STEINGASSER: Well, the
2 Commission has taken a position, and OAG has
3 found case law that actually backs up the fact
4 that if it's used for public right-of-way,
5 whether it's by easement or whether it's by
6 dedication, it doesn't count as part of a lot.

7 And the Commission has taken recent
8 action to define that, and that's why the Office
9 of Planning didn't feel comfortable carving out
10 a new definition just for campus plans, because
11 it's very difficult for us to figure out what's
12 a primary, what's a secondary, what's a service.
13 But we might be able to work with the
14 representatives and come up with some language
15 that lets them make their case in front of the
16 Commission with each.

17 COMMISSIONER MAY: Right, and, I
18 mean, I think it's right that, you hit it first
19 off, that it has to do with what's publicly
20 accessible as opposed to what's not.

21 MS. STEINGASSER: Right.

22 COMMISSIONER MAY: And I think, I

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1 mean, that may be hard to find out too, but I just
2 didn't, it just didn't seem that there was, it
3 was in exact parallel with PUDs.

4 Okay, so I assume that as fair amount
5 of what happened with the drafting new Chancery
6 regulations occurred without much input from
7 State Department and that's all going to be
8 corrected once you start meeting with them. Is
9 that what I heard?

10 MS. STEINGASSER: We're happy to
11 meet with them. The federal government did have
12 a seat on the task force for the last six years.
13 They received copies of drafts of everything
14 that's gone out. We've got no feedback on this
15 particular issue, so.

16 COMMISSIONER MAY: Yes, so they
17 were, I mean, were they not, well, I won't go into
18 that. So, but now you'll have a chance to get
19 that feedback, right?

20 MS. STEINGASSER: Yes, however, I
21 also would say, in drafting these our Office of
22 the Attorney General was very heavily involved

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1 and was comfortable with the final document.

2 COMMISSIONER MAY: Okay, I will,
3 I'm glad to hear you say that. That's what I
4 would have hoped. So to the concern that
5 getting, I know this is a broader question, it's
6 not really a specific chapter. But since it was
7 discussed tonight, the concern that the loss of
8 overlays, the elimination of overlays, is going
9 to wind up with substantial changes to the
10 protections in those neighborhoods.

11 And that's not my impression, or at
12 least that didn't seem to be the intent. Can you
13 confirm for me that that's --

14 MS. STEINGASSER: It absolutely is
15 not the intent.

16 COMMISSIONER MAY: Okay.

17 MS. STEINGASSER: Where the overlay
18 modified a purpose or intent statement of the
19 base zone we tried to reflect that. The
20 overlays did not fully replace all the intent and
21 purposes of the base zones. They modified those
22 and we tried to reflect those. We'll take

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1 another look at those and we'll discuss them in
2 detail --

3 COMMISSIONER MAY: Right.

4 MS. STEINGASSER: -- next week.

5 COMMISSIONER MAY: And I don't know
6 if you actually got any feedback but there are
7 some substantial changes.

8 MS. STEINGASSER: Then we're
9 absolutely happy to take, to work on that.
10 We've been very, very clear about that over and
11 over. Same with uses, we've asked over and over
12 if we haven't captured the conditions of the
13 uses. We'll absolutely be looking at that.

14 COMMISSIONER MAY: Okay, the issue
15 of full campus plans being required for private
16 schools, I mean, it's, it is a separate section
17 but it refers back to the section under
18 university plans which has that long list of all
19 the things that are required.

20 MS. STEINGASSER: Right, we, and
21 I'll take responsibility for that one, as they
22 say. We thought we had put enough caveats by

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1 saying as appropriate, as relevant, and I
2 thought that had made it clear that --

3 COMMISSIONER MAY: That long list
4 might be toned down --

5 MS. STEINGASSER: Might be toned
6 down.

7 COMMISSIONER MAY: -- depending on
8 the scale of the campus, so.

9 MS. STEINGASSER: But we will
10 absolutely take another look at that. We are
11 not trying to increase the burden on the smaller
12 private schools. And we do want to make sure
13 that the same plan goes forward. we're not
14 trying to get into their business beyond the
15 current regulations but we do want to provide a
16 little bit more clarity. That's all we were
17 trying to get at. But we'll work with them on
18 that.

19 COMMISSIONER MAY: Okay. So I have
20 a few more questions that are specific to the
21 chapters that we talked about tonight. And I
22 did do a thorough review of the whole document

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1 and have a lot of almost editorial type changes
2 that I will find some way to get this information
3 to you.

4 But I'm still not quite sure of, I
5 mean, it's the sort of thing where I start asking
6 a whole bunch of questions early on and then as
7 you read further on some of those questions are
8 answered. So I want to vet my list again and
9 I'll transfer everything that's substantive to
10 you.

11 I also transferred to the Zoning
12 Office the things that are purely editorial in
13 nature, where there's a reference incorrect or
14 things like that, and they can do with it what
15 they will. But I'll do it all on paper. And I
16 am done, with a minute to spare.

17 CHAIRMAN HOOD: And you won't, we
18 won't have to do a second round?

19 COMMISSIONER MAY: Well, you know
20 what, want me to make it my last?

21 CHAIRMAN HOOD: Oh, I'll be quiet,
22 maybe I shouldn't have said anything. I'm

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1 sorry. Okay, Vice Chair Cohen.

2 VICE CHAIR COHEN: I always like
3 Commissioner May to go first because he covers
4 quite a bit that I don't need to duplicate. But
5 I just had a few questions with regard to what
6 I've observed in my time of being on the
7 Commission which is, as I said, going on to my
8 third year, is that there have been many, many
9 meetings that the Office of Planning has held as
10 well as the fact that this was kicked off in 2007.

11 And there are not too many cities
12 that I'm aware of that has gone through this
13 process so long and with so much, what appear to
14 be, involvement of the community. I was
15 actually quite proud when I heard some of the
16 explanations of the number of meetings.

17 I'm just very, very confused. And
18 there's just this total disconnect, so I'd like
19 to hear some reaction to what we've heard tonight
20 about postponing something that I think has been
21 going on for a significant amount of time.

22 MS. TREGONING: I can try to take

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1 this one. It's, it comes up with some frequency
2 in other planning efforts. We've made a lot of
3 changes to these reports and I wouldn't be the
4 first to tell you that this draft regulation is
5 far from perfect. And Commissioner May found
6 some discrepancies in references and we found
7 some as well. We have an errata sheet.
8 There'll be one every time.

9 There's a difference between not
10 having a public process and engaging people and
11 listening to what they say and entirely agreeing
12 with every comment that is heard. And I think
13 you'll hear in the course of testimony over the
14 next days and weeks that many people felt we, our
15 changes went too far. Others felt they didn't
16 go far enough. And that's, I don't expect
17 unanimity from, on this topic.

18 There are lots of very strongly held
19 views and even disagreements about whether the
20 city is changing now, and how. So I think you're
21 seeing a reflection of that. It's also common,
22 as it was in our last comprehensive plan which

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1 was quite controversial, that when there isn't
2 a consensus there are people who ask that it be
3 delayed or deferred or not acted on or tabled.

4 And I don't know how that helps us
5 to get to a place where there's more resolution.
6 So I wish I could, I wish we could have gotten,
7 the Zoning Commission, something that really was
8 a consensus document.

9 But, I think, instead what we've
10 given you is something that reflects a lot of
11 input from many, many citizens and a lot of
12 changes. And it is our best attempt to provide
13 a zoning code that will serve us well for the next
14 50 plus years.

15 VICE CHAIR COHEN: Thank you.
16 Again, going back, maybe I'm going to be asking
17 this question differently. But dropping the
18 overlays seems to be a gut reaction from the
19 communities, thinking that they have a special
20 set of visions for their community.

21 And so is it necessary, in what way
22 is it necessary to sort of consolidate the, what

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1 was the overlays into an actual zoning
2 nomenclature?

3 MS. STEINGASSER: The overlays are
4 basically, they create new zones. They pair
5 with the zone beneath them. They marry up and
6 they create their own zone.

7 Under the current regulations you
8 start with your base zone, you go find your
9 overlay, then you go find your other
10 requirements. Then you go back.

11 We've got several places where we
12 have an overlay on top of an overlay and it just
13 seemed like, okay, when you start having that
14 many overlays then the base zone underneath it
15 is broken. So it needs to be put together and
16 a new zone created.

17 We proposed it back in 2008 and the
18 Commission was very positive in their feedback
19 and guidance on moving in that direction. The
20 purpose of the zones are still there. The sense
21 of community ownership is still there. The
22 geography definitions are still there. The

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1 uses, everything is still there.

2 We heard originally that they were
3 too buried in the middle of all the other mixture
4 zones so we put the letter N in them. Then we
5 went, another set and said well let's just put
6 them all in their own Subtitles.

7 So be very clear, this is where these
8 neighborhood commercial zones are. And then
9 each one has a title and that title is the
10 geography or the community that it represents.
11 So it's reinforced over and over and over.
12 It's still there.

13 We think it's the right thing to do.
14 It's certainly easier on the map for someone to
15 understand what they're looking at and then go
16 to that one spot and not have to go to two or three
17 spots and try to figure out, between the two,
18 which is the most restrictive and which is not
19 the most restrictive and how that applies.

20 MS. TREGONING: And for what it=s
21 worth, I would also just say that, far from not
22 liking overlays, we think the notion of

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1 customized neighborhood zones, that a C2A in one
2 neighborhood is different than a C2A in another
3 neighborhood, that elements of community
4 character and defining architecture and scale
5 and form, those things can be reflected.

6 And so it, especially going in that
7 direction, it didn't necessarily make sense to
8 have something called an overlay that would
9 different than a specific neighborhood based
10 commercial zone, which is the direction that
11 we're moving towards.

12 VICE CHAIR COHEN: Thank you.
13 We've heard testimony from, this is going to
14 shock you, this question, from the Coalition of
15 Smart Growth and, or for Smart Growth. And
16 they're asking that we be more definitive on, and
17 Definitions, I know, is tomorrow, but in
18 delineating income levels for affordability as
19 well as giving greater recognition to providing
20 50 percent of median income. Can you respond to
21 that, please?

22 MS. STEINGASSER: That was brought

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1 to our attention this afternoon, and we will be
2 working with our housing specialists and DHCD to
3 look into that. We think, also, that the, that
4 Ms. Cort was right. The definition may have
5 inadvertently not been codified in the new regs
6 proposed, and we do want to get that in there.

7 VICE CHAIR COHEN: And lastly, I
8 think, it was brought up that the campus plans
9 should be really done separately. The stages
10 should not be consolidated. Do you have any
11 reaction to that?

12 MS. STEINGASSER: Yes and no. At a
13 certain level there is an efficiency to having
14 a campus plan come forward, if it's clean and
15 ready to go and all they want to do then is move
16 into a further processing. In other cases, as
17 you've heard tonight, it can be a crippling
18 amount of work.

19 And what happened the last few years
20 was we had two or three major universities moving
21 at the same time, and into that was also woven
22 multiple further processes in anticipation of

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1 the new campus plan or in furtherance of the
2 existing campus plan. So it became, it did
3 become an enormous volume of work for the
4 community to understand which campus plan they
5 were looking at as they would process the
6 different pieces.

7 So in some cases it can be efficiency
8 and in other cases it can be quite burdensome.

9 VICE CHAIR COHEN: This is still, I
10 still have a little bit of time, so I just want
11 to take up all of it, of course. On the campus
12 plans, is it something you can do during set down
13 to sort of --

14 CHAIRMAN HOOD: That's your
15 one-minute warning.

16 VICE CHAIR COHEN: Oh, okay.
17 During set down, is that something you can
18 determine the complexity?

19 MS. STEINGASSER: That's another
20 advantage. The campus plan does not have a set
21 down. So they file as, but it is something that
22 perhaps we could look at giving the Zoning

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1 Commission the option to determine whether they
2 want to be dealing with both and further
3 processing simultaneously with a master plan.

4 CHAIRMAN HOOD: Okay, Commissioner
5 Turnbull. This is our regular order.

6 COMMISSIONER TURNBULL: Thank you,
7 Mr. Chair. Well, I just want to, I mean, I just
8 want to thank the Office of Planning. I mean,
9 they've been doing a tremendous amount of work
10 for a long time and I just want to recognize that
11 effort. And you shouldn't have gotten rid of
12 Travis. Well, you didn't get rid of him, but you
13 shouldn't have let him go. See, that's part of
14 your problem. I won't go there, never mind.

15 In light of that, if we get back to
16 the campus plan, I mean, the most excruciating
17 hearings, set of hearings, I went through was
18 with AU. And I, and they're right. I mean, that
19 may have been passed the tipping point for second
20 stage.

21 And maybe if you get a campus plan
22 and the university says we have a need for a

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1 second stage because of one project, I mean,
2 there might be a specific need but when you have
3 multiple second stages, I think we had three ANCs
4 and it was contentious. We had neighborhood
5 organizations and it almost gets away from
6 looking at the overall need of the campus plan
7 when you start, to me it makes it more complex.

8 And I think we were, it was for
9 nights, I mean, it was just, the hearings, the
10 brutal hearings we had. And I think maybe that
11 was too far. And I think we need to think about
12 how many second stages you could really look at.
13 I mean, it's, I would like to try to limit it if,
14 or do something and say we need to focus on the
15 campus plan.

16 There was a lot of, I would agree
17 that, with Commissioner May and then the Vice
18 Chair earlier, about, I think we talked about the
19 Redlining, somehow, some kind of a document that
20 keeps us a little bit, keeps everybody a little
21 bit more informed as to the changes. But we're
22 not looking for line by line but something that

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1 would help. I would agree with that.

2 The other thing that came up, people
3 were talking about communications, emails
4 coming in or whether there was a chat room and
5 that we're not getting enough feed. And I know
6 you guys, I think, looked at that and talked
7 about it. Is that --

8 MS. STEINGASSER: We do. We've had
9 an ask, a central question place that you could
10 send in an email and I think it kind of is shot
11 out to several people in OP so it doesn't lay
12 dormant. We also have an interactive blog site
13 that we set up about a year ago that's --

14 COMMISSIONER TURNBULL: Have you
15 been getting a lot of feedback on that or?

16 MS. STEINGASSER: Yes, people --

17 COMMISSIONER TURNBULL: Do people
18 know it?

19 MS. STEINGASSER: Yes, people know
20 it, people check in. I don't know how much
21 interaction there is going back and forth
22 between the viewers but we do --

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1 COMMISSIONER TURNBULL: Different
2 people?

3 MS. STEINGASSER: -- get a lot of
4 people viewing it and monitoring it. And then
5 we also have the Web site itself that has kind
6 of the whole library of documents. The Office
7 of Zoning, then, has also set up some links that
8 refer over to these, so you can get to them from
9 almost any location.

10 COMMISSIONER TURNBULL: I guess I
11 recognize the lion's share of work that you're
12 doing but I always, I get a little cringe when
13 I hear something like oh, you're just doing
14 top-down planning and you're not involving the
15 community. And it, I know it probably strikes
16 a chord with you but it just makes, I guess we
17 all feel a little queasy as to are we reaching
18 everybody but that we should.

19 MS. STEINGASSER: I mean, we've had
20 over 200 community meetings.

21 COMMISSIONER TURNBULL: Right.

22 MS. STEINGASSER: We've had

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1 articles in the paper, we've been in the New York
2 Times, we've been in the Washington Post
3 repeatedly, of course, all the local papers.
4 We've been on the Kojo Nnamdi Show several times
5 over the years.

6 The Zoning Commission itself has had
7 19 --

8 COMMISSIONER TURNBULL: Right.

9 MS. STEINGASSER: -- officially
10 noted public hearings, meaning a notice went out
11 to every single ANC, plus then, the follow-up
12 meetings where you gave guidance.

13 We've sent multiple copies of the
14 disc to the ANCs, we put paper copies in the
15 libraries. We recorded one of our public
16 outreach meetings, so it's available online, on
17 Channel 16 Video Archives. There's a link to
18 that from our Web site as well, so --

19 COMMISSIONER TURNBULL: Yes, I
20 guess we're going through a complicated process
21 here.

22 MS. STEINGASSER: Absolutely.

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1 COMMISSIONER TURNBULL: It's very
2 complicated and even Counselor Avitabile made
3 the comment, when someone was talking about
4 parking, he said, well, you've got to go to
5 Appendix B, Subtitle C. And I'm just wondering
6 if it's --

7 MS. STEINGASSER: Well, what Mr.
8 Avitabile --

9 COMMISSIONER TURNBULL: Is it
10 getting to be a little convoluted or --

11 MS. STEINGASSER: Well, what Mr.
12 Avitabile was referring to was a specific
13 question someone asked about --

14 COMMISSIONER TURNBULL: Right.

15 MS. STEINGASSER: --private school
16 parking and had there been a comparison. Yes,
17 there was. It was just posted up this weekend
18 as part of our report. So that, I don't think
19 that's an indication --

20 COMMISSIONER TURNBULL: No, no,
21 but, I mean, will there be, will it be easier for
22 people to track this stuff as they go in and

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1 they're looking at stuff? I mean, I guess if I'm
2 looking up something in a certain section --

3 MS. STEINGASSER: Yes?

4 COMMISSIONER TURNBULL: -- but then
5 I've got to go to a, is it going to tell me I
6 definitely have to go to, you know?

7 MS. STEINGASSER: We did do a set of
8 cross-walks that goes through every single
9 section of the current code, not the chapter, not
10 the subset but the section. So 1205.6, it'll
11 tell you exactly where that is in the new
12 regulations.

13 COMMISSIONER TURNBULL: So when
14 we're finished it should be a fairly clean
15 transition for someone looking up something?

16 MS. STEINGASSER: It should be,
17 except in those cases where some things are brand
18 new that didn't exist in the old code or where
19 something's been deleted. And that, we've also
20 tried to reflect in the cross-walks where it said
21 Deleted. But, again, these regulations that
22 are before you tonight, they're part of a

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1 continuum, right.

2 COMMISSIONER TURNBULL: No, I know.

3 MS. STEINGASSER: It's not a new
4 text amendment that you would normally see with
5 a full set, you follow it back. We've tried to
6 guide people back by having the Zoning
7 Commission actions to date that tell people
8 where the hearings are. You can re-watch them
9 all. I've watched several of them in the last
10 couple of days.

11 The Office of Zoning has put the
12 entire list with the video links up on, so you
13 can see both the transcripts and the videos a
14 again, so --

15 COMMISSIONER TURNBULL: Okay.
16 Well, one of the, although there was a lot of
17 comments and discussion early by, talking about
18 the West End/Foggy Bottom. The ANC, WECA,
19 Committee of 100, talking about density, heights
20 and they're very about CEA. They're very
21 concerned that somehow growth is creeping into
22 Foggy Bottom/West End that they don't want.

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1 MS. STEINGASSER: They may not want
2 it. That may be true. But the comprehensive
3 plan calls for these areas to be high-density
4 mixed use or high-density commercial. And
5 those areas that are identified with
6 high-density commercial or high-density mixed
7 use, the new downtown zones which bring those
8 downtown tools, will be, we are proposing that
9 they be applied there.

10 We are not proposing areas that are
11 covered by moderate density or an R5B, no. But
12 these are areas identified by high-density.
13 They've been identified since 2006 in this
14 comprehensive plan and in many cases beforehand.
15 Some of these areas are already TDR receiving
16 zones that have already been designed to accept
17 a lot of the density from the downtown areas and
18 --

19 COMMISSIONER TURNBULL: Is that all
20 of the West End or part of it?

21 MS. STEINGASSER: Parts of the West
22 End, not all of it. And not all of the West End

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1 is being included in the downtown. Again, it's
2 only those that have a red or a red striping on
3 them.

4 COMMISSIONER TURNBULL: Okay. Ms.
5 Kahlow, in her letter, pointed out a couple, she
6 was very concerned about the ZA having the
7 authority to act on a modification of
8 consequence --

9 MS. STEINGASSER: Yes.

10 COMMISSIONER TURNBULL: -- which
11 sounds like it's very important, and it ought to
12 come before the Zoning Commission.

13 MS. STEINGASSER: Well, I think he
14 would then have to send back, like he does now
15 --

16 COMMISSIONER TURNBULL: A letter.

17 MS. STEINGASSER: -- a notification
18 to the Zoning Commission and the Zoning
19 Commission --

20 COMMISSIONER TURNBULL: Why does it
21 say, why not simply say a minor modification?
22 Why modification of consequence?

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1 MS. STEINGASSER: Well right now
2 there is only a modification which requires a
3 full public hearing or a minor modification.
4 And a minor modification, under the current
5 regulations, is a modification of little or no
6 consequence or significance.

7 So when we go through these orders
8 we've seen the Commission struggling with cases
9 where it actually has been an issue. The
10 Commission discussed it. It might be finding a
11 fact or a conclusion of law, it might be a
12 condition.

13 But it's not so big that you actually
14 want to host a full hearing, but you have to
15 because it's not one of no consequence. So
16 we've tried to create this new provision that
17 would allow someone to make a ruling on it and
18 send it to the Commission and the Commission
19 could act without that hearing. So it's really
20 something --

21 COMMISSIONER TURNBULL: Something
22 we could or we could not --

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1 MS. STEINGASSER: Right.

2 COMMISSIONER TURNBULL: Okay. The
3 other thing she talked about in the set down
4 report, other agencies, the word says shall,
5 instead of shall it says, well, may have other
6 report from other agencies. Normally, in a
7 hearing, we get a report but you're saying for
8 the set down report you may have other agencies,
9 but you may not?

10 MS. STEINGASSER: That's correct.

11 COMMISSIONER TURNBULL: But in a
12 hearing report we will get them?

13 MS. STEINGASSER: As best as we can
14 shape them, yes.

15 COMMISSIONER TURNBULL: I, well,
16 you'll request those reports.

17 MS. STEINGASSER: Yes, we always
18 request them, yes. And the other agencies are
19 given as early notification as we can and as the
20 Office of Zoning can. They send out now to
21 Department of Transportation and DD Environment
22 as well. So there's early notification. We

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1 also have interagency coordination meetings.

2 COMMISSIONER TURNBULL: Thank you.

3 CHAIRMAN HOOD: Okay, Mr. Turnbull,
4 are you going to need a second round?

5 COMMISSIONER TURNBULL: No, I think
6 I'm good.

7 CHAIRMAN HOOD: Okay.
8 Commissioner Miller.

9 COMMISSIONER MILLER: Thank you,
10 Mr. Chairman.

11 In addition to whatever you're going
12 to prepare to try to, maybe a, not the redlined,
13 but a more specific summary of the changes, I
14 assume one of the things you're going to do
15 after, following this hearing, or one of the
16 things I would request if, or ask my fellow
17 commissioners to work, help request a response
18 to every specific, we got a lot of specific
19 recommendations tonight.

