

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

SPECIAL PUBLIC MEETING

+ + + + +

THURSDAY

MAY 24, 2018

+ + + + +

The Special Public Meeting of the District of Columbia Zoning Commission convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:30 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairperson
- ROBERT MILLER, Vice Chairperson
- MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)
- PETER G. MAY, Commissioner (NPS)
- PETER SHAPIRO, Commissioner
- MICHAEL G. TURNBULL, Commissioner

OFFICE OF ZONING STAFF PRESENT:

- SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

- JENNIFER STEINGASSER, Deputy Director, Development Review and Historic Preservation
- ANNE FOTHERGILL
- JOEL LAWSON
- TIMOTHY MAHER

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS STAFF
PRESENT:

PAUL GOLDSTEIN
MATTHEW LE GRANT

The transcript constitutes the minutes from
the Regular meeting held on May 24, 2018.

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

6:37 p.m.

CHAIRMAN HOOD: Okay. Let's get started.

Good evening, ladies and gentleman. This is a public hearing of the Zoning Commission for the District of Columbia.

Hold one sec. Okay, that will work.

Okay. Today's date is May the 24th, 2018. We're located in Jerrily R. Kress Memorial Hearing Room.

My name is Anthony Hood. Joining me this evening are Vice Chair Miller, Commissioner Shapiro, Commissioner May, and Commissioner Turnbull. We're joined by the Office of Zoning staff, Ms. Sharon Schellin, as well as the Office of Planning staff, Ms. Steingasser, Mr. Lawson, and Ms. Fothergill. Also, from the Office of Planning, Mr. Maher. Did I get it --

MR. MAHER: Maher.

CHAIRMAN HOOD: Maher? Okay, Mr. Maher.

Also, from the Zoning Administrator's Office, we have Mr. Le Grant and Mr. Goldstein.

This proceeding is being recorded by a court reporter. It is also webcast live. Accordingly, we must ask you to refrain from any disrupting noises or actions in the hearing room, including display of any signs or objects.

Notice of today's hearing was published in the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 D.C. Register, and copies of that announcement are available
2 to my left on the wall near the door.

3 Tonight we're just doing deliberations, and we're
4 going to talk among ourselves. We may have questions for the
5 Office of Planning or for the Zoning Administrator's Office
6 as well. And we will move in that format.

7 Ms. Schellin, do we have anything else?

8 MS. SCHELLIN: No, sir.

9 CHAIRMAN HOOD: Okay. Colleagues, we do have
10 outlined for us a matrix, and that is Exhibit -- what exhibit
11 is that? -- Exhibit 33, beginning on page 10. Let me get
12 that up.

13 What I would like to do is take each section in
14 this matrix and go through it, and if we have any comments
15 -- so, even if we need to ask questions, well, we can have
16 the discussion among ourselves. We have set for us DCRA's
17 comments. We have some public comments as well, and we have
18 our own comments as well. And then, we have recommendations
19 made to us by the Office of Planning. And then, we can come
20 up with our decision.

21 I'm not sure, but I think what I'll just read is
22 what's being proposed. No, actually, I won't.

23 Hold on for a second.

24 So, let me just read. Let's start off with the
25 proposed amendment to amend Subtitle B, Section 100.2. We're

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 on the definitions. And the first definition is --
2 basically, is it easier for me to read what's being proposed,
3 or do I need to do all this reading?

4 COMMISSIONER SHAPIRO: I'm not sure you do, Mr.
5 Chair.

6 CHAIRMAN HOOD: Okay.

7 COMMISSIONER MAY: No, I mean, I think we can go
8 through them, say, topic by topic from the matrix.

9 CHAIRMAN HOOD: Okay.

10 COMMISSIONER MAY: But if there are things that
11 we need to say, we can say them. If not --

12 CHAIRMAN HOOD: Okay. So, why don't we just do
13 -- any questions or comments on the proposed amendments for
14 the basement? As I mentioned, we have DCRA's comments, the
15 public comments that we've gotten from the public, our own
16 comments, Office of Planning's recommendations, as well as
17 whatever our decision is.

18 VICE CHAIR MILLER: It might be useful to read the
19 OP recommendation, just so the public understands what we're
20 talking about.

21 CHAIRMAN HOOD: Okay. Okay. All right.

22 VICE CHAIR MILLER: Or what we're saying we don't
23 have a problem with.

24 CHAIRMAN HOOD: All right. I'll read some, and
25 you and I will share. Okay.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 VICE CHAIR MILLER: Okay.

2 CHAIRMAN HOOD: That's fine.

3 VICE CHAIR MILLER: I knew that was going to be
4 a suggestion.

5 (Laughter.)

6 I knew I was getting in trouble for that.

7 CHAIRMAN HOOD: All right. So, the Office of
8 Planning's recommendation is that this would change -- this
9 is what they're saying -- this will change the measuring
10 surface.

11 You know what? Hold on. I think you bring up
12 another point.

13 Let me read DCRA's comments. Because when I start
14 reading, if I'm listening to this, I'll get probably confused
15 myself.

16 DCRA's comments, and this is talking about
17 proposed basement definitions. DCRA comments: "Taking the
18 lower in elevation of natural, existing, or finished grade
19 is intended to discourage the strategic raising of finished
20 grade to create a cellar."

21 Again, we don't want to do away with our public
22 comments. We can go back to those.

23 Office of Planning's recommendation: "This would
24 change the measuring surface from ceiling to the finished
25 floor of a ground floor. This will help avoid the use of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 artificially dropped ceilings and clarifies the use of the
2 ground floor, which is a defined term in the regulations.
3 OP supports 5 feet as the dimension to the top of floor and
4 proposes to make it consistent with the rules of measurement
5 in 304.4 and 304.5. OP confirmed with DCRA that 1 foot is
6 standard in the construction industry for the ceiling-to-
7 floor dimensions. DCRA has proposed new rules of measurement
8 to Subtitle B, Sections 310.5, 310.6, 304.8, to address floor
9 levels and split level and gut renovation scenarios. See
10 Section 4(b)."

11 And we have some of the public comments that we've
12 had as well as our own comments. And I think some of that
13 has been answered.

14 Any comments on this?

15 COMMISSIONER MAY: Yes, Mr. Chairman, I would just
16 say that I think that this is right strategy. I mean, this
17 is not too different from -- or maybe not everything, not all
18 different from what was originally proposed, which was,
19 instead of measuring 4 feet to the bottom of the ceiling,
20 which led to artificially low ceilings, or only from a
21 finished grade, which led to people raising the finished
22 grade in order to get something changed from a basement to
23 a cellar -- I mean, I think this addresses both sides of that
24 equation and makes it clear, and I think, properly, it
25 strikes the right balance in making it clear what people

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 should be able to do with these properties.

2 CHAIRMAN HOOD: Any other comments?

3 (No response.)

4 Okay. So, we will take the recommendation that's
5 being presented.

6 Do we need to vote on it individually or just --
7 okay.

8 All right. Let's go to the next one, the building
9 area.

10 COMMISSIONER MAY: Mr. Chairman, if I may --

11 CHAIRMAN HOOD: Sure.

12 COMMISSIONER MAY: -- I don't think that we need
13 to read through every part of this, when this is pretty
14 straightforward. They're just trying to -- they're deleting
15 a portion of the definition which I think was confusing
16 anyway.

17 CHAIRMAN HOOD: Okay. And this one, no, but I
18 think the Vice Chair had asked me to read the OP
19 recommendations. So, in this one, I was going to do that.

20 Do you still want me to read this?

21 VICE CHAIR MILLER: I think it's helpful.

22 CHAIRMAN HOOD: Okay. "Strike through" --

23 VICE CHAIR MILLER: Do you want me to do it?

24 CHAIRMAN HOOD: No, I can read it. I can read
25 that. Don't worry.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 (Laughter.)

2 VICE CHAIR MILLER: You can call on me.

3 CHAIRMAN HOOD: I'll call on you, believe me.

4 Okay. This is the Office of Planning's
5 recommendation: "Strikethrough blue text is moved to Rules
6 of Measurement, B308. With the changes proposed in this text
7 amendment, height will be measured from the lower of natural
8 or finished grade and berming will not be an issue as such
9 to berm." I guess that's right. "Text is no longer proposed
10 for relocation. OP recommends approval of this change."

11 And you can see all the lines and the strikes.

12 COMMISSIONER MAY: I do think that's all fine.
13 I think that you skipped over one of the other proposed
14 amendments having to do with building area. We're in the
15 height of building. So, at the top of that page.

16 CHAIRMAN HOOD: Oh, okay.

17 COMMISSIONER MAY: We can go back to that one.

18 CHAIRMAN HOOD: Okay.

19 COMMISSIONER MAY: But I think this is all fine.

20 CHAIRMAN HOOD: Okay.

21 COMMISSIONER MAY: It makes it clear and simpler.

22 CHAIRMAN HOOD: Okay. And this one, the one that
23 I skipped, this was building area. The first thing it says,
24 "This removes the allowance for space that is still above
25 grade. OP recommends approval of this change."

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 I think, as stated, both of those are pretty
2 straightforward, but I wanted to do as asked.

3 All right. Are we ready to move? Okay. And a
4 lot of the stuff we talked through earlier.

5 Ms. Schellin, can you help me? Why did we decide
6 to do this like this? I'm not understanding.

7 MS. SCHELLIN: I think that the Commission asked
8 for some additional information.

9 CHAIRMAN HOOD: Okay, okay.

10 MS. SCHELLIN: And that was why. And so, you guys
11 wanted to have to further deliberations on it. And I would
12 assume, if you choose to go forward with a vote this evening,
13 then you could do that.

14 CHAIRMAN HOOD: Right, right. Okay.

15 MS. SCHELLIN: But it's up to you. We've put it
16 on for further deliberations, instead of proposed action for
17 that purpose --

18 CHAIRMAN HOOD: It looks like a lot of the work --

19 MS. SCHELLIN: -- because you weren't sure if you
20 were going to take action or not.

21 CHAIRMAN HOOD: Right. A lot of the work that we
22 asked for, what we asked, it looks like it's gotten done.
23 So, that's probably why I'm wondering why I'm here. But,
24 anyway, I want to thank all those who had a hand in doing
25 that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 VICE CHAIR MILLER: I agree, the matrix is very
2 helpful. It's a lot of information, and it helped organize
3 the information.

4 CHAIRMAN HOOD: Okay. So, let me know if I skip
5 one. I have glasses and I still make mistakes.

6 So, the next proposed amendment, Building Height
7 Measuring Points.

8 Did I skip another one? Oh, I heard somebody say
9 I skipped. Okay, I'm confused enough. All right.

10 Anyway, proposed amendment, Building Height
11 Measuring Point. Office of Planning's recommendation: "The
12 proposed changes recognize the building height measuring
13 point is used in all zones. The Zoning Commission recently
14 supported the use of BHMP as the measuring location, and it
15 has been widely accepted. OP recommends approval of this
16 change."

17 Any comments from colleagues on this one?

18 (No response.)

19 Okay. I think we've discussed that.

20 Okay. Now I'm going to cellar. DCRA says,
21 "Taking the lower in elevation of natural, existing, or
22 finished grade intends to discourage the strategic raising
23 of finished grade to create a cellar."

24 Office of Planning's recommendations: "This
25 changes the measuring surface from ceiling to the finished

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 floor of the ground floor. This change will help avoid the
2 use of artificially dropped ceilings and clarifies the use
3 of the ground floor, which is a defined term. OP supports
4 5 feet as the dimension to the top of the floor and proposes
5 to make it consistent with the Rules of Measurement in 304.4,
6 304.5. DCRA has proposed new Rules for Measurement as
7 Subtitle B, Sections 3110.5, 3110.6, 304.8, to address the
8 split-level scenario. See Section 4(b)."

9 We've dealt with that before. But anything on
10 this one? It's talking about the cellar.

11 (No response.)

12 I was just looking at the public comments. We did
13 have something from DCRA, but I think if there's no concerns
14 of Paul's, let's move on.

15 Proposed amendment, floor area ratio, the Office
16 of Planning's recommendations: "The text proposed to be
17 deleted is already in Section B, Section 303, and is,
18 therefore, not needed in the definitions. OP's recommends
19 approval of this change."

20 Okay? Keep moving.

21 Finish grade. DCRA's comments, "Remove the
22 struck-through text in 2, as noted in Office of Planning
23 report. Report top edge of window well."

24 Okay, you know what? I'm not going to read it.

25 Let me go to the Office of Planning's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 recommendations. Those just tell us what the recommendations
2 are with the proposed language.

3 Office of Planning recommendations: "The proposed
4 text clarifies the exceptions to finish grade. The text `or
5 at the top edge of the window well' has been removed from the
6 proposed changes. Additionally, language has been added to
7 the definition regarding stairs and ramps. OP has proposed
8 the recommended change to the definitions of natural grade,
9 driveways, ground floor measurements, and limiting areaways
10 have been addressed in Rules of Measurement. Building Codes
11 do not regulate the size constraints of an areaway, and OP
12 provided additional information on how areaways and window
13 wells in public space are reviewed in the appendix."

14 Okay. So, that just explains that's why the
15 window wells has been removed from this proposed language,
16 because it's spelled out somewhere else.

17 Mr. May?

18 COMMISSIONER MAY: So, yes, I think that this
19 whole discussion of window wells and areaways was very
20 helpful, and the rules that are being set out I think make
21 sense. I did want to clarify one thing.

22 I mean, a window well is essentially just a well
23 for a window only. And if you have something that is -- I
24 mean, an areaway could include a window and include a door,
25 but the key thing is that it provides a stairway or a ramp

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 to grade. Is that right? Do I understand that correctly?
2 I'm looking generally in this direction, but maybe Mr. Le
3 Grant --

4 MR. LE GRANT: Yes. Yes, I'll attempt to address
5 your question, Commissioner.

6 So, yes, the distinction is a window well is only
7 for the light and air access to the window. In some cases,
8 it may include a ladder for emergency egress, if it meets
9 Building Code requirements. Distinguish it from an areaway,
10 which is -- again, that's why it's a little bigger -- it has
11 the presence of a door that allows a person's access either
12 from the interior of the building and sometimes, in addition,
13 to the exterior with an exterior stairway leading to it. So,
14 that areaway has a place where a person could walk through.

15 COMMISSIONER MAY: Got it. So, it's the presence
16 of the door into that space, is what makes it an areaway, and
17 it may or may not have a stairway out?

18 MR. LE GRANT: Correct.

19 COMMISSIONER MAY: Right. Okay. All right. Now
20 that's helpful because I was just a little confused by what
21 the difference was.

22 And we're saying that an areaway can be 5 feet and
23 not affect the building height measuring point, and a window
24 well could be 4 feet and not affect the building height
25 measuring point?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MR. LE GRANT: That's correct.

2 COMMISSIONER MAY: And if they get bigger than
3 that, then the measuring point drops to the bottom of the
4 well or the areaway?

5 MR. LE GRANT: That's correct. So, beyond that,
6 those dimensions, my office has treated this more as a,
7 quote/unquote, "sunken patio".

8 COMMISSIONER MAY: Right.

9 MR. LE GRANT: Then, right, the BHMP, or the
10 building height measuring point, then goes to the lowest
11 level of that feature to be --

12 COMMISSIONER MAY: Right.

13 MR. LE GRANT: -- the point to measure the
14 building height.

15 COMMISSIONER MAY: Right. And then, that also
16 would affect gross floor area and number of stories, right?

17 MR. LE GRANT: Right. So, the two components
18 would be the height, which, of course, the zoning regulations
19 measure in terms of absolute number of feet, and in some
20 zones the number of stories. If it's no longer an exception
21 to grade for an allowable window well or areaway, then that
22 could influence that.

23 Likewise, in those zones in which one employs --
24 and you'll see further in the perimeter wall method of
25 allocating FAR to the lower level of the building, a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 permissible window well or areaway is excluded from the
2 perimeter wall methodology that otherwise would come to play
3 for the calculation of the chargeable FAR of that lower
4 level.

5 COMMISSIONER MAY: Right. So, then, I would ask
6 one other question of the Office of Planning. I know that
7 we have seen some developments where -- I mean, typically,
8 large apartment buildings where there was a large sunken
9 patio for a number of units. I mean, have we seen a lot
10 where the dimension exceeds 5 feet for the areaway? And
11 would we expect the effect of this to be that we would still
12 have those sorts of things, but they would be limited to 5
13 feet? Is that really what it comes down to?

14 MS. STEINGASSER: Yes.

15 COMMISSIONER MAY: Yes?

16 MS. STEINGASSER: Yes, we are seeing more of them
17 and we are expecting this would impact that.

18 COMMISSIONER MAY: Right, impact that. I mean,
19 do we see a lot of them where it's a lot deeper than 5 feet?
20 Or the projection is a lot more than 5 feet?

21 MS. STEINGASSER: I'm not sure about more --
22 projection out from the building, no. No, not more than 5
23 feet.

24 COMMISSIONER MAY: Right, right. Okay. All
25 right. Because, I mean, it's an interesting way of gaining

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 a little bit of extra FAR without it counting. And I just
2 didn't know how frequently it was a lot bigger. I mean, I'm
3 thinking of one architect, in particular, who loves doing
4 those things, and they get really big, or at least that's
5 what my recollection is.

6 MS. STEINGASSER: They get very long, in that they
7 run the length of the building, but projecting out from the
8 building, we haven't seen that many. I actually would have
9 to go back and check.

10 COMMISSIONER MAY: Okay. Yes. I mean, it was the
11 slideshow that you submitted into the record that triggered
12 these memories of those other projects.

13 So, thank you.

14 CHAIRMAN HOOD: I want to go back to what Mr.
15 Eckenwiler, in that discussion about areaways, he talked,
16 when he testified, about the need to be thought through, that
17 we needed to have more thought. And I want to know, did we
18 necessarily think that through, his comments. And I'll just
19 read part of it.

20 "This needs to be thought through. The 5-foot
21 area stand needs to be thought through more and recognize
22 that thousands of homes have those iron stairways to access
23 their homes" -- this may be in line with the question of
24 Commissioner May, but I need to understand it for myself --
25 "their homes, and they are not really areaways." Did we look

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 at that? Did we look at that, Ms. Fothergill?

2 MS. FOTHERGILL: We did. And so, the language was
3 added "Areaway measurement does not include stairs or ramps."
4 for that purpose.

5 CHAIRMAN HOOD: So, we covered, that will cover
6 his point, the way I'm reading it?

7 MS. FOTHERGILL: That's right.

8 CHAIRMAN HOOD: Okay. Okay, good.

9 And there some something else that he brought up.
10 I think I'll ask the revocation issue at the end. Okay.

11 All right. Okay. Let me go back. Let me get my
12 computer back up. Are you having problems with your
13 computer? Yes, I see. I wanted to use both of them. Yes,
14 let me get mine back up. Yes, something's wrong. Yes, you
15 might want to leave it. Give me one second to open my file
16 back up.

17 So, you won't have to wait on me, Commissioner
18 Miller, could you read through the next one, please?

19 VICE CHAIR MILLER: Sure, Mr. Chairman.

20 So, the next proposed amendment is, I think,
21 natural grade at the top of page 15.

22 CHAIRMAN HOOD: Right.

23 VICE CHAIR MILLER: The OP recommendation -- well,
24 I'll read the DCRA comments. "This change as proposed would
25 make this definition of natural grade consistent with the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 definition of finished grade, as well as to extend the
2 timeframe for alterations to a grade. This was introduced
3 by DCRA at the public hearing, but not included in the
4 original hearing report. DCRA proposes the amended
5 definition of natural grade to change the timeframe from two
6 years to five years, to restrict grade manipulation, and add
7 in an exception for areaways and window wells for consistency
8 with definition of finished grade."

9 And the OP says that, "This will allow for
10 assessment of changes to grade within the past five years and
11 includes exceptions that align with finished grade. OP
12 recommends approval of this change."

13 Does anybody have any comments on this?

14 COMMISSIONER TURNBULL: No. I would just like the
15 change to five years. I think that makes more sense.

16 CHAIRMAN HOOD: Mr. Shapiro?

17 COMMISSIONER SHAPIRO: For my clarity, two years
18 to five years is measured from what point?

19 MR. LE GRANT: So, Commissioner, as with all
20 applications, we would look at the building permit
21 application date vis-a-vis -- as the timeframe in measuring
22 back. In the past, we would rely on a representation,
23 subject to staff verification of what the representation of
24 the grade levels were.

25 COMMISSIONER SHAPIRO: Thank you. Thank you, Mr.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Chair.

2 VICE CHAIR MILLER: And how would you verify? By
3 the submission of materials that they --

4 MR. LE GRANT: Right. They would have to make a
5 representation. We look at records, including the aerial
6 photographs and other information. If a question arose, then
7 I think I would ask for an engineer's report or further
8 information to substantiate the representation.

9 VICE CHAIR MILLER: Thank you.

10 Should I go on to the next one?

11 CHAIRMAN HOOD: Yes, I will do the next.

12 Okay. Let's go to habitable room. DCRA's
13 comments -- oh, I'm sorry. Okay. Okay, you can finish that
14 page.

15 VICE CHAIR MILLER: Okay. I'm sorry I brought it
16 up again.

17 So, there's a proposed amendment to gross floor
18 area. OP's recommendations: "This proposed change clarifies
19 that gross floor area may be specifically modified elsewhere
20 in the title and the gross floor area includes all floors.
21 OP recommends approval of this change."

22 Any comments? Any problems?

23 (No response.)

24 Okay.

25 CHAIRMAN HOOD: Okay. Let's go to habitable room.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 DCRA's comments: "Remove attics and cellars from definition
2 due to confusion related to the meaning and application of
3 the term `habitable room'. Habitable rooms has limited use
4 in regulations. Consider removing the entire second sentence
5 of the definition which is noted."

6 And Office of Planning's recommendation: "The
7 proposed change removes automatic exclusion of attics and
8 cellars from the definitions of habitable room. OP supports
9 DCRA's proposal to remove the second sentence of the
10 definition for simplification and clarification of the
11 regulations, but at this point is only proposing what was
12 presented at the public hearing. Many of the public comments
13 and concerns are specifically about the issue of counting
14 living space and cellars towards GFA and gross floor area and
15 number of stories, which will be addressed in a separate
16 report, Section 3. Office of Planning recommends approval
17 of this text."

18 That's quite a bit. Any questions or comments?
19 Yes?

20 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.

21 I just want to be clear. So, OP is recommending
22 removing the second sentence of this as part of our action?

23 MS. FOTHERGILL: DCRA had suggested it, and OP
24 supports it, but at this point we didn't propose it in the
25 text because it wasn't presented at the public hearing. But,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 if the Commission chose to move it, OP does support it.

2 COMMISSIONER SHAPIRO: I imagine there are a
3 number of things here that are being tweaked that weren't
4 proposed at the public hearing. You're making the
5 distinction here because it's just significant enough?

6 MS. FOTHERGILL: No. I think we all think it
7 doesn't need to be in the definition, but because this is an
8 issue that got a lot of discussion at the public hearing, I
9 don't know that we wanted to propose an additional change.

10 MS. STEINGASSER: That's correct. We do support
11 DCRA's proposal that removing that -- that second sentence
12 is not necessary for the definition. We agree with that.
13 It wasn't advertised in the public hearing, and the issue did
14 garner a lot of discussion. So, we felt that deleting it now
15 midway through might not be appropriate. OAG is not here
16 this evening, but if they're comfortable with it being a
17 result of the public hearing and being advertised for
18 proposed action, and getting feedback at that point, we're
19 comfortable with that.

20 COMMISSIONER SHAPIRO: Thank you.

21 MS. STEINGASSER: But we do agree it's an
22 unnecessary part of the definition.

23 COMMISSIONER SHAPIRO: Thank you very much.
24 That's helpful.

25 And I'm curious where my colleagues are. I mean,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 I'm fine with having it removed, especially if OAG feels that
2 it is appropriate to have us do it. But I'm not sure where
3 you all are.

4 VICE CHAIR MILLER: I'm okay as long as it goes
5 out as re-advertised and for proposed rulemaking, and then,
6 there is a public comment period. I'm okay with that. There
7 may be a way to call out those items in the advertisement
8 that need calling out for this purpose, for this reason.

9 CHAIRMAN HOOD: Any other comments on that?
10 Commissioner May?

11 COMMISSIONER MAY: Yes. So, on the broader issue
12 of cellars and how we should treat cellars, I think one of
13 the things that I had discussed was the prospect of counting
14 cellar space, but discounting it as worth less than regular
15 floor space and things like that. And I've spent a lot of
16 time thinking about that since we had the hearing and had all
17 the input. I've sort of fallen back to where we were in
18 that. I don't see a strong need at this moment to make
19 changes that would affect the ability of people to make
20 habitable space in cellars, because it is a way of having
21 additional living space without having visible effects on the
22 rest of the neighborhood.

23 I mean, yes, theoretically, it means more people
24 might be living in a given space and, theoretically, it might
25 mean that there might be more cars in a space, but I think

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 that there are other aspects of regulations that can deal
2 with the car issue; plus, in the not-too-distant future I
3 think we will be seeing fewer vehicles generally, not that
4 all parking issues in the city are going to go away, but I
5 think the Zoning Commission in its other actions on parking
6 is seeing less need for parking. So, I don't think that's
7 a reason not to make use of collar space for housing.

8 I mean, does it hurt a neighborhood to have more
9 people in it? I don't think it really does. In fact, we
10 need places for people to live. So, I'm fine with continuing
11 the way we have been doing for as long as any of us can
12 remember.

13 VICE CHAIR MILLER: You're saying that the --

14 COMMISSIONER MAY: I'm reacting to the Zoning
15 Commission comments that were in this section which had to
16 do with not allowing cellar space. It could lead to more
17 pop-backs and discounting cellar space, that concept.

18 VICE CHAIR MILLER: I think I concur with your
19 comments on this matter.

20 COMMISSIONER MAY: Yes. I mean, I do think, also,
21 I didn't mention it specifically, but if we don't allow the
22 cellar space to be used for habitation, then it could
23 encourage more pop-backs or pop-ups or things -- well, I
24 guess we could get to pop-up in a second. It would affect
25 pop-ups, but it could affect pop-backs. I think we would

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 rather not have to deal with too much of that.

2 CHAIRMAN HOOD: Right. I would agree.

3 Let me ask you this, though, Commissioner: I was
4 trying to see how you tied in parking. You said the city
5 soon will not need many parking spaces? Did you say that or
6 am I not hearing you clearly?

7 COMMISSIONER MAY: Well, right. I mean, I think
8 we've already made judgments about parking in the zoning
9 regulation changes in ZR 16.

10 But, I mean, again, the issue with having cellar space
11 becoming, more cellar space becoming habitable, becoming
12 apartments or part of -- you know, splitting a townhouse into
13 two bigger units, things like that, that puts more people
14 into what was originally like a single-family home.

15 CHAIRMAN HOOD: Right.

16 COMMISSIONER MAY: What are the impacts that might
17 be associated with that? The impacts, by simply using cellar
18 space, generally are going to be the fact that you might have
19 more people living there or you might have a need for more
20 cars to be parked in that neighborhood. And I'm thinking
21 specifically of townhouses in an RF-1 neighborhood, something
22 like that.

23 CHAIRMAN HOOD: Okay. I misunderstood you. I
24 thought I heard --

25 COMMISSIONER MAY: That's where I tied it into

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 parking.

2 CHAIRMAN HOOD: I thought you said we made the
3 decision, though -- maybe I misheard you -- that the city
4 didn't need parking spaces.

5 COMMISSIONER MAY: Yes, we made a decision that
6 the city doesn't need any more parking space. No, that's not
7 the decision --

8 (Laughter.)

9 CHAIRMAN HOOD: Okay. That's what I thought I
10 heard.

11 COMMISSIONER MAY: We made a lot of changes to
12 parking in ZR 16. I hope you remember those.

13 CHAIRMAN HOOD: I do, but some of us may have made
14 some decisions on different assumptions, because I didn't
15 make anything on saying -- I want to make that clear; Anthony
16 Hood didn't say anything about not needing additional parking
17 spaces, even though we looked at that.

18 COMMISSIONER MAY: Right.

19 CHAIRMAN HOOD: For me, I tried to balance it with
20 the other modes of transportation.

21 COMMISSIONER MAY: Sure. Right. But I think,
22 generally speaking, from a policy perspective, the District
23 is pretty clear in wanting to discourage vehicle trips, and
24 parking spaces encourages, you know, lots of parking
25 encourages vehicle trips. But I'm just talking sort of as

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 a general policy perspective, what our attitude towards
2 parking is. And I think it's we don't so much set the policy
3 as we do set the regulations based on that policy.

4 CHAIRMAN HOOD: Okay.

5 COMMISSIONER MAY: And the policy is to discourage
6 more vehicles and more vehicle trips.

7 CHAIRMAN HOOD: Okay. I don't know if I always
8 -- yes, well --

9 COMMISSIONER MAY: I led us down the wrong path.
10 Let's just move on to the next piece.

11 CHAIRMAN HOOD: Yes, because I don't want that to
12 get tweeted out, and I don't want my name to be associated
13 with --

14 (Laughter.)

15 Anyway --

16 COMMISSIONER TURNBULL: Well, one of the things
17 I hope this will clarify or solve is that, by not limiting
18 habitable spaces to only the basement, we will eliminate a
19 lot of what we saw in BZA cases of manipulation of grades to
20 try to make it a BZA instead of a cellar. I mean, that
21 became a lot of BZA cases, a lot of appeals. I think by
22 leveling the playing ground and saying that you can have a
23 habitable room in both a cellar and a basement, hopefully,
24 we will solve some of the other issues that we had with
25 adjacent neighbors and trying to manipulate grades, and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 everything else. So, I'm hoping this solves a bigger issue
2 also.

3 CHAIRMAN HOOD: Okay. Anything else on that?

4 (No response.)

5 So, we all agree with what is proposed? Okay.

6 Let's go to -- I think we're on page 17. Correct?

7 VICE CHAIR MILLER: Yes.

8 CHAIRMAN HOOD: Okay. This is story, the space
9 between -- well, a story, the space between two successive
10 floors in a building or between the top floor and the ceiling
11 of the underside of the roof framing. And it tells us what
12 the changes were. DCRA's comments, I don't see any.

13 OP's recommendation: "The definition of story is
14 currently duplicative under Definitions and Rules of
15 Measurement. All deletions are proposed to be removed from
16 definitions, but will remain in the Rules of Measurement.
17 OP recommends approval of this change."

18 Any objections?

19 (No response.)

20 Okay. We will accept that.

21 Let's move on to window well.

22 DCRA's comments: "Need to distinguish between
23 window wells and areaways. The definition was introduced by
24 DCRA at the public hearing, but not included in the hearing
25 report."

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 OP's recommendations: "OP has provided additional
2 information on how areaways and window wells and public space
3 are reviewed in the appendix. OP recommends approval of this
4 change."

5 Apparently, this was not done previously. So, I
6 guess we're going to have to re-advertise it anyway. So,
7 okay.

8 Any comments on that?

9 COMMISSIONER SHAPIRO: Just one comment, Mr.
10 Chair.

11 CHAIRMAN HOOD: Yes.

12 COMMISSIONER SHAPIRO: And maybe this occurs
13 elsewhere, but does emergency egress need to be defined in
14 some way? Or is it defined in some way elsewhere?

15 MR. LE GRANT: Well, it's defined in the Building
16 Code. I would rely on that as a reference. If the D.C.
17 Building or Construction Code classifies it as emergency
18 access, egress, I would accept that as valid for this
19 purpose.

20 COMMISSIONER SHAPIRO: And any emergency still is
21 within the parameters that you described before?

22 MR. LE GRANT: Yes.

23 COMMISSIONER SHAPIRO: Okay. Thank you. Thank
24 you, Mr. Chair.

25 VICE CHAIR MILLER: And I would just note that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 OP's subsequent report deleted the word "basement" from a
2 window well definition that's in front of us, and in a May
3 14th report they said that shouldn't have been included in
4 the original, in the proposed definition.

5 So, it just reads, the definition reads, "a
6 subsurface space adjacent to a building open at the top or
7 protected by grading required that affords access, air,
8 light, or emergency egress to a window" -- without the word
9 "basement" in front of "window".

10 CHAIRMAN HOOD: Okay. Any more questions or
11 comments?

12 (No response.)

13 All right. Let's move on to proposed calculation
14 of perimeter wall method. And I don't see any ZA comments,
15 but the Office of Planning's recommendation: "This section
16 explains what is commonly referred to as perimeter wall
17 method. This text proposed would change the measuring
18 surface from ceiling to the finished floor of the ground
19 floor. This change will help avoid artificially dropped
20 ceilings and clarifies the use of the ground floor, which is
21 a defined term, instead of story above, which is not a
22 defined or exact term. It also aligns the height with the
23 section below" -- and it says "the grade plane method" -- "to
24 a consistent 5 feet. The text has been revised to ensure
25 that it measures what is above grade. OP can continue to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 work with OZ on providing diagrams and graphics. OP
2 recommends approval of the language shown above."

3 Any questions or comments on this, again, dealing
4 with the calculation of perimeter wall method?

5 (No response.)

6 And I am really hoping we can still work and get
7 those diagrams. I think that would be very helpful.

8 Mr. Shapiro?

9 COMMISSIONER SHAPIRO: Yes, I may be off on this,
10 maybe it's a misunderstanding, but is this one of the ones
11 where there were questions about what happens if it's a
12 split-level ground floor? Or is that not relevant here?

13 MR. GOLDSTEIN: I think that may be more relevant
14 for the measurement of story rather than GFA. I'm trying to
15 think if that has implications here as well. I don't believe
16 so.

17 COMMISSIONER SHAPIRO: Okay. Thank you, Mr.
18 Chair.

19 COMMISSIONER TURNBULL: Mr. Chair, I would just
20 add, we have been talking about ground floor. The definition
21 reads, just for the record, "the floor level nearest to and
22 above the adjacent finished grade", just so that we're all
23 clear on what that is.

24 CHAIRMAN HOOD: What's that, Mr. Turnbull?

25 COMMISSIONER TURNBULL: Ground floor is "the floor

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 level nearest to and above the adjacent finished grade".

2 CHAIRMAN HOOD: Okay.

3 MR. GOLDSTEIN: Yes, I'm sorry, just interested
4 by that point. Were you suggesting to potentially get at it,
5 should it say "adjacent natural or finished grade, whichever
6 is lower," or what were you reading for? That was just the
7 definition?

8 COMMISSIONER TURNBULL: I believe -- I just pulled
9 it up -- I believe that's the definition in the regs. I'm
10 not sure, but maybe OP can clarify that. I pulled it up on
11 my iPhone, which is sometimes hard to filter through.

12 MR. LE GRANT: You're reading -- excuse me -- from
13 the current definition?

14 COMMISSIONER TURNBULL: Yes.

15 MR. LE GRANT: Oh, okay. Okay. Right. And so,
16 the proposed change is to introduce the lower of natural or
17 finished grade to this concept.

18 MR. GOLDSTEIN: So, are you suggesting potentially
19 that maybe that definition should be examined to make sure
20 it syncs up with some of the --

21 COMMISSIONER TURNBULL: Well, I'm just saying that
22 what I'm reading is, I think, is the definition.

23 MR. GOLDSTEIN: Yes.

24 COMMISSIONER TURNBULL: And if it isn't, maybe we
25 should --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MR. GOLDSTEIN: Yes.

2 COMMISSIONER TURNBULL: I mean, it's an important
3 term. I mean, it's going to be used all over. I would say,
4 if that needs to be tweaked, maybe it should be.

5 MR. GOLDSTEIN: Perhaps we can look at that, make
6 sure it all synchronizes properly.

7 COMMISSIONER TURNBULL: Makes sense.

8 MR. GOLDSTEIN: Yes.

9 COMMISSIONER TURNBULL: Okay.

10 MR. GOLDSTEIN: I think that's a good catch.

11 CHAIRMAN HOOD: Okay. Ready to move on, page 19?

12 Calculation of the grade plane method. The ZA's
13 comments -- DCRA's comments: "Add text to (a) if the
14 areaways or other excavation project more than 5 feet or
15 window wells project more than 4 feet from anywhere along the
16 building facade facing the nearest street or from the
17 opposite facade of the building, the measuring point shall
18 be equivalent to the lowest elevation of the areaway
19 excavation or window well or wells along the facade. Perhaps
20 include a restriction on the amount of facade that can be
21 accepted from the grade and/or window wells may not extend
22 to an aggregate width more than 50 percent of the length
23 along the adjacent building faces. A special exception could
24 be applied to achieve a greater amount, and then, perhaps
25 have different standards for different zones."

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Okay. The Office of Planning's recommendation:
2 "This section explains what is commonly referred to as a
3 grade plane method. This text proposes to change the
4 measuring surface from ceiling to the finished floor of the
5 ground floor. The change would help avoid the use of
6 artificially dropped ceilings and clarifies the use of the
7 ground floor, which is a defined term, instead of the story
8 above, which is not a defined or exact term." Okay. "It
9 also aligns the height with the section above the perimeter
10 wall method to a consistent 5 feet. OP supports the change
11 in text to detached or semi-detached, as proposed. The text
12 has been revised to ensure that it measures what is above
13 grade. OP can continue to work with OZ on providing the
14 diagrams and graphs. OP recommends approval of this change."

15 Okay? It kind of goes in line with our previous
16 calculation of perimeter wall method as well.

17 Anything else on this?

18 COMMISSIONER MAY: Mr. Chairman --

19 CHAIRMAN HOOD: Yes.

20 COMMISSIONER MAY: Going back to the DCRA
21 comments, and I'm still a little unclear on this, but right
22 now is there no limitation on the amount of a given facade
23 that could have an areaway on it? Or is there something else
24 that limits that?

25 MR. LE GRANT: Currently, there is no limitation

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 on the length or along the perimeter of the building --

2 COMMISSIONER MAY: Yes.

3 MR. LE GRANT: -- for the areaway.

4 COMMISSIONER MAY: All right. And even DDOT's
5 public space regulations don't limit that?

6 MR. MAHER: Correct. There is no limitation on
7 the width of an areaway as we measure it.

8 COMMISSIONER MAY: Along the facade?

9 MR. MAHER: Uh-hum.

10 COMMISSIONER MAY: That is interesting. I mean,
11 particularly since it is in the public space, in the public
12 parking space often, I wonder if it should be, but not that
13 we should necessarily be the ones doing it, but -- I mean,
14 I'll leave it alone. That was my question.

15 CHAIRMAN HOOD: Anything else?

16 (No response.)

17 All right. Okay, I'm at the top -- well, not at
18 the top, about halfway or quarterway down on page 20.

19 Calculations of grade plane method. DCRA
20 proposed, "This is proposed to respond to the comments at a
21 public hearing about property owners possibly altering their
22 levels of ground floors."

23 OP's recommendation: "This is in response to the
24 comments at the public hearing about property owners possibly
25 altering the level of the ground floors to manipulate below-

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 grade space. OP recommends approval."

2 Any comments on this?

3 COMMISSIONER MAY: So, just to be clear, if
4 somebody goes in and guts an entire building, but leaves the
5 four brick walls, we're still going to be measuring to the
6 ground floor that was there before they demolished all of
7 that interior structure, because it was not a complete raze?

8 MR. LE GRANT: Actually, on the next page, the
9 section speaks to that. It's not in the -- it's proposed
10 204.6.

11 COMMISSIONER MAY: Okay, it's in the next one?
12 I jumped ahead.

13 MR. LE GRANT: Yes, you're jumping ahead.

14 COMMISSIONER MAY: Oh, sorry about that.

15 CHAIRMAN HOOD: Also, maybe it's on the next page;
16 I didn't see it. But, Mr. Le Grant, this goes back to a
17 question I wanted to ask about Mr. Eckenwiler. I believe he
18 stated -- I forgot exactly what his comments were, but what
19 is the fallback for changing the elevations and falsifying
20 the document to the government? And I think that's what he
21 was going after. Is it in here somewhere that I just missed
22 or?

23 MR. LE GRANT: Well, yes, I seem to recall also
24 that concern. Frankly, I don't believe it is a zoning
25 regulation concern. If any applicant presents information

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 in a building permit application that is false or misleading,
2 that is grounds for revocation of that building permit
3 because it is misrepresented, on any basis, the zoning basis,
4 the building code basis, or any other relevant municipal
5 regulation. So, to be frank, I see it's not so much for a
6 particular zoning aspect. If we in the course of a review
7 either find information that is not accurate/true, then if
8 it's prior to a building permit approval, then we would,
9 obviously, withhold that approval. If it was post-issuance
10 and it came to our knowledge, it is a grounds for revocation,
11 under the Construction Code, is a grounds to revoke said
12 building permit.

13 CHAIRMAN HOOD: Okay. Possibly I will not say any
14 more that's not in my purview. But there's another body that
15 tells me a lot of things are now. So, I would like for us
16 to -- let's still look at that, even though I know you are
17 saying you don't think that it is, but I want to make sure
18 that we have that covered, because I think it brings up a
19 valid point. And if it is not in our purview, I would like
20 to know where it is --

21 MR. LE GRANT: Okay.

22 CHAIRMAN HOOD: -- just to revoke it and, then,
23 what happens. I think the issue is knowingly doing it and
24 asking for forgiveness later. I think that's what I got from
25 Mr. Eckenwiler's comments. I think he put a lot of work into

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 that. So, I would like to make sure we at least address or
2 find out what entity in the government, and what are the
3 repercussions for knowingly doing stuff like that.

4 MR. LE GRANT: Okay. I think I could work with
5 the building official at DCRA to get that, the section -- I
6 believe there's a section in --

7 CHAIRMAN HOOD: A section already?

8 MR. LE GRANT: -- Title 12, the District
9 Construction --

10 CHAIRMAN HOOD: Okay, and if it's covered
11 somewhere else, if we can just know that, that will be great.

12 MR. LE GRANT: Absolutely.

13 CHAIRMAN HOOD: Okay. Thank you.

14 Okay. Anything else on this?

15 (No response.)

16 Okay. Building height measuring point, at the top
17 of page 21.

18 Office of Planning's recommendation: "The
19 proposed changes to the chapter are for clarification. The
20 Office of Planning recommends approval of this change."

21 Any comments on that?

22 (No response.)

23 Okay. Building height measuring point again.

24 Okay. That will be C307.2. We see what it reads.

25 Office of Planning's recommendation: "The

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 proposed changes to this chapter are for clarification.
2 Office of Planning recommends approval of this change."

3 Okay. Accept.

4 And now, we move to 307.4. That's just some
5 additions.

6 Office of Planning: "The proposed changes to this
7 chapter are for clarification. Office of Planning recommends
8 approval of this change."

9 Do you see where they added? It's underlined.

10 Okay. Page 22. I'm going to keep right on. 308
11 "clarifies the title of this section. OP recommends approval
12 of this change." These are just clarifications.

13 308.1. Okay. And let's see what's going on with
14 308.2.

15 DCRA's comments: "Existing grade is not a defined
16 term, unlike finished grade and natural grade. Inconsistent
17 measuring points for building height and base/cellar. Strike
18 the text that was added."

19 And the Office of Planning's recommendation:
20 "Proposed changes to the chapter are for clarification. The
21 Zoning Commission recently supported the use of building
22 height measuring point as the measuring location, and it has
23 been widely accepted. OP recommends approval."

24 Okay. The next one is split-level --

25 MR. GOLDSTEIN: I'm sorry. Pardon me. This is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Paul Goldstein again.

2 CHAIRMAN HOOD: Sure.

3 MR. GOLDSTEIN: I think, as Commissioner Miller
4 pointed out with an earlier one, this is another section that
5 was referenced in a later supplemental. The language that
6 was introduced in that supplemental was to sync it with some
7 language that you had seen, actually, earlier this evening
8 in a different section. So, I just wanted to make sure that
9 that was understood.

10 CHAIRMAN HOOD: All right. Let's go to split-
11 level ground floors.

12 DCRA: "This is a new proposed section in response
13 to the comments at the public hearing about split-level
14 ground floors."

15 Office of Planning: "The proposed text is in
16 response to the comments at the public hearing about the need
17 to address measurement of split-level ground floors. OP
18 recommends approval."

19 Any questions or comments on that?

20 COMMISSIONER MAY: No. I appreciate that's being
21 included. I think this is one of the issues that came up,
22 and I'm glad to have some clarity on how we treat those
23 circumstances.

24 VICE CHAIR MILLER: The next, around the top of
25 page 24, proposed amendment to the altered finished floor.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 DCRA comments: "This is proposed in response to
2 the comments at the public hearing about property owners
3 possibly altering the level of ground floors."

4 OP's recommendation is that "This is a response
5 to the comments at the public hearing about property owners
6 possibly altering the level of ground floors to manipulate
7 below-grade space. OP recommends approval."

8 A lot of these are in sync with what we've
9 previously -- with other sections. But does anybody have any
10 other comment?

11 (No response.)

12 The next one is clarification of specific
13 regulations as a result of previous changes.

14 The first one is to Section 207.4. There's text
15 change that, again, makes it in sync with the previous
16 changes we did.

17 OP recommends that the Zoning Commission approve
18 this text amendment.

19 Anybody have any comments?

20 (No response.)

21 The next proposed amendment is in residential flat
22 zones, again, making the language in sync with what we
23 previously looked at in other sections.

24 So, OP recommends that the Zoning Commissions
25 approve this text amendment.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Similarly, the next proposed amendment is for
2 residential apartment zones, which is basically in each of
3 these cases having this adjacent natural or finished grade
4 language, whichever is lower.

5 OP recommends that the Zoning Commission approve
6 this text amendment.

7 CHAIRMAN HOOD: Okay.

8 VICE CHAIR MILLER: And to page 25.

9 CHAIRMAN HOOD: We're on 26 now.

10 VICE CHAIR MILLER: Right, we're on 26 now.

11 CHAIRMAN HOOD: Okay. So, then, this is Subtitle
12 J, Production, Distribution, and Repair Zones. "It's
13 proposed to amend as follows:" As the Vice Chair has already
14 stated, this, again, goes along, it goes with the changes of
15 above, the adjacent natural or finished grade, whichever is
16 the lower of elevations. This is consistent with our
17 previous assessment.

18 Now Subtitle K, Chapter 3, Union Station North
19 Zone is proposed to be amended as follows: And I'm going to
20 read this one. "The measurement of a building height shall
21 be taken from the elevation of the sidewalk on H Street at
22 the middle of the front of the building to the highest point
23 of the roof or parapet rather than from the grade, as would
24 otherwise be required by Subtitle B, Section 307.1."

25 OP recommends that the Zoning Commission approve

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 this text amendment.

2 Any questions on that one?

3 (No response.)

4 Okay. All right. And I think these other ones
5 are just text relocation. I don't know -- what page is it?

6 Page 27, anybody have any questions of anything on page 27?

7 The term "curb" and "GFA". Any questions on any of that?

8 (No response.)

9 Okay. That's pretty straightforward.

10 Page 28, vesting. Do we need to talk about
11 vesting or have we got that down now?

12 COMMISSIONER MAY: So, just to be clear, we're
13 basically saying that anything goes or the existing
14 regulations still apply until 17-18, the order becomes
15 effective for this case? So, whatever that is, we advertise
16 the proposed language. We take final action on that. So,
17 two or three months from now is when this becomes effective?

18 MR. LE GRANT: If I may, just to distinguish, so
19 the vesting recommendation here is, when an application is
20 deemed complete, that a building permit application is deemed
21 complete, it is the reference, rather than the general
22 vesting rule which is at the building permit issuance. So,
23 this moves it from the general vesting, and the zoning
24 regulation is you have to have a building permit in hand and
25 issued before the effective date of the text amendment. Here

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 it moves it back, as has been done in other several portions
2 or other Zoning Commission text amendments, to when it's
3 deemed complete by DCRA for a pending building permit
4 application.

5 COMMISSIONER MAY: So, if somebody just throws in
6 a building application that's far short of what's necessary,
7 they wouldn't vest? It has to be deemed complete, and like
8 they have to a full set of drawings? It has to be generally
9 correct and things like that?

10 MR. LE GRANT: That's correct.

11 COMMISSIONER MAY: Yes. I mean, I don't feel
12 strongly either way. I don't think that there is a whole lot
13 of mischief that will happen between now and whenever these
14 vest, or whenever these regulations become effective.

15 VICE CHAIR MILLER: I'm supportive of this vesting
16 provision. I think we did have some testimony on the record
17 supporting it as well.

18 I just wanted to ask Mr. Le Grant a question. And
19 I support making clear that the application had to have been,
20 the building permit application had to be legally filed and
21 accepted as complete by DCRA.

22 But I guess that just popped a question in my
23 head. In the general vesting rule, is the term "complete"
24 or do they use the term "substantially complete"?

25 MR. LE GRANT: Well, accepted as complete I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 believe mirrors other language in the zoning regulations
2 already. So, it's consistent with other language in the
3 zoning regulations. I believe, but I don't recall, that it
4 may be Subtitle A.

5 MR. GOLDSTEIN: Yes, I seem to recall something
6 about "and it doesn't substantially change," in maybe a
7 different context, but I think this language is the
8 typical --

9 VICE CHAIR MILLER: Like me, it may be a different
10 context, but I remember it came up in a BZA case that I was
11 on, but I can't remember the details of the context.

12 CHAIRMAN HOOD: I actually think that did come up
13 "substantially" and, then, "complete".

14 Mr. Shapiro?

15 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.

16 Actually, Commissioner May, this is for you, but
17 I appreciated when this issue came up before. My sense is
18 that you would be amenable to a little bit further
19 tightening, if there was a way to do it?

20 MR. LE GRANT: Certainly. Or are you --

21 COMMISSIONER SHAPIRO: No, this is for
22 Commissioner May.

23 COMMISSIONER MAY: Tightening of the vesting?

24 COMMISSIONER SHAPIRO: Yes.

25 COMMISSIONER MAY: I don't know. I was just

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 thinking about the timing of these things. Does this mean
2 that we could finalize, I mean, take final action and publish
3 the order before August? Would we have time? Because it's
4 the end of May. I mean, if it gets published -- I don't know
5 how quickly it can get published. Sometime in June?

6 MS. SCHELLIN: I thought I heard you guys ask them
7 to come back with some stuff. Were you asking them -- I
8 mean, did you ask --

9 COMMISSIONER MAY: I don't think we -- I think we
10 pretty much accepted the language as is.

11 MS. SCHELLIN: No? You are? Okay.

12 COMMISSIONER MAY: I think that if we took action
13 to approve, we might give a little flexibility --

14 MS. SCHELLIN: It's possible, yes.

15 COMMISSIONER MAY: -- for crossing "t's" and
16 dotting "i's", but, otherwise, it's pretty much done.

17 MS. SCHELLIN: Basically, tightening up the
18 language before they publish it?

19 COMMISSIONER MAY: It doesn't seem like much needs
20 to be tightened, but --

21 MS. SCHELLIN: Okay. So, yes, it would be
22 possible between OP and OAG working on the proposed
23 rulemaking. Or, actually, it would be OAG. If they could
24 get that done in the next, say, two weeks, or whatever, and
25 we get it published, then it's possible it could come back

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 at the July 30th meeting for final action. And then, the
2 final would get published sometime in August. Or you want
3 it before August?

4 CHAIRMAN HOOD: We would like to, I guess, do
5 our -- if we take a final vote, it would need to be the last
6 meeting we have in July.

7 COMMISSIONER MAY: Yes.

8 CHAIRMAN HOOD: Will that solve your issue? Let
9 me just ask Mr. Le Grant. You were getting ready to speak
10 about you would like for it to be tightened. But, if we were
11 to move on that schedule, will that take care of your issue?

12 MR. LE GRANT: I think I misunderstood
13 Commissioner Miller. I thought it was a question -- could
14 you look at that vesting language, which, like I said, we
15 could.

16 MS. SCHELLIN: Right, that's what I thought.

17 MR. LE GRANT: But if you're okay with the
18 language, then I have no comment.

19 CHAIRMAN HOOD: Oh, okay.

20 VICE CHAIR MILLER: I'm okay with the language.
21 I look forward to the public comments that we're going to
22 receive, and we may or may not.

23 COMMISSIONER MAY: Yes, I mean, I would hate for
24 it to come back -- after we have published proposed, if we
25 wind up getting comments back from people who are alarmed

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 that it's not going to take effect until the order is
2 published sometime in August or September, or whatever, I
3 don't think we really want to take action in July and change
4 the vesting, right? I think we have to think through the
5 vesting right now and stick with it. I mean, do we have an
6 option that it would be effective upon when the Commission
7 takes final action as opposed to when the order is published?

8 MS. SCHELLIN: I don't think so, no.

9 COMMISSIONER MAY: You think it has to be based
10 on when you order --

11 MS. SCHELLIN: It has to be based on the order,
12 right, because the rules aren't effective until the order is
13 published at the earliest.

14 CHAIRMAN HOOD: Right. So, that's legal, once
15 it's published --

16 MS. SCHELLIN: I mean, you could do a later date,
17 but not an earlier date.

18 COMMISSIONER MAY: I think we've done things
19 earlier. Well, okay. I don't feel that strongly about it,
20 but -- so, that means that we're not going to do anything
21 different from what we publish in the proposed action anyway.

22 COMMISSIONER TURNBULL: I wonder if I could ask
23 Mr. Le Grant about -- when it says that the permit
24 application was legally filed, and it's misspelled on the --

25 MR. LE GRANT: Yes, I noticed that, too. It says

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 "field". It should say "filed". I'm sorry.

2 COMMISSIONER TURNBULL: "And accepted as
3 complete." Does that mean it simply comes to you and you've
4 looked at it? Or does it have to go to the various
5 departments to get checked off or?

6 MR. LE GRANT: Well, here's what happens: because
7 filing of permits and plans is electronic now --

8 COMMISSIONER TURNBULL: Okay.

9 MR. LE GRANT: -- it is very few papers, DCRA has
10 its project docs plan, electronic plan submissions systems.
11 And the applicants submit a building permit application
12 online along with the payment, the application, supplemental
13 materials, and plans. Within DCRA is an office, the Permit
14 Review Coordinator Office. It's not part of the Zoning
15 Office. It's part of the Permit Operations Division. It
16 does an assessment as to is there sufficient information to
17 do a review. They have to have a checklist of so many plans.
18 They have to pay a certain amount of the fee, and so forth.

19 COMMISSIONER TURNBULL: Right.

20 MR. LE GRANT: When that initial vetting occurs,
21 a decision is made. Now it's ready to be farmed out to the
22 different disciplines for review.

23 COMMISSIONER TURNBULL: Right. Got you. Okay.
24 All right. So, it's basically the initial one is checked.
25 It's reviewed. If everything looks to be there, you say,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 okay, it is legally filed?

2 MR. LE GRANT: Yes, and then, they push a button.

3 And then, it goes out to the disciplines, including Zoning --

4 COMMISSIONER TURNBULL: Then it goes out?

5 MR. LE GRANT: You know, electronically we start

6 our reviews.

7 COMMISSIONER TURNBULL: Okay. Thank you.

8 CHAIRMAN HOOD: So, again, we're looking at the
9 time schedule. I don't know if we should -- because I don't
10 think we can speak for OAG. That might be some -- I was just
11 sitting here thinking.

12 So, maybe it should, rather, just let it run its
13 normal course, whatever the normal course is. So, I don't
14 know what others think.

15 VICE CHAIR MILLER: That's fine.

16 CHAIRMAN HOOD: Okay. So, Ms. Schellin, I don't
17 know what the dates are, but we'll just let it runs its
18 normal course, whatever the course is. If we get to it, if
19 it happens July the 30th, then it happens. If it doesn't,
20 it doesn't.

21 MS. SCHELLIN: If you guys are accepting what's
22 before you this evening, then the proposed rulemaking will
23 get published pretty quickly because they won't have to make
24 a lot of changes. So, what's what I'm saying, if you're --

25 CHAIRMAN HOOD: And that's a 30-day comment

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 period, right?

2 MS. SCHELLIN: A 30-day comment period, yes. If
3 I heard Commissioner May correctly that you guys were okay
4 with pretty much what was before you and very little tweaking
5 had to be done, then that makes it a lot easier to get the
6 proposed rulemaking published sooner rather than later. It's
7 possible -- I know Monday is a holiday -- I would say at the
8 latest it would be published the 15th of June, I would think.
9 And so, then, that makes it coming back for our July 30th
10 meeting. If there's any way to get it published on June 8th,
11 then it could come back for our July 9th meeting.

12 CHAIRMAN HOOD: Okay. Again, I think we'll just
13 let it run its course. I don't think we can sit here and
14 figure out whether it will be in line for the 30th. We'll
15 just leave that.

16 COMMISSIONER TURNBULL: I just had a question for
17 Mr. Goldstein. Do you see much massaging for the term
18 "ground floor"? You said you wanted to just make sure it was
19 in sync with some of the other -- with the definitions?

20 MR. GOLDSTEIN: Yes, I can't imagine that it would
21 be much. We could probably look at that in the near-term and
22 see if a word or two needs to be added or a slight variation.

23 COMMISSIONER TURNBULL: Okay. Okay. Mr. Chair,
24 the only other question I had, going back to the Union
25 Station, Subtitle K, when it talks about take it from the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 elevation of the sidewalk on H Street, I'm assuming that
2 portion of H Street is the bridge? So, there's a low point
3 of H street and a high point. Are you talking about the very
4 highest point of H Street?

5 MS. STEINGASSER: This is consistent with the
6 Union Station North zoning that was done.

7 COMMISSIONER TURNBULL: Right.

8 MS. STEINGASSER: It's just clarifying --

9 COMMISSIONER TURNBULL: That's what I thought.

10 MS. STEINGASSER: -- that the measuring point used
11 to be referenced in Subtitle C, Chapter 5. It's now B307.
12 It's not changing anything to do with where on H Street.
13 But, yes, it was from the high point.

14 COMMISSIONER TURNBULL: We don't need to do that,
15 though, do we?

16 MS. STEINGASSER: No, sir.

17 COMMISSIONER TURNBULL: We don't? Okay. All
18 right. Thank you.

19 CHAIRMAN HOOD: One other thing that I think is
20 real simple is the issue about what happens when the
21 applicant willingly knows that they're changing the grade and
22 gives falsified information. And I think you mentioned that
23 it was covered in title 12. If we can just show that up?

24 MR. LE GRANT: Yes, I'll work with the building
25 official to find that, get the correct citation and pass it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 on through the Office of Planning to the Commission's
2 attention.

3 CHAIRMAN HOOD: Okay. All right. Anything else,
4 Commissioners?

5 (No response.)

6 All right. Are we ready to vote tonight or?

7 Okay. Would somebody like to make a motion with
8 the changes, if we made any, and what our discussion was?

9 VICE CHAIR MILLER: Mr. Chairman, so we're moving
10 to take the authorized proposed rulemaking --

11 CHAIRMAN HOOD: Right.

12 VICE CHAIR MILLER: -- or we're actually moving
13 to proposed rulemaking?

14 All right. I would move, then, that the Zoning
15 Commission take proposed action on the request for a text
16 amendment to the zoning regulations, Subtitle B, Definitions
17 and Rules of Measurement, and other changes, and correlating
18 rules in Subtitles D, E, F, J, and K, as we've discussed this
19 evening, and ask for a second.

20 COMMISSIONER SHAPIRO: Second.

21 CHAIRMAN HOOD: Okay. It's been moved and
22 properly seconded. Any further discussion?

23 (No response.)

24 All in favor?

25 (Chorus of ayes.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Any opposition?

2 (No response.)

3 Not hearing any, Ms. Schellin, would you please
4 record the vote?

5 MS. SCHELLIN: Yes. Staff records the vote 5-to-
6 0-to-0 to take the proposed action on Zoning Commission Case
7 No. 17-18, Commissioner Miller moving, Commissioner Shapiro
8 seconding, Commissioners Hood, Turnbull, and May in support.

9 CHAIRMAN HOOD: Okay. Let me just thank ZA's
10 office, the Office of Planning, the Office of the Attorney
11 General, the Office of Zoning, the residents of the city, and
12 everyone who had anything to do with helping us get to this
13 point.

14 With our comments, it was kind of straightforward
15 for the most part tonight because it was addressed in some
16 of the comments that we made to the Office of Planning and
17 others at the hearing, and working with ZA and everyone else.

18 So, I want to thank everyone for all your work on
19 this.

20 Ms. Schellin, do we have anything else?

21 MS. SCHELLIN: No, sir.

22 CHAIRMAN HOOD: Okay. So, with that, this special
23 public meeting is adjourned.

24 (Whereupon, the above-entitled matter went off the
25 record at 7:47 p.m.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Special Public Meeting

Before: DC BZA

Date: 05-24-18

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



Court Reporter

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701