

GOVERNMENT OF THE DISTRICT OF COLUMBIA

DISTRICT OF COLUMBIA ZONING COMMISSION

PUBLIC HEARING

INITIATIVE TO AMEND THE :
TEXT OF THE DISTRICT OF :
COLUMBIA ZONING REGULATIONS, : CASE NO. 97-15(I)
TITLE 11, DISTRICT OF :
COLUMBIA MUNICIPAL :
REGULATIONS (DCMR) :

Thursday,
September 24, 1998

Room 220
441 4th Street, N.W.
Washington, D.C. 20001

The hearing in the above-entitled matter was convened,
pursuant to notice, at 7:30 p.m.

BEFORE:

JERRILY KRESS, Chairman
ANGEL F. CLARENS, Commissioner
HERBERT M. FRANKLIN, Commissioner
ANTHONY HOOD, Commissioner
JOHN F. PARSONS, Commissioner

STAFF PRESENT:

SHERI PRUITT-WILLIAMS, Interim Director
STEFANIE D. BROWN, Office of Zoning
DAVID COLBY, Office of Planning
BRUCE BRENNAN, Office of Corporation Counsel

INDEX

	PAGE
Preliminary Matters	3
Presentation by Bruce Brennan, Office of Corporation Counsel	4
Presentation by Lois Williams, Campaign for New Community	27
Persons in Support of the Campaign for the New Community:	
Jeffrey Haggray	44
David Erickson	47
Richard Gerlach	51
Diane Mayo	55
Gail Chow .	56
Carol Marsh	59
Malcolm Rivkin	61
Commission Questions	71
Other Witnesses:	
Rodney Foxworth ANC 2F	98
Rosalyn Doggett ANC 3C	111
Dorothy Miller ANC 2A05	114
George Boyd	124
Barbara Zartman	132
Richard N. Wolf	143

1 of 3021 of the District of Columbia Municipal Regulations, Title 11 Zoning.

2 The order of procedure will be as follows: (1) preliminary matters; (2)
3 presentation of the Petitioner which in this case is the District of Columbia, Office of
4 Planning; (3) report of other agencies; (4) reports of advisory neighborhood
5 commissions; (5) persons in support; (6) persons in opposition.

6 The Commission will be setting a schedule for this evening.
7 Typically, organizations will be allowed 8 minutes to testify. We do have one
8 request from the Campaign for the New Community we will deal with when they
9 come to testify. Those presenting testimony should be brief and not repetitive. If
10 you have a prepared statement, you should give copies to staff and orally
11 summarize the highlights. Please give us your statement before summarizing.

12 Each individual appearing before the Commission must complete
13 two identification slips and submit them to the reporter at the time you make your
14 statement. If these guidelines are followed, an adequate record can be developed in
15 a reasonable length of time.

16 With that I will open with preliminary matters.

17 Ms. Pruitt-Williams?

18 MS. PRUITT-WILLIAMS: Yes, would like to put on the record,
19 have Corporate Counsel put on the record the timing issue associated with this
20 hearing in reference to the Department of Justice.

21 MR. BRENNAN: Bruce Brennan, Senior Counsel in the
22 Government Operations Division. And having been given the floor I'll give a little bit
23 more background since there are a couple of new Commissioners.

24 The proposal put forth originally by the Office of Planning and the
25 Office of Corporation Counsel as part of the agreement with the Department of
26 Justice is one that was worked out in lieu of litigation threatened by the Department
27 of Justice in accordance with the Fair Housing Act. And it is one in which the Office

1 of Corporation Counsel insisted on having the Department of Justice recognize the
2 independent nature of this Zoning Commission and therefore committed to
3 presenting to you and making all good faith efforts presented to the Zoning
4 Commission these proposals which the Department of Justice put before us and
5 which the District of Columbia accepted as being required of the Fair Housing Act.

6 The Department of Justice did recognize the time limits which
7 this independent Zoning Commission uses in its procedures and therefore gave a
8 very extensive period of time from the date of that September 30, 1997 agreement
9 for this Commission to Act, a period of 450 days recognizing that there would be
10 perhaps multiple hearings and that the notice requirements which our rules require.

11 However, that 450 day period will end on December 24, 1998
12 and that is the period by which regulations that meet the minimum standards of this
13 stipulated agreement are to be in place throughout which time the District of
14 Columbia through the Office of Corporation Counsel is to report to the Department of
15 Justice the failure to enact those regulations and under the terms of the agreement,
16 the Department of Justice can reinstate the litigation which precipitated the
17 negotiated settlement.

18 So December 24, 1998 is the date by which the agreement said
19 the zoning regulation changes will be in place or the Department of Justice will have
20 the opportunity to reinstate litigation.

21 CHAIRPERSON KRESS: All right, thank you. Any questions?
22 With that we'll move on to David Colby and the Office of Planning.

23 MR. COLBY: Thank you, Madam Chairman. I hope I can be
24 heard. If not, I'll talk louder. Our report which has gone to Commission members
25 and has been filed in the record for a number of days is very lengthy and I don't
26 know, really, how to shorten most of it so my inclination, although the Commission
27 members, I'm certain, have read it and some of them have probably read it twice

1 now. I'm inclined to read large portions of it. And please stop me if you think that's
2 wasting your time or everybody's time because it's in the record.

3 A lot of the report, let me say is historical and let's us know how
4 we got where we are so that it deals with the proposals of both our office, based on
5 the agreement with Justice Department. Some of it is basically a precis of the
6 Campaign for a New Community's proposal. Some of the more interesting parts, I
7 think, is the comparison of the two proposals and comparing it, as well, with existing
8 regulations and -- but I am prepared just to start at the front of the report and using
9 my judgment work through it.

10 Having --

11 CHAIRPERSON KRESS: Let me ask my fellow Commissioners,
12 this is quite complex and I know we have all read it. What is your sense, would it be
13 helpful for Mr. Colby to go through and highlight the issues for us?

14 COMMISSIONER FRANKLIN: No.

15 CHAIRPERSON KRESS: No, you don't think we really need to?

16 COMMISSIONER FRANKLIN: But maybe new Commissioners
17 who haven't --

18 COMMISSIONER HOOD: Maybe he could give us something
19 very brief.

20 MR. COLBY: I will try.

21 CHAIRPERSON KRESS: All right.

22 MR. COLBY: I will leave out large parts of it assuming that it's
23 been read and feel free to ask all the questions that you have.

24 CHAIRPERSON KRESS: And I might even suggest that the
25 new Commissioners feel free to interrupt while during the presentation on a specific
26 issue. So we normally don't do that, but I think that might be the perfect way to
27 handle it this evening.

1 MR. COLBY: Okay, well, it starts out by saying that the
2 Department of Justice has determined that the District is not in compliance with Fair
3 Housing law and in particular in multi-family zones and has threatened to sue the
4 District and the District has entered into the agreement as Corporation Counsel has
5 noted and would accomplish this by adding two amendments which would allow
6 CBRFs for handicapped persons in multi-family zones, as a matter of right, with no
7 restrictions not applied to nonhandicapped persons and to create a reasonable
8 accommodation process for housing handicapped persons so as to provide some
9 flexibility in the zoning regulations.

10 This case has been around once and I think all the
11 Commissioners know there were hearings, three hearings. The record was closed
12 May 6th. The issues raised the citizens, I think, is important to note. I don't know
13 why we won't hear at least the same concerns tonight, was that they strongly
14 oppose the loss of notice that these regulations would result in. They oppose the
15 loss of input provided by the special exception process. They feel that the
16 "institutional" uses would adversely neighbors and neighborhoods and I should note
17 that in the R-4 zone districts, particularly, where they feel the greatest impact would
18 fall. I should note that the R-1 through R-3, the lower density zone districts were
19 made consistent with Fair Housing Act in 1991 and 1992 and the Department of
20 Justice has not called that in question except to establish or request that there be a
21 reasonable accommodation measure which could apply in those zone districts as
22 well.

23 So the Commission decided to rehear the case for any number
24 of reasons, not to mention that they wanted as full a record as possible and there
25 were two new Commissioners and that's where we are now. I would only say that in
26 1980 and 1981 there was a comprehensive rezoning text amendment covering this
27 essentially the same area although with a different reason for being and at that time

1 the Commission decided and the City and the Commission decided on dispersal as
2 a means of accommodating, working out the accommodation with the communities
3 and housing providers. So the regulations really created an effect of dispersal of
4 these around the city, required that they be dispersed. The net result was that there
5 could be poor residents and spacing as a matter of right and beyond that the
6 application for CBRF went to the Board of Zoning Adjustment for special exception.

7 The Zoning Commission established three levels of impact of
8 these and I won't go into that. That's I think, clear and may not be understood well,
9 but at least the low impact, what was considered medium impact and then those
10 considered potentially high impact on the community.

11 In 1988, well, the rules were amended in
12 -- the zoning regulations were amended in 1991 and 1992, as I said before, primarily
13 bringing the number up to six with two caregivers allowed. So the total number of
14 persons living in a -- consistent with what the family is now considered which is six
15 unrelated persons, these group homes could have six plus two caregivers as a
16 matter of right.

17 Spacing requirements was eliminated from 1 to 6 persons and
18 added for 7, between 7 and 8 persons and the Fair Housing law has -- and the
19 definition of handicap and impact on CBRFs, I think I'll skip that and come back to it
20 which defines each of the -- well, no, let me run through it quickly. Again, there are
21 seven categories of CBRFs that are in the zoning regulations. One of them, the
22 community residence facility which houses -- it really houses handicapped
23 individuals and for reasons of physical or mental or emotional or any number of
24 handicap issues and that type of facility again is clearly a handicap facility and is the
25 kind of facility that the Fair Housing Act and the Department of Justice agreement
26 would address.

27 The youth and adult rehabilitation homes which are a part of the

1 correctional system are clearly not housing for the handicapped and they fall outside
2 of this agreement. There would be no change, I'll say essentially by these
3 proposals, I'll get to that in a moment, for those two types. SO we've got a
4 community residence facility which is handicapped, youth and adult rehabilitation
5 homes are not. That's three of the seven are covered.

6 The remaining four are either handicapped or not, depending
7 upon who the population housed is and whether they meet the house for being
8 handicapped. One of those, an emergency shelter provides temporary housing for
9 people in need and provides a number of services, typically is not a handicapped
10 facility although a shelter for abused women would be and -- but a general shelter
11 would typically not be a handicapped facility. The youth care residential, youth
12 residential care home is typically not a handicapped facility, although there may be
13 individuals who are among the residents. Substance abusers' homes, if the persons
14 are in recovery is handicapped facility. If they are actually current users of drugs or
15 alcohol they are not considered handicapped. A health care facility is not normally
16 considered a handicapped facility, at least under the definitions that the District
17 normally under current zoning regulations. But I've probably confused you more
18 than helped with that so let me get into it and keep going with it and come back to
19 those.

20 The Department of Justice agreement said that, in fact, I won't
21 read it if you've got it in front of you, on page 5 at the bottom said that the following
22 usage shall be permitted as a matter of right in an R-4 district and it said community-
23 based residential facility and it goes on to say that they should have, that the rights
24 of persons in those facilities should be the same as those persons in any R-4 or
25 above districts. And I won't get into the nuance that we've proposed there.

26 The overall -- well, it's important to point out again that the
27 previously adopted -- that these restrictions that are in the zoning regulations now

1 would continue to apply to nonhandicapped facilities according to the Department of
2 Justice proposal. It would not apply to nonhandicapped facilities. The Department of
3 Justice proposal would only apply in multi-family zoned districts and for handicapped
4 facilities.

5 The reasonable accommodation portion was added, applies to
6 any zone district and is basically to say -- I'll give you a couple of examples, that
7 there needs to be a reasonable accommodation process for handicapped persons to
8 make whatever adjustments to the zoning regulations that are necessary so that
9 within the parameters of the normal zone regulations, a handicapped individual or to
10 house handicapped individuals, if there needs to be a different kind of a fire stair
11 then that should be provided, even if the normal zoning regulations wouldn't permit
12 it. That has to occur in a rear yard or a side yard which normally would not permit
13 that part of the structure to encroach on it. If it's deemed essential to accommodate
14 that population and to allow them to live there just as any nonhandicapped person
15 might want to live there, then the -- then that process should enable that to happen
16 administratively.

17 I should say that the Department of Justice, the stipulated
18 agreement that was signed required, going back, I guess to what I think Mr. Brennan
19 was saying said as I recall two things, one that the District should come to the
20 Zoning Commission and bring this case by a date certain which we did, in order to
21 start the clock ticking for the 450 days.

22 The second thing that was said is that the District should
23 establish immediately an administrative, basically licensing rule making for
24 reasonable accommodation which they set about to do. And I guess I can only say
25 a question which was raised to me by one of the members of the audience today, I
26 have determined that the best I can tell that the process as is functioning at DCRA
27 that there is a reasonable accommodation process. It did go through preliminary

1 rule making. I believe it never did make it through final rule making, whatever that's
2 worth. It should have and to my knowledge has not yet. But there is such a
3 process, I believe, functioning today, not over zoning regulations, but over licensing.

4 And the Campaign for New Community Housing Alternative is in
5 many ways the same and is in many ways different. I won't go too deeply into that
6 because the Campaign is here in full force and I don't want to bore you and then
7 have them just repeat what I say.

8 Let me say a few things that I think unique about their proposal
9 relative to the Department of Justice proposal.

10 CHAIRPERSON KRESS: I think the comparison issues where
11 they differ would be very helpful.

12 MR. COLBY: Well, I'll get to a direct comparison in a minute, but
13 let me say some of the things that they would do is they would permit persons who
14 lived together because of their disabilities, again the handicapped population which
15 is what the Department of Justice is also speaking to, allow them to do so in
16 numbers up to 15. That's an important number and important to the Campaign's
17 proposal.

18 They would abolish a couple of categories in zoning which have -
19 - essentially result in a stigma being applied to the population where they are literally
20 handicapped and not by law, no reason to be treated differently from anybody else.
21 And so they would eliminate the community residence facility designation in zoning,
22 not in licensing, but since there would be no special rules applied to it, it would be,
23 as you'll see in a moment, there's no need for the designation and in fact, it calls out
24 a population which by their judgment shouldn't be called out. It retains all
25 subcategories of the former CBRF that do not relate to housing for persons with
26 disabilities and specifically -- I said there were seven categories, six of those -- well,
27 the youth and rehabilitation homes would not be touched. They put them in

1 something called a custodial care home, again, some nomenclature that's different
2 and you can argue about whether that's an advantage or a disadvantage to the
3 regulation.

4 It leaves in place health care facilities. It leaves in place youth
5 residential care homes for unrelated children under the care of others, but I'll get in --
6 it abolishes emergency shelter as a term and establishes a new category temporary
7 congregate housing and in some ways these changes, while important, are awfully
8 obfuscating, but they complicate something which is really fairly simply and you get
9 into name changes and then all of a sudden you lose your basis for understanding,
10 what you thought you understood. But I think -- and they have a reasonable
11 accommodation procedure.

12 Let me move on quickly to some of the key differences and then
13 I'll get to the charts which I think help make the point.

14 The Department of Justice agreement is very similar in many
15 ways, but in other ways not so. Both would abolish the zoning special exception and
16 distance requirements for the handicapped in multi-family dwellings R-4 and R-5 for
17 the handicapped. And that is for the most dense residential zone. They would both
18 do that. They're essentially identical in that regard. They would both remove all
19 zoning restrictions based on disabled populations. This is essentially saying the
20 same thing, that do not also apply to nondisabled populations. It would be treated
21 alike.

22 Unlike the Department of Justice agreement which would not
23 directly affect the single family zone districts that currently allow six residents and
24 two care givers to reside together in a single family residence, but would allow more
25 with Board of Zoning Adjustment approval, the Campaign alternative would allow up
26 to 15 unrelated persons, again, a family by definition in the Campaign's proposal is
27 15 persons, family of handicapped persons that is. It would be very clear that it's for

1 handicapped persons.

2 And then another major difference is unlike the CNC proposal,
3 the Department of Justice agreement, it will eliminate the term CRF and CBRF
4 although the clear intention is to remove, by Justice, is to remove all categories of
5 housing that discriminate and to basically remove all trappings of discrimination.

6 I think what I'd like to do is jump to the charts which I've supplied
7 at the end of my report and I'd like to -- there are four of them. You find them at the
8 very end.

9 I'd like to go -- I'm sorry everybody in the audience doesn't have
10 these because it's kind of meaningless to you to hear what I'm saying, but if you look
11 at Chart 1, it's a lot of numbers. They don't mean much until you compare them to
12 the charts that follow. Chart 1 is existing regulations and you can see as I've said
13 that in the Class A, the first three types of CBRFs you can have 1 to 6 persons as a
14 matter of right in all the zone districts up to C-2. Seven to 8 and 7 to 15 with
15 spacing. Nine to 15, 9 to 25 with Board of Zoning adjustment approval. But you can
16 get 1 to 8 with spacing, 1 to 6 as a matter of right, generally. And then are different
17 types of facilities and it changes.

18 Class B is much more restrictive. 1 to 4 is a better ride and then
19 you go right into special exception for any more than that.

20 Class C also very restrictive. You go immediately to the Board
21 for approval of a Class C CBRF.

22 But let's move to the second chart which is the Department of
23 Justice agreement, second table. What I've done is -- my copy is colored in. There
24 are two differences compared to what we just looked at. They are in the community
25 residence facility and the second category and in the last category. The second
26 category where the R-4 zone on up, which are
27 multi-families zones, if you're handicapped and the CRF, the community residence

1 facility is, there's no limit on the number of persons. There's no limit on how many
2 people can live in an apartment building, provided the building itself is regulated by
3 the -- the height and bulk of the zoning regulations, so would that be true for
4 community residence facility.

5 Similarly, there's a change -- and that's a change from what
6 exists now. Similarly, for a substance abusers' home, so-called now, for people in
7 treatment there would be no limit if you're handicapped which is a definition of a
8 person in treatment in the multi-family zones. If you're not in treatment, that is to say
9 you're still abusing, then you're into -- then there's no change in existing regulations.
10 So there only those -- and I'm happy for somebody to point out I made an error here,
11 but I find those are the only two distinctions between existing regulations and the
12 Department of Justice agreement, leaving aside the whole issue of reasonable
13 accommodation.

14 If you go to the third page, you'll find that there -- and I think this
15 is very telling and maybe I'll add to this, or get a recommendation, and then end. In
16 this table, I have colored in first, second, third, fourth and last categories of CBRF as
17 being different what exists. It comes out of the fact that the Campaign proposal
18 would eliminate spacing requirements for handicapped persons. They would
19 eliminate spacing requirements for -- actually, they'd eliminate all spacing
20 requirements which, at least I get that and they can correct me if I'm wrong. I get
21 that from reading that material backward and forward. All spacing requirements and
22 for the community residence facility they would allow a -- they would define a family
23 as 15 persons which is the same number as are currently permitted in the zoning
24 regulations for a religious home.