20 I think many of them are good. Many
21 of them seem reasonable. But I think it would
22 be useful to have the professional response of

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1 the Office of Planning to each and every one of
2 the very specific requests. And that could be
3 made part of the, your summary, your, that could
4 be made part of the record.

5 MS. STEINGASSER: We'll certainly
6 do our best.

7 COMMISSIONER MILLER: And I think
8 we might have established process where we were
9 going to try to, if we had suggestions beyond
10 what the public hearing testimony is, that we
11 were going to set up some kind of a process that
12 we could send, I haven't availed myself of it,
13 I don't know if any other commissioners have,
14 that we could send suggestions or
15 recommendations and have responses and both our
16 recommendation and a response.

17 It would also be more, made part of
18 the public record. It's just something I think
19 we need to consider because I'm not going to be
20 able to go over in ten minutes everything that
21 I looked at before the hearing and, now, since
22 the hearing, so --

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1 MS. STEINGASSER: Oh, absolutely.
2 I was assuming that the process we would continue
3 through these hearings because they're going to
4 be coming, the next couple of days they're just
5 back to back. So between today and tomorrow
6 we'll be working on tomorrow's hearing.

7 COMMISSIONER MILLER: Right. No,
8 I didn't mean by --

9 MS. STEINGASSER: We won't be
10 recapping this, and I assume the Zoning
11 Commission will be doing the same kind of prep.

12 At the end of all that, I assume the
13 Commission would get together in an executive
14 session with the Office of Zoning the Office of
15 the Attorney General and decide how you wanted
16 to proceed both in terms of addressing the
17 comments, both in terms of what direction you
18 wanted to give OP, how you wanted to put these
19 things together and what steps you wanted us to
20 take.

21 And then there would be some
22 additional feedback to us at that point.

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1 COMMISSIONER MILLER: Okay, well I
2 think I'm familiar with receiving a lot of public
3 hearing testimony on a huge document, like the
4 comprehensive plan, for example, and the Office
5 of Planning, in that case for the council. And,
6 of course, at our hearings, did prepare summary
7 documents which were very helpful to the
8 decision makers to help decide --

9 MS. STEINGASSER: Okay. Yes.

10 COMMISSIONER MILLER: -- and
11 delineate. So I would encourage my own
12 colleagues to ask for that kind of document and
13 so it would help organize our recommendations,
14 our consideration of the recommendations that we
15 have before us.

16 Going to some of the specific
17 recommendations that remain tonight, the
18 Capitol Hill Restoration Society, they said that
19 there's no, I would share their concern that
20 there needs to be a more upfront statement about
21 the authority of the comprehensive plan with
22 respect to zoning.

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1 Before they had even come in with
2 their testimony I had, that was the very first
3 comment I had made in the very first section
4 that's in the zoning rewrite, which is just a
5 carryover from the existing.

6 And it says what the regulations are
7 designed to do with consideration of, and it has
8 character of the respective zones, suitability
9 of each zone for uses permitted in the zone and
10 encouragement of stability of zones and land
11 guides. But the comp plan really needs to be
12 upfront.

13 MS. STEINGASSER: Okay.

14 COMMISSIONER MILLER: That's what,
15 the consistency of the regulations have been
16 matched with the comprehensive plan, since
17 that's our guiding bible for our actions.

18 The campus plans, the commercial use
19 of zoning on campus plans, I would share the
20 concern that the proposed language is overly,
21 perhaps overly restrictive, both from the
22 university standpoint and from the

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1 neighborhood's standpoint.

2 The 10 percent thing and the putting
3 it towards the internal, putting them into the
4 internal of the campus, I mean, maybe that works
5 internal to the campus. It might work for AU.
6 But in the GW case, I mean, we wanted to have that
7 neighborhood serving retail, being, serving the
8 neighborhood, the broader community.

9 And I think you have a statement in
10 there that these commercial uses may serve the
11 broader community. I personally think that all
12 of those, not all, but many of the commercial
13 uses on campuses and recreational uses should be
14 available to the broader community, at least the
15 adjacent community.

16 So that's another may that I would
17 like to see go to shall, just my own thoughts on
18 that. On the central employment area issue that
19 was raised by ANC 2A and West End Citizens, we
20 had that, that's defined, is that still defined
21 in the existing comprehensive plan?

22 MS. STEINGASSER: There is a

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1 representation of a CEA. I think it was then
2 adjusted under Mayor Fenty, to include some
3 areas more east of the river. I think it brought
4 in Parkside and I think it brought in more parts
5 of Anacostia.

6 COMMISSIONER MILLER: I remember
7 when it was expanded to include east of the
8 river, the Anacostia commercial area. And I
9 don't know if it was expanded also to include
10 NoMa and Capitol Riverfront.

11 But I do also remember what Ms.
12 Kahlow referred to, was the case where we did
13 exclude the area near where the Red Cross was
14 locating from the CEA.

15 MS. STEINGASSER: Well, we're not
16 actually proposing any changes. We have no
17 plans to change. We have no secret agenda to
18 change the CEA. When we talk about the central
19 area it's as defined in the comp plan.

20 It's a planning area. It's an
21 element. It's the central area of D.C. It's
22 not the Central Employment Area. They're two

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1 very different things. And it is not our
2 intention for any of the zoning to affect the
3 CEA.

4 COMMISSIONER MILLER: Okay. So
5 how much of the Foggy Bottom West End has been
6 included in this new definition of downtown?

7 MS. STEINGASSER: I don't have
8 that. We'll be talking about that downtown area
9 next week.

10 COMMISSIONER MILLER: Okay.

11 MS. STEINGASSER: Next Thursday.
12 And we'll have more detail and maps at that time.

13 COMMISSIONER MILLER: Okay. The,
14 Paul Tummonds mentioned the effective date, the
15 need for effective date and transition phase-in
16 timelines for the new regs. And he suggested
17 basing them on the Green Area Ration phase-in
18 that we recently, when we adopted those new
19 regulations. Is that part of what we have
20 before us or was that, that was left to be
21 determined.

22 MS. STEINGASSER: That was left to

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1 be determined.

2 COMMISSIONER MILLER: And are you
3 going to make, be making a recommendation at some
4 point that you can comment on?

5 MS. STEINGASSER: You know --

6 COMMISSIONER MILLER: I would just
7 share that that precedent might be a good, I
8 would, might be a good way to go.

9 MS. STEINGASSER: Okay, we're
10 absolutely happy to look at that. That turned
11 out to be a pretty successful transition, but
12 it's something we're going to have to work with
13 the Office of Zoning and the Office of the
14 Attorney General and DCRA, Department of
15 Consumer Regulatory Affairs, on how that comes
16 into effect. But we'll absolutely look at that.

17 COMMISSIONER MILLER: And, I mean,
18 he said that it shouldn't be effective until six
19 months from the date of the final order. I think
20 that kind of makes, I mean, a longer than normal
21 phase-in period for such a massive new document.
22 It makes a lot of sense if it includes, I think

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1 we've seen that with the healthcare regulations
2 on the national level.

3 You need time to phase-in massive
4 new things.

5 MS. STEINGASSER: I absolutely
6 agree. Yes, we're not trying to catch
7 developers who are two or three months into a
8 design project for a million square feet
9 building and then they get snagged. We want to
10 make sure that we do have smooth transition.

11 COMMISSIONER MILLER: On the DDOT
12 report or the language, I would think that we
13 wouldn't want to put any language in there that
14 somehow say that a DDOT report wouldn't be
15 required in a zoning case. I'm not sure if
16 that's, at the hearing stage.

17 I'm not sure that that's what's
18 being proposed but, just since the reference was
19 made that it was, you're making best efforts.
20 You can't compel other agencies but we almost
21 always need a DDOT report for almost, for every
22 zoning case. And so that's an agency that I

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1 would want in addition to an OP report in every
2 case.

3 MS. STEINGASSER: Okay.

4 COMMISSIONER MILLER: And speaking
5 of an OP report in every case I would like some
6 consideration being given to, I know I've had
7 this discussion with OAG for, I think we have a
8 difference of opinion.

9 But I would like us to consider
10 having an OP report in appeals cases. I think
11 the professional recommendation of the Office of
12 Planning on the policy issues, even though there
13 are a lot of legal issues involved, an OP report
14 in appeals cases would be very helpful.

15 I think that's, I don't know if
16 that's in the existing comprehensive plan but
17 having drafted the comp plan language that's
18 required an OP report in every case, that's what
19 the drafter intended, that every case would have
20 an OP report drafted for somebody else who,
21 that's what they intended.

22 Done to one minute and a half. The

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1 PUD, I think this was also brought up by ANC 2A
2 and West End that the, we're not disallowing PUD
3 monetary concretions as long as they can be
4 demonstrated to have been provided by the C of
5 O so that's, and I think the ANC 2A's testimony
6 alluded to that, they like that alternative to
7 be in there. I just confirmed my --

8 MS. STEINGASSER: Yes, sir, you are
9 correct.

10 COMMISSIONER MILLER: Okay. I
11 think that's it, Mr. Chairman. I will concede
12 the balance of my time.

13 CHAIRMAN HOOD: Okay, thank you.
14 You can start the clock on mine. I'm just going
15 to say this, my observation tonight and working
16 through this whole process with the Office of
17 Planning, Office of Zoning, Office of the
18 Attorney General, we finally got here, where we
19 can dissect it and do what needs to be done for
20 the best interest of the city.

21 I'm not making a political statement
22 but I think the Office of Planning has worked

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1 hard, Office of Zoning has worked hard, Office
2 of the Attorney General has worked very hard.
3 Now, you might not all agree with the Office of
4 Planning, but they have done every single thing
5 that we've asked them to do.

6 They went out to the neighborhoods.
7 They've had many meetings. They come down here
8 and give us guidance. So I want to preface that,
9 and in my deliberations, I think, is where I'm
10 going to really ask, and ask my colleagues about
11 certain things as opposed to me asking them
12 tonight, for the simple reason that if we don't
13 all agree then whatever I ask to do is null and
14 void.

15 But I do have, I think that we got
16 a lot of great comments. I have them outlined.
17 I'm ready to deliberate on them. Whether it be
18 the Committee of 100, Foggy Bottom and the folks
19 that I, the one thing that I did catch in the
20 revision was some things that people you don't
21 hear from no longer exist.

22 And let me just say this, the, in

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1 Subtitle W, and I know we talked about this whole
2 overlay thing, what happened to the Langdon
3 overlay?

4 MS. STEINGASSER: The conditions of
5 the Langdon overlay were extended to all
6 industrial lands. So there was no reason to
7 have just an overlay. They were embodied into
8 the entire PDR.

9 CHAIRMAN HOOD: So, okay, so in the
10 PDR it specifically states that sole remediation
11 is prohibited. Does it specifically state
12 that?

13 MS. STEINGASSER: Solar
14 remediation?

15 CHAIRMAN HOOD: Soil remediation,
16 because that was one of the things --

17 MS. STEINGASSER: Oh, soil
18 remediation.

19 CHAIRMAN HOOD: Soil remediation,
20 yes.

21 MS. STEINGASSER: I'm sorry. If
22 it's in the Langdon overlay it was incorporated

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1 into all of the industrial zones.

2 CHAIRMAN HOOD: I just want to make
3 sure because that was one of the things that was,
4 that that neighborhood fought against when Mayor
5 Kelly was the mayor. And I just wanted, it's is
6 Dixon? Kelly. I forgot. But anyway, I just
7 want to make sure that those things are in
8 confidences.

9 Now, so the Naval Observatory also
10 falls up under, covered somewhere else in the
11 code?

12 MS. STEINGASSER: Yes, sir, that
13 will show up both in the mixed use and, I believe,
14 in the moderate density residential.

15 CHAIRMAN HOOD: Okay. Now we also
16 talked about, and I haven't seen it, it's a lot
17 to read. We also talked about tailoring
18 different things for different neighborhoods.
19 And when I look in the, and I know this was a
20 start, the only thing I saw was R19 and R20 in
21 those --

22 MS. STEINGASSER: Yes, sir. Those

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1 are the prototypes, and those will be coming to
2 the Commission, I believe, on Wednesday, when we
3 talk about Subtitle D.

4 CHAIRMAN HOOD: And, if you know,
5 those were, that, when we were doing our guidance
6 here is, that's where the complaints were was
7 because people were saying that we're only doing
8 Georgetown. And what about tailoring it
9 towards the other neighborhoods. Is that still
10 in progress?

11 MS. STEINGASSER: Georgetown
12 basically did itself. They agreed to go forward
13 and be the prototype and work through the type
14 of issues and bring it forward to the Commission.
15 And should the Commission accept those as the
16 process, then, yes, then other neighborhoods
17 could go forward.

18 CHAIRMAN HOOD: Now, I think,
19 though, when we did the guidance hearings, that
20 the Office of Planning was going to assist some
21 of those neighborhoods who may not be as up to
22 speed as what we heard tonight and may not be and

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1 may not be onboard and attended all the meetings.

2 I just want to know, are we still
3 going to continue to do that as we go along? Are
4 we going out to reach out to these other
5 neighborhoods besides Georgetown?

6 MS. STEINGASSER: Well, like I
7 said, we didn't do Georgetown. Georgetown did
8 Georgetown. They surveyed their own
9 neighborhood, they mapped their own buildings,
10 they walked all their properties and they
11 basically did their own drafting of that.

12 They agreed to do that as a prototype
13 because, at the time, OP said we can't rewrite
14 the zoning regulations and go out and write these
15 custom zones. So they kind of set the template
16 the the Commission will be seeing.

17 As neighborhoods come forward, yes,
18 there will be an opportunity to work with OP.
19 We've also put some general guidance or some
20 general direction and general rules in Subtitle
21 X on how to create a new zone and the types of
22 things that need to be considered.

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1 But, yes, absolutely, we, through
2 both the planning and the zoning side of the
3 Office of Planning work with the communities on
4 identifying their small area plans, their future
5 development. Did you want to add something,
6 Harriett?

7 MS. TREGONING: Commissioner Hood,
8 I just wanted to say that I think our intention
9 is that over time that we would customize many
10 of the zones and neighborhoods. And that we
11 would work with them, or they would work with the
12 members of their own community, to offer zoning
13 changes that would reflect the character of
14 their community.

15 But that would be something that
16 would go on, you know, even if you can imagine
17 that moment when this is finished, this round of
18 the ZRR is done. That we would continue to be
19 working in neighborhoods, you know, for probably
20 years to come on custom zones.

21 CHAIRMAN HOOD: Okay. All right,
22 and I think that needs to be spelled out

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1 somewhere. Again, as we've heard tonight, a lot
2 of people don't do zoning every day, like a
3 number of sitting in the room.

4 And one of my concerns, I will tell
5 you, it is no reflection on Office of Planning
6 or Office of Zoning, is that when I kept asking
7 a question about which wards, there were some
8 wards that were not necessarily represented and
9 I know for a fact, I actually attended one of the
10 briefing that the Office of Planning did along
11 with Office of Zoning in Ward 7.

12 And then nobody came from Ward 7.
13 And, you know, I really believe that we have
14 exhausted trying to get the word out. Now there
15 may be some argument about the text that was in
16 the library a month and a half ago, and I may be
17 able to concur with that.

18 But as far as getting the word out
19 I think we have exhausted, or done the best we
20 could. And I'm open, and I'm sure all of us are
21 open for any suggestions on how to do to better.
22 I don't know how you do it, but I think it was

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1 on Channel 16, or was it 13? 16 at the request
2 of us. Office of Planning went out at the
3 request of us to the wards.

4 We probably have some more things
5 that we are going to try to do. But we have
6 exhausted everything. Once again, what I
7 stated earlier was that a lot of times what's
8 going to happen is, once it's approved, what did
9 you all do.

10 But I think you've done your best
11 outreach. Can we improve it, yes. But I think
12 we've done, together, collectively, a good job
13 of trying to get folks engaged.

14 Let me just ask this to, the Chair
15 of the BZA, Mr. Jordan, mentioned about the
16 videoconferencing of a member. Do that do that
17 in other jurisdictions? You don't necessarily
18 have to answer tonight. But do they do that in
19 other jurisdictions?

20 He says it's already in the code.
21 And I'm just curious, if you can do some research
22 when we deliberate and let me know, or let us

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1 know, does that actually happen? Unless you
2 know already?

3 MS. STEINGASSER: We'll be happy to
4 look into that. I don't know already.

5 CHAIRMAN HOOD: Okay. And I will
6 ask, and if my colleagues agree, when we
7 deliberate I think it's important to have Office
8 of Planning. We may want to go to them, because
9 we have a lot of suggestions here, I'd rather
10 deliberate on them.

11 So if we agree to them, this goes to
12 Commissioner Miller's questions, if we agree to
13 them then we may have to have Office of Planning
14 go back and look at some of the suggestions of
15 the many suggestions that we got tonight. But
16 if we don't have agreement of opinions and we
17 don't feel strong enough we have a quorum, I mean
18 well we have the votes to approve it that way then
19 that's the way we move.

20 That's why tonight I envision not
21 asking a whole lot of questions because I don't
22 want the Office of Planning to do the same work

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1 two or three times. Because I believe there's
2 going to be some times they're going to have to
3 go back and do some things, the way I look at it.

4 I have a number of questions.
5 That's why I thought if we had answered those
6 tonight we'd have done more than one round. But
7 I think all of this will come out on
8 deliberations.

9 This party status issue. This
10 Commission has looked at that party status issue
11 for years and we have never got it resolved. But
12 I think, again, the same issues come up that came
13 up years ago. Communities put a lot of money
14 into paying the experts and they come down, I
15 think it was a gentleman who said he came in and
16 they were denied party status.

17 So, again, we really need to look at
18 that. I know we did it some years ago and we're
19 still at the same place that we were some years
20 ago. So that's another issue I think I want to
21 look at.

22 I have a couple of issues down here

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1 but what I'm going to do is just wait for our
2 deliberations.

3 And then also, the letter from
4 Councilmember Cheh talked about including the
5 commercial areas that are outside the canvas
6 plan. I actually thought that the Office of
7 Planning did a good job in taking care of her
8 issue. I guess it would be her to send us
9 another letter to let me know if that's been
10 taking care of.

11 Oh, that's my warning. Okay. And
12 I didn't really ask a lot of questions, I did more
13 talking than anything. But what I think we'll
14 do, Colleagues, and I'm going to use my last
15 minute, if you all agree to this when we do get
16 around to deliberating that things that we want
17 the Office of Planning to go back and revisit,
18 or if we want to do it in advance as suggested
19 by Commissioner Miller, we do it in that fashion.

20 I just don't want to say things
21 tonight and my colleagues don't agree and Office
22 of Planning goes out and does that work and it's

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1 null and void because I'm the only that votes for
2 it. Does that makes sense?

3 COMMISSIONER MAY: Yes, I wouldn't
4 want to suggest that we would be sending
5 suggestions for changes to the Regs at this
6 stage.

7 But I do think that it would make
8 sense for us to be able to ask some of our more
9 particular questions, you know, in paper form
10 that they can, you know, it can be documented
11 that way and the Office of Planning can respond.

12 And it's just more efficient than us
13 just sort of sitting here ticking things off.
14 Because, I mean, I have ten pages worth of
15 questions that I could ask about it.

16 CHAIRMAN HOOD: But I think for
17 transparency, at least from my standpoint, and
18 I know that will be part of the record, I think
19 a lot of this needs to have a discussion. That's
20 just where I am.

21 And you took ten seconds off, that
22 was my time.

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1 COMMISSIONER MAY: Well, pardon me.

2 CHAIRMAN HOOD: Okay. So I got ten
3 seconds. So go ahead. Go ahead. We can have
4 that discussion now. I just think that some of
5 these issues --

6 COMMISSIONER MAY: I think you're
7 asking a question so I just thought I'd answer
8 it.

9 CHAIRMAN HOOD: I think that some of
10 these issues need to be discussed, sort of public
11 in here, exactly where we are and where we stand.

12 COMMISSIONER MAY: And I don't
13 disagree. And I'm not suggesting that we would
14 wind up having a sort of a paper discussion of
15 a lot of these things. I mean mostly what I'm
16 seeking with the questions that I would want to
17 submit to the Office of Planning are just
18 clarifications of what they intend or what
19 changed or things like that.

20 Some of that will be answered by
21 whatever documents they produce in response to
22 our comments tonight. But I think there are

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1 other things where it just, you know, would be
2 helpful just to be able to ask some simple
3 questions. And they're not worth having, you
4 know, all of us sit here to listen while I ask
5 my nitpicking questions. Or everybody in the
6 audience.

7 CHAIRMAN HOOD: Okay. Some of us
8 may have the same thing and we --

9 COMMISSIONER MAY: Well, and then
10 you can read them. You know, read the result.

11 CHAIRMAN HOOD: And once it becomes
12 part of the record, case in point, like the A
13 Zone, apartment zone. I'd like to see it RA, and
14 I think that was suggested by someone else. I
15 did want to see if everybody agrees with that
16 when we deliberate. And that's kind of where I
17 was. That's not the sort of thing I was going
18 to ask in person.

19 COMMISSIONER MILLER: I hear you.

20 CHAIRMAN HOOD: Okay. Well those
21 are the kind of things that I wanted -- That's
22 why there's five of us. I got two votes already.

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1 Okay.

2 All right. So that's all I have.
3 I'm want to thank the Office of Planning again,
4 for going last. I want to thank the Office of
5 Zoning, just for hanging out with us. And I also
6 want to thank the public for staying to listen.
7 Stay tuned.

8 Do we have anything else, Michelle?

9 MS. SCHELLIN: No, sir, that's it
10 for these subtitles at this point.

11 CHAIRMAN HOOD: Now can you run down
12 how we're going to do with these subtitles so
13 people will know, if I didn't explain it earlier
14 sufficiently?

15 What I mean is not more testimony on
16 these subtitles.

17 MS. SCHELLIN: Right. No more
18 testimony on these subtitles. And at this
19 point, you know, we can still take written
20 testimony on them. And, once we get through the
21 hearing process on all of the subtitles, at that
22 point we'll decide where we're going to go from

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1 there.

2 CHAIRMAN HOOD: Okay. Anything
3 else, Michelle?

4 MS. SCHELLIN: No, sir.

5 CHAIRMAN HOOD: All right, let me
6 ask a questions. Did the public get the
7 crosswalk?

8 MS. STEINGASSER: The crosswalks
9 are available on our website and have been --

10 CHAIRMAN HOOD: Okay.

11 MS. SCHELLIN: They're part of the
12 public record, so they're available on OZ's
13 website.

14 CHAIRMAN HOOD: Because obviously
15 if they knew about that then the redline is still
16 what they're requesting. But I know we're
17 looking at ways to try to make it easier. Okay.

18 All right. So, with that, I want to
19 thank everyone for their participation tonight.
20 And this portion of the hearing is adjourned.
21 We'll see you tomorrow night.

22 (Whereupon, the meeting in the

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1 above-entitled matter was concluded at 10:55
2 p.m.)
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