

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC ROUNDTABLE

+ + + + +

THURSDAY

JUNE 21, 2007

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened in Room 220 South, 441 4<sup>th</sup> Street, N.W., Washington, D.C., 20001, pursuant to notice, at 6:30 p.m., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chair
ANTHONY J. HOOD	Vice Chair
GREGORY N. JEFFRIES	Commissioner
MICHAEL G. TURNBULL	FAIA, Commissioner (OAC)
JOHN PARSONS	Commissioner (NPS)

BOARD OF ZONING ADJUSTMENT MEMBER PRESENT:

RUTHANNE MILLER

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN	Secretary
ESTHER BUSHMAN	General Counsel

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OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER  
JOEL LAWSON  
TRAVIS PARKER

This transcript constitutes the minutes from the Public Roundtable held on June 21, 2007.

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

2 (6:38 p.m.)

3 CHAIRPERSON MITTEN: Good evening,  
4 ladies and gentlemen. This is a public  
5 roundtable of the Zoning Commission of the  
6 District of Columbia.

7 Today is Thursday, June 21, 2007,  
8 and we're going to be a little bit less formal  
9 than usual tonight, so -- and we have guests,  
10 and so forth.

11 My name is Carol Mitten, and  
12 joining me this evening are Vice Chairman  
13 Anthony Hood, and Commissioners Mike Turnbull  
14 and Greg Jeffries. We're expecting John  
15 Parsons shortly. And we've also been joined  
16 this evening by the Chair of the Board of  
17 Zoning Adjustment, Ruthanne Miller, and we  
18 welcome her. Never been to the Zoning  
19 Commission before, I don't think.

20 And then, we also have -- from the  
21 Office of Planning we have Jennifer  
22 Steingasser and Travis Parker and Joel Lawson.

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1       And then, from the staff of the Office of  
2       Zoning we have Sharon Schellin and Esther  
3       Bushman. And I thank you all for joining us,  
4       too.

5               The subject of our roundtable this  
6       evening is we are commencing the revision of  
7       the zoning regulations, which is 11 DCMR, and  
8       specifically this evening we'd like to hear  
9       your views as to whether the regulation should  
10      be completely overhauled or whether the  
11      regulation should be updated, what specific  
12      section -- I hope there's unanimous agreement  
13      on that subject. What specific sections you  
14      find effective or ineffective or in need of  
15      special study, and what best practices are  
16      from other jurisdictions that you're aware of.

17              And after the roundtables -- we  
18      have another one in July -- the Office of  
19      Planning and the Office of Zoning will make  
20      recommendations to the Commission on how to  
21      move forward with revisions and the special  
22      areas on which we should focus.

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1 I just want to remind folks that  
2 our roundtable this evening will not focus on  
3 any specific projects, and we'd ask you to  
4 refrain from making reference to specific  
5 projects, because there may be conflicts with  
6 future hearings. So I just want to remind you  
7 about our ex parte rules, and that would  
8 constitute ex parte communication.

9 Copies of the roundtable  
10 announcement are available to you, and they're  
11 on the table by the door. I would like to  
12 advise you that we -- because we want to have  
13 a record of the proceeding we're being  
14 recorded this evening by the Court Reporter,  
15 and we're also being webcast live, so we ask  
16 you to refrain from making any disruptive  
17 noises during our roundtable this evening.

18 And when you present information to  
19 the Commission -- I'll call people up in  
20 panels -- we ask you to take a seat at the  
21 table, and then turn on and speak into the  
22 microphone, first stating your name and

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1 address. When you're finished speaking, we  
2 ask you to turn the microphones off, because  
3 they tend to pick up background noise.

4 We're going to use the following  
5 time constraints this evening, so that we can  
6 get through in a reasonable period of time.  
7 Organizations will have five minutes, and  
8 individuals will have three minutes. And we  
9 reserve the right to change the time limits  
10 for presentations if necessary, and we note  
11 that no time shall be ceded from one  
12 individual to another.

13 In order to keep track of who it is  
14 that is speaking, we ask you to fill out two  
15 witness cards, and those cards are on the  
16 table by the door as well. And when you come  
17 forward to speak to the Commission, please  
18 give both cards to the Reporter, who is  
19 sitting to our right. It's important that he  
20 have them before you begin testifying.

21 So if you would, please turn off  
22 all beepers and cell phones at this time

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1 before we get started.

2 And I think what I'd like to do is  
3 ask if the Office of Planning has any  
4 introductory remarks before we go to our  
5 witness list?

6 MS. STEINGASSER: Thank you, Madam  
7 Chair. We have nothing formal. It's just  
8 that we very much welcome the input we are  
9 going to be getting, and how that is going to  
10 inform what we propose to the Commission to  
11 bring forward. So we're looking at any  
12 information/comments, pro and con, of what  
13 works, what doesn't work, what the process --  
14 how the process can be changed, as well as the  
15 technical requirements, definitions, overlays,  
16 anything, we'd like to hear.

17 CHAIRPERSON MITTEN: Great. And I  
18 hope that you'll pass the word about future  
19 sessions. We have one other roundtable  
20 scheduled. But if there was more interest, we  
21 certainly would schedule a third. And that's  
22 for Thursday, July 12, 2007, and that's at

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1 6:30 in this room as well. But we really do  
2 welcome input from the public.

3 And I'd also like to acknowledge  
4 that we are also joined in the audience,  
5 although you're welcome to come up and join us  
6 up here, John Mann, who represents the  
7 National Capital Planning Commission on the  
8 Board of Zoning Adjustment.

9 So without further ado, I'll call  
10 forward the folks who called ahead, and then  
11 anyone who would like to testify this evening  
12 that didn't call ahead, we have a sign-in  
13 sheet by the door. So I'll call you up in  
14 panels of four as people are here.

15 George Clark from the Federation of  
16 Citizens Association. I don't see Barbara  
17 Zartman here yet. I don't see Joy Howell here  
18 yet. Richard Layman. I don't see Ellen  
19 Greenberg yet. And I don't see Ann Seline  
20 yet. I don't see Ann Hargrove yet. See,  
21 people don't think we start on time, but we  
22 do. Mr. Meehan, Commissioner Meehan, ANC 2B.

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1 Laura Richards, I don't see her yet. Ray  
2 Valentine? T. A. Uqdah? You will be our  
3 fourth on this panel, sir.

4 Mr. Clark, why don't you go ahead  
5 and start?

6 MR. CLARK: Thank you, Chair  
7 Mitten. I'm George Clark, 4525 28th Street,  
8 N.W., and I'm here to testify as President of  
9 the Federation of Citizens Associations and on  
10 behalf of our 50 member organizations from  
11 across the city.

12 As you know, we've testified before  
13 the Council for several years about the need  
14 for a comprehensive rewrite of the zoning  
15 regs. We're happy it's underway. And as a  
16 member of the old Zoning Advisory Committee in  
17 particular, I'm glad to see it taking place.

18 I have a long list of things that's  
19 at the end of my testimony. But before  
20 talking about some things in that last -- in  
21 that list, I want to make some points about  
22 the rewrite process in general. First,

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1 although we may not have a big crowd tonight,  
2 maybe I'll blame some of that right now on  
3 people late arriving from the rain.

4 I hope that we have a continuing  
5 process throughout this. In other words,  
6 after the first two roundtables, things are  
7 going to be going on, and I think it's going  
8 to be dynamic, and I can see the need for  
9 further public input along the way.

10 Second, and I'm not sure I'm going  
11 to contract what the Chairman has said here,  
12 but updating the regulations doesn't mean  
13 throwing them out in their entirety and  
14 starting from scratch with a totally different  
15 concept. And I'm not saying that a lot of  
16 things don't need to be thrown out.