25 So on the first one, youth residential care home, the top line
26 eliminates spacing. So it's essentially the same as the current regulations except
27 that you can get there without a spacing requirement. It's the same numbers. So

1 the difference is there's no spacing requirement.

2 The community residence facility, the second category, again,
3 the family has been increased from 6 to 15, a family of nonrelated individuals. So
4 they have 1 to 15 in the low density zones and then again there's no difference with
5 the Department of Justice in the multi-family zones.

6 The third category, health care facility, and again this is not using
7 their terminology. This is using, in order to compare apples and apples and oranges
8 and oranges, this is using the old fashioned district regulations.

9 The health care facility again would eliminate spacing. So you
10 get the same numbers in the first line as you would have gotten if you had spacing
11 under existing regulations. You can get that in this case without spacing. That's the
12 difference.

13 In emergency shelters, again, no spacing. So other than that,
14 there's no change. And then we have homes, adult rehab. homes, there's
15 absolutely no change with existing regulations and once again, as in the case of the
16 Department of Justice, the last line on the chart which is for handicapped substance
17 abusers' homes that has changed also. In this case, the low density zones have a
18 population, they have a family of 15.

19 So other than changing some names which may be a good thing,
20 and changing how we look at these categories, comparing the Department of Justice
21 and Campaign alternatives, the Campaign eliminates spacing and applies a person
22 of 15 persons, again, in the case of the family of 15, that's for handicapped persons.
23 And eliminates spacing throughout -- in a consistent manner.

24 I think I'll stop at the last chart which basically takes -- puts the
25 numbers into the format, the categories in which the Campaign would do. I won't
26 dwell on it at the moment and I think when they're talking maybe it will be useful to
27 look at that. Let me just jump back to our recommendation which was that we

1 recommend that the Commission does what it's doing which is to hear testimony on
2 both recommended text amendments and that the Office of Planning will, if the
3 Commission so requests and I think they will, provide recommended final
4 amendment language along with the basis for that recommendation.

5 Essentially, we're saying we're not doing to jump out in front. We
6 think there are -- we have supported in previous reports the Department of Justice
7 proposal. We find some logic to the proposals of the campaign, including adding a
8 category for single room occupancy dwellings and combining boarding and rooming
9 houses as being a somewhat arcane distinction between the two right now in the
10 zoning regulations, at least it appears that way, and eliminating some tenement,
11 some other terminology which has little function right now with the zoning
12 regulations.

13 So we find some things in there we would like to hear a great
14 deal more before recommending expanding the size of an unrelated family in the
15 District and we'd like to hear more on the spacing regulations for nonhandicapped
16 persons, if that in fact is the proposal of the Campaign, to eliminate spacing
17 requirements for handicapped and nonhandicapped operations.

18 With that, no one has interrupted me. I don't think I've given
19 anybody a chance. And I'd be happy to answer any questions now and, of course,
20 as we proceed.

21 CHAIRPERSON KRESS: Questions for OP? Commissioner
22 Franklin?

23 COMMISSIONER FRANKLIN: Mr. Colby, is it your
24 understanding that the 15 person definition of a household was chosen because our
25 existing zoning permits clerical groups and religious denominations of 15 persons to
26 occupy a residence in an R-1 zone? And that seems to be the only basis for
27 choosing 15. Is that --

1 MR. COLBY: No. That is -- and I may have alluded to that in my
2 -- I think I did. The other basis which the Campaign cites is the Oxford House
3 decision, the decision and/or negotiated agreement, whatever the legal term for that,
4 where 15 was the number that the District agreed what would be permitted in the
5 Oxford House case and maybe that, in turn, came out of the fact that the zoning
6 regulations permitted a religious family to be, to exist with up to 15 persons. So it
7 may still have -- there is some magic to numbers and that number didn't just come
8 out of nowhere. But --

9 COMMISSIONER FRANKLIN: I'm just curious as to how it came
10 into the Oxford case, do you recall?

11 MR. COLBY: No, I don't.

12 COMMISSIONER FRANKLIN: Maybe they can shed some light
13 on that in their testimony.

14 MR. COLBY: Right.

15 COMMISSIONER FRANKLIN: Is it your understanding that
16 notwithstanding the zoning regulation with respect to 15 persons that there are other
17 codes, health and housing codes that would nevertheless apply in a residence to
18 prevent unhealthful overcrowding?

19 MR. COLBY: Focusing only on "unhealthful overcrowding" the
20 answer is yes. They would apply and they do apply to insure that the fire code, that
21 you don't have too many people in a house for structural codes, fire codes, that
22 there are limits on numbers of space. There are limits, of course, on windows. I
23 mean you have to have windows in bedrooms, all those would still apply and they
24 would have some limiting effect.

25 COMMISSIONER FRANKLIN: In other words, the land use
26 permission would not obviate the application of any other regulations addressing
27 occupant lists?

1 MR. COLBY: That is correct.

2 COMMISSIONER FRANKLIN: That was my question.

3 CHAIRPERSON KRESS: Other questions? I would just like to
4 make one comment. You do offer in your recommendation that after hearing this
5 testimony if we, if the Commission so requests that you provide a recommended full
6 amendment, full amendment language along with the basis for that
7 recommendation.

8 MR. COLBY: Yes.

9 CHAIRPERSON KRESS: I believe we want that, unless
10 something changes drastically during this hearing, I want to go on record right now
11 saying we would like that from you. Thank you.

12 With that, we'll move on to the Campaign for New Community, if
13 they would like to come forward. I did have a letter requesting that they would be
14 representing a large number of individuals and requested an hour. An hour is quite
15 long. Is there a way you can perhaps do this in less time? I'm sorry, please sit
16 down and introduce yourselves. Forgive me, I'm hopping right in.

17 Good evening, we'll start again.

18 MS. WILLIAMS: Good evening, Madam Chairman. My name is
19 Lois Williams. I do represent the Campaign. I am a partner at the law firm of
20 Howrey & Simon here in Washington. We will try our very best to stay under an
21 hour and the point of it was to try to streamline it. So we have emphasized among
22 ourselves the need not to repeat one another. Now Mr. Colby has said some things
23 that I would say so I'm going to try to adjust for that as well.

24 So we did have a number of people who wanted to testify and
25 we've tried to select the most representative examples that we think would help you
26 understand our proposal and the motivation for that proposal.

27 UNIDENTIFIED VOICE: Excuse me, Madam Chair, there are

1 some charts up here which apparently you're going to use in your testimony. We
2 cannot see them.

3 CHAIRPERSON KRESS: You are out of order, but thank you for
4 pointing that out. When charts are being used if they could be more appropriately
5 located up towards the front and even the --

6 MS. WILLIAMS: Actually, they will be on the screen as well.
7 They're not different.

8 CHAIRPERSON KRESS: Well, unfortunately, the screen is tilted
9 a little. I would only say that for those of you in the back, there are seats and please
10 do feel free to pull them around. If we turn it too far in the other direction I'm sure
11 we'll see it. So I ask those of you who want to see this presentation to perhaps
12 relocate some chairs. We'll take a few minutes, relocate some chairs over to the
13 right hand side of the room.

14 (Pause.)

15 Is everyone in a position where they feel comfortable so we can
16 continue? All right, thank you.

17 MS. WILLIAMS: Thank you, and I'd like to also introduce Phil
18 Feola who is a partner at the law firm of Wilkes Harwick Hedrick & Lane. We have a
19 number of other people in the audience. I just don't want to go through the list and
20 some have come in since we made our list, but there are representatives. Mr. Piers
21 is here from Clean & Sober Streets. Ms. Lamont from the Capital Association, CRF
22 Association, excuse me. Mr. Smith from the Salvation Army and the number of
23 people who will be testifying this evening, among others.

24 I would also recognize that Mr. Clay Guthridge of the Department
25 of Justice is here, simply to observe.

26 We appeared last April to testify in support of the stipulated
27 agreement between the Department of Justice and the District, believing that it was

1 an absolute bare minimum required. Our position then was that agreement
2 represents a floor to comply with the Fair Housing Law in the areas that it covered
3 which is the R-4 and R-5 zones.

4 I think our proposal, although broader, I believe and I hope and
5 believe the Justice Department would agree are entirely consistent with the spirit of
6 that agreement, but ours go farther as Mr. Colby has indicated. And I'd like to
7 explain some of those basic things this evening.

8 We do address the three main issues. The definition of family
9 has been discussed. The general category of community based residential facilities
10 and the reasonable accommodation requirement. I'm not going to spend any time
11 on reasonable accommodation because we are entirely in agreement with the
12 Justice Department. It's an excellent procedure. We would adopt it.

13 Let me turn to the first matter. We would redesign family as
14 households. We think that is a more appropriate term. It covers the reality of
15 housing today which one of our witnesses will speak to in more detail. Let me make
16 it as clear as I can. It would continue current law which permits six unrelated
17 persons to live together as a family in a single family dwelling, but we would permit
18 persons, only those who live together as a household, as a single housekeeping unit
19 because of their disabilities, only that group, to do so in numbers up to 15. And it
20 has been noted that that is -- it is true. We didn't pick that out of the air. And it is a
21 bit arbitrary, but there's a rationale in the law already, as has been said. The
22 religious communities are permitted in numbers up to 15. The Justice Department
23 sued, I mean -- yes, the Justice Department over the Oxford House situation. They
24 reached a consent decree and the District agreed to permit Oxford Houses, which
25 you no doubt know are houses for people in recovery from substance abuse in
26 numbers up to 15 in any residential zone as a matter of right.

27 Now those -- that population is covered by the Fair Housing Law.

1 The groups that we're talking about are similarly covered. We think that is an
2 acceptable number, but I'm glad that you asked the question about other laws
3 because whatever other requirements there are for occupancy limits, so long as
4 they're applied even-handedly, would continue to apply here.

5 We think this is an important matter, although I must say that
6 many of our constituents and colleagues voluntarily limit their populations to six
7 when they have the appropriate staff and they can do that as a matter of right and
8 they don't have any zoning issues. For programmatic reasons, they limit them to six.
9 But there are others who need somewhat larger numbers in order to make an
10 economically viable arrangement and it is still a household within the meaning of the
11 definition. We think those should be permitted.

12 The second category, the second general group -- it's a little
13 hard to read that screen, isn't it? The CRF, we eliminate, as Mr. Colby said, we
14 eliminate categories of housing that are based strictly on disability. It's really one
15 principal category, the CRF category. There's no other reason for that to exist
16 except to define people as disabled and to put certain limits on their occupancy in
17 housing that do not exist for people who are not disabled, and we would require
18 equal treatment and as has been said that means there's no reason for that category
19 any more as a zoning matter. Clearly, there are licensing requirements. Those
20 continue and we certainly wouldn't oppose those. We simply say they should be
21 delinked, decoupled, if you will, from the zoning requirement. Whether they have to
22 have a license or not should not dictate where they can locate as a matter of land
23 use. So now those are automatically connected. We would unlike
24 those.

25 The other category that was mentioned, substance abuser
26 home, we have recommended that people who are in detox would be -- are treated
27 in what are essentially health care facilities and should be treated as -- intensive

1 medical situations, but it's very short term. And that people who are in recovery are
2 protected under the Fair Housing Law and their housing should be treated like
3 housing for anyone else in any residential zone.

4 We would retain all categories of -- all the subcategories of the
5 former CBRF. We would abolish the umbrella category, but we would retain all of
6 the subcategories and most of those are intact and has been mentioned by Mr.
7 Colby.

8 Let me -- that means health care facilities remain, youth
9 residential care homes remain, youth and adult rehab. homes remain as they are
10 regulated in the way they are now.

11 Emergency shelter we have named temporary congregate
12 housing, but let me say what we really have done there. It is not a major change in
13 substance. We recognize that emergency shelters, overnight shelters, where the
14 population is very transient have a significant negative impact on residential areas
15 and we do not believe that the Fair Housing Law affects at all the jurisdiction's right
16 to regulate those numbers.

17 So we don't say this is a matter of Fair Housing right, except to
18 the extent that a particular facility may have disabled people and they can seek a
19 reasonable accommodation. But we do suggest that four is a totally unreasonable
20 number and we would raise it to eight residents for these temporary congregate
21 homes. The reason is -- we've documented it in our materials which we began
22 submitting two years ago and we resubmitted last spring. In particular, there are a
23 number of congregation base shelters that could perfectly easily accommodate eight
24 people, but have limited themselves to four. They could do with the same staff and
25 very little more space, all they do, but can't because of this requirement that they
26 have to seek a special exception. So those facilities would be permitted, but
27 only in numbers of eight.

1 I just want to emphasize at the close of that we are not talking
2 about 15 people as a matter of right anywhere except for that group of persons who
3 live together because of their disabilities in households, as they're defined.

4 So I think the top chart will show how we compare with current
5 law, current regulation, the Department of Justice regulations and our proposal in a
6 very summary fashion. The current regulations, the Justice Department is silent on
7 the numbers and family. I just said we would expand that for people with disabilities.

8 CHAIRPERSON KRESS: May I ask you, you don't happen to
9 have these in 8.5 by 11's?

10 MS. WILLIAMS: Yes, we do. And we're going to provide them
11 for you.

12 CHAIRPERSON KRESS: I don't know about the rest of you, but
13 with my eyes, this would be a lot easier.

14 MS. WILLIAMS: Sure.

15 MR. COLBY: This is a full set.

16 CHAIRPERSON KRESS: They need to go to our staff. Please
17 keep talking. We've got a lot to cover. I just thought it would be helpful.

18 MS. WILLIAMS: The R-4, R-5 CRF classification talked about
19 we would drop out that category of CRF, but the nondiscrimination principle that
20 exists in the Justice Department proposal exists in ours as well.

21 Let me emphasize another feature of ours which did not come up
22 in Mr. Colby's presentation and that is that will document tonight the problems that
23 many organizations have had with providing necessary services on site. And we
24 have been caught in
25 Catch-22s where people who need services in order to live in community have been
26 forced to provide those services off-site less they be called a CBRF and attendant
27 regulations apply. Others will speak more to that, but this is, we think extremely

1 important. We put in our materials the information on the extensive services that are
2 provided in apartment living, generally speaking for affluent people. If those
3 services are provided for people with -- less affluent people with disabilities they are
4 stigmatizing and they require a different classification under current law. You'll hear
5 more examples of that as we go through the evening.

6 Let me just finish this, services. Talked about the substance
7 abuser facility which we would abolish, but it would be subsumed in health care
8 facility. The licensing requirements are unlinked from the zoning classification and
9 the reasonable accommodation procedure. I think those cover the major differences
10 and you can see the number of areas where the Justice Department is silent, the
11 Justice Department agreement is silent, but I don't think that we can read that as an
12 acquiescence by the Department of Justice, that there is no problem with these
13 other areas. Their agreement simply has a more limited focus.

14 Finally, the -- we do add, and this is also a recognition of modern
15 housing practice, SROs, as a category of rooming and boarding house. And we put
16 those all together in one group. The distinctions as Mr. Colby has indicated have
17 become quite artificial. We would also simply eliminate tenement and tenement
18 house from the regulations, since those are illegal facilities anyway. They're
19 anacronistic.

20 I would like to just mention what we plan to do with the rest of
21 our time, if I may. Mr. Feola will describe some of the problems from a practitioner's
22 point of view and from his many clients in this area. And we'll mention, I think, some
23 specific issues with current regulations. We have a panel of providers who will talk
24 about their difficulties with current regulations. We're all speaking to the need to
25 change regulations. That's the point of this. We've talked about the Fair Housing
26 Act in our previous testimony. We're not going to cover that any more.

27 And we will end with Mr. Rivkin discussing some of the current

1 trends in housing and planning. And then if there are any questions, we can come
2 back to those.

3 CHAIRPERSON KRESS: Thank you.

4 MR. FEOLA: Madam Chairperson, Phil Feola for the record. I
5 guess the most troublesome part of the current regulations is quite frankly their
6 ambiguity. That ambiguity leads to confusion. Back when he was still sitting where
7 Ms. Pruitt-Williams sat, the Director of the Zoning Secretariat commented to me
8 once that the current regulations that he wrote in 1984 for this Commission weren't
9 30 days old when he got a call from the Zoning Administrator's Office saying what do
10 I do with this application? It doesn't seem to fit anything that's before me and they
11 went through and they talked it through and sure enough, it didn't fit. It's that -- mid-
12 1981 started a series of case by case determinations that were made in the Zoning
13 Administrator's Office, subsequently by the Board and Zoning Adjustment or the
14 courts that have led to a whole slew of case by case precedents, none of which
15 have precedence for anything except the case that was decided.

16 It's not a good state of affairs. I don't think it's a good state of
17 affairs for the District government. It's not a good state of affairs for the providers
18 that have to serve this client population. It's certainly not a good state of affairs for
19 the communities where the providers want to go and locate. There are no rules.
20 We sort of make them up as we go. We have CROs in time, SROs, I'm sorry, in
21 town that have, CROs as rooming houses and they virtually can provide all services
22 that you might expect to see anyplace in the world. Health care, nurses, doctors,
23 counseling, etcetera, etcetera. No restrictions. And then we have SROs. There's
24 one at least I know of that is so restricted that there are a number of visits that the
25 owner, the provider can make to the facility on a daily basis and a specific list of
26 services that provider can give to that housed population. Same city, same zone,
27 same CFO, two completely different sets of restrictions. Adding to all this confusion

1 is that many of the providers for these disabled populations do more than one
2 program under a single roof. They may typically take a population and move it from
3 one category of dependency to complete independence as it goes through the
4 program. I've been before this Commission twice on behalf of the Salvation Army
5 with PUDs, both of which, neither of which had requested any zoning relief in terms
6 of that they are a gross floor area, height, side yards, any of the typical zoning
7 questions. They're all way under the FAR, way under the height limit and I
8 remember the first time I came here the then Chairman of the Zoning Commission
9 who I think is in the audience said before we start Mr. Feola, I want to ask one
10 question. Why are you here? I said because we have, if we weren't here, we would
11 have five special exceptions and four variances that we'd have to explain to the poor
12 Zoning Adjustment. We can barely understand it ourselves and we went forward
13 with the case. And it's that kind of confusion that I don't think is a way to do
14 business, that obviously adds to the expense to the provider, whether you have to
15 go to the Zoning Administrator's Office and negotiate something if that's allowed,
16 whether you have to go to the BZA on an appeal from the Zoning Administrator's
17 decision or whether you have to go to court to sort of straighten it all out. At least
18 the projects that don't even get going, not only delayed. We submitted a
19 brief a couple of years ago now that outlines a number of real examples and I'm just
20 going to touch on two. The Alpha and Omega Prison Ministry case, that was a case
21 where a church decided to create a house for ten, no more than ten formerly
22 incarcerated persons. These are persons that paid their debt to society in a
23 commercial zone. These are people that were going to rent rooms in this house, be
24 employed, pay rent. One of the conditions of being there was that they had to be
25 alcohol and drug free, but they received some assistance. The assistance was how
26 to a budget, how to do their checkbook, sort of common everyday how to live to the
27 next day kind of advice. The BZA decided on appeal that was taken by some

1 neighbors that that constituted a CBRF. It's not to say the BZA was wrong. I don't
2 think the BZA erred in its analysis because there was some assistance and it
3 seemed to throw it into the CBRF category. What I'm saying is that I don't think it
4 was a good decision, because I don't think that's the zoning regulations when they
5 were set up to disperse the population, etcetera, had in mind. Of course, the Alpha
6 and Omega House never went forward because the ministry decided it just wasn't
7 worth taking another appeal through the process and they moved on.

8 The second case I just want to discuss is the House of Ruth and
9 that's another case of the shifting winds of the District enforcement policies. House
10 of Ruth was issued a CFO, as a rooming house at the direction of then Zoning
11 Administrator. A meeting was held, sat down, worked it out, issued a CFO. Some
12 three years later, the District cited the House of Ruth as operating a CBRF without a
13 proper certificate of occupancy because they were providing services to the client
14 population. Same regulations, the regulations hadn't changed since 1981, so the
15 House of Ruth had two choices, either to bump the services which wouldn't serve
16 their population or come back before the BZA.

17 So what are the rules? People, providers come to us all the time
18 and say well, can we do this? I have to say I'm really not sure. We'll have to see if
19 we get the corner on this to make it up and that doesn't seem to me typically a good
20 way to run a railroad. It's not what we learned in planning school. It's not what we
21 learned in law school. We should have rules that everybody knows, pretty clear,
22 and we can follow them. I think that's good for the community, it's good for our
23 providers, it's good for the city.

24 And we believe our proposal solves some of those problems, not
25 all of them. I mean Mr. Franklin knows, lawyers can find holes in everything and you
26 can't legislate everything out, but we think we can attack the general premise and
27 that is, what is zoning supposed to do? And that's supposed to control the land use

1 and the land use impact on communities. And quite frankly, we don't see the
2 difference between a family that's -- family by blood with ten people living in a house
3 should be treated any different than ten people living in a house who are operating
4 as a family, but are not related by blood.

5 So we hope you take this opportunity to bring our regulations up
6 from where they were in 1958 and 1981 and as we go into the new millennium, as
7 people like to say we have a set of regulations we understand and can live with.

8 Thank you.

9 MS. WILLIAMS: Shall I ask the next --

10 CHAIRPERSON KRESS: Thank you. Please remember to
11 introduce yourself for the record.

12 MS. MAYO: Hi, my name is Diane Mayo.

13 MS. PRUITT-WILLIAMS: Would you please give your address,
14 please?

15 MS. MAYO: 1876 4th Street, N.E.

16 MS. PRUITT-WILLIAMS: Thank you.

17 CHAIRPERSON KRESS: I was also going to say I don't know if
18 you've got the one microphone down there working.

19 If you're going to be speaking together, have everyone introduce
20 themselves with their address so we'll have it on the record.

21 MR. ERICKSON: I'm David Erickson, 2523 14th Street, N.W.

22 MR. HAGGRAY: I'm Jeff Haggray, 1625 13th Street, N.W.

23 MR. GERLACH: Richard Gerlach at 409 E. Custis Avenue,
24 Alexandria.

25 MS. CHOW: Gail Chow -- would you like our residence or --
26 okay, 6506 5th Street, N.W., Washington, D.C. 20012.

27 CHAIRPERSON KRESS: Thank you. Please go ahead.

1 MR. HAGGRAY: Good evening. Again, I'm Jeffrey Haggray,
2 Pastor of Mount Gilead Baptist Church in the heart of the Logan Circle and Shaw
3 communities. I'm also a District resident.

4 I've come to express strongly my support for the zoning proposal
5 under consideration. Mount Gilead owns rental apartments and for some years we
6 have observed among our own congregants a need to provide housing to senior
7 adults who would benefit from a CBRF underwritten by the church. Needless to say
8 current regulations prohibit such an offering, according to the terms that would be
9 less than feasible for our situation.

10 However, I've come to this discussion primarily from a servant
11 perspective in response to the human needs that I witness on a daily basis. At
12 Mount Gilead, we strive to meet some of the needs of persons who are members of
13 our community by routinely serving cooked meals to neighbors in need. We
14 distribute nonperishable foods to those who request them. We operate a clothes
15 closet that makes free clothing available to the poor. We house AA, NA, adult
16 literacy and G.E.D. classes at no cost to the community and sponsor numerous
17 forums and seminars of benefit to our neighbors.

18 Some of my colleagues will describe programs that go beyond
19 what I have mentioned. I want to address the issue, the concern of why we are
20 serving our community in this way. We subscribe a moral imperative that prioritizes
21 caring for neighbors in need. We're doing so because the needs faced by persons
22 who are differently challenged and in many cases poor, demand a community-wide
23 response.

24 In many of these cases, however, poverty is not their greatest
25 obstacle. Some people require interactive engagement on the part of others in order
26 to experience a healthy and respectable quality of life. We represent a much larger
27 collection of volunteers, providers, everyday citizens, religious groups and donors

1 who recognize that human needs will not be wished away by slogans, speeches,
2 rhetoric nor blink of the eye.

3 While governmental officials have slashed budgets, reduced
4 services and eliminated programs that once addressed some of the needs we
5 confront, they have also called on the provider community, both secular and
6 religious to fill the voids and needs that exist. The truth is we have traditionally
7 addressed those needs. What is different today is that we are attempting to do
8 much more because the circumstances demand it. And not only because we have
9 been called on by politicians and ideologists, but because it's the right thing to do.

10 And thus we are pulling together human, economic and material
11 resources to meet those needs. What is discouraging and prohibitive to our efforts
12 are zoning regulations, intolerant opposition that never anticipated our current social
13 realities and adamant attitudes that are in denial about the kind of social realities
14 we've inherited where people helping people is not optional, but necessary.

15 So I ask that as you review the proposal before you that you take
16 stock of the social realities we confront today and of the moral imperative that we
17 face to help others and the necessity we have to provide housing, along with other
18 services to neighbors in need as a matter of right, so that all may live with human
19 decency and respectability. Thank you for your attention.

20 MR. ERICKSON: Madam Chairperson, I'm David Erickson,
21 President of Samaritan Inns. We here are what we're calling Providers Panel and I
22 hope that what we're able to bring very briefly to this discussion is a little bit of the
23 application of some of this confusion, some of these issues as we've experienced it
24 being in this process.

25 We represent as Lois Williams indicated earlier a much larger
26 group of people who have experienced and certainly would echo the sentiments that
27 we're sharing here tonight.

1 What I want to focus on in my very brief couple of minutes is a
2 little bit about the Tabitha's House experience. And I want to beg the indulgence of
3 two of the Commissioners that are here who shared a lot of that experience with me
4 and with Samaritan Inns.

5 First a brief word of background, in 1991, Lazarus House
6 opened, the second, single occupancy housing building in the District of Columbia.
7 By most accounts, I think it was considered a model of attractive, well run, positive
8 impact, affordable housing. Within three months of its opening we had over 600
9 qualified applicants for the 81 units. And so in response to that meeting the clear
10 evidence that Lazarus House not only worked for those that it served directly, but it
11 was working in the community. We set out to try to replicate Lazarus House. In
12 1992, purchased a vacant long boarded building on Colorado Avenue in Ward 4.
13 We ran into a firestorm. Although some of the resistance was driven by deep
14 animus, our difficulties with the larger community were largely the function of some
15 of the confusion and ambiguity that the CNC proposal is designed to address.

16 In this very room before the BZA we spent close to 600 hours of
17 that group's time and we spent I know at least 8 or 9 hours talking about tenements.
18 We also spent a lot of time discussion community based residence facilities, dealing
19 with issues of services, talking about room and boarding houses. Now the confusion
20 and ambiguity that pervaded this whole situation served the purposes of those who
21 would sow discord but more significantly I think it genuinely confounded many good
22 caring people.

23 The resulting costs of this process were huge by any measure.
24 On the regulatory side, scores and scores of hours were invested by the Zoning
25 Administrator and senior officials at the Department of Consumer and Regulatory
26 Affairs. We had a trial before an Administrative Law Judge that took over two days
27 and resulted in a lengthy opinion. That was followed by a lengthy protracted series

1 of hearings before the Board of Appeals and Review. Finally, it went to the U.S.
2 District Court where there was an almost three week trial.

3 All during that time there was a series of over nine hearings
4 before the Board of Zoning Adjustment which two of you are quite familiar with.

5 Not only were the costs huge in terms of the cost to the system
6 and those of us that were attempting to be responsive to the needs that needed to
7 be addressed in that way, but much needed affordable housing was significantly
8 delayed. I know for Samaritan Inns the development of additional housing was
9 abandoned for over two and a half years following that process. And housing
10 opportunities for hundreds of District residents were lost.

11 While this controversy nearly destroyed Samaritan Inns, the cost
12 that was probably most painful for me was the destructive impact that it had on the
13 neighborhood, pitting neighbor against neighbor, community group against
14 community group, forcing people to choose sides and go to battle or opt out of any
15 community process and participation in decisions about the community that they
16 cared deeply about.

17 Now in the subsequent four years much healing has happened in
18 the neighborhood around Tabitha's House. Not only has Tabitha's House been a
19 positive presence, it has been the prelude to wide ranging property improvements
20 on a number of adjacent properties.

21 One final word I would share is going through this process over
22 the two and a half years that it entailed was horrific and one of the ways that I
23 personally sustained myself was my committing myself over and over to be a
24 participant in a process that would bring about reform, that would address some of
25 this confusion and ambiguity and hopefully result in clear benefits, not only for
26 people that are trying to do what we at Samaritan Inns are trying to do and many
27 other organizations, not only benefits for the people that we seek to serve and that

1 have been classified as handicapped, but also for neighbors who are our neighbors
2 and care deeply about their community and the conditions in which they live.

3 Thank you very much.

4 MR. GERLACH: I'm Richard Gerlach and I'm with SOME, So
5 Others Might Eat and probably many of you know of SOME. Basically, we're an
6 organization that is comprised of about 120 churches and synagogues, many of
7 them in Washington, D.C. We have over 20,000 volunteers involved actively in our
8 programs and we have built a tremendous amount of support within the District, both
9 within governmental agencies, but primarily within the church and synagogue
10 community.

11 Our services began in 1971 and I began to work with SOME in
12 1978. I've been there 20 years. In 1978, we were basically a soup kitchen. Since
13 that time our Director, Father John Adams, myself and others have been dedicated
14 and committed to a whole continuum of services that would not just keep people in
15 poverty, just keep people on the street, just keep people coming to soup kitchen and
16 getting bandaid help, but actually take people through the entire process from the
17 street all the way to independence with a good job to permanent housing, if they're
18 handicapped to places that serve all their needs, that allow them to live
19 independently in the community and not be stigmatized. Therefore our services
20 have addiction services, in-patient and out-patient. We have mental health services,
21 socialization center. We have job readiness programs, residential programs. We
22 have programs for the abused and neglected elderly. We have two day centers for
23 elderly. We have a day center for the mentally ill. We have three SROs that total
24 200 units. We have an apartment building for families. We have a community
25 center in Southeast. We have a small shelter for senior citizens, neglected and
26 abused elderly. We have a summer camp for senior citizens.

27 We are currently establishing a center for employment training

1 that again -- the whole idea is empowerment. Take the issues that people have,
2 mental health, health issues, dental issues, food issues, job issues, any of the
3 issues that stop them from being empowered to be full participating citizens. These
4 are the issues we address. It's comprehensive. It's faith based for most of us and it
5 shows results. Every year we show results of literally hundreds of people whose
6 lives have turned around.

7 But let me tell you, it ain't been easy. And it has not been easy
8 because I think a lot of well-meaning people have in many cases blocked our way
9 and that's okay. That's okay. But I think the law should not continue with the
10 ambiguities that end of destroying many of the relationships that we've built because
11 fear, the fear of homeless people, the fear of mentally ill people, the fear of people
12 who have had substance abuse takes over in people's lives. We have to have laws
13 that are clear, that bind people together, that give clear direction. I don't know how
14 many times we would get into issues with the Zoning Administrator. He wouldn't
15 know what to do. He would be totally, totally anxious about the situation and before
16 you know it, we were calling to see what decision were made, just to call and they
17 would be taking tallies of who was for the project and who was against it. And
18 based upon that, based upon the political pressure of Council members, on
19 questions that were ambiguous at times, many decision were made and I'm pretty
20 clear about that. Oftentimes, we would hear very clearly, well, what does the
21 neighborhood think? What do people think about this?

22 We were actually in a situation where we felt we were in a
23 manner of right and we were discriminated many times because people know we
24 serve the homeless, So Others Might Eat. Many times we would get a different
25 standard when the Zoning Administrator would look at things from a very different
26 standard and 9 times out of 10 very often he would weigh in on a side that would be
27 -- that would oppose what we wanted, even though it was ambiguous, it would

1 always weigh in against us because of the stigma that somehow we serve people
2 that are lesser, somehow we serve people that are going to be problems, that are
3 going to urinate and defecate and all the other stuff we've heard.

4 So I'm on record, I can give you a lot of examples, but I think you
5 know the reality, so I don't need to do that. I'm on record to say that because of
6 organizations like this and the neighbors who worked with us and who eventually after
7 we were in their neighborhood said we like you here, our property values are going
8 up. I can't say that for every single situation but more -- by and large in 20 years
9 with the people I've known, generally in every situation SOME has been involved
10 with, that others have been involved with, the neighborhood has come to support us.
11 And in fact, I think of the Logan Circle Community Association, people told us never
12 go in and try to go in that neighborhood and put an SRO there. You're wasting your
13 time and your money and everything else. And it was really through the several
14 people that came to testify from another neighborhood where we had placed a very
15 large SRO, over a 100 people, they came and they said this is ridiculous. You
16 should be supporting this because look what it's done to our neighborhood. And
17 they showed pictures and they testified and that made a huge difference. In many
18 situations, we have been -- people have come and said I'm sorry that we were
19 against you.

20 So let's use some common sense. Let's use some human heart
21 sense and see that we cannot continue to see people who are different from us, who
22 are handicapped as somehow not worthy of being neighbors of us.

23 MS. MAYO: Hi, my name is Diane Mayo. I am a member of the
24 Green Door and I live in the SOMES house. Living in a community is a great thing
25 for me because I enjoy life. I go to festivals, movies, nice restaurants and my past
26 jobs included work in florists, passed out flyers for different companies and typing. I
27 believe in respecting my neighbors and not making too much noise and housing is

1 needed because people with mental illness want a nice place to live.

2 People with mental illness may need some help like everybody
3 else and that should not denote where they can live.

4 The stigma is so bad because some people want to lock us up
5 when we did not have any rights before. Please support changing the zoning
6 regulations.

7 Thank you.

8 CHAIRPERSON KRESS: Thank you.

9 MS. CHOW: Good evening. I am Gail Chow, Housing Director
10 of the Green Door. Green Door is a community program which prepares people with
11 mental illness to live and work independently.

12 It is my understanding that the proposed amendments were
13 submitted to the Zoning Commission in 1996 and a decision has not been made. I
14 respectfully request that you accept the Campaign for New Communities'
15 recommendations.

16 People with disabilities should have the same rights to live where
17 they want and not be subject to rules or requirements that are different than those
18 applied to people with disabilities.

19 At the last hearing, I'll just summarize that I discussed the
20 importance of providing additional housing in the community rather than keeping
21 people in the institutions. For example, the Dixon Court decree required the District
22 to provide housing for hundreds of psychiatric patients in the community and as I
23 mentioned before, there are substantial savings of approximately 75 percent when a
24 person lives in Green Door's housing, compared to St. Elizabeth's Hospital which
25 has an approximate annual cost of \$155,000.

26 Despite the District's necessity to create new housing for people
27 this is slowly occurring. Zoning regulations creates substantial barriers and added

1 costs when we open additional housing in the community.

2 Our issues include first eliminating the CRF category, CRF
3 occupancy limits and radius restrictions. These are based on a person's disability
4 and do not apply to people without disability.

5 Green Door has had to pay more money for housing and use a
6 lot more staff time to search for additional housing because radius restrictions forced
7 us to disregard less expensive and available housing which were located near
8 another facility.

9 For example, instead of paying approximately \$140,000 for a
10 house in Ward 4, we had to resort to paying approximately \$260,000 for a house in
11 Ward 3 and I can't tell how you many hours it took us of additional staff time to
12 search for housing.

13 In another case, Green Door wanted to acquire a house since it
14 was formerly used as a CRF for eight persons, due to a special exemption.
15 Because of the radius restrictions and because neighbors didn't want to live near a
16 group home, they said they would use any means possible such as the BZA process
17 and after hearing about other programs and how costly and time consuming it is to
18 go through the BZA process, we said to ourselves we needed to spend the time
19 finding an alternative site. These delays are costly.

20 Another major issue we have is clarifying the zoning definitions
21 so people with disability can have associated services and not affect zoning
22 classification of the dwelling.

23 In the past, Green Door has been through delays and almost
24 prevented from opening a house because of zoning interpretations such as whether
25 our residents who could live independently would be needlessly forced to live in a
26 CRF. In this case in Ward 3 we needed to hire a lawyer, document why the
27 residents did not need to live in a CRF, attend numerous meetings at D.C.

1 government agencies to resolve the situation and paid the cost of housing our
2 members in alternative housing until the new independent housing received a
3 zoning approval.

4 In another case, we almost lost the earnest deposit in purchasing
5 a home until zoning allowed the requested use. We urge the Zoning Commission to
6 accept the proposed text amendments so that Green Door members and many
7 other people with disabilities have the opportunity to be good neighbors.

8 As Diane said, our members want what you and I want, to be
9 able to live in any area of the city that's affordable, to be near amenities such as
10 stores, restaurants, churches, community centers, to be in safe neighborhoods, to
11 work nearby.

12 Green Door residents are also invited to and participate in
13 neighborhood activities such as fairs, tree plantings, alley cleanup and crime watch
14 meetings.

15 Please give them that opportunity.

16 Thank you.

17 CHAIRPERSON KRESS: Thank you. May we -- have we
18 finished?

19 MR. ERICKSON: We have one last presenter.

20 CHAIRPERSON KRESS: Could we be brief?

21 MS. MARSH: Thank you, Madam Chairman and Members of
22 the Commission. I appreciate being able to be here tonight in support --

23 CHAIRPERSON KRESS: Please identify yourself.

24 MS. MARSH: Carol Marsh. I'm sorry, I'm Carol Marsh with
25 Miriam's House. And I'm here in support of the CNC recommendations.

26 I just want to tell you quickly about what Miriam's House has
27 faced itself. We were able to purchase the building, get our CRF license and

1 renovate it and move in. We renovated a building that was a 17-unit apartment
2 building and therefore probably had at least 28 residents in it before we had it
3 converted to CRF use. But we could only have 15 residents in there because of the
4 zoning law. We renovated for 20 because we had, according to Housing code and
5 licensing regulations, we had the right amount of space. We complied with all fire
6 code regulations and everything. The building can hold 20 quite well and
7 legally, except for zoning laws.

8 So in the last couple of years, we've been in the very very
9 frustrating position of having five rooms in the building already to go, beautifully
10 renovated, furnished and not been able to use them because we had to spend 18
11 months getting a special exception in order to be able to use the rooms.

12 Frustrating isn't even the word when you're on the phone with
13 someone who is desperate for housing or a mom who says where am I going to put
14 my kids or a grandmother who says my daughter and her kids have nowhere to go.

15 I can't emphasize, there's no way to get anyone else to sit in our
16 position when we're having to deal with the human side of the effects of laws that
17 seem to disregard the human side. And so I'm here to advocate for those of us who
18 are at this table and also in the room and that deal on a day to day basis with people
19 who are desperate and who are needy and certainly, certainly deserve the basic,
20 absolute basic right of decent housing.

21 CHAIRPERSON KRESS: Thank you.

22 MS. MARSH: Thank you.

23 CHAIRPERSON KRESS: Mr. Feola, are we complete with your
24 presentation? Ms. Williams?

25 MR. FEOLA: Madam Chairperson, just Mal Rivkin who is going
26 to talk about 20 minutes.

27 CHAIRPERSON KRESS: Okay. You said less than an hour.

1 We're going to go over an hour here.

2 MR. RIVKIN: Madam Chair, my name is Malcolm Rivkin. My
3 office address is 7801 Fairfax Road, Bethesda. I'm going to try to make the
4 presentation as short as possible, but there are some very important things that
5 have to be said to simplify some of the problems of the Commission.

6 I by way of background, I was the expert planning witness for
7 Tabitha's House before the BZA and then the Federal court case. I've appeared
8 before this Commission many times, specifically examples, Friendship Heights for
9 the Pavilion and the Boston Properties Projects in the West End. And just by way of
10 background.

11 In 1996, our firm did a background report on the CNC proposals
12 which you folks have. In April, I testified on the District Justice Department's
13 agreement and stated from a planning standpoint it is a critical first step in solving
14 the problems. Let me emphasize some of the points as to why it is only the first
15 step.

16 Point No. 1, the population structure of the District is going
17 through profound changes. The population composition today is very different from
18 a generation ago or even in 1980 when the last major changes to the definitions --
19 and I'm going to concentrate on the definitions, not the numbers -- of the zoning
20 regulations were changed.

21 If the housing supply which has been built mainly for families, if
22 the housing supply doesn't adapt to the population, then the population is ill served
23 and the housing supply deteriorates.

24 One of the major things that we want to bring to your attention is
25 that the definition of family, as it appears in the zoning regulations, is totally
26 outmoded. The majority of living arrangements in the District of Columbia today are
27 nonfamily households. Households is what the comprehensive plan uses.

1 Households is what the U.S. Census uses, not family.

2 Let me give you some numbers. I want to stay away from
3 numbers, but basically you have to know this. And I'll be presenting you some
4 written testimony.

5 Fifty-three percent of the living arrangements in the District as of
6 1996, this is from the recent George Greer studies for the Greater Washington
7 Research Center, were nonfamily households. Okay? Almost no city in the United
8 States, I think San Francisco is the only city back in the 1990 census that had more
9 nonfamily households than the District. And equally striking is the number and
10 proportion of single individuals, people living alone, who comprise the majority of
11 those living arrangements. Eighty percent of the nonfamily households in the
12 District in 1990 were single individuals living alone. Okay?

13 In 1996, they comprised 74 percent of all the nonfamily
14 households. There are 40,000 men living alone. Close to 50,000 women living
15 alone. And of the nonfamily households, 23,000 were single people aged 65 or
16 older who were living alone. These individuals, many of whom suffer some kind of
17 disability and are in need of supporting services are the principal occupants of
18 rooming houses, boarding houses, shared apartments and group homes. The
19 zoning regulation should recognize and legitimize their living arrangements. That's
20 why CNC is emphasizing the substitution of a definition of household for the
21 definition of family in the zoning regulations.

22 Let me go to a second point, again, just not dealing with
23 numbers. Associated services. You've heard a little bit about. Let me try to give
24 you a dimension of that. Educational, social and other supporting services in matter
25 of right, apartment buildings and houses are a principal means to enable the elderly
26 people with disabilities and other disadvantaged groups to maintain independent
27 living. Housing sponsors, social service agencies and religious institutions provide

1 these services.

2 The zoning regulations are totally silent on the subject of what
3 services may or may not be acceptable in matter of right housing. Some of these
4 services are quite extraordinary and in April I talked about Iona Senior Services and
5 the programs they have with many elderly apartments. I won't dwell with that, but
6 how do these services differ from those offered to residents in luxury apartments
7 that are a part of their rent or condo fee? We've used in the report and elsewhere
8 the Pennsylvania, 601 Pennsylvania Avenue, where the concierge performs tasks
9 such as taking residents' automobiles for inspection, providing first aid, ordering
10 limousine service, ordering tickets for airplanes or performances at the Kennedy
11 Center and sending clothes out for dry cleaning. These services don't hurt the
12 neighborhood at all, but the zoning regulations are silent. Are the kind of financial
13 planning assistance, the tutoring classes and the referrals to physicians and others
14 off premises offered in many boarding houses or rooming houses that cater to
15 people with disabilities, are they legal or illegal? By their very silence, the zoning
16 regulations encourage opponents of affordable housing for people with disabilities to
17 claim that any service either may not be provided on residential premises at all, or
18 may occur only in facilities where zoning provides specifically for such purposes.
19 That was the big problem with Tabitha's House and David was very discrete about
20 describing the problem. People were complaining and saying we should go to BZA
21 because services were provided for the residents of these facilities.

22 If anything, the need for support of services is increasing and
23 provisions are being made despite ambiguities. Let me give you a couple of
24 contemporary examples. Take the case of Albon Towers, a building in the R-5C
25 zone at the southwest quadrant of Wisconsin and Mass. Avenue. Once an elegant
26 residence, Albon Towers in the 1980s was bought by Georgetown University, then
27 sold, the tenants of the 254 units removed and it was left as a vacant eyesore for

1 many years, just a few steps down from the National Cathedral. Renovation has
2 finally gotten under way and local newspapers have been full of its news of
3 conversion to senior citizen housing, roughly half for independent apartments and
4 half for assisted living. Assisted living? There is no such use definition in the
5 District zoning regulations, yet according to a July 29th article in the Northwest
6 Current, local ANC Chair Phil Mendelson, not a candidate for City Council, said
7 there was "no serious objections by the community to an assisted living facility at
8 Albon Towers." He went on to say, "To see this building restored will be a source of
9 relief and pleasure just as seeing it deteriorate was a source of anguish."

10 I think there's a lot of good stuff in what's happening. Is it only
11 because there's no community opposition that conversion of Albon Towers to an
12 assisted living facility has been permitted to go forward? Indeed Alban Towers may
13 be only the beginning of conversion of older apartments, perhaps, even new
14 construction, to assisted living facilities. Right now there is a bill before City Council,
15 it's Bill 12727 entitled "The Assisted Living Facility Regulatory Act of 1998" to
16 establish licensing procedures for assisted living facilities. Chairman Cropp
17 introduced the bill and it's co-sponsored by several other Council Members. Iona
18 Senior Services helped draft it. The bill states that assisted living facilities are not
19 nursing homes. Okay? And they must comply with applicable zoning regulations.
20 But what zoning regulations are applicable to the kinds of support services provided
21 in an assisted living facility such as Albon Towers? This is a murky area that merits
22 the Zoning Commission's attention over and above support of the District's
23 agreement with the Department of Justice.

24 To underscore the extent to which these services are provided,
25 throughout the District and in the metropolitan area, I'd like to distribute to the
26 members of the Commission ,I've got a number of copies, some literature about an
27 organization called Cluster Care. Cluster Care is a home care aid service

1 sponsored by the United Way that provides home care personnel for groups of
2 buildings and apartments such as Van Ness North who need help on a day to day
3 basis, but cannot afford full-time assistance. Are provisions of these services
4 legitimate under the zoning regulations? I don't know and I don't think the
5 Commission knows either. To resolve this, that's why the CNC major part of the
6 program is offering to you a definition to put in the definitions of the zoning ordinance
7 of associated services that would fit Albon Towers as well as Tabitha's House and
8 states very clearly that the provision of these services or the availability of such
9 services shall not affect the zoning classification of the dwelling. It's extremely
10 important. It has nothing to do with numbers. It has to do with adjusting the housing
11 stock to the realities.

12 Now I know you want me to finish so I'm going to try very quickly.
13 One of the most striking characteristics of the rooming houses, boarding houses and
14 many group homes created by the shelter providers in the 1990s for people with
15 disabilities is the large amount of money their sponsors spend on reconstruction and
16 renovation. Derelict buildings have been resurrected. Neighborhood eyesores have
17 been removed. Housing built at an earlier time and nuclear extended families no
18 longer present has been adapted and recycled for productive use.

19 Hundreds of thousands of dollars have been plowed into
20 neglected sections of the District that might otherwise have continued to languish.
21 Indeed, as a planner, I believe the neighborhood reinvestment potential alone of
22 such facilities is strong enough reason for the Zoning Commission to clear up the
23 definitional inadequacies of the regulations that deter still further investment.

24 I'd like to show you some before and after pictures, if you don't
25 mind. First of all, Tabitha's House. You heard something from David about that.
26 That's a before picture of that building. Pretty bad.

27 CHAIRPERSON KRESS: You know, we're really past our hour.

1 We really have quite a bit left to do.

2 MR. RIVKIN: That's how I wanted to end up. If the Commission
3 would like, we have some excellent before and after pictures, about four or five
4 facilities. I can keep quiet and just -- that's an after. Another before within the
5 building. Let's go quickly. That's the basement. Let's see another "after" of what's
6 been done. Another before. Another after showing a typical room. Another before.
7 Another after. This is a kitchen. Again, we're talking about hundreds of thousands
8 of dollars invested in these buildings.

9 If you could run quickly through that and let's take a look at
10 Miriam's House which you saw just a few minutes ago. This is still Tabitha's House.
11 Again, before, Miriam's House. This is a before. And an after.

12 I visited this block yesterday. It's really quite extraordinary to see
13 the extent of additional renovation that is going on now, including a major
14 commercial renovation as well as residential renovations to the block. We have
15 other slides, but
16 --

17 CHAIRPERSON KRESS: And we have pictures in our book.

18 MR. RIVKIN: And you have pictures in the book, so let me stop,
19 I don't want to --

20 CHAIRPERSON KRESS: Yes, please.

21 MR. RIVKIN: But again, these are some of the background
22 things that I hope the Commission will consider.

23 CHAIRPERSON KRESS: I understand what you're saying is
24 very important, but we have a huge schedule.

25 MR. RIVKIN: Thank you very much.

26 CHAIRPERSON KRESS: With that I want to open it up to my
27 fellow Commissioners for questions, particularly the new Commissioners.

1 Do you have any questions you'd like to ask of any of the folks
2 who have testified on behalf of the Campaign for the New Community?

3 COMMISSIONER CLARENS: I don't know exactly who I'm
4 asking the question from but I guess

5 --

6 CHAIRPERSON KRESS: I would suggest --

7 COMMISSIONER CLARENS: Maybe Mr. Feola and --

8 CHAIRPERSON KRESS: Yes, Mr. Feola and Ms. Williams.

9 COMMISSIONER CLARENS: And Ms. Williams. If you could
10 clarify a little bit and I think I understand why, but I don't -- I can see that it's related
11 to a court case or a ruling, but I fail to understand the rationale, why people with
12 disabilities in your proposal should be even a greater ability to occupy residences in
13 the number 15 as opposed to the number of people that can reside in houses, you
14 know, if they are not related by blood, even as a household. And I understand and
15 wholeheartedly agree that the household definition is much better than the family
16 definition, but I don't understand the rationale why
17 -- I see the connection to the religious groups, etcetera, etcetera, but just because
18 that is there and that 15 is there, the whole notion of the Fair Housing and the
19 Americans With Disabilities Act is not to treat differently people with disabilities from
20 the general public, and therefore I see -- I see a problem in dealing with, in treating
21 them in adjusting the group to what is an aberration to religious groups as opposed
22 to the general public which would be six or eight or whatever it is, that is ultimately
23 decided.

24 MR. FEOLA: I guess that, Commissioner Clarens, I think what
25 we were looking at are really two things. One is the nuclear family, the
26 old-fashioned nuclear family has an unlimited number of people that can live in a
27 single family house in an R-1 district. It could be 100. If you're related by blood, you

1 can live --

2 COMMISSIONER CLARENS: But physically, it's not --

3 MR. FEOLA: I understand.

4 COMMISSIONER CLARENS: Physically, it's much less than
5 that.

6 MR. FEOLA: What we are particularly concerned about are
7 those persons who are protected by the Fair Housing Act which is the people with
8 disabilities. Quite frankly, we would not oppose making the definition of unrelated
9 persons equal to the persons that have a disability who live together as a household.
10 But we also wanted to avoid the political issue dealing particularly with students and
11 student populations that are not protected by the Fair Housing Act, because there
12 are no disabilities. And for that simple reason we chose to focus only on those
13 populations that are protected which are the --

14 COMMISSIONER CLARENS: But in terms of the community,
15 and that's the problem, in terms of the community, you have a -- you picked and
16 maybe you haven't, maybe it's the course I have picked, a threshold which seems to
17 be higher and if you start applying to the different groups and start with the religious
18 groups and now you're applying it to the disabilities group, then why not to the
19 general population? It seems to me that it follows logically one from the other and
20 therefore then you have the student housing up to 15 and then now we have a --
21 now we're really getting into soft ground here.

22 MS. WILLIAMS: Well, there is -- the rationale that exists is partly
23 because there are court cases, but they're all over the map. I can't say that they
24 require, as a matter of law, 15. In the District, it did, under the Oxford House
25 decisions. So that's one reason.

26 But another reason is that the housing stock in the District of
27 Columbia includes many, many large, large houses that could easily accommodate

1 larger groups and it is artificial as Ms. Marsh suggests to limit that in some way that
2 doesn't have any relationship to the size of the house. We accept building code and
3 other kinds of restrictions that would limit the numbers of people according to square
4 footage or health reasons or whatever, whatever other code requirements there, but
5 when you say simply six absolutely as a matter of law, there are a number of court
6 decisions that say you can't be that restrictive.

7 Now you could accomplish this by reasonable accommodation.
8 If we have in place a good reasonable accommodation system so that an
9 organization like Green Door that had a perfect house for 8 or 10 people, plenty of
10 room, could go for a quick determination that it could get an exception that would
11 work.

12 We were trying -- we would like to see a legislation that would
13 cover larger matters and not leave so much to administrative mechanism.

14 COMMISSIONER CLARENS: An original recommendation will
15 reside outside of zoning regulations?

16 MS. WILLIAMS: Well, it would include zoning once this
17 Commission acts. One has a right to reasonable accommodation, even of the
18 zoning laws right now. One might have to go to court for it, but the Fair Housing law
19 requires reasonable accommodation and that includes laws, regulations and
20 practices. Okay? But the District has agreed to put in place a system for granting
21 reasonable accommodation and it's very important that that be done expeditiously,
22 that it be a final determination and all the things that are required by that. You could
23 make people go to court all the time, but that doesn't make any sense as a matter of
24 regulatory practice or policy.

25 MR. RIVKIN: I just want to add a couple of things from a
26 planning standpoint. People with disabilities who live in these group homes share a
27 very great number of things, from the kitchens to the supporting services and so on.

1 There is a very great degree of sharing. As Phil pointed out, we are very sensitive to
2 concerns in the District of Columbia about students and others totally independent
3 who come and convert houses to places where there are wild parties and where
4 there are lots of cars outside and

5 --

6 MR. FEOLA: Some of us were students once.

7 MR. RIVKIN: I was one of those too, but I was involved with the
8 American University Law School case and some of you may be familiar with that.
9 There was a very deep concern on that. And we were extremely sensitive to this.
10 We do not -- this is a very well reasoned thought about the true gain and we don't
11 want to give the feeling to neighborhoods that we're going to encourage graduate
12 students or young singles and what have you to come and convert some of these
13 large homes to groups with wild parties and lots of parking.

14 MS. WILLIAMS: There's no reason to extend it that way.

15 COMMISSIONER CLARENS: Finally one question and then --
16 how binding is the Oxford House case in affecting our decision with regards to
17 where we go from here?

18 MS. WILLIAMS: It applies only to Oxford House, but all Oxford
19 House facilities in the District of Columbia.

20 COMMISSIONER CLARENS: It doesn't create a precedent so
21 that --

22 MS. WILLIAMS: I think it creates a -- it doesn't bind you except
23 for Oxford Houses. You couldn't regulate it in some way that would be inconsistent
24 with that for Oxford Houses. But it is a precedent that's worthwhile considering it is
25 something the District has agreed to under the gun from the Justice Department.

26 MR. FEOLA: But I think that's the point I was trying to make, Mr.
27 Clarens, is that that works for Oxford House. Now Green Door came and had 10

1 people that could fit into one of those big houses on 16th Street. They don't meet
2 the zoning regulations as they're now written. They would have to go to court to sue
3 the District under the same premise as the Oxford House and that doesn't seem to
4 be to me a way a regulation should operate. It should be for everybody and
5 everybody should hear from this Commission as to what the rules are and we'll play
6 by those rules.

7 But to have litigants set the zoning regulations is backwards to
8 me. It doesn't make sense. But that's what's happening and I said it happened 30
9 days after Mr. Fahey made that call over to his office. It's been going on now for 17
10 or 18 years. Almost every case is made on a case by case basis and Mal pointed
11 out, nobody is complaining about Alban Towers. They have assisted living.
12 Somebody complained about that SRO I mentioned and they had very restricted
13 assistant living. That's not a way to do zoning regulations.

14 COMMISSIONER CLARENS: The basis of Oxford House
15 decision was that the regulations already allowed a special group?

16 MS. WILLIAMS: It was -- I was a party to that case, but my
17 understanding is that the parties simply agreed that there's a number already
18 existing in the zoning regulations that applies to religious community. That's some
19 indication of a rationale that takes account of the housing stock in the District of
20 Columbia. We'll go with that and the parties agreed to it. And it was blessed by the
21 court. So it is a binding consent decree. That's the only rationale that is on the
22 record at all.

23 COMMISSIONER CLARENS: Okay.

24 MR. BRENNAN: If I may, as I said, the Oxford House decree
25 reaches only those parties and the 15 was agreed to by those parties for those
26 instances.

27 COMMISSIONER CLARENS: But my problem is that -- I'm

1 sorry, I will stop in a minute.

2 CHAIRPERSON KRESS: No, this is, I think, a very important
3 issue.

4 COMMISSIONER CLARENS: The problem that I have is that as
5 long as we have those 15 out there, if we go with any number that is less, we have
6 an internal contradiction within the regulations that can be challenging by anybody
7 who says this group has been treated differently and therefore we should have the
8 same rights.

9 MS. WILLIAMS: That is a problem. I agree that it is a problem.

10 COMMISSIONER CLARENS: I understand, that's fine.

11 MS. WILLIAMS: But you're not bound --

12 COMMISSIONER CLARENS: We might not be bound, but we
13 might be taken to court again if we don't level the playing field.

14 MS. WILLIAMS: That's possible.

15 COMMISSIONER CLARENS: Okay.

16 CHAIRPERSON KRESS: Commissioner?

17 COMMISSIONER HOOD: Madam Chair --

18 MR. BRENNAN: It's also true if I may say that the reasonable
19 accommodation process will give one an opportunity to address the need to expand
20 above whatever number you set. Even at 15, someone could make a claim of why a
21 reasonable accommodation above 15 is needed.

22 MS. WILLIAMS: Sure, absolutely.

23 MR. BRENNAN: And then the process that any regulations are
24 adopted would set up would give an opportunity for the finder of fact in that it exists
25 to determine whether reasonable accommodation is required.

26 CHAIRPERSON KRESS: Commissioner Hood, you've been
27 trying to ask a question.

1 COMMISSIONER HOOD: Madam Chair, under the CNC
2 proposal there is concern about the matter or right, are you aware, I'm sure you are,
3 that it takes the Agency and the community groups of the process?

4 MS. WILLIAMS: For matter of right use?

5 COMMISSIONER HOOD: Yes.

6 MS. WILLIAMS: Yes, indeed.

7 COMMISSIONER HOOD: Well, let me ask what method? It
8 may be in here. What method do you have of notifying community groups?

9 MS. WILLIAMS: For matter of right use, we don't because and I
10 think some of these clearly are required by law, by federal law. The question of the
11 housing that's specifically aimed at people with disabilities simply federal law says
12 and I'm simplifying a little bit, but we have elaborated this in our briefs, it says that
13 you can't set up a system that disadvantages those persons, so we're not talking
14 about putting big facilities in limited, in small communities where there are only
15 single family dwelling. We're talking about treatment that's equal for people who
16 have disabilities with people who don't. So there is no requirement of notifying the
17 community if you have a matter of right use under current law. None.

18 COMMISSIONER HOOD: I understand that. So in essence, I
19 may have four or five facilities in one block.

20 MS. WILLIAMS: That's right.

21 MR. FEOLA: That's right, but you also could have four or five
22 families living in one block and I guess what we're saying, Commissioner Hood, is
23 that I can move my family into a house in Brookline, there's no comment, no notice to
24 the -- I can buy that house and I can move in and I have ten kids.

25 MS. WILLIAMS: And half of them could be disabled.

26 MR. FEOLA: And half of them could be disabled. And that's my
27 right as a citizen. That group who are disabled and protected by the law should

1 have that same right. That's all. No more, no less. They should be able to move
2 into -- to buy that house and move in, just like Feola's family.

3 MS. WILLIAMS: There are lots of court cases on that. WE just
4 don't get to vote on whether or who our neighbors are by and large unless they're
5 outsiders or have some other clearly demonstrable problem.

6 COMMISSIONER HOOD: And believe me, I understand about
7 disabilities and physical challenges, but I guess I'm drawn to what really happens
8 out there and what goes on when you make things a matter of right and for instance,
9 I believe this is from one of the comments and correct me, Madam Chair, if I'm
10 wrong. "Remove substance abusers' home, persons in recovery have the same
11 housing rights as nondisabled persons. Detoxification facilities should be treated as
12 health care facilities." And then I see here where that's coming up under low impact.
13 I'm just concerned because it's one thing that's said, but something else will happen,
14 for example, corrections who wind up and I think that taking people out of the
15 process and we're not discriminating, but taking people out of the process as a
16 zoning commission, I believe part of our charge is to protect the health and welfare
17 of the District of Columbia. And I think that taking that input out of the process, I
18 don't know. But maybe I need to listen more, but that poses a problem, I think.

19 MS. WILLIAMS: I understand. Let me say something about
20 substance abuse facilities. There are very, very few of those in the District of
21 Columbia now. They are mostly treated --

22 COMMISSIONER HOOD: I just used that as an example.

23 MS. WILLIAMS: Okay, but I mean the Justice Department will
24 require nondiscrimination in R-4, R-5 zones for all multi-family dwellings, for people
25 with disabilities. It requires that. And that is clear that that's what federal law
26 requires. So if an apartment house can go there, a facility for people with disabilities
27 can go there on an equal basis.

1 That -- I understand the problem, but let me say one thing that I
2 don't think has been mentioned before. I think the fact, I believe in the democratic
3 process, I believe that most of the people that we represent make a very serious
4 effort to accommodate their neighbors and their neighbors' concerns. They have
5 advisory councils and they have frequent communication and they go to meeting
6 after meeting after meeting to try to explain their mission. But at bottom, there are
7 people who will believe that they can stop a project because the law is unclear and
8 because -- and they use that process, I think, in an abusive way. So there's another
9 side of that coin and a lot of energy is wasted when ultimately one has to go to court
10 and can vindicate one's rights anyway. Why not recognize at the outset what those
11 rights are. And they are clearly embodied in the Justice Department agreement,
12 those basic rights, and they do exclude, that's true. We don't -- the community
13 process that you're talking about.

14 COMMISSIONER HOOD: Okay, thank you.

15 CHAIRPERSON KRESS: Thank you. Can we move on now?

16 COMMISSIONER FRANKLIN: Yes, I have a question.

17 CHAIRPERSON KRESS: Do you have a question?

18 Commissioner Frankly.

19 COMMISSIONER FRANKLIN: Sorry. Is it uncommon for
20 occupants of these housing units to have automobiles? Is it uncommon for them to -
21 -

22 MS. WILLIAMS: It is relatively uncommon, yes.

23 COMMISSIONER FRANKLIN: Is it relatively common that
24 students do have automobiles?

25 MR. RIVKIN: The answer is yein -- yes and no.

26 (Laughter.)

27 MR. RIVKIN: I just want to mention to you the Solomonic

1 solution at American University Law School and that was that the law school told
2 every student, one, they had to register their car and two, they had to stable the car
3 on campus. If they were caught anywhere inside the precinct of the law school
4 which you're familiar with, it's off of Mass. Avenue, \$500 fine the first time.

5 COMMISSIONER FRANKLIN: I'm well aware of that because
6 my son got --

7 (Laughter.)

8 COMMISSIONER FRANKLIN: He was not a student at AU, but
9 had an out of state plate and I called up the General Counsel and I told him that I
10 didn't they had a right under the law to fine my son \$500.

11 MR. RIVKIN: So that's how you handle that problem.

12 COMMISSIONER FRANKLIN: It's a very poor way.

13 (Laughter.)

14 MR. RIVKIN: But I'm sure the fine was waived.

15 COMMISSIONER FRANKLIN: Yes. Next question, I guess you
16 have explained that the Oxford and the 15 proposal comes really out of the --
17 frankly, an arbitrary number that was used for clerical and religious housing. What if
18 we amended the clerical and religious housing provision and reduced it to 12 or 10
19 and then made that the standard. Would that create operational difficulties?

20 MR. FEOLA: I think, Mr. Franklin, as counsel said, so long as
21 you had a reasonable accommodation, a mechanism in place, it certainly -- 12 is
22 better than today and I think it speaks better to the Fair Housing Act, which is to treat
23 this disabled population, the same as the able population.

24 MS. WILLIAMS: We don't really represent the religious
25 community on that issue here and I frankly don't know what the impact on that would
26 be with that kind of reduction. I honestly don't know whether they use that.

27 COMMISSIONER FRANKLIN: I don't have any idea.

1 MS. WILLIAMS: But they have the absolute right to do it without
2 any notice, without any community involvement.

3 COMMISSIONER FRANKLIN: Next question, in the event that
4 this Commission for whatever reason did not act to move in the direction that you
5 propose or the Justice Department proposed, or didn't do so in a timely way, what is
6 your opinion as to what would occur under that circumstance?

7 MR. FEOLA: The District would enter into a consent decree,
8 changing the regulation by an order of court? There was no lawsuit filed.

9 COMMISSIONER FRANKLIN: I know someone at our last
10 hearing suggested that the Corporation Counsel while being directed by us to
11 defend the District notwithstanding of the threat of the Department of Justice and I'm
12 sure that that would not occur. It probably would not be ethical for him to do so.

13 MS. WILLIAMS: Well, let me say that the agreement itself says
14 that the Justice Department had prepared a complaint and was prepared to litigate
15 this question. And it has a self-imposed rule of consultation and it did so with the
16 District and that's how they came to this agreement. I don't speak for the Justice
17 Department. The threat is there on the paper, certainly.

18 COMMISSIONER FRANKLIN: But I'm asking what you think the
19 scenario might be if this Commission didn't act?

20 MR. FEOLA: I think with regard to the providers we'll see -- well,
21 Oxford has cases. We'll see more Tabitha House situations where there are going
22 to be lawsuits and the District got hit pretty hard by the court in Tabitha's House in
23 terms of costs, dollars.

24 COMMISSIONER FRANKLIN: Oh really? Was it injunctive
25 relief?

26 MR. FEOLA: What was it, David? \$2.4 million for failure to
27 follow their own laws.

1 MS. WILLIAMS: And certain officials of the District government
2 were held in contempt as well and they had to pay personal fines.

3 COMMISSIONER FRANKLIN: Indeed.

4 MS. WILLIAMS: Yes.

5 COMMISSIONER FRANKLIN: Really.

6 MR. RIVKIN: If I may add, I think in addition to what my
7 colleagues have said, the issue of services is going to come before this Commission
8 in some form whether it's next month or later. The situation with Alban Towers, the
9 bill before the Council, the fact that the population is changing and services are
10 being provided, aside from what we're recommending, it seems to me that the
11 Zoning Commission is going to have to deal with that at some point.

12 COMMISSIONER FRANKLIN: Okay, next question. I'd like to
13 direct your attention to the language that you have proposed on reasonable
14 accommodation. You say that it would be a -- an accommodation is reasonable if it
15 would not require -- on page 17 of Mr. Colby's report, if my colleagues can find it.
16 "An accommodation is reasonable if it would not require a fundamental alteration in
17 the legitimate land use policy."

18 MS. WILLIAMS: It comes from the law of the legislative history, I
19 actually forget, but it has in the --

20 COMMISSIONER FRANKLIN: Is that language that comes out
21 of the federal law?

22 MS. WILLIAMS: Yes, it does.

23 COMMISSIONER FRANKLIN: I see. Could you give me your
24 opinion as to what legitimate land use policy means? The word "legitimate" kind of
25 throws me.

26 MS. WILLIAMS: Yes, it's not much clearer than some
27 regulations. It -- that has been the subject of litigation and I think the important

1 question is that it has to be land use consideration. That's the principal focus. And I
2 think there is concern that there are such things as trumped up rationale in land use
3 guise. So it's sort of a common sense notion, but that's my reading. It has to be
4 land use and substantial and good faith in all those

5 --

6 MR. FEOLA: I think, Mr. Franklin, your example of cars would
7 be a legitimate land use rationale. If one of these providers brought to one of these
8 single family houses, a user type that had ten automobiles or one per person, then
9 that land use -- there would be a land use rationale to treat that user different from
10 the single family house that may have two automobiles. That, I would think, would
11 be a land use rationale to draw a line, not because that happened to be disabled,
12 however.

13 MS. WILLIAMS: Right.

14 COMMISSIONER FRANKLIN: So then the rest of the text of this
15 is coming straight of federal law.

16 MS. WILLIAMS: Yes.

17 COMMISSIONER FRANKLIN: I see. Then I was going to ask
18 what the last sentence meant, but it's there and it's preempted.

19 MS. WILLIAMS: The last sentence being?

20 COMMISSIONER FRANKLIN: "Sections 1 and 2 above are the
21 only factors that may be considered when determining whether a requested
22 accommodation is reasonable."

23 MS. WILLIAMS: Yes, and that's elaborated in the legislative
24 history of the Fair Housing Law. I think that is discussed in our original brief.

25 COMMISSIONER FRANKLIN: Okay, thank you. I have no
26 further questions.

27 CHAIRPERSON KRESS: Are we complete with this? Thank

1 you very much for your testimony.

2 I would like to just try to get a handle on how much more
3 testimony and the time for tonight so that we know whether we need to carry this on
4 for another meeting.

5 May I ask how many more people are here to testify tonight?
6 Could I get a count? Seven.

7 MR. WILLIAMS: Would you leave the record open for written
8 comments if we finish tonight?

9 CHAIRPERSON KRESS: State your name, please?

10 MR. WILLIAMS: I'm sorry, I'm Lindsley Williams. Would you be
11 willing to leave the record open for written comments in the event you were able to
12 complete the hearing process this evening?

13 CHAIRPERSON KRESS: Yes, yes, yes.

14 MR. WILLIAMS: All right, then I will not comment this evening.

15 CHAIRPERSON KRESS: Well, I think there's enough -- I think
16 with seven people, if they're representing organizations and can keep it to five
17 minutes, I think we can finish tonight. We have to allow questions and answers.

18 Can most of you -- will most of you be able to keep your
19 testimony say to five minutes, not counting our questions and answers? I'm sorry,
20 you have to identify yourself, sir.

21 MR. WOLF: I'm Richard Wolf.

22 CHAIRPERSON KRESS: I'm sorry, you have to come to a mike.
23 I'm just trying not to keep everyone here to midnight if we don't need to.

24 MR. WOLF: I understand your interest in facilitating the process,
25 Ms. Kress. I'm Richard Wolf. I represent the Capitol Hill Restoration Society. I
26 appeared at the first set of hearings. And I sat through every session to the end and
27 I will sit through this to the end. I just heard an hour and a half's worth of discussion,

1 colloquy, question and answer from the advocates and I would say to you I think we
2 have some important things to say too and I would not want to limit myself to five
3 minutes. I thought you said eight minutes originally.

4 CHAIRPERSON KRESS: I did for organizations.

5 MR. WOLF: I'd like us to have the same courtesy as is extended
6 to some of these other folks. That's all.

7 CHAIRPERSON KRESS: I would like to answer you. We have
8 new regulations out now that you all should take a look at. Excluding our questions
9 and answers, our new regulations that are coming out is that basically they had one
10 hour that we are going to be looking to one hour, we're going to try to balance it. If
11 someone is making a presentation of an hour, we're going to try to balance it with an
12 hour of presentation in the opposition. That's part of our new rules, to try to balance
13 things and give everyone an idea ahead of time before they come what's going on.

14 Now that can include our questions or if there's cross
15 examination. We don't have cross examination here today. Obviously, that would
16 be on top of it.

17 MR. WOLF: Well, may I suggest something to you, Ms. Kress?
18 When you say an hour for the proponents and an hour for the opposition, it is clear
19 from tonight's presentation, for example, that it was an orchestrated presentation.
20 Many of us have not orchestrated our presentations and we are appearing either for
21 ourselves or for a particular organization. So it is a little bit different.

22 CHAIRPERSON KRESS: Oh yes, it is.

23 COMMISSIONER FRANKLIN: It's different in this respect and
24 that is there's much more likelihood of repetition when it's not orchestrated, so if the
25 repetition can be held to a minimum, maybe we can have the matter handled fairly.

26 MR. WOLF: Thank you.

27 CHAIRPERSON KRESS: Well, is it everyone's -- should we give

1 this a run and see if we can finish tonight?

2 MS. PRUITT-WILLIAMS: For clarification for the record, are we
3 going from 5 to 8 minute --

4 CHAIRPERSON KRESS: Basically, I had promised earlier 8
5 minutes for an organization, 5 minutes for an individual. You have to be
6 representing an official representative of an organization for the 8 minutes. If you're
7 just representing yourself or maybe coming from an organization, but you can't
8 represent their full views, then it's 5 minutes.

9 MS. PRUITT-WILLIAMS: Also indicate that we won't be using a
10 timer.

11 CHAIRPERSON KRESS: All right. She mentioned that we
12 would be using a timer. We will try to talk very loud. I'm sorry, we have to get our
13 system fixed.

14 Let me just go next on the agenda. There's other government
15 agencies. Was there anyone here other -- before we get to the NCs, from a
16 government agency that wished to testify? All right, hearing none.

17 Next I have the Advisory Neighborhood Commissions. I have
18 several of them listed. I need to -- who is here from the NCs who wish to testify? All
19 right. You might all come up at the same time, not that you'll say the same things.
20 You'll testify individually. I do need to know whether you are representing your
21 whole ANC or just single member district.

22 You all know the drill. Please identify yourselves, your name and
23 address for the --

24 MS. PRUITT-WILLIAMS: Excuse me, Madam Chair. If you are
25 representing your agency, could we have the written resolution indicating that,
26 please?

27 MS. MILLER: I explained in my testimony what happened at

1 mine.

2 MS. PRUITT-WILLIAMS: So are you representing your ANC or
3 are you a single member?

4 MS. MILLER: I'm unable to and I explained that in my testimony.

5 MS. PRUITT-WILLIAMS: I just need to know --

6 CHAIRPERSON KRESS: Why don't we just do it this way. As
7 you introduce yourself then you can give us that information.

8 MS. MILLER: I have it in my opening statement.

9 CHAIRPERSON KRESS: Okay.

10 MR. FOXWORTH: I believe that my agency was listed first and
11 if it's okay with my colleagues, I'd like to proceed.

12 CHAIRPERSON KRESS: Certainly.

13 MR. FOXWORTH: We have 8 minutes individually if we were
14 representing the ANCs. They're not organizations, so if you can clarify that, please?

15 CHAIRPERSON KRESS: Yes, if you're representing your whole
16 ANC and you have a resolution then you are representing the whole ANC, otherwise
17 you're just representing yourself and happen to be an ANC better, if that makes
18 sense?

19 COMMISSIONER HOOD: Madam Chair, can I just ask a
20 question?

21 CHAIRPERSON KRESS: Yes.

22 COMMISSIONER HOOD: As far as a resolution goes, if they
23 don't have it tonight, since the record is going to be open, can they submit it later or
24 how does that work?

25 CHAIRPERSON KRESS: Yes, that's typically -- we do allow
26 that.

27 MS. PRUITT-WILLIAMS: Okay, thank you.

1 MS. DOGGETT: How long will you keep the record open?

2 CHAIRPERSON KRESS: We have to check, roughly 30 days.

3 MS. PRUITT-WILLIAMS: It depends on if we go to a -- if a
4 second hearing is needed.

5 CHAIRPERSON KRESS: Yes, it depends on if we have a
6 second hearing. We're going to try to finish tonight and then leave the record open
7 for 30 days so that we can get all of the information formally into the record.

8 We'll let you know. We need to check our calendars for when
9 we meet and what not, but I would expect roughly 30 days. But we'll let you know
10 after they have a chance to review it.

11 Thank you. I'm sorry, did you identify yourself?

12 MR. FOXWORTH: Not yet. My name is Rodney Foxworth and
13 I'm here representing ANC 2F which is the Shaw Logan Circle ANC. I am the ANC
14 Commissioner for 2F06 which is more in the Shaw neighborhoods and less in the
15 Logan Circle neighborhood.

16 I thought I should give you a little background on myself before
17 we proceed because I think that would give you some important information.

18 CHAIRPERSON KRESS: I'm sorry, and you are representing
19 your whole ANC?

20 MR. FOXWORTH: I am representing my whole ANC.

21 CHAIRPERSON KRESS: All right.

22 MR. FOXWORTH: I've been a community activist for about 17
23 years now in Boston and in the District of Columbia and I have a considerable
24 amount of experience in working with community-based organizations, including
25 those who own and operate community-based residential facilities.

26 As a professional, I also manage a national project by a national
27 organization who tries to encourage local government to work better with

1 community-based organizations to reduce poverty and to revitalize neighborhoods
2 and a lot of these issues cover the siting and density issues associated with
3 community based residential facilities.

4 I also have a Master's in Public Policy so I'm keenly aware of the
5 public policy issues and implementations of this issue. You have to excuse me, the
6 hour is sort of late.

7 At its September 2, 1998 publicly advertised meeting, a quorum
8 being present, my ANC approved a motion to submit testimony in opposition to
9 certain proposed amendments to the zoning regulations governing community-
10 based residential facilities and I think that was faxed over several days ago.

11 I will not read the entire letter, it's two pages. I will just highlight
12 some things for you and I would be more than happy to take any questions.

13 ANC 2F is not opposed to group homes, but it is opposed to
14 local communities not having any control over where they are located in our
15 neighborhoods.

16 As elected officials at the grass roots, we are keenly aware of the
17 public safety and quality of life issues which should be addressed before a group
18 home is located in a community. In particular, we are concerned that an
19 overconcentration of community based residential facilities in our community will
20 alter its residential character, impede the revitalization of our commercial quaterles
21 on 14th, 11th and 9th Streets, perpetuate existing blight, accelerate middle class
22 flight to the suburbs and exacerbate current public safety concerns and provide a
23 negative aspect to our quality of life.

24 Again, it is our objection to the over concentration or the issues
25 of density raised by unregulated siting of CBRFs.

26 We recognize that the Zoning Commission is seeking to conform
27 D.C. law and regulations through the requirements of the Fair Housing Amendment

1 Act of 1988, the Americans With Disability Act and federal court decisions in Fair
2 Housing cases which have preempted local authority in the siting of group homes.
3 This is a national issue.

4 Current Fair Housing Law allows group home operators to site
5 residential facilities without consulting local officials or applying for zoning variance
6 or special exemptions.

7 The realities of the real estate market have led to the
8 concentration of these facilities in low to moderate income neighborhoods and
9 neighborhoods in transition with large stocks of vacant residential and commercial
10 properties, where there are already problems of substance abuse and open air drug
11 markets. These communities are often ill prepared to engage and to develop
12 effective and binding solutions to the negative effects of the overconcentration of
13 these in their communities.

14 In addition, the lack of local review of these siting decisions
15 causes a decline in the market value of properties located on the same block which
16 would be more pronounced at the 500 square foot and same square restrictions in
17 the zoning regulations are eliminated.

18 As you well know, this issue of preempting, preemption of
19 local authority is a major issue for cities and towns nationally. We believe that
20 sooner or later there will be a nationwide backlash to the elimination of legitimate
21 zoning regulations governing CBRFs which will eventually result in the amendment
22 to the Fair Housing Act. In the interim, we urge the Zoning Commission to address
23 group home safety, quality of life and other issues in residential neighborhoods by
24 regulating the number of recovering substance abusers in a group home, to prevent
25 the undermining of R-4 zoning by unrestricted conversions of CBRFs' use and to
26 consider the number issues of density for residents and proximity of group homes to
27 one another in any given community.

1 take up in the next legislative session. A lot of the cities and towns are pretty at the
2 Justice Department for suing them because of perceived violations of the Fair
3 Housing Act.

4 CHAIRPERSON KRESS: Thank you. Are there any questions?

5 COMMISSIONER FRANKLIN: Have you been able to associate
6 the problems that you mention with these specific occupants of these facilities?

7 MR. FOXWORTH: If you look at the evidence of calls to service
8 for emergency vehicles, either medical assistance and/or police services and/or
9 cases of arson, you will see a high concentration of these kinds of incidents and
10 prostitution, drug use is a part of that. You will see a higher incidence of these calls
11 to service around not only these kinds of residential facilities, but certainly nonprofits
12 that serve underserved population.

13 COMMISSIONER FRANKLIN: Well, I'm still asking about cause
14 and effect. Are you saying that if those facilities were not in the neighborhood there
15 would not be the service calls that you're talking about? There would not be the
16 drug markets. There would not be the public urination, whatever?

17 MR. FOXWORTH: No, I'm not saying that at all. I'm saying that
18 these facilities who are offered complementary with other community-based
19 organizations in our neighborhoods create an environment where that it attracts and
20 statistically there is evidence that those calls for service are increased in those
21 communities. If you look at similar community in moderate to high income
22 neighborhood that maybe has one of these residential facilities, you will not see the
23 same level of calls for service, but when you look at low and moderate income
24 neighborhoods because of the real estate and because of the perceived lack of
25 ability for neighborhood residents to engage in workable solutions with these
26 nonprofits and CBRFs, you will see a much much higher incident of calls for service,
27 police, fire, emergency medical personnel, on down the line.

1 COMMISSIONER HOOD: Commissioner Kramer.

2 MR. FOXWORTH: Commissioner Foxworth.

3 COMMISSIONER HOOD: A question that I have is in your
4 experience in the community in your area the type of facility, through my reading I'm
5 coming up with two different types of different definitions. I'm coming up with all
6 these different things, but for example, could you give me a result of a situation in
7 your community where there's a correctional facility? What type of -- what happens
8 is it comes up under -- when we go into this matter of right from my experience
9 everything comes in.

10 MR. FOXWORTH: That's right.

11 COMMISSIONER HOOD: So my question is what you just
12 explained to Commissioner Franklin was that a correctional facility or was it just
13 physically challenged facility or what?

14 MR. FOXWORTH: It was a residential facility for former
15 prostitutes. There are residential facilities for homeless people as well.

16 Part of the issue though is that those facilities in partnership with
17 other buildings a block away are under the same roof also have other services for
18 either homeless population or feeding pantries or those kinds of service. It's an
19 issue for the residential facilities and it's a double issue where those residential
20 facilities also offer complementary programs, either in that same physical building or
21 in collaboration with the community-based organization a half a block away.

22 COMMISSIONER HOOD: So Commissioner Foxworth, I guess
23 what you're saying it's not -- and I really don't know the typical name, the name for it.
24 I'm not trying to -- I just don't know. I guess this is just not the simple handicap
25 home which like we think about in the community. Just simple handicapped. I'm
26 sure we could work with something like that, but as far as what usually comes in
27 under normal circumstances, I think that's where the problem comes in.

1 MR. FOXWORTH: Without getting into the technicalities of it I
2 think you hit the nail on the head.

3 COMMISSIONER HOOD: Right.

4 MR. FOXWORTH: Certainly, the handicapped facilities is one
5 kind of facility. My understanding is that this regulation will allow any facility be it
6 substance abuse or others to perhaps use that same window of opportunity to open
7 up facilities in these neighborhoods.

8 COMMISSIONER FRANKLIN: Commissioner Foxworth, I don't
9 believe that's the case, at least as I understand the situation. The homeless, as
10 homeless, are not covered or protected by the Fair Housing Act. And people who
11 are active substance abusers are not handicapped under federal law.

12 MR. FOXWORTH: My understanding is that HUD changed its
13 definition several years ago and that it allowed folks with substance abuse problems
14 to even be allowed space in senior citizen buildings because they were determined
15 to be handicapped.

16 MS. PRUITT-WILLIAMS: Mr. Franklin, I believe the term is
17 substance abusers who are in recovery.

18 COMMISSIONER FRANKLIN: That's correct. I said active
19 substance abusers are not covered by the -- if they are in recovery and are not
20 current abusing controlled substances, they are not supposed to be -- if they're not
21 currently using controlled substances, they are covered by the ADA.

22 MR. FOXWORTH: I think so. I think so.

23 COMMISSIONER FRANKLIN: But the homeless as such are
24 not within the purview of what we are talking about, at least as I understand it.

25 MR. FOXWORTH: I guess I was trying to show a direct
26 correlation between the community based residential facilities and the kinds of
27 symbiotic relationships that they may have with their own programs in the same

1 physical building or with a program that's associated with another organization half a
2 block away or two or three blocks away. And in getting back to your point about
3 recovering alcoholics or persons with substance abuse issues, when you go through
4 a certification you may be a recovering addict and so you could have residence in
5 these facilities and in fact, senior citizens have persons in those situations living in
6 their buildings. But after you go through that certification, as we all know, the rate of
7 recidivism for recovering alcoholics is not that great and so you end up with
8 communities and senior citizen buildings being taken over by this kind of
9 environment.

10 CHAIRPERSON KRESS: Yes, go ahead, Commissioner
11 Clarens.

12 COMMISSIONER CLARENS: So let me see if I understand the
13 gist of your testimony is that you feel that the recommendations before this
14 Commission would take at least some of the facilities previously categorized as
15 CBRF out of the review process previously afforded by the regulations which
16 allowed through the BZA, among other venues, a possibility of the community to
17 protect their interest against inverse impact.

18 MR. FOXWORTH: Absolutely.

19 COMMISSIONER CLARENS: And that even the reasonable
20 accommodations principle would not address the issue of adverse impact so that the
21 compliance with the Fair Housing Act and I remember very clearly sitting under BZA
22 and hearing a case of a -- and I don't remember exactly the case. It was on upper
23 16th Street, I don't remember exactly the facility, but it was a contributing facility to
24 the issue of adverse impact and it was a facility where people with mental disabilities
25 were housed and there was testimony about the screens coming out of the house in
26 the middle of the night, etcetera, etcetera, and I remember very clearly, I don't know
27 if you sat in on the case. But I remember the case. So the issue is that adverse

1 impact may happen. It doesn't necessarily happen, but that the recommendations
2 take the venue that the BZA provided out of the loop and therefore the community
3 doesn't have a way to protect themselves against possible adverse impact which
4 may not be in the majority of cases, but might be there in some of the cases. That's
5 -- I'm --

6 MR. FOXWORTH: That's correct.

7 COMMISSIONER CLARENS: I'm reading into what you have
8 said and perhaps reading --

9 CHAIRPERSON KRESS: I can see Ms. Miller shaking her head
10 yes.

11 MR. FOXWORTH: I think that's a good summary and if you lived
12 again in a low to moderate income neighborhood where there's a high concentration
13 of these facilities, the possibilities for adverse impact is multiplied.

14 COMMISSIONER CLARENS: Okay.

15 CHAIRPERSON KRESS: All right. We'll go on. The next
16 person I have on my list is Rosalyn Doggett.

17 MS. DOGGETT: That's myself. I'm Rosalyn Doggett from
18 Advisory Neighborhood Commission 3COH.

19 CHAIRPERSON KRESS: Thank you, Mr. Foxworthy.

20 MR. FOXWORTH: My pleasure.

21 MS. DOGGETT: I'm listed as unsure, but that could be called
22 the story of my life.

23 (Laughter.)

24 It really represents in this case the fact that I'm here on behalf of
25 the Commission, but not representing an official position and to ask a couple of
26 procedural questions.

27 One is with regard to keeping the record open, can it be kept

1 open at least until the end of October because we don't have our next meeting until
2 the end of October.

3 CHAIRPERSON KRESS: She was trying to do that earlier with
4 me and I was listening. How does our schedule work? Can we keep it open until
5 the --

6 MS. PRUITT-WILLIAMS: Well, we can have that discussion
7 now. The next Commission meeting where you could take this up would be October
8 19th. If you can't do that, then it puts us in November. Please keep in mind though
9 that there's a December 24th deadline which also still requires a 30-day review by
10 Corporate Counsel in the D.C. Register. All that also has to come prior to the 24th.
11 So it would be very difficult for the Commission to hit any of those deadlines if you
12 don't make a decision until November.

13 CHAIRPERSON KRESS: So how long are you recommending
14 that we keep the record open for? Two weeks?

15 MS. PRUITT-WILLIAMS: Yes, until approximately maybe the
16 12th of October. That would allow you time -- it would allow you at least week
17 before the meeting to get you all the information so you could make a decision at
18 your October meeting.

19 MS. DOGGETT: Well, I find that these new proposals were
20 extremely complicated. They aren't even presented as zoning language so how can
21 we really react and the OP report that did a comparison analysis wasn't provided
22 until after 2:30 on Friday because I was in the Zoning Commission Office at that time
23 and asked to look at the entire record and that September 11th report wasn't
24 available at that time. It certainly wasn't in the record. And I was unable to obtain it
25 because of the holidays and so on, until Tuesday.

26 MS. PRUITT-WILLIAMS: I'd like to make a clarification, actually
27 the record was available September 14th.

1 MS. DOGGETT: It wasn't in the record, three record books that
2 were handed to me.

3 COMMISSIONER FRANKLIN: Could I ask Ms. Doggett did your
4 Commission comment on the matter when we held hearings in April?

5 MS. DOGGETT: No, we elected not to comment on the matter
6 in April, but now there are additional proposals and those are really -- they were
7 presented in a very confusing manner and they weren't really easy to understand.

8 COMMISSIONER FRANKLIN: And you think they'll be easier to
9 understand after you have Mr. Colby's report?

10 MS. DOGGETT: I think that helped, yes. I've seen Mr. Colby's
11 report now, but it certainly wasn't available before our previous meeting.

12 CHAIRPERSON KRESS: Unfortunately, not only this isn't a
13 problem, we haven't decided what we're doing, but we have to at least set this up to
14 be able to meet the December deadline if we so choose. So we are going to only be
15 able to probably keep the record open for two weeks, otherwise we've already made
16 our decision, if you will.

17 MS. DOGGETT: Well, I think maybe the procedure should
18 cause you to reconsider that. That is to say the information was not made available
19 to the public.

20 CHAIRPERSON KRESS: Well, I'd like to go ahead and hear
21 from Ms. Miller who has already here to testify.

22 MS. MILLER: Our meeting is the 21st of October and my
23 opening statement says please keep it open until at least then, but we had it on our
24 agenda in April and I put it the last thing on the agenda because we had two zoning
25 cases, we had four from George Washington for BZA and we had 2200 M Street,
26 nothing small, a little, so by 11 o'clock we lost our quorum and I never got the CPRF
27 resolution through. But I'll put it the first thing on the agenda if you can hold it open

1 until the 21st and I can get it to you maybe on the 22nd. And we can take an official
2 position then and I think the resolution is ready to move at that point.

3 But what is being presented, I only got the things a few days ago
4 because we have had the hospital which took a whole day and a whole week.
5 We've had 2200 M which has taken six months. We've had on and on. George
6 Washington has four things going and the campus plan trying to be reopened. I
7 mean six people can only do so much.

8 COMMISSIONER FRANKLIN: Madam Chair, I'd like to state my
9 view that I do not think the public business of the District of Columbia should be
10 timed to the exigencies of individual ANCs. We have lots of ANCs around the
11 community. We've heard from one ANC and we're going to hear from another, I
12 believe, that found possible to formulate a reaction to this. And we're always going
13 to have some ANC from some quarter of the city that for its own reasons has not
14 been able to get its act together and either get a quorum or to understand what
15 we're doing. We just have to proceed in an orderly fashion, otherwise, we'll never
16 get -- we'll set a precedent then because there will be another case where
17 somebody says I want the record open for five weeks because we couldn't get to it
18 in our last meeting. It sets a very unfortunate precedent.

19 MS. MILLER: May I respond to Mr. Franklin?

20 COMMISSIONER HOOD: May I also?

21 CHAIRPERSON KRESS: Go ahead.

22 COMMISSIONER HOOD: May I also just not to disagree with
23 my colleague, but ANCs are volunteer and I know we all know that. ANCs are
24 volunteer and sometimes from having an experience in working with ANCs and civic
25 associations, we're not always the best organized. It's a little hard on us as opposed
26 to applicants who are in paid positions in getting community. It's hard on ANCs to
27 get community people together to get certain things done, so whatever we could do

1 within the time frames, I would hope that this Commission would allow the
2 community as much opportunity as possible.

3 CHAIRPERSON KRESS: Okay, well let's get the rest of the
4 testimony and then we'll decide.

5 MS. MILLER: I just want to respond to him on the fact that
6 nobody but us has George Washington and every developer in town, we have five
7 large developments going on at one time in addition to four requests from George
8 Washington in addition to the campus plan. No other community has that.

9 COMMISSIONER FRANKLIN: Not yet.

10 MS. MILLER: No, and I don't think they'll ever get it. Don't
11 anybody want to live anywhere except Foggy Bottom. Well, you know who I am.

12 (Laughter.)

13 And this year I was made chair of the ANC 2A and I've tried to
14 bring it to the public. I have tried to make it known and I've tried to get the
15 community involved and I'm doing my best.

16 On April 6th, the Zoning Commission asked the Office of
17 Planning to make a check -- that was from you all, through the Office of Planning, to
18 make a check on the communities in Maryland and Virginia and how they were
19 coping in handling this. This doesn't seem to be covered in the OP's report.

20 This request is of great concern to District residents because
21 individuals from these areas are setting up CBRFs in the District for profit and filling
22 these facilities with needy persons outside of the District. These imported
23 handicapped, rehabilitation cases then become the District's responsibility. Without
24 this information, the hearing is almost a farce because it's forced on the District by a
25 petition from a Campaign for New Community whose title should be Campaign for
26 No Community because that's exactly what that paper does.

27 Just change the adjective. It's no community. The action being

1 requested by the Campaign for No Community would in my opinion result in just
2 that, no community for a majority of the District taxpaying citizens.

3 One thing every homeowner checks out when moving to a new
4 neighborhood are the neighbors as well as the safety and the quality of the schools.
5 Now we've come to OP report being considered tonight which responds to a petition
6 by an organization. OP does not respond to the Zoning Commission's request and
7 the following request from the local residents. We asked at the last meeting that the
8 Zoning Commission decline to enact the zoning regulations revision sought by the
9 consent decree until Congress at the request of the National League of Cities has a
10 chance to review the legislation contained in H.R. 3206 passed by Congress. And
11 by the way,I talked to the staff person up there to check on it. She said she had four
12 on her block and when the man ran down the street naked, she took a loss on the
13 house and moved to Alexandria.

14 The Zoning Commission revised the proposed regulations to
15 provide for a public hearing, require that the application be filed with the BZA,
16 explicitly identified the applicant procedure, eliminate or substantially limit the use of
17 confidentiality and require all decisions be made after due process is given to all
18 parties with written decisions incorporating findings of fact and considerations of law.
19 Making these changes will permit the processing of a request for reasonable
20 accommodations to be applied in a consistent manner and less subject to political
21 manipulation.

22 Should the U.S. Department of Justice not be satisfied with the
23 Zoning Commission's action and Mr. Franklin mentioned this earlier, the District of
24 Columbia should be prepared to represent the interest of the District of Columbia
25 and any consequent legislation. We asked this in June and nothing was put out
26 about it.

27 On page 7 of this report, the Campaign for No Community

1 suggests redefining family to call it a household. No wonder the family has broken
2 down when a liberal organization can presume to redefine, shall I say quote family to
3 achieve its own goals. I didn't know the Zoning Commission had the authority to
4 redefine family. Every family knows what the number of persons using a bathroom
5 is of great concern, but 15 disabled persons using one bathroom and we're having
6 this in apartment buildings where students are concerned too.

7 On page 8 and they use the elevators and a few things like that.
8 On page 8 of the comparison of CNC and DOJ, D.C.'s proposal to equate 15
9 persons of a religious organization with 15 handicapped persons or 15 persons
10 being rehabilitated for whatever reason is lacking in mature judgment. Religious
11 groups have control of their life, the second do not have control and need outside
12 help. Please remove this comparison. If the Oxford House sees it different, they
13 must live in a different and secluded world.

14 On page 9, under reasonable accommodation procedure,
15 permits persons with disabilities to occupy the dwelling of their choice. It is not the
16 physically disabled person that concerns the community which was mentioned just a
17 moment ago, but the profit makers from the surrounding communities who make a
18 profit off of handicapped and disabled by ruining our communities.

19 On page 9, OP also states that CNC's proposal is a more
20 aggressive vehicle for the reform and its request for increases in matter of right.
21 CNC proposal, if enacted would eliminate the matter of rights for all other citizens.

22 The last paragraph on page 9, it would be expeditious for final
23 agency action to be granted unless it would fundamentally alter zoning and land use
24 policy to do so. Are not the zoning regulations and land use policies formulated to
25 enhance and protect the residential community? So this sentence should include
26 not only the alternate of zoning and land use, but the alternate and adverse impact
27 of residential neighborhoods. The comprehensive plan states its primary purpose is

1 the protection and strengthening of residential neighborhoods, so this doesn't even
2 comply with that.

3 The Office of Planning recommends that the Zoning Commission
4 hear testimony on both recommendation text amendments arising from the D.C.
5 agreement with the Justice Department on reasonable accommodation and other
6 pertaining to matter of right uses, recommendation of CNC proposal advertising the
7 alternative. As a resident whose interests and concerns are left out of both of these,
8 or should I say all of these, may I repeat myself and recommend that the Zoning
9 Commission wait until Congress has made clear what the law really does and
10 should do. The Fair Housing Amendment Act of 1998, H.R. 3206 is still in
11 committee. I checked today.

12 Thank you.

13 CHAIRPERSON KRESS: May we have a copy -- or did you
14 bring copies?

15 MS. MILLER: I will get you copies. I normally do it and I prefer
16 to do it, but with what's gone on this past ten days, I just couldn't get to it.

17 CHAIRPERSON KRESS: Well, otherwise maybe our staff could
18 copy it here and give --

19 MS. MILLER: Well, no, I've sort of scratched it up. But I'll get it
20 to you by Monday.

21 CHAIRPERSON KRESS: Okay.

22 MS. MILLER: I usually come here Monday to check your board.

23 CHAIRPERSON KRESS: Thank you. Are there any other
24 questions of Ms. Miller before we hear from the rest?

25 COMMISSIONER HOOD: In your ANC area, how many of these
26 facilities and actually what type are in your area?

27 MS. MILLER: We have St. Mary's Court which can very quickly

1 and very easily be turned into something like that, but our great concern and this
2 Council has tried to help us with it are what George Washington does with students,
3 where we had 10 or 12 people on the floor of my apartment building. Now we have
4 20 to 30 and 40 and who are legally rented to is one matter, but who they bring in
5 with their sleeping bags is another matter.

6 COMMISSIONER HOOD: Let me ask you, St. Mary's Court, I'm
7 unfamiliar. Could you explain --

8 MS. MILLER: That's a subsidized senior living which could not
9 turn down a person who is a substance abuser or any other type of handicap. Now
10 these are elderly people and when the gentleman tonight talked about the apartment
11 building at the corner of Wisconsin and Mass. it's one thing for assisted living to
12 senior citizens and it's another thing for assisted living to people who have emotional
13 and other kind of disability problems. It's a totally different ballpark.

14 COMMISSIONER HOOD: May I just ask one other, obviously
15 when that came in that was not a matter or right, so apparently the community, I
16 don't know, I'm going out on this, apparently the community voted in favor of or
17 against, but the process did happen.

18 MS. MILLER: That was before my retirement and before I got
19 involved. I'm sorry, but I can find it out for you.

20 COMMISSIONER HOOD: Okay.

21 MS. MILLER: And I'll attach it to my report.

22 CHAIRPERSON KRESS: You've been so patient. Would you
23 like to identify yourself?

24 MR. BOYD: My name is George Boyd. I'm Chairman of ANC
25 5D. First, I want to complain that I don't think the ANCs got adequate notice of this
26 hearing because I think more would be here because this is a major problem in the
27 local communities.

1 The only reason I knew about it was Mr. Hood is a member in my
2 ANC.

3 COMMISSIONER HOOD: I guess I should have mentioned that
4 that is my ANC Chairperson.

5 (Laughter.)

6 COMMISSIONER HOOD: Everyone already knows that I'm a
7 community person.

8 MR. BOYD: And he told us at our last meeting that this hearing
9 was coming up, but he didn't give us a date. So I asked the Commission to give me
10 authority to make a statement in opposition to the proposed legislation and they
11 granted me that. They trusted me that I would give reasonable comments.

12 We called down here yesterday and whoever answered the
13 telephone could not tell us when the hearing was going to be. Therefore, the office
14 manger had to call Mr. Hood to see if this meeting was, this hearing was going on
15 and he told us yes. So it appeared in the Zoning Commission office everybody don't
16 know what's going on, at least who answered the telephone ought to know the
17 schedule.

18 CHAIRPERSON KRESS: I agree and we will look into that.
19 Thank you.

20 MR. BOYD: In response to the proposed legislation, I don't think
21 that this legislation is really -- the thing is it's infringing on individual rights. The
22 matter of right is only going to give the vendor or the provider rights. There are no
23 individual rights, as I see it, that we are imposing on. It's the vendors and the
24 vendors don't care a damn about the communities. I have experienced the halfway
25 house. I've experienced the homeless. I've experienced the handicapped. I
26 experienced the children where they assigned them to a house and put them in the
27 community and really my experience, the one in my block, they are destroyed the

1 block. They stay up all night, all day. There's no supervision and we had one where
2 the lady had to live in Maryland that was the supervisor because she had Maryland
3 tags on her car and we might would come there once or twice a week and they just
4 run loose.

5 I also work closely with the school system in my area and they
6 interrupt the instruction. They're a problem in the school. I'm saying this because if
7 you give them a matter or right, these vendors are going to always look at homes sin
8 the cheaper neighborhoods because they want to provide their services at the
9 cheapest cost and then we, especially my neighborhood is almost saturated with
10 these types of homes now and they are destructive. And as a result, the middle
11 income people are living. Ward 5 has -- and I live in Ward 5, has the largest exit of
12 middle income people in the city. They're moving out because they can't stand it.

13 Now one gentleman talked about one person in a house. Those
14 people worked for those homes and they became senior citizens and they deserve
15 to live there in peace. Like I say, these kids are hollering and running. They got
16 these go carts, 3 o'clock in the morning, if you wake up, you can hear them.
17 Fortunately, I'm retired. I can sleep a little longer, but there are some people in there
18 that work, so this means they have no rest at night. They're infringing on their rights.
19 I think all those citizens should have rights and ought to be respected. And if the
20 District government is going to put these homes in these neighborhoods, they
21 should provide the proper supervision that these kids or whoever it is and the
22 handicapped, because we had some handicapped. They -- we have two story
23 houses and houses in my block have porches. They would just as soon go up the
24 porch and jump out the window as they would come through the front door. And
25 these are the kind of things that interrupt your neighborhood. Like I say, I could go
26 on and on, but I'm saying that this matter or rights is only providing a matter of rights
27 for the vendor or the provider because it gives them the option to put it anywhere

1 they want to and the other thing if we knew that they was coming, we could provide,
2 make provisions to help protect them and we would know what we see. The police
3 tell us in our PSA meetings if you see something awkward, call the police. Well, we
4 be calling the police all the time. They be just running back and forth find out who
5 loose on the block because there's no supervision. Those that don't take their
6 medications don't act right and most of them don't because nobody is there to force
7 them to make them take the medication.

8 So I'm saying they are a nuisance. If you're going to pass
9 legislation, we need some legislation that can provide some security and some
10 measures of protecting the neighborhood because as it is, if we give them the matter
11 of rights, we can all pack up and go home.

12 Thank you.

13 CHAIRPERSON KRESS: Thank you. Any questions?

14 Commissioner Parsons.

15 COMMISSIONER PARSONS: This facility you're speaking
16 about, how large is it?

17 MR. BOYD: Which one?

18 COMMISSIONER PARSONS: The one you're talking about, the
19 go carts and so forth?

20 MR. BOYD: It was about six children in it and some of the
21 children under 5 years old. And they're out in the street. There's no supervision.

22 COMMISSIONER PARSONS: Thank you.

23 MR. BOYD: And the school system, when you congregate them
24 all in a certain neighborhood they go to the same school. They disrupt the school
25 and then you're going to measure the teacher on the test scores that these people
26 do? That's not even fair to the teachers. What rights does she have when you done
27 set her up or him up and gave them the worse children you got in the city.

1 COMMISSIONER HOOD: Madam Chair, for the record Mr.
2 Boyd is the Chairman of the ANC in which I belong.

3 Mr. Boyd, have you seen an influx in your community and also
4 could you state what community you're actually talking about?

5 MR. BOYD: I'm talking about Trinidad Community.

6 COMMISSIONER HOOD: Have you seen an influx in your
7 community?

8 MR. BOYD: Yes, and they come in there and as we see it, we
9 see two in our block.

10 COMMISSIONER HOOD: And already, not taking the matter of
11 right out, has the ANC always had notice or how does this happen? They just come
12 in anyway whether there's a matter of right or not?

13 MR. BOYD: You mean this meeting here?

14 COMMISSIONER HOOD: No, the influx of the residential
15 facilities that are in your community, is the ANC always notified now?

16 MR. BOYD: No. No. Because if we had known that was
17 coming we would put up a fight. But you don't know.

18 COMMISSIONER HOOD: In other words, in essence, it's
19 already a matter of right?

20 MR. BOYD: In many cases, it is.

21 COMMISSIONER HOOD: Thank you.

22 CHAIRPERSON KRESS: May we move on? Thank you all --

23 MS. MILLER: Can I ask, can it possibly be held open until the
24 20th or at least give us three weeks? Because we're having a special meeting and
25 the earliest I could get it was the 15th?

26 CHAIRPERSON KRESS: May I hear the rest of the testimony
27 and then we'll decide that.

1 MS. MILLER: Sure.

2 CHAIRPERSON KRESS: Thank you. Whom else is here who
3 wishes to testify?

4 MS. DOGGETT: I would just like to add one thing. I think Mr.
5 Franklin commented on ANCs not getting their act together which bothered me a bit.
6 We did read the first set of proposals that came out in the spring and we read them
7 carefully and we elected not to testify for or against. It's the second ones that came
8 out that aren't well presented in my opinion and for which we were given little time
9 and weren't in the record with the OP report which recommends equal consideration
10 as late as Friday. Those are the ones that I feel haven't been given adequate time
11 for review.

12 Thank you.

13 CHAIRPERSON KRESS: Thank you.

14 MR. BOYD: I might say one thing, as I recall the ANC legislation
15 requires Boards and Commissions to give the ANCs 30 days written notice in
16 addition to what they publish in the Register and we don't get it. We get it from the
17 Board of BZA, but we don't get it from the Zoning Commission.

18 MS. PRUITT-WILLIAMS: Well, just for clarification on the
19 record, August 13th notice went to all ANCs. August 6 was when it was actually
20 published in the Register and August 10th it was noticed in the Washington Times,
21 so you should have gotten one.

22 MR. BOYD: We didn't.

23 MS. PRUITT-WILLIAMS: Well, we have in our records that it
24 went --

25 MR. BOYD: I'm saying the law says, and we're talking about law
26 now, the law says for you to give us an individual notice of the hearing, the same as
27 BZA.

1 MS. PRUITT-WILLIAMS: Which was August 6th.

2 MR. BOYD: Huh?

3 MS. PRUITT-WILLIAMS: It was mailed out August 6, I'm sorry,
4 August 13th.

5 MR. BOYD: My office manager didn't see it. I think if more
6 ANCs had got it, there would be more here testifying tonight.

7 MS. PRUITT-WILLIAMS: Could you give us an address to make
8 sure we can verify we have the correct address for your ANC?

9 MR. BOYD: 13 --

10 CHAIRPERSON KRESS: Can we not take the time? May you
11 just come up here? Sorry, we're just trying to move on. And make sure we have
12 your proper address.

13 May those of you who still wish to testify come forward. There's
14 about four chairs. I believe there were three or four more people who wished to
15 testify. Barbara Zartman was one. Anyone wish to testify?

16 Please come forward and sit at the table.

17 MS. ZARTMAN: If somebody asks me about Oxford House,
18 what else happened in that same edition of the Register and Jim Randall's
19 comments about the time line and what the Department of Justice would and would
20 not take exception to.

21 CHAIRPERSON KRESS: I think we know who you are, but
22 please do identify yourself for the record and your organization?

23 MS. ZARTMAN: My name is Barbara Zartman and I'm president
24 of the Federation of Citizens Associations in the District, an organization of perhaps
25 three dozen member organizations representing many thousands of District
26 residents and homeowners.

27 The point about Jim Randall indicated that if this Commission

1 does not complete its work but is in the process of preparing good faith efforts to
2 adopt the regulations, Jim's understanding with the Department of Justice was that
3 they would not hassle you. So it may be possible to provide the open record.

4 Good evening, ladies and gentlemen. Thank you for the
5 opportunity to once again speak to this issue, particularly the new proposals. I won't
6 repeat comments you may have heard me make earlier and I do have a formal
7 statement for you to consider.

8 I think the principal issue is how we deal with the desire to
9 accomplish conflicting good, how to preserve and enhance residential communities,
10 while accommodation the needs of persons who need special support to live
11 independently.

12 Let me raise some particular concerns about the Department of
13 Justice proposals. First, the spacing requirements for citing group homes is
14 necessary for both community stability and for healthy operation of group homes.
15 The very goal of noninstitutionalization is to create family-like residential
16 circumstances for disabled persons in need of some support. Creating enclaves of
17 group homes defeats this purpose, as well as changing the character of the very
18 residential communities they seek to join.

19 I attach to my testimony some 8 American Planning Association
20 policies on community homes that I think you will find helpful.

21 Second, the provision that 100 percent of the residents of a
22 CBRF had to be handicapped in order to qualify has been dropped. The reasons for
23 this change are not explained, nor are the subsequent standards explained. Is there
24 any standard at all?

25 Since the purpose of the entire agreement is to assist
26 handicapped persons why are nonhandicapped persons being accommodated?
27 How are the capitated numbers adjusted for staff families? We say two staff

1 members, but in one case there's a reference to two staff members and their
2 families.

3 Third, the intersection between correctional or post-correctional
4 facilities and facilities for the handicapped are not addressed. While the text argues
5 that adult rehabilitation homes in the correctional system are "not housing for the
6 handicapped" residences for recovering substance abusers or persons with other
7 handicaps who are also adjudicated felons appear to be indistinguishable from
8 facilities for the handicapped. A special concern is whether these proposals
9 override the District's version of Megan's Law, requiring community notice of the
10 release of violent sex offenders into a community, if indeed they also have had
11 substance abuse problems.

12 The National League of Cities, for example, asks that group
13 home policies include protections for residential neighborhoods by adequately
14 providing for (a) prohibiting siting homes for disabled persons who have been
15 convicted of crime and sentenced to a year or more of incarceration; (b) eliminating
16 familial status protections for juvenile delinquents serving their sentences for crimes
17 similar to those adult crimes; and (c) regulating the number of recovering substance
18 abusers in a single group home.

19 Fourth, the potential for misuse or abuse of institutional facilities
20 is overlooked. This document assumes that only our best angels will be involved in
21 the operation of group homes. The people who testified before you tonight I'm sure
22 would never present the kind of misuse and abuse of the system that communities
23 are concerned. However, the rules you adopt will not say these are rules just for
24 good providers. These are rules only for nonprofits. They will be rules for all to use
25 or to abuse.

26 Just as some communities may have behaved badly in the past,
27 so too have unscrupulous operators, disrupted those residential communities when

1 profit motives were involved. I submit with my statement a series of articles from the
2 Sacramento Bee, hardly a conservative publication which conducted an in-depth
3 series of reviews of group homes, particularly homes for youth. Among many of the
4 things that they cite in those reports were incentives that run as high as \$5,000 per
5 month per child for certain group homes. Surely this dynamic should be examined
6 when you said policies, to try to anticipate what dislocations communities may have.

7 And last, on the Department of Justice, matter of right is the
8 wrong way to provide to provide reasonable accommodation. Contrary to what has
9 been asserted, it is not the only way that is legally sustainable. It is simply the
10 Department's preference that you adopt matter of right standards for reasonable
11 accommodation. The Department of Justice has easily accommodated special
12 exceptions for reasonable accommodation. To do otherwise, to do as CNC
13 suggests would eliminate all zoning and licensing rules in all residential zones of the
14 District, making them all discretionary matters for the Director of DCRA when
15 handicapped persons seeking special accommodations were involved. That simply
16 is a denial of due process and it cannot be the way in which you adopt.

17 Special exceptions are a valid means of accomplishing this end,
18 while protecting the zoning goals of the District and the property rights of its citizens.
19 Section 201.10 is a wholly unacceptable change in the zoning code and is
20 potentially seriously destabilizing means to an end that can be accommodated at
21 lower cost.

22 As to the Campaign for New Community proposals, redefining
23 families out of existence is unacceptable. There are profound differences between
24 families and households, between families and corporations. Families are the
25 critical building blocks of our society, recognized for special protections by the courts
26 and by legislation. Those are protections to families, not to households or other
27 institutions.

1 I would suggest not to be too glib that rather than change the
2 household capitation to 15, that you lower the religious community capitation to 6. All
3 existing religious facilities will be grandfathered. Surely no one believes that groups
4 of 15 unrelated persons who are not handicapped can easily live in a single dwelling
5 unit and be indistinguishable from a family. The exception made for members of
6 religious communities reflects their particular and adopted living arrangements.

7 Second, eliminating distinctions about services that may be
8 provided goes too far in the CNC proposal. There must be reviewed the array of
9 services provided in residential facilities, as well as in nonhandicapped residences.
10 Clearly, not all convenience services are allowed in nondisabled residences. You
11 cannot have valet parking in your R-3 zone. The highest level of service support is
12 normally found in PUDs which have their own very detailed standard of review.
13 Creating a right to provide any and all imaginable services is overbroad for disabled
14 and nondisabled residents alike.

15 Additionally, much thought needs to be given to the single room
16 occupancy standards. We talked last time about single room occupancy nursing
17 homes in Rochester, New York and the total destruction of housing stock and
18 community that followed. This proposal is again overbroad and needs further
19 thought.

20 And last, the reasonable accommodation time lines of CNC, in
21 addition to the previously voiced concerns about the style of matter of right, the
22 proposal CNC suggests adopt a hair trigger standard far more demanding than that
23 granted nondisabled persons seeking approvals or reviews from DCRA. Fifteen
24 days, no response, done. No appeal, no right of the community, done.

25 The American Planning Association policies which I attach
26 suggest just a few things that I think are critical for your consideration. The goal of
27 group home life is to create family like living arrangements. For people with

1 developmental disabilities it is felt that smaller homes are more productive. Most
2 people with disabilities do not require community residences. More than 80 percent
3 of them live with their families or on their own.

4 The definition of family in most zoning codes, according to APA
5 allows no more than three, four or five unrelated individuals. Most of the FHA
6 litigation has been involved with the issue of reasonable accommodation. It makes
7 clear as the text of my statement says that it is not the intent of FHAA to treat
8 reasonable accommodation exactly the same as single family residences. And in
9 the interest of time I will skip.

10 Lastly, community residences should be scattered throughout
11 residential districts, rather than concentrated in any single neighborhood or on a
12 single block. For a group home to enable its residents to achieve normalization and
13 integration into the community, it should be located in the normal residential
14 neighborhood. Those aren't my words. Those are the APA's words. They go on to
15 cite further goals that are accomplished by doing that rather than creating de facto
16 social service communities. Further, they add this research demonstrates that there
17 is a legitimate government interest to assure that group homes do not cluster.

18 Finally, they recommend that local planners should involve
19 themselves with the community. This belies matter of fact zoning because then
20 there is no dialogue with the community. They say contrary to the proposal we had
21 last time that there should be secrecy to protect the privacy rights of the disabled.
22 APA says go and talk and know one another. It will result in a better facility and
23 better community relations and far less fear.

24 So there I ask you to not expand the capitation for family use, but
25 rather to reduce it. All the Department of Justice has asked you to do is create a
26 nondiscriminatory standard by creating the same standard for handicapped and
27 nonhandicapped families alike, you eliminate that concern.

1 Secondly, with regard to reasonable accommodation, stick with
2 special exception. You're allowed to do that. The Department of Justice hasn't said
3 you must. It said we prefer. Well, this part of your community prefers you do
4 otherwise.

5 Thank you.

6 CHAIRPERSON KRESS: Thank you, questions for Ms.
7 Zartman?

8 COMMISSIONER FRANKLIN: I have no questions but I want to
9 congratulate you on your usual responsible, thorough and eloquent testimony and I
10 hope that we'll have it in writing?

11 MS. ZARTMAN: Yes, you will have a full text.

12 COMMISSIONER FRANKLIN: I would like to study it and I think
13 you do your organization very proud, as you always do, when you appear before us.

14 MS. ZARTMAN: Thank you, Commissioner.

15 COMMISSIONER FRANKLIN: Thank you very much.

16 COMMISSIONER CLARENS: Hear, hear.

17 MS. ZARTMAN: Thank you.

18 CHAIRPERSON KRESS: Any other comments or questions?
19 Thank you very much.

20 COMMISSIONER CLARENS: Where is her document? Is that
21 coming up?

22 MS. PRUITT-WILLIAMS: We only have one copy.

23 CHAIRPERSON KRESS: We'll get copies.

24 MS. ZARTMAN: The APA text is quite lengthy and very
25 thoughtful and gives case citations. Oxford House is a unique kind of facility. It has
26 no staff. It's a mixture of recovery and treatment and they elect their own officers.
27 And the case did originate here. It originated in a noncapitated community where

1 there was no restriction. The community agreed that since Oxford House thought it
2 needed 15 to 20 people that that was the standard they'd go with and that's the
3 standard Oxford House has asked for ever since, but it's not unique to us.

4 CHAIRPERSON KRESS: Mr. Wolf, last but not least. Sorry, you
5 were at the bottom of the list. She's really at the bottom of the list.

6 MR. WOLF: I guess Barbara and I have had that problem for a
7 long time.

8 (Laughter.)

9 MR. WOLF: I am Richard N. Wolf, chair of the City Planning
10 Committee to Capitol Hill Restoration Society. And I testified before in this case and
11 I presented, produced testimony, written testimony which is in the previous record
12 and I have resubmitted it for this record. You have copies of my current testimony.
13 And I'm going to take a somewhat different tact from Ms. Zartman.

14 First of all, I want to say I believe this record should have
15 included whatever rule was out there with respect to reasonable accommodation at
16 this point with respect to whatever it is that the Administrator of DCRA is supposed
17 to be doing.

18 Secondly, I haven't seen in the record something produced by
19 the District of Columbia government which I have purchased and should be in your
20 record which is a fairly recent map of CBRFs throughout the District of Columbia.
21 It's quite graphic and quite a good piece of work.

22 I paid for this.

23 (Laughter.)

24 CHAIRPERSON KRESS: Where did you get it?

25 MR. WOLF: From Mr. Colby. I don't usually recite personal
26 stories in connection with testimony on zoning matters. They usually don't lend
27 themselves to this sort of thing, but there's been personal testimonies here and I

1 want to tell a story.

2 A colleague of my wife, my wife is a pediatrician on a medical
3 staff at a hospital here was at a function with us and she lives in Somerset,
4 Maryland. And she said that a group of nuns had approached her about assisting a
5 group of minority women who were infected with AIDS and have severe psychiatric
6 problems to find a group home site and assist them in providing them services.
7 After she told me that story I said well, where have you decided to look? She said
8 well the District of Columbia. I said have you thought about the town of Somerset or
9 have you thought about Bethesda or even Rockville because we have a lot of such
10 facilities already in the District of Columbia. She said she would. I got word back
11 that she had conducted her review of available sites and decided that they would
12 have to come to the District of Columbia because it has available services and
13 Montgomery County does not. I'll leave you with that thought.

14 CHAIRPERSON KRESS: Excuse me, available services, what
15 do you mean?

16 MR. WOLF: I presume they were medical services and
17 psychiatric services of one sort or another as well as a house in a neighborhood
18 which wouldn't perhaps go bonkers over having the siting of such a thing and I know
19 of no such facilities in the town of Somerset, Maryland. I'll leave it at that. I think the
20 point that I'm trying to make is that we have a regional problem which in my opinion
21 and I can't give you chapter and verse on this is being focused, the solution to the
22 problem is being focused on the District of Columbia and you'll find in my testimony
23 that my Ward Council Member, Mrs. Ambrose, who is a member of the COG
24 planning group is having a special presentation by the COG staff and others from
25 outside the staff on this very issue of what is the regional aspect of the problem.

26 In any event, I bring to this -- to my testimony more than 30
27 years of working on community issues, zoning issues, planning issues, historic

1 preservation issues. And with respect to social service issues, I want to mention
2 that I was the last Chairman of the Board of Capitol Hill Hospital. I was on the audit
3 committee of the Midatlantic Health Care Corporation which is a holding company
4 formed by Capitol Hill Hospital and Washington Hospital Center and we considered -
5 - must have considered a thousand different issues pertaining to social services,
6 medical services and what have you in connection with the service on both those
7 hospital boards.

8 I've also spent the last nine years as a founding member and
9 treasurer of the Ellen Wilson CDC which has been rebuilding the old Ellen Wilson
10 public housing complex at Capitol Hill into a new mixed income community under a
11 HOPE 6 grant from HUD. And that includes a social services component to it.

12 I take great difference of opinion with Mr. Feola and the
13 Campaign for a New Community and the Justice Department in suggesting that the
14 City of Washington abandon its established procedures for hearing zoning cases
15 and BZA cases and provide a reasonable accommodation of draconian dimensions
16 which would prohibit the public from being a party to what many of us fought to
17 become a party to years through the invocation of the DCAPA to the zoning process
18 and through establishing community organizations as having a right under certain
19 circumstances to become a party to a case, which are all important rights that would
20 be abandoned by the proposals before you. And I can certainly concur with Mrs.
21 Zartman that the case law and the Act itself does not require an abandonment of the
22 special exception procedures or anything else, as long as people are being
23 accommodated on a reasonable basis. I would suggest to you that this map gives
24 proof of the fact as it has been people have been able to establish these group
25 homes with some difficulty albeit, the difficulties obtained in establishing the zoning
26 for the Ellen Wilson mixed income community and some difficulties I had in erecting
27 a new garage on the back of my house, my lot because I needed a variance. I'm

1 sorry, but the District of Columbia perhaps is not as efficient an administrative
2 organization as it should be in handling these matters, but all of us may suffer from
3 that. There's equal opportunity, a level playing field, if you will, with respect to that. I
4 see no reason to give those who are deemed to be handicapped under the Act, a
5 special deal when there is no indication that they are being discriminated against or
6 that because they have some sort of special economic need, many of us have a
7 special economic need, be treated in a better way than we are treated by this
8 process.

9 By the way, having gone through this process with the Ellen
10 Wilson project, with lots of community opposition and appearing before ANCs with
11 our special exceptions and variances and requests and so forth, HPRB was a
12 salutary experience for all of us who were involved in this because it exposed a lot of
13 issues that were ironed out during this process. And although there are people in
14 the community who are still opposed to this project, it is going to be a better project.
15 Nothing is ever accomplished with unanimity behind it which is apparently what
16 these folks would like to see because they occupy the high moral ground. And that's
17 another matter. When you do things in the social services area, I think you have to
18 be humble about it because in many cases you are creating a situation in which
19 you're imposing some adverse conditions on a neighborhood in return for doing
20 something that is supposedly of greater public benefit. Those issues need to be
21 aired.

22 I finally want to say something concerning Dr. Rivkin's
23 comments. If Dr. Rivkin's view of the trends in this city were to be the basis for
24 making public policy and they have been in the past, there would be no Capitol Hill.
25 There would be no Logan Circle. There would be no Georgetown. There would be
26 -- all of these communities represent old areas of the city that serve different kinds of
27 functions at one time, different ways and styles of living. But people have reclaimed

1 them and created vibrant communities and it can happen in the rest of the District
2 too, providing that the District government does its duties with respect to creating a
3 safe environment.

4 Millions of dollars have been spent by people like me recreating
5 these communities. They are different from what they were 100 years ago, but they
6 are good, sound communities and there are families moving into these communities
7 too. I can tell you from my personal experience in the schools, the schools are
8 doing very well in many of these communities.

9 Accordingly, I think Dr. Rivkin's views and his facts and figures,
10 however interesting they may be, should not be the basis for establishing public
11 policy by this Commission.

12 You have my written materials. They address a lot of the same
13 kinds of issues as Mrs. Zartman and I'll conclude my testimony.

14 CHAIRPERSON KRESS: Thank you. Any questions?

15 COMMISSIONER FRANKLIN: Only that I think Mr. Wolf has
16 come up with a very novel defense to the Justice Department which is that the
17 District does not discriminate because it treats everyone equally badly.

18 (Laughter.)

19 MS. ZARTMAN: Actually, if I may ask your indulgence for one
20 further comment? I believe Albon Towers was to be represented here tonight with a
21 request that as you adopt these matter of right standards for the disabled, that you
22 extend it to matter of right use for seniors and I would remind the Commission that in
23 this community students are a protected class. So I don't know where you would a
24 stop to matter of right group homes.

25 CHAIRPERSON KRESS: Thank you. With that I'd like to talk to
26 the Commission for a moment. Without predeciding what we're going to be doing, it
27 appears that in order to possibly make the December deadline, we would need to

1 vote on this at the meeting which is October 19th. We would need to vote on this on
2 October 19th.

3 MS. PRUITT-WILLIAMS: And that reason is because you still, of
4 course, have a 30-day referral to NCPC also publication in the Register and review
5 by Corp. Council of all proposed rulemaking before it could actually -- before an
6 order could be drafted.

7 COMMISSIONER FRANKLIN: If we didn't vote on the 19th of
8 October, when would be the next time?

9 MS. PRUITT-WILLIAMS: Next time would be without calling a
10 special public hearing would be November 9th.

11 CHAIRPERSON KRESS: Meeting, meeting.

12 MS. PRUITT-WILLIAMS: I mean your next scheduled meeting
13 would be November 9th.

14 CHAIRPERSON KRESS: November 9th is also close to
15 December --

16 COMMISSIONER FRANKLIN: Well, I -- with all due respect to
17 the Justice Department, I don't think that if you're moving in good faith that that's a
18 deadline that -- maybe I'm wrong, but --

19 CHAIRPERSON KRESS: Could we ask Corporation Counsel to
20 speak to that?

21 MR. BRENNAN: I don't know what the Department of Justice's
22 view on that would be. I think that if the Commission is moving in good faith to
23 undertake this expeditiously that we could present a good case to the Department of
24 Justice and they may not act precipitously until the Commission has had a chance to
25 speak.

26 I do note that the additional agreement reflected exactly that kind
27 of recognition of the need for time by the Commission and gave it 450 days. There

1 is never any harm in asking.

2 COMMISSIONER CLARENS: And the fact is that the
3 Commission would have acted, hopefully, before that deadline. It would not be in
4 effect, but we would have acted and as noted by the Justice Department that a
5 decision has been made even though it has not gone through the process of actual -
6 -

7 MS. PRUITT-WILLIAMS: And becomes a formal rule.

8 CHAIRPERSON KRESS: All right, so I think I hear consensus.

9 MR. BRENNAN: I also want to indicate that the Department of
10 Consumer Regulatory Affairs has some pending regulations out there as well that
11 may be complementarily enacted and there's been some forbearance on the part of
12 the Department of Justice on that.

13 CHAIRPERSON KRESS: Okay. What date should -- are you
14 recommending Ms. --

15 MS. PRUITT-WILLIAMS: If you would like to take this up at your
16 November 9th meeting, that would also allow the ANCs to respond as requested.
17 We would need responses from them no later than the 26th.

18 CHAIRPERSON KRESS: October 26th.

19 MS. PRUITT-WILLIAMS: So that we will not have the problem of
20 copying, getting information which is a major, all-consuming effort for this office
21 which makes it difficult to get information to everybody.

22 CHAIRPERSON KRESS: I would also say because of the issue
23 of draft responses, anybody that wants to take a stab at drafting our decision pro or
24 con in the audience feel free and also get it to us by October 26th because that
25 could help us in our decision making and the write up, because we don't have time
26 to wait to write some major.

27 This does also include what I did ask of Office of Planning early

1 on that you had offered, that you would make some analysis of all of this new
2 information and also present it to us at -- well, so it can be sent out in that package
3 and presented to us at the November 9th meeting. And that's correct, Mr. Colby?

4 MR. COLBY: Yes. We normally on a hearing summary provide
5 not 10 days in advance as we did, as we do for hearing reports, but we do it in time
6 for you to get it in your package so that you have it and whatever that date is is
7 usually the Thursday or so before, if that's available.

8 CHAIRPERSON KRESS: And again, this is very voluminous. I
9 don't think you have to redo what you've done. It's just maybe tweak whatever new
10 information you've heard and whatever new advice you may have for us.

11 MR. COLBY: The problem, as the Commission knows, we're
12 hearing two very far apart ends of a spectrum of issues and to somehow weave a
13 solution on our part and of course on your part too is going to --

14 CHAIRPERSON KRESS: Difficult.

15 MR. COLBY: Problematic.

16 MS. PRUITT-WILLIAMS: Excuse me, Madam Chair?

17 CHAIRPERSON KRESS: Yes.

18 MS. PRUITT-WILLIAMS: Staff would like -- it's come to our
19 attention that if we move it one day we will allow most of the ANCs to comment, so I
20 would like to propose that we change the closing date to October 27th.

21 CHAIRPERSON KRESS: I'm sorry, I thought we were covered.

22 MS. PRUITT-WILLIAMS: No, I did too when we had originally
23 said the 26th. However, that would not allow one of the ANCs to get information in
24 without sort of waiving rules and all kinds of things. So if we could move it one day,
25 we would be able to accommodate everyone at least here.

26 CHAIRPERSON KRESS: Okay, then with that I'm going to
27 close, all right?

1 COMMISSIONER CLARENS: When will we get Ms. Zartman's
2 material?

3 MS. PRUITT-WILLIAMS: We can get that to you, we'll have it for
4 you on Monday.

5 COMMISSIONER CLARENS: Okay, fine.

6 CHAIRPERSON KRESS: Okay, ready? Ladies and gentlemen
7 and other Members of the Commission, I wish to thank you for your testimony and
8 assistance in this hearing. The record in this case will be kept open until October
9 27th for submissions of any additional information at all. Any special information or
10 reports specifically requested by the Commission must be filed no later than close of
11 business, 4:45 p.m. on October 27th in Suite 210 of this building.

12 The Commission will make a decision in this case at one of its
13 regular monthly meetings following the closing of the record. These meetings are
14 held at 1:30 p.m. on the second Monday of each month with some exceptions and
15 are open to the public. If any individual is interested in following this case further, I
16 suggest you contact staff to determine whether this case is on the agenda of a
17 particular meeting. You should also be aware that if the Commission proposes
18 affirmative action, the proposed action must be referred to NCPC for federal impact
19 review. The Zoning Commission will take final action at a public meeting following
20 receipt of the NCPC comments after which a written order will be published.

21 I now declare this hearing closed.

22 MS. PRUITT-WILLIAMS: Excuse me, Madam Chairperson?

23 CHAIRPERSON KRESS: Yes.

24 MS. PRUITT-WILLIAMS: Just for clarification, for the record,
25 you asked for OP to submit one submit item, correct?

26 CHAIRPERSON KRESS: That's correct.

27 MS. PRUITT-WILLIAMS: And everyone else, if they choose,

1 they may submit drafts or whatever?

2 CHAIRPERSON KRESS: Drafts, whatever.

3 MS. PRUITT-WILLIAMS: Comments or whatever.

4 CHAIRPERSON KRESS: Absolutely. Everybody clear?

5 Closed.

6 (Whereupon, at 10:48 p.m., the hearing was concluded.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23