17 But the question is: we have a  
18 built-up city. We have many hundreds of  
19 thousands of people who have made significant  
20 investments in their property based on a  
21 certain set of assumptions about what would  
22 happen. Zoning can always change, but

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1 fundamentally changing the approach to zoning  
2 risks destabilizing property values and  
3 destroying what I call the goose that has laid  
4 the golden eggs for the resurgence of property  
5 values in the city.

6 We are a city of 130 neighborhoods,  
7 some of which are strong, some of which want  
8 to become strong, but our overriding goal is  
9 to be the strength in our neighborhoods. We  
10 have to realize that something is drawing  
11 people to our neighborhoods, and it's not the  
12 opportunity to buy a McMansion on a treeless  
13 lot and shop at another national chain store  
14 that could just as easily be found in the  
15 suburbs.

16 People are moving to our  
17 neighborhoods because they find something they  
18 like about them that's different. They have  
19 character and local businesses, something that  
20 newcomers constantly mention, and zoning  
21 regulations should acknowledge, respect, and  
22 promote that for all neighborhoods.

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1           Certain buzz words have a great  
2 deal of currency in discussions about zoning.

3       Form-based codes may have their place in  
4 areas where total redevelopment is taking  
5 place, but even an often-cited example of  
6 these codes -- Arlington -- did not make  
7 extensive use of them off Columbia Pike. The  
8 current rewrite of the Rockville regulations  
9 talks about the need for balance, and that's  
10 something that needs to be kept in mind.

11           And I would urge, although I'm not  
12 sure the Commission will really play a role in  
13 this -- it may be the Office of Planning I'm  
14 talking to on this -- to follow the provision  
15 contained in the new comp plan and prepare the  
16 Planning Commission's study within the  
17 statutory time period required by law.

18           With those preliminary comments,  
19 let me address some of the most egregious  
20 problems in the current zoning regs. Number  
21 one is the subject of a separate study --  
22 PUDs. They have become the norm rather than

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1 the exception, are applied to projects that  
2 are far smaller than appropriate, are a way to  
3 avoid zoning, have unenforced conditions,  
4 don't take into account the impact of other  
5 PUDs, even though right next door, and have  
6 given a new definition to the word "amenity."

7 And that is only the start of the list of PUD  
8 problems.

9 I have heard that there's a  
10 moratorium for setting down new overlay zoning  
11 requests. We should do the same for PUDs  
12 while this broken process is fixed, and  
13 overlay zones should not be eliminated. They  
14 are frequently the only thing that separates a  
15 neighborhood from total destruction of the  
16 very things that make them attractive.

17 A determination of party status is  
18 a shambles. There needs to be a common  
19 definition between the Commission and the BZA,  
20 and a firmly-established standard allowing the  
21 participation of community organizations.  
22 Testimony that is technically neither pro nor

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1 con, but informative, should be allowed. It  
2 is what neighborhoods often really want to  
3 say. And the determination of party status  
4 should be decided separately and well before  
5 the case in chief, in order to minimize  
6 expense.

7 A related issue concerned the time  
8 limits for bringing a case to the Commission  
9 or the BZA. The rules, in our view, have been  
10 interpreted more with a view to preclude  
11 participation by affected parties than to make  
12 sure that they bring up matters in a timely  
13 fashion. I think that needs to be examined.

14 I'm going to turn a little bit to  
15 my laundry list in my last few seconds. I'm  
16 happy to address any of them. I think we need  
17 a clean hands rule, such that zoning scofflaw  
18 can't return to the Commission and ask for  
19 more relief, even if they've deliberately  
20 violated previous orders.

21 I think we need to eliminate pipe  
22 stem locks, flag locks, whatever you want to

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1 call them. We need on teardowns of McMansions  
2 -- something that I've been here about before  
3 -- we need to deal with those and what  
4 qualifies for grandfathered status. The goal  
5 of zoning is to come into conformity, but  
6 current practices encourages non-conformity.

7 And, finally, one thing we talked  
8 about in the Forest Hills/Green Slope overlay  
9 was the establishment of a so-called R-0 zone.

10 It might be called something different today,  
11 but it's downzoning in neighborhoods that are  
12 not built out to the maximum. These are the  
13 neighborhoods that people are moving into, so  
14 we should not destroy expectations.

15 I have one more sentence. And do  
16 not recommend that the Height Act be amended.

17 It is one of the things that makes our city  
18 beautiful, great, and different. Just ask any  
19 visitor.

20 CHAIRPERSON MITTEN: Thank you, Mr.  
21 Clark.

22 MR. CLARK: Thank you.

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1 CHAIRPERSON MITTEN: I think that  
2 one is not in our hands, but never hurts to  
3 say it.

4 Mr. Layman.

5 MR. LAYMAN: Good evening, members  
6 of the Commission, and government officials.  
7 I'm here on behalf of the Citizens Planning  
8 Coalition and --

9 CHAIRPERSON MITTEN: Would you just  
10 identify yourself for the record?

11 MR. LAYMAN: I'm sorry. Richard  
12 Layman, 100 6th Street, S.E.

13 CHAIRPERSON MITTEN: Thank you.

14 MR. LAYMAN: The question here  
15 tonight is: how should the Zoning Commission  
16 respond to the comp plan? And is tinkering or  
17 fundamental change in order? And if  
18 fundamental change is in order, what changes?  
19 That's a tough question, because the  
20 accelerated process of the comp plan meant  
21 that some fundamental questions were glossed  
22 over or underaddressed.

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1 Building and land regulations  
2 reflect community concerns and values.  
3 Building regulations in the city started with  
4 the promulgation by George Washington. The  
5 process of zoning afterwards was created not  
6 just to protect the community but to protect  
7 property owners, sometimes from each other.

8 The conditions of center cities in  
9 the late 19th and early 20th centuries meant  
10 cities were tough, congested, dirty places a  
11 lot. And one of the principles of zoning --  
12 segregated use -- derived from that time  
13 period. In today's post-industrial, service-  
14 oriented society, that's probably one  
15 principle that's outmoded.

16 Elsewhere I have argued that D.C.  
17 has five competitive advantages -- historic  
18 and high-quality architecture, pedestrian  
19 centric urban design, history identity and  
20 authenticity, a rich transit infrastructure  
21 that allows for efficient mobility independent  
22 of the automobile, and a consistent employment

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1 engine of the Federal Government.

2 Four of those five competitive  
3 advantages are impacted every day by planning  
4 and zoning. But our community's physical form  
5 rather than its land uses is its most  
6 intrinsic and endearing characteristic. The  
7 success of transit, the success of  
8 neighborhood commercial districts, the success  
9 of neighborhoods, is built upon urban form.  
10 And shouldn't zoning regulations be about  
11 maintaining, strengthening, and extending the  
12 qualities that make Washington, D.C. a great  
13 place to live, work in, or visit?

14 Instead, zoning regulations focus  
15 on land use -- bulk, height, use, and the lot.

16 Not on design, not on context, with little  
17 concern about the impact of a project beyond  
18 the lot or the overall coherence of the built  
19 environment.

20 I would argue, many people argue,  
21 that zoning codes embody a suburban paradigm  
22 and are biased towards accommodating the

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1 automobile. Another advantage center cities  
2 possess compared to the suburbs is  
3 accessibility -- access to a variety of uses  
4 in and around the same place. Cities are  
5 about mixing uses, but zoning regulations  
6 haven't caught up to this.

7 Also, while the Washington  
8 metropolitan region experiences more car  
9 trips, more vehicle miles traveled, and longer  
10 commutes, residents of the city proper conduct  
11 fewer car trips, travel fewer vehicle miles,  
12 own fewer cars overall, more people do not own  
13 cars, compared to other cities in the region  
14 except for -- or counties. Except for  
15 Arlington, Washingtonians spend less time  
16 commuting than any other people in the region.

17 Zoning, though, doesn't truly link  
18 land use to transportation and doesn't  
19 maximize the efficient use of extant  
20 transportation infrastructure. It induces  
21 driving.

22 In downtown Seattle, speaking of

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1 best practices, there are no requirements for  
2 parking. Seattle has just extended this to  
3 the next level of urban centers within the  
4 city, communities like Georgetown, our  
5 equivalent of Georgetown or Capitol Hill, and  
6 also to transit stations. No parking  
7 minimums.

8 Seattle also has design review kick  
9 in, and once tracks are of a certain size, not  
10 12,000 square feet like large track review  
11 here, like 4,000 square feet, or the number of  
12 units in a project.

13 We don't have design review, but  
14 design, architecture, the beauty of the built  
15 environment is what everybody comments on when  
16 they come to Washington, not just for the  
17 federal buildings and great public spaces but  
18 also our historic neighborhoods or the  
19 neighborhoods that aren't designated historic  
20 but are equally valuable from the same time  
21 period.

22 So we would argue -- I would argue

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1 the zoning regulations need a fundamental  
2 rewrite to ensure that zoning, not just  
3 planning, is about maintaining, strengthening,  
4 and extending the qualities that make  
5 Washington, D.C. the great place that we love  
6 and cherish. The zoning code needs to focus  
7 on urban form and context. We need a truly-  
8 intertwined transportation and land use  
9 planning and zoning paradigm.

10 And one example is what's done in  
11 The Netherlands where --

12 CHAIRPERSON MITTEN: I need you to  
13 just close up.

14 MR. LAYMAN: I'll give one  
15 sentence. All uses are rated on terms of  
16 their transportation demand. All places or  
17 lots are rated on their access to  
18 transportation infrastructure. Uses are  
19 directed to where transportation demand and  
20 transportation supply are at equilibrium.

21 Now, matter of right doesn't look  
22 at this issue at all. A school could be

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1 anywhere in an appropriate zone, but very  
2 distant from the ability to meet its  
3 transportation demands. And that's true for  
4 all institutional uses, or most. There are --

5 CHAIRPERSON MITTEN: I'm going to  
6 have to --

7 MR. LAYMAN: There are other issues  
8 as well, which -- I'll testify again.

9 CHAIRPERSON MITTEN: Do you have  
10 your testimony ready for us?

11 MR. LAYMAN: I will turn in  
12 prepared testimony after this meeting.

13 CHAIRPERSON MITTEN: That would be  
14 very helpful. Thank you.

15 MR. LAYMAN: Thank you.

16 CHAIRPERSON MITTEN: Commissioner  
17 Meehan.

18 COMMISSIONER MEEHAN: Good evening.  
19 My name is Bob Meehan. I'm speaking on  
20 behalf of the Dupont Circle ANC 2B. I have  
21 circulated written testimony.

22 The points I have laid out below

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1 reflect what I believe are the concerns of the  
2 neighborhood as a whole and of our ANC in  
3 particular. And I'll just go to the  
4 highlights.

5 In terms of the Dupont Circle  
6 neighborhood, we don't want to see a revised  
7 zoning system used to subvert the land use  
8 maps approved for Dupont Circle in the revised  
9 comprehensive plans, such as eliminating  
10 Dupont Circle overlay, which prohibits future  
11 PUDs in our neighborhood or changing  
12 neighborhood commercial zones to prevent  
13 higher commercial density.

14 And as an interim measure, we want  
15 the zoning maps for Dupont Circle adjusted  
16 without delay to reflect the adjustments of  
17 the new land use map, so that the improper  
18 overzoning left over from the freeway days of  
19 high zoning in the 1950s cannot be used by  
20 developers to start projects that would be  
21 inconsistent with the land use.

22 If this cannot be done for

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1 administrative process reasons, then we want  
2 you to look favorably at the downzoning  
3 proposals being developed by our neighborhood  
4 associations to reflect the changes called for  
5 in the comprehensive plan. We expect these  
6 plans will come to you in the fall.

7 Good zoning provides reassurance to  
8 a neighborhood that the comprehensive plan  
9 will be followed. In sum, we believe the  
10 revision of the zoning regulations should  
11 retain the specificity of zoning by lot and by  
12 definition, so that the zoning issues for any  
13 building proposal are apparent if inconsistent  
14 with the existing zoning.

15 Generalized zoning maps,  
16 definitions, descriptions, would give the  
17 wrong -- give the Zoning Administrator too  
18 much leeway to modify the intent of zoning and  
19 the comprehensive plan. An alternative to  
20 loosening the specificity of the zoning, and,  
21 thus, making the process open ended from the  
22 perspective of the neighborhood would be to

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1 make the criteria in the variance process more  
2 reasonable.

3           The current criteria of uniqueness  
4 and hardship in a strict sense are nearly  
5 impossible to meet, yet the BZA is providing a  
6 considerable number of rulings that don't meet  
7 these criteria. A good variance process is a  
8 thorough way to address the intent of zoning  
9 and the comprehensive plan in a generalized  
10 approach, if zoning can't give a neighborhood  
11 a sense of security, or to expect that zoning  
12 doesn't really exist.

13           On the other hand, the broad list  
14 of special exceptions appears to offer the  
15 most profound threat to the low-rise housing  
16 stock in Dupont Circle. Art galleries,  
17 medical facilities, church groups, other  
18 nonprofits and now charter schools are  
19 increasingly displacing residences. Whole  
20 blocks are being lost to these special  
21 exceptions.

22           Then, the blocks are reclassified

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1 as special purpose zoning and more businesses  
2 come in. There appears to be nothing in the  
3 existing zoning process that helps us to  
4 manage the rate of change when a local market  
5 suddenly becomes hot to the nonprofits. We  
6 think the new zoning system should develop  
7 benchmarks to help neighborhoods manage the  
8 rate of changes and uses provided under  
9 special exceptions for residential zoning.

10 The Zoning Commission should  
11 acknowledge that community groups serve a  
12 vital complementary role with the Zoning  
13 Commission in monitoring the enforcement of  
14 zoning and the intent of the comprehensive  
15 plan.

16 For these groups to continue this  
17 constructive role, they need a zoning system  
18 that is not so lucent and unpredictable that  
19 they would be forced to hire lawyers to  
20 understand what is at issue or to raise court  
21 cases after the fact. Without specificity,  
22 local groups would not have the resources to

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1 participate in the process any longer, and  
2 substantially, as they have so far.

3 As an ANC Commissioner, we know  
4 very little about zoning. We understand  
5 quickly the concept of changing property use,  
6 but we have a hard time knowing what to do  
7 when faced with variances involving building  
8 construction.

9 And the current variance criteria  
10 that emphasize uniqueness often leaves us  
11 unable to reach a decision on the facts and  
12 encourages us either to make no decision or  
13 just to go with what appeals to us. The  
14 problem with going with what appeals to us is  
15 that we may not be applying the variance rules  
16 consistently.

17 But there is merit in what appeals  
18 to us. Most of the variance applications  
19 apply to the rear of buildings. They  
20 generally deal with bumpouts, dog-ins, fill-  
21 ins, decks, garages, and fences. These  
22 generally reflect homeowner efforts to

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1 increase livability of their homes. Historic  
2 preservation doesn't care about the rear. BZA  
3 review appears haphazard, sometimes hard-  
4 nosed, and totally unsympathetic to reasonable  
5 requests, and sometimes supportive simply  
6 because no one objected.

7 I think a sensible revision of the  
8 zoning process should include revising the way  
9 livability issues are addressed. We have nice  
10 pictures of rowhouses, row after row, but  
11 nobody live in the front yards. Look down the  
12 alleys or right of ways behind these picture-  
13 perfect facades, and you generally see an ugly  
14 mix of everything, yet this is what people  
15 spend -- this is where people spend their  
16 outdoor time, either by themselves or socially  
17 with their neighbors.

18 And what has contributed to this  
19 mess? Zoning indifference to quality of life  
20 issues. And I think to deal with this you're  
21 going to have to have a more comprehensive  
22 approach to managing the risk base.

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1           And I think the way you do that,  
2           for want of a better word, is to create the  
3           sense of a block-long real alley PUD, not a  
4           plan to increase building height and density  
5           in return for cash to the community, but a  
6           plan for the block neighbors on both sides of  
7           an alley to agree on the kinds of things they  
8           may need variances for and the concessions  
9           they are -- they may make to support the  
10          overall public good of the community.

11           The ANC would play a pivotal role  
12          in ensuring the community support for the  
13          plan, and BZA would ensure that the overall  
14          plan is genuine and --

15                   CHAIRPERSON MITTEN:     I need your  
16          closing thought.

17                   COMMISSIONER MEEHAN:    And, lastly,  
18          neither the ANC nor the BZA are doing a great  
19          job to address the legitimate requests of  
20          homeowners for variances under the current  
21          procedures.  A different approach could offer  
22          individuals and the communities win-win

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1 outcomes.

2 Thank you.

3 CHAIRPERSON MITTEN: Thank you.

4 Sir?

5 MR. UQDAH: I am Taladine Uqdah,  
6 Co-Founder and Chief Financial Officer of a  
7 27-year old business institution located at  
8 the corner of 14th and Jefferson Streets, N.W.

9 My testimony before this panel  
10 today is borne out of a concern of my wanting  
11 to establish a sense of fairness. But  
12 ultimately I want to see a change in the law  
13 or their accompanying rules as it pertains to  
14 two separately distinct and necessary business  
15 entities operating legitimately in the  
16 District of Columbia, yet they are both  
17 regulated under two different sets of zoning  
18 and other regulatory functions.

19 My wife and I own or co-own  
20 Cornrows and Company, a natural --

21 CHAIRPERSON MITTEN: Sir? One of  
22 the admonitions I gave at the beginning was we

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1 didn't want to talk about specific cases. Can  
2 you --

3 MR. UQDAH: This is not a specific  
4 case.

5 CHAIRPERSON MITTEN: Okay. Well,  
6 you just proceeded to talk about a specific  
7 business that you own, so I was wondering if  
8 you could make this more generic. Present the  
9 issue --

10 MR. UQDAH: If you would allow me  
11 to complete my testimony, I certainly think  
12 you'll see that it has nothing to do with a  
13 specific case.

14 CHAIRPERSON MITTEN: Okay. My  
15 apologies.

16 MR. UQDAH: My wife and I co-own  
17 Cornrows and Company, a natural hair care  
18 salon located in our home. Our business is on  
19 two floors, and we live on the other two. The  
20 property is zoned C-2-A. We pay two separate  
21 rates of taxes, and receive a Homestead  
22 exemption on the residential rate because we

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1 live at the property.

2 But shortly after purchasing the  
3 property in 1984, the city required us to hire  
4 and maintain a commercial hauler to recover  
5 both our commercial and residential trash and  
6 recyclables. But a November 17, 2005, legal  
7 opinion, which is attached, in relation to a  
8 totally separate matter, raised a great deal  
9 of concern on our part. It appears because of  
10 our zoning classification we are being  
11 unfairly discriminated against.

12 Community-based residential  
13 facilities, or CBRFs, more commonly known as  
14 group homes, provide a legitimate business  
15 service to various needy groups across the  
16 city. They are typically housed in  
17 residential properties zoned R-1. Under  
18 current regulations, six unrelated  
19 individuals, including staff, can legally  
20 reside in these homes for persons afflicted  
21 with varying degrees of socially challenging  
22 issues, and be afforded all of the city

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1 services enjoyed by any resident whose home is  
2 similarly zoned.

3 But in my mind, it's still a  
4 business being operated out of the home. And  
5 though they operate out of this home like a  
6 business, with staff, managers, directors, and  
7 other chains of command, they are afforded all  
8 of the privileges and amenities of any other  
9 District resident.

10 Even though my property is my legal  
11 residence, as a commercial mixed use property,  
12 we are either prohibited or denied any and all  
13 city services typically granted to residential  
14 homeowners.

15 A CBRF, on the other hand, is not  
16 required under current D.C. law to even have  
17 the bare minimum of a home-based business  
18 licensee. In my opinion, the city continues  
19 to unfairly treat these facilities as if they  
20 were de facto residential properties.

21 The R-1 zoning of CBRF represents  
22 the commercialization of residential property.

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1 the city has failed in its obligation to  
2 treat all businesses fairly and equitably by  
3 misapplying the Federal Government's Fair  
4 Housing Act. Fair Housing Act  
5 notwithstanding, CBRFs are what they are, but  
6 the providers are businesses and should be  
7 treated as such.

8 The city has little to no control  
9 over the operation of these establishments.  
10 Agencies that should be responsible for CBRF  
11 oversight, like the Office of zoning, are  
12 hampered because no one really knows how many  
13 residents are in fact being housed in any one  
14 facility. No one attempting is discriminate  
15 against the mentally ill, recovering substance  
16 abusers, or the criminally adjudicated.

17 We understand the history and the  
18 import of the Fair Housing Act. We are only  
19 looking to change the present state of affairs  
20 and level the playing field.

21 With that, I will just close and  
22 thank you all for your attention to this

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1 matter. And I'd be glad to answer any related  
2 questions.

3 CHAIRPERSON MITTEN: Thank you.

4 Questions from the Commission or  
5 Mrs. Miller for this panel? Anyone have any  
6 questions? Mr. Parson?

7 COMMISSIONER PARSONS: I wanted to  
8 ask Mr. Clark about clarifying what he means  
9 by expediting the party status. You are  
10 suggesting that we decide party status in  
11 advance. Do you mean at the point we set down  
12 a case, is that what you had in mind?

13 MR. CLARK: It may be at the  
14 setdown or it may be short after. The point  
15 that I'm trying to avoid it being at is when  
16 the case is ready to start on the merits,  
17 because if you have to prepare your entire  
18 case on the merits, and then find out that  
19 night you're not a party, especially if you're  
20 a community group that may be doing it on a  
21 volunteer basis, or you've gotten funds  
22 together for a lawyer, you may find yourself

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1 with no case to present.

2 It's preparing it or determining it  
3 in advance of that time is what I'm talking  
4 about.

5 COMMISSIONER PARSONS: Okay. I  
6 understand. Thank you.

7 And I had a question for Mr.  
8 Meehan. In your testimony you say, "We  
9 understand that the Zoning Commission may be  
10 considering a more general, less specific  
11 approach to zoning." Where did you get that  
12 understanding? The rumor mill?

13 CHAIRPERSON MITTEN: You need to  
14 turn on your microphone. Just --

15 COMMISSIONER MEEHAN: Actually, it  
16 was -- it was in a meeting that my friend here  
17 held that talked about the concept of the PUD  
18 becoming sort of the approach towards  
19 individual projects at a much lower scale.  
20 And it seemed to me that once you do that at a  
21 much lower scale, it seems that you're really  
22 beginning to remove the definitiveness of a

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1 lot-by-lot zoning category. That's how I  
2 understood it. And that was -- in the context  
3 I meant to say that.

4 COMMISSIONER PARSONS: Okay. Thank  
5 you.

6 CHAIRPERSON MITTEN: Anyone else?

7 (No response.)

8 I wanted to ask Mr. Layman, and I  
9 have a feeling we'll hear about this a little  
10 bit more from at least one of the other  
11 witnesses, you were talking about in terms of  
12 parking that there are areas that have no  
13 parking minimums.

14 And are there areas -- you know,  
15 one of the things that we're confronted with  
16 often when -- particularly in residential  
17 projects that are -- that we think are  
18 transit-oriented that we're trying to get the  
19 developers to build less parking, and they are  
20 doing it in response to market demands. So  
21 have you seen regulations where the -- there  
22 are actually maximums for parking?

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1           MR. LAYMAN:    Not so much parking  
2           maximums.    I'm going to answer your question  
3           in a roundabout way.    The comp plan really  
4           stinks in terms of dealing with parking and  
5           curbside management.

6           CHAIRPERSON MITTEN:    No offense to  
7           the Office of Planning, I'm sure.

8           MR. LAYMAN:    If you really look --  
9           yes.    If you really look at it, I just wrote a  
10          50-page paper on transportation and land use  
11          for D.C.    So I read many of the sections very  
12          closely.    There is almost no guidance to you  
13          or to anyone about parking.

14          Contrast that to Arlington, and  
15          their master transportation plan has a whole  
16          element on parking and curbside management.  
17          When -- see, it wasn't easy for Seattle to  
18          extend their no parking minimums from downtown  
19          to the next level of neighborhoods and  
20          transit.

21          What they did was they did a  
22          parking inventory for the entire city, and at

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1 the same time they did this for multi-unit  
2 buildings, and they determined what the actual  
3 usage of parking was in built -- in multi-unit  
4 buildings based on the number of units in a  
5 building. And they found as the number of  
6 units increased, the number of cars present  
7 decreased.

8 And we hear anecdotally, oh, like  
9 the Belvedere Building at 13th and  
10 Massachusetts, that 80 percent of the people  
11 do not own cars. But we have not done a  
12 substantive study in the city to my knowledge.

13 I tried to reach Joel Disken today to see  
14 what exactly was done, like nobody can tell us  
15 how many parking spaces are in Capitol Hill on  
16 the street. We don't know.

17 And so we know it's finite, because  
18 we know there is a fixed number of streets.  
19 But until we have more solid information  
20 neighborhood by neighborhood, we can't really  
21 talk about this in a really intelligent way.  
22 Instead, we have Chip Glaskow saying at

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1 meetings, "Well, you know, market demand  
2 demands this, and we need to do this, we need  
3 to do that." We don't know. Nobody knows.

4 And so I haven't seen -- I think  
5 actually San Francisco -- I'm not as familiar.

6 They have maximums I think downtown, but  
7 there are ways to get around it. And I  
8 haven't read in detail the San Francisco regs.

9 I will say the Seattle regs only  
10 changed in January, but it was a multi-year  
11 process where they got to that point. And,  
12 actually, they were part of something they do  
13 that's really amazing where they have focused  
14 what they call the neighborhood business  
15 district strategy, so it's very -- it's a  
16 focused set of zoning and planning regulations  
17 for commercial districts at the neighborhood  
18 level, and the parking is part of that, even  
19 though it also addressed citywide parking  
20 requirements.

21 They did a bunch of things. They  
22 took out the -- like they eliminated the first

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1 1,500 feet of requirements for providing  
2 parking spaces. They only allow one acre  
3 surface parking. They have a number of  
4 provisions, which I will provide in the  
5 detailed written testimony which I wasn't able  
6 to prepare in advance of the hearing tonight.

7 CHAIRPERSON MITTEN: Okay. And  
8 maybe something else that you could comment on  
9 in a written submission would be -- because  
10 this is something that we struggle with -- is  
11 the -- you spoke about the relationship  
12 between transportation policy and land use and  
13 zoning and all of that. And the only real  
14 intersection that we see is when there's a  
15 zoning case that is controversial, and there  
16 is always issues related to traffic and  
17 parking.

18 And it's rare -- because I can't  
19 think of a case that -- where the volume of  
20 traffic is viewed as an impediment to a case  
21 moving forward, the volume of traffic that's  
22 created. And part -- it's usually -- the case

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1 really ends up being about the larger  
2 transportation issues because the volumes of  
3 traffic are not being generated by an  
4 individual project, because the background  
5 traffic is becoming too much to handle.

6 And so -- and then, people look to  
7 us to do something about it, but it's a much  
8 larger issue. So if you could in a written  
9 submission, or if you want to make some brief  
10 comments now, talk about how that gets done in  
11 other jurisdictions.

12 MR. LAYMAN: I'll include it in the  
13 written testimony, but I think most -- in the  
14 United States we don't do a very good job of  
15 this. I think Arlington in our region  
16 probably comes closer than anywhere. And this  
17 isn't zoning exactly, but transportation  
18 management districts, which we don't do in  
19 D.C., they do in Montgomery County, not really  
20 substantively but they have them, that is a  
21 way to look at the transportation demand and  
22 supply infrastructure in a district.

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1           And I personally think that our --  
2           and I've written this elsewhere. That we need  
3           to develop this concept in D.C., and not just  
4           for, say, the Central Business District or  
5           places where bids are, but in places like the  
6           H Street neighborhood or even Brookland where  
7           I work independently of speaking tonight,  
8           where there are shared parking issues, there  
9           is a way to link transit infrastructure.

10           There are many ways, and it's just  
11           -- you know, we have statutorily Zoning  
12           Commission, Zoning is separate. We have  
13           Planning over here. We have Planning here.  
14           And you know what? Tonight, maybe there  
15           should be the people from the Transportation  
16           Planning Infrastructure Division of DDOT as  
17           part of this, too, because we have -- that's a  
18           whole separate planning unit that works very  
19           closely with Office of Planning, but at the  
20           same time it's different.

21           And it needs to be -- we need to  
22           all be on the same page, because what -- I

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1 mean, we are the stewards of -- I mean, we've  
2 been left a beautiful city, and in turn we're  
3 trying to make it, we hope, at least as good  
4 as what's left to us, if not better. And  
5 there's a lot we can learn from other  
6 jurisdictions. At the same time, we always  
7 say we're a world-class city. Let's be world  
8 class.

9 And this is a tremendous  
10 opportunity. We're presented with a comp plan  
11 with the Zoning Commission's interest in  
12 making sure that the comp plan and zoning are  
13 at equilibrium, and then also the purported  
14 2030 transportation vision plan, which is  
15 supposed to be being written, but at the same  
16 time I hope it's not as narrowly construed and  
17 deficient as the transportation element in the  
18 comp plan.

19 CHAIRPERSON MITTEN: Okay. I don't  
20 want the panel to go away, because I have one  
21 other question I want to ask, but the webcast  
22 -- there is a problem with the webcast, so we

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1 need to like just shut down for like two  
2 minutes. So we just needed to go off the  
3 record -- or not the record -- okay. So we  
4 just need to shut everything off for two  
5 minutes. So we'll just sit here and enjoy  
6 each other's company for two minutes.

7 (Whereupon, the proceedings in the foregoing  
8 matter went off the record at 7:15  
9 p.m. and went back on the record at  
10 7:23 p.m.)

11 CHAIRPERSON MITTEN: The storm that  
12 blew through knocked the whatever stuff out,  
13 but it's still not working. So, if people ask  
14 you why they couldn't watch, it's because the  
15 storm knocked it out. So we're just going to  
16 go ahead.

17 One of the things that I heard in  
18 your testimony, Mr. Layman, Mr. Clark, Mr.  
19 Meehan, was in different ways you seem to be  
20 uncomfortable with the concept of Matter of  
21 Right. So in talking about the R0 or in  
22 talking about being responsive to the urban

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1 form and some of the issues that you raised  
2 about variances, it strikes me what you really  
3 want is something so customized that Matter of  
4 Right doesn't work unless we have so many  
5 different kinds of overlays to be responsive  
6 to what's happening in different  
7 neighborhoods. I don't know if I'm hearing  
8 that correctly, but I'd like you to comment on  
9 that, if you would, briefly.

10 MR. LAWSON: I don't have any  
11 problem with Matter of Right. I do think that  
12 one of the things that needs to be looked at  
13 with respect to zones is if we have a zone-  
14 based system which I would think we might is  
15 do we have enough and do they do the right  
16 thing. In other words, I think -- I mean I  
17 look at other people say well, it can get too  
18 complicated. And I suppose it can, but one of  
19 the things I look at and when I talk about  
20 that R0 and certainly three members of this  
21 Commission and four members, really, because  
22 Mr. Jeffries was here at the end, remember all

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1 the struggles we went through on what people  
2 were trying to protect with the tree and slope  
3 overlay. And there were issues beyond trees  
4 and slopes.

5 And that gets into we have so much  
6 of the city in the residential zones. I'll  
7 talk about that right now, no matter what they  
8 are, where the properties are built out to far  
9 less than what the Matter of Right zoning is  
10 now. I think that's the issue.

11 Do we need to adjust with that in  
12 mind?

13 CHAIRPERSON MITTEN: But then in so  
14 doing, what I'm suggesting is then we would be  
15 customizing what is Matter of Right basically  
16 by neighborhood.

17 MR. LAWSON: I don't know if it  
18 becomes by neighborhood. I think -- I'm not  
19 sure I'm ready to go neighborhood by  
20 neighborhood. I hear some discussion about  
21 that, that being done. I'm not sure that's  
22 the way I would see going. On the overlay

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1 question, I think that one of the ways that I  
2 thought you were doing in that one case again  
3 was trying to say okay, do we have some  
4 concepts that we ought to apply in different  
5 places. And in this sense, I don't care  
6 whether things are overlays, if maybe since  
7 we're rewriting the regs and say okay, we  
8 ought to do this here, here and here, I mean  
9 it doesn't have to be an overlay to do that,  
10 but to have that in mind. That's, I guess, my  
11 short -- longer than I thought answer to your  
12 question.

13 CHAIRPERSON MITTEN: Okay, thank  
14 you.

15 MR. CLARK: I guess I would  
16 disagree. I think there are a couple of  
17 different issues going on with Matter of  
18 Right. One is use, generally; and one is the  
19 lot. And I will quote what you said at a Ward  
20 5 --

21 (Off the record.)

22 CHAIRPERSON MITTEN: Okay, go

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1 ahead.

2 MR. CLARK: The issue with Matter  
3 of Right is both the use and the bulk and  
4 height. And one of the problems is really  
5 with the use because use is zone-wide, and  
6 that's why Matter of Right is zone-wide. And  
7 it doesn't always work.

8 And then the quote part is some  
9 people have no taste. And so then when you  
10 get

11 --

12 CHAIRPERSON MITTEN: I'll stand by  
13 that one.

14 MR. CLARK: Bulk and height, when  
15 people do just God-awful jobs. Then there is  
16 the issue of you know, places not being built  
17 out to what's allowable, but that accounts for  
18 down-zoning.

19 I think city-wide, every  
20 neighborhood wanting their own overlay is an  
21 indication that Matter of Right is not working  
22 or the way the overall kind of philosophy

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1 behind the regulations isn't working. So I  
2 think right there, that communicates there are  
3 issues that need to be addressed.

4 Matter of Right, I guess the reason  
5 that -- in things I've been involved in as an  
6 advocate where it's an issue, it's just when  
7 design, when context, when urban form, when  
8 transportation isn't -- it's just not part of  
9 what's required, then people do what they want  
10 and we just feel like we get so little. And  
11 it diminishes our neighborhood. Sure,  
12 sometimes five years later, you say well, I  
13 guess that project wasn't so bad. But a lot  
14 of the time really our neighborhoods, the  
15 quality of life is actually diminished. And I  
16 can't believe anyone in this room, I certainly  
17 know no one on the Zoning Commission, no one  
18 on BZA, no one in the Office of Planning, no  
19 one in the Office of Zoning wants to diminish  
20 the beauty of the city. Nobody. Nobody in  
21 this city wants that. Not even Holland and  
22 Knight.

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1 But the thing is --

2 CHAIRPERSON MITTEN: Be nice now.

3 MR. CLARK: But the thing is  
4 somehow that's happening. It's like there was  
5 a study of the Vietnam War and the finding was  
6 the system worked, it was just that the result  
7 wasn't what was desired. And that's what's  
8 happening here. That the system is working,  
9 but we're not getting the desired results, if  
10 the desired result is a better city.

11 CHAIRPERSON MITTEN: Thanks. Did  
12 you want to say anything, Commissioner Meehan?

13 I need you to turn the mic back on  
14 so we can all hear you?

15 COMMISSIONER MEEHAN: I addressed  
16 Matter of Right in two places in terms of use  
17 in the special exceptions. I don't deny the  
18 Matter of Right, someone to be able to lease  
19 or sell a building for nonresidential use, for  
20 a nonprofit. The question we had was if the  
21 intent of the land use was residential and we  
22 see an acceleration of this special exception,

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1 then we have, in fact, been focusing on so  
2 many individuals, miss the forest for the  
3 trees. And therefore, we thought there ought  
4 to be some way of being able to say whether  
5 it's percentages or what, that you wouldn't  
6 suddenly see whole blocks moving from  
7 residential to nonresidential uses under  
8 special exceptions. That was the point.

9 And I understand, that's not an  
10 easy because how do you -- what's the  
11 principle that you would use to say no to the  
12 third or fourth person. I understand that.  
13 But it seems to me there ought to be some  
14 caution on how special exceptions are applied.

15 The other one was I made an example  
16 in my written testimony about a fence on the -  
17 - that fences may go out onto the alley, but a  
18 garage has got to be 12 feet off the center.  
19 Matter of Right for the fence, but it's a  
20 contradiction. It makes no sense to have a  
21 fence on the alley and a garage when the  
22 purpose of having a garage 12 feet from the

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1 center is to allow basically cars to turn. So  
2 that is an example to say we have Matters of  
3 Right which actually involve contradictions to  
4 good building, good zoning enforcement, or  
5 good variance applications.

6 And what we thought is that the  
7 deal with the backs, since there are so many  
8 different ways of looking at it, instead of it  
9 just being one person coming in for a  
10 variance, if there is a way that those  
11 variances can be bundled so that there are  
12 amenities to the neighborhoods like trees  
13 being put in place.

14 I saw a case where I understand BZA  
15 approved garages in 1990, 10 feet back from  
16 the alley. They planted two trees in some of  
17 that space and it was like giving something  
18 back. And it seems to me that if there is a  
19 way of looking at variances in terms of yes,  
20 you want to make your case, and it's a  
21 judgment call, but what are you giving back to  
22 the neighborhood? And it seems to me that you

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1 have to look at a lot of issues together and  
2 you can't quite do it on a single issue. You  
3 can't do it in terms of a deck. You can't do  
4 it in terms of a garage. You've got to look  
5 at it in terms of views and a whole bunch of  
6 things.

7           And it just seemed to me that might  
8 be a creative way, not as an overlay, but as  
9 an effort to say you want to get some of these  
10 things, what are you going to do to make this  
11 place a greener place, more habitable place,  
12 where trucks could park? And then the ANC was  
13 looking at stuff that has merit and it isn't  
14 feeling that gee, we don't understand all this  
15 technical detail and we don't want to make  
16 decisions that seem to be wrong.

17           On the other hand, we want to be  
18 able to support something, but something has  
19 to come back to the community.

20           CHAIRPERSON MITTEN: All right.  
21 Thank you.

22           Does anyone else have any other

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1 questions? Okay, thanks to the panel. Thank  
2 you for bearing with the technical issues.

3           Janae Grant, Richard Westbrook,  
4 Barbara Zartman, is Joy Howell here yet? No.  
5 Alan Greenburg.

6           Commissioner Grant, whenever you're  
7 ready, why don't you go ahead?

8           COMMISSIONER GRANT: Good evening.  
9 My name is Janae Grant and I'm the  
10 Commissioner for a Single Member District of  
11 5A-11. Am I clear?

12           CHAIRPERSON MITTEN: You're clear.

13           COMMISSIONER GRANT: Great. I did  
14 provide copies. I'm really just going to  
15 focus on number two since you have the written  
16 -- my testimony is really to say that the  
17 current zoning gives -- actually two and  
18 three. The current zoning gives churches the  
19 Matter of Right within R1 zoning and the  
20 suggestion is to extend the buffer that which  
21 is allotted to youth rehabilitation homes and  
22 homes of adult rehabilitation. They have like

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1 a 500 to 600 feet buffer. It is to request  
2 that one, churches adhere to that buffer, but  
3 to a thousand feet. And then also for the  
4 existing -- I'm sorry, for the youth homes and  
5 the adult homes, that they now also be  
6 extended to a thousand feet buffer zone. And  
7 honestly, if I could ask for more, I would,  
8 extend it to maybe 1200. I was trying to get  
9 some clarity what 500 feet was earlier and I  
10 just -- it seems like it's a block. If I had  
11 a little bit more of a distinct measurement I  
12 would have extended it, but I definitely feel  
13 at least a thousand feet would definitely  
14 allow growing communities to feel comfortable  
15 because parking is not going to change. And  
16 so it does become a cramping issue. So those  
17 were the specifics. If we can change those to  
18 be extended, again, a thousand feet or more  
19 I'll just say to that.

20 The other focus which was number  
21 one is it's pretty lengthy, but it's a  
22 specific location in my area and where there

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1 are homes that reside in C2A zoning and  
2 unfortunately there's a mechanic shop and over  
3 time it has just been really toxic to live by  
4 and near in terms of where the homes are. And  
5 so what I did was I took out where I wrote the  
6 specific chapter where it comes from and I was  
7 actually asking for the suggestion that what's  
8 allowed for fast food industries, that that  
9 provision also be applied to automobile  
10 accessories/installations. I felt that that  
11 would be a similar instance where they can't  
12 be but so close to the actual residence and  
13 there's a high wall installed and so forth,  
14 and they also have dumpsters. Those are some  
15 things that are not currently necessary for  
16 the automobile mechanic shop. And again, it's  
17 really just to allow for future sensitivity  
18 provided that it is correctly zoned, but when  
19 residents are looking for homes you don't want  
20 to shorten their chance of just shelter versus  
21 actually living.

22 So that concludes my testimony.

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1 CHAIRPERSON MITTEN: Thank you very  
2 much.

3 Mr. Westbrook?

4 MR. WESTBROOK: Good evening.

5 CHAIRPERSON MITTEN: Just identify  
6 yourself for the record.

7 MR. WESTBROOK: Sorry. I'm Richard  
8 Westbrook. I reside in the southwest at 505 H  
9 Street, Southwest. I returned to the county  
10 of Arlington in December of 1987. And was  
11 there for eight years. Seven of those years I  
12 was the manager of the BZA Variance Program.  
13 During that time they were always fighting  
14 about placement variances because that's all  
15 Arlington's BZA addressed, placement  
16 variances. Didn't do use variances, use  
17 permits or special exceptions. That was the  
18 Arlington County Board.

19 They were inundated with various  
20 requests just for placement provisions, set  
21 back from the street, side yards, rear yards,  
22 heights, and so on. So they started this

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1 program well, let's take a look at these  
2 regulations and see what we can change so that  
3 we don't have so many nonconforming uses and  
4 requests for variances because back in the  
5 '60s they made a real change in all these  
6 placement provisions so they could consolidate  
7 them and you could get them down to one page  
8 versus four or five. Well, it caused all  
9 kinds of nonconforming issues, situations, so  
10 during the eight years that I was there in  
11 Arlington, we were on and off working on  
12 modifying these provisions. And the last year  
13 I was there we got everything straightened out  
14 what we were going to do. We limited it quite  
15 a bit to side yards and set backs from the  
16 street and the County Board adopted these  
17 changes a few months after I had retired in  
18 January of 1996.

19 I want to emphasize the difficulty  
20 of knowing what you should change, how much  
21 you should change it, and what are its  
22 repercussions. So it's not an easy matter.

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1 And here we're looking at the whole zoning  
2 ordinance? Don't do that. Figure out what  
3 are the real problems and go at one issue and  
4 problem at a time and get it changed, whatever  
5 the outcome you all have five votes to do  
6 that.

7 What Arlington does is when they  
8 get a change it's the County Board has to  
9 enact the change and they send this change  
10 down to an outfit, it's called Municipal Code  
11 Corporation in Tallahassee, Florida and they  
12 print it and send these additional pages up  
13 and everybody has got one of these and it says  
14 which page that you got in the mail  
15 substitutes for which page you got in your  
16 looseleaf binder.

17 CHAIRPERSON MITTEN: I remember  
18 doing that, changing those pages.

19 Can you please close it out for us,  
20 please?

21 MR. WESTBROOK: It works. Yes, I  
22 want to do a couple other things.

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1                   CHAIRPERSON MITTEN:        Could you  
2 submit it in writing because you're over your  
3 five minutes now.

4                   MR. WESTBROOK:        Well, community  
5 benefits for PUDs that's always been a problem  
6 and it needs to be addressed, tightened up.  
7 Say how do you measure it, what it should be  
8 and so on. That's -- in Arlington we had the  
9 McMansion problem which they've finally got  
10 something done last year.

11                   CHAIRPERSON MITTEN:    Anything you'd  
12 like to submit in writing, the record will be  
13 open.

14                   MR. WESTBROOK:        Okay.

15                   CHAIRPERSON MITTEN:    Thank you.  
16 Ms. Zartman.

17                   MS. ZARTMAN:        Thank you. My name  
18 is Barbara Zartman and I'm the immediate past  
19 chairman of the Committee of One Hundred on  
20 the Federal City for whom I'm speaking  
21 tonight.

22                   It's a pleasure to be able to speak

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1 to night and mark the beginning of what I  
2 expect to be a productive and challenging  
3 process. Some of you have heard me espouse  
4 the doctrine of the Zoning Code as social  
5 contract between the people and their  
6 government. It's the assurance of protections  
7 against certain uses and practices that  
8 enables families to put down roots, by a home,  
9 start a business, help build strong schools,  
10 and richer community.

11 While I wholeheartedly support the  
12 updating of the Zoning Code and have lobbied  
13 for funds to enable it, I approach the  
14 revision with a strong desire to be sensitive  
15 to the implications of changes and with the  
16 awareness that massive change can be socially  
17 destabilizing. That, in turn, has very real  
18 implications for the District's economy.  
19 Developing economies around the world know  
20 that one of the most significant tools of  
21 economic growth is the ability to title  
22 property. When ownership cannot be

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1 established, land is unavailable to secure  
2 loans, whether for people's needs or for  
3 funding to start businesses. The majority of  
4 small businesses are funded through second  
5 mortgages on a family home. And it is these  
6 small businesses that offer so much to  
7 economic development.

8           According to SBA data for every  
9 dollar spent with a small sole proprietorship  
10 business, 60 cents is retained and  
11 recirculated in the community. For chain  
12 stores, the retained portion of that dollar is  
13 just 20 cents. And for big box retailers,  
14 it's just six cents. So the more we can do to  
15 encourage a stable base from which small  
16 businesses can grow, the more the District as  
17 a whole will benefit.

18           Protecting values in residential  
19 communities has its benefit. Affecting  
20 property values by changing land use guidance  
21 has consequences far beyond the individual's  
22 loss. We would urge that caution attend

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1 consideration of the scope of this undertaking  
2 and that tested provisions not be replaced  
3 with interesting alternative, but largely  
4 theoretical approaches. Moreover, the  
5 significant body of case law that has resulted  
6 from often protracted litigations of zoning  
7 matters needs to be reconciled with the code  
8 and embodied in the revision, except of course  
9 for those cases where we disagree with the  
10 outcome.

11 (Laughter.)

12 Just joking. Changes to the zoning  
13 code should not diminish the ability to rely  
14 on case law for District-wide precedent. In  
15 discussions wearing another hat, I was  
16 surprised to hear of the concept of  
17 neighborhood-specific residential zoning  
18 codes. I don't know how that would work, but  
19 I'm willing to learn.

20 Overlays can be useful. We were  
21 sorry to hear that there had been a moratorium  
22 placed on them when we came in to discuss the

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1 possibility of one.

2 I would also note the obvious about  
3 the code. One serious problem is enforcement  
4 or the lack of it. Amending the words on  
5 paper is not likely to fix this, but another  
6 fundamental problem is ripe for this  
7 undertaking, the need for better and clearer  
8 and new definitions of elements of the code,  
9 whether it's the standard for granting party  
10 status, the prongs for variances, the point at  
11 which alteration becomes demolition or the  
12 definition of outside walls, we have all  
13 experienced the use of different standards to  
14 interpret these and other provisions.

15 The Committee would support the  
16 positions taken earlier by the Federation of  
17 Citizens Associations and associate ourselves  
18 with their remarks. We would especially  
19 direct attention to the matter of separating  
20 party status from the case in chief. I think  
21 it's punitive to ask the community groups  
22 often entirely composed of volunteers, raise

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1 the kind of after-tax dollars that are needed  
2 to hire attorneys and experts and develop an  
3 entire case without knowing whether they will  
4 ever be allowed to present it.

5           Indeed, requests for party status  
6 which usually involved a limited number of  
7 persons and are not particularly time  
8 consuming, could be heard several at a time,  
9 seriatim, with the parties then able to build  
10 their cases or to know the likelihood of a  
11 limited role in the hearings that will follow.

12           Rather than adopting something that  
13 came to Mr. Clark's laundry list, the  
14 Committee will submit to the Commission by the  
15 time of the next roundtable a complete  
16 statement of areas we think need change as  
17 well as some proposals for how that change  
18 might be accomplished. We will also include  
19 opportunities for new provisions that can  
20 bring environmental sensitivity to the land  
21 use system.

22           We anticipate participating in the

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1 studies required by the adoption of the  
2 Comprehensive Plan, that is to say, the study  
3 of the Planning Commission, and the revision  
4 of how PUDs are utilized. I've attached the  
5 testimony I offered for the Committee a few  
6 months ago on this topic.

7 I've also identified a pair of  
8 resources I find useful, the Rockville Zoning  
9 website with its thoughtful white papers, and  
10 a handbook from the APA that is informative as  
11 to both substance and format of revising the  
12 Zoning Code.

13 In short, the Committee looks  
14 forward to working with you on the long  
15 process of collaboration and exploration.

16 CHAIRPERSON MITTEN: Thank you very  
17 much.

18 Mr. GreenbUrg.

19 MR. GREENBURG: Thank you. My name  
20 is Alan Greenburg. And I have resided in  
21 Dupont Circle since 1992. I'm privileged to  
22 testify before you all this evening about the

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1 important changes contained in the recently  
2 enacted Comprehensive Plan Amendment Act that  
3 pertained to car parking requirements for  
4 housing development.

5           These changes provide the Zoning  
6 Commission a rare opportunity to revise the  
7 Zoning regulations in a way that would  
8 substantially improve housing affordability in  
9 the District. A relevant section of the act  
10 and I'm quoting in part, "Find ways to  
11 unbundle the cost of parking from residential  
12 units, allowing those purchasing or renting  
13 property to opt out of buying or renting  
14 parking spaces. Further measures to reduce  
15 housing costs associated with off-street  
16 parking requirements including waived or  
17 reduced parking requirements in the vicinity  
18 of Metro rail stations and along major transit  
19 corridors should be pursued during the  
20 revision of the Zoning regulations.

21           Off-street parking requirements  
22 interfere with the adaptive re-use of older

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1 buildings and are anathema to affording  
2 housing. Requiring the construction of  
3 parking in excess of market demand adds  
4 \$50,000 or more to the price of housing units.

5 An amount exceeding the entire housing budget  
6 of many District minimum wage workers. And  
7 guarantees more car ownership, driving  
8 traffic, and air pollution than if such  
9 parking were not mandated.

10 Not only is parking very expensive  
11 to build, but also many older buildings simply  
12 cannot be retrofitted at any price to  
13 accommodate it. The sole reason to require  
14 any off-street parking with new housing  
15 developments is to reduce the likelihood that  
16 such developments result in too much new  
17 demand for on-street parking.

18 Off-street parking requirements  
19 would be completely unnecessary if the  
20 District adequately managed public on-street  
21 parking through a combination of regulations  
22 and market rate pricing. The Zoning

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1 Commission should not try through off-street  
2 parking requirements to make up for the  
3 District Government's parking management  
4 failure when much better alternatives are  
5 available.

6 It is simply not right to require  
7 new residences, especially low income ones,  
8 who along with almost 40 percent of current  
9 District residents may be willing to live car  
10 free to pay so much more for off-street  
11 parking as part of their housing costs so that  
12 existing residents can continue to enjoy  
13 virtually free on-street public parking.

14 I urge the Zoning Commission to  
15 amend the regulations now by setting a date  
16 one or perhaps two years out after which off-  
17 street parking requirements would no longer  
18 apply. At the very least, cases where  
19 development serves a critical public need such  
20 as to restore all the buildings which create  
21 affordable housing. The District City Council  
22 and the Department of Transportation would

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1 then have ample lead time to design and  
2 implement appropriate policies to manage  
3 public on-street parking so that the supply of  
4 such parking will not be overwhelmed with new  
5 demand.

6 One policy the District might  
7 choose to implement in response to the zoning  
8 regulatory changes proposed here would be to  
9 grant home builders Matter of Right discretion  
10 to build fewer off-street parking spaces than  
11 otherwise required. If residents at the  
12 development lose the privilege to individually  
13 apply to the District for residential parking  
14 permits, the District would need to determine  
15 the average number of RPBs issued per  
16 development in comparable new Matter of Right  
17 developments that do not comply with existing  
18 off-street parking standards.

19 For instance, residents of one  
20 bedroom apartments in RPB Zone 1, might on  
21 average request .5 RPB permits and residents  
22 in the same area of townhouses might on

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1 average request 1.5 permits.

2 No matter what the numbers though  
3 in each RPB zone, RPB allowances for  
4 noncompliant buildings would be based on those  
5 numbers and then pulled and residents at  
6 participating buildings would be eligible to  
7 bid in an auction for or otherwise purchase at  
8 market rate prices one of the limited number  
9 of RPBs made available from the City in their  
10 RPB zone of residence.

11 New revenues from the program could  
12 be used to distribute to residents of the  
13 covered buildings an equal value of Metro fare  
14 cards or alternatively could be applied to the  
15 District's Affordable Housing Trust Fund.

16 Second zoning regulatory change I  
17 propose and it's consistent with the spirit of  
18 the amendments, would be to stop the  
19 preferential treatment of space for personal  
20 garage parking over living space when  
21 calculating eligible Floor Area Ratios. I  
22 cite specific sections here, but essentially

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1 the current regulations allow that first floor  
2 basement areas designated use for parking  
3 space or recreational space are not counted  
4 against the FAR and thus you're allowing  
5 effectively a higher Floor Area Ratio in those  
6 instances.

7 I'm not opposed to allowing a  
8 higher Floor Area Ratio, but it seems to me  
9 that if we're going to do that we should also  
10 allow that for bedroom space as well. So for  
11 instance, the way to put that in regulations  
12 would be to merely exempt say 200 square or  
13 the equivalent to the space of a one-car  
14 garage from counting against the maximum FAR,  
15 so long as, again, the exception is neutral as  
16 to how the space is used.

17 I appreciate the opportunity to  
18 testify. That concludes my remarks. I look  
19 forward to working with the Zoning Commission  
20 in promoting affordable housing, adoptive re-  
21 use of older buildings and transit-oriented  
22 development by strategically eliminated car

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1 parking requirements consistent with recent  
2 changes in the Comprehensive Plan.

3 Thank you. CHAIRPERSON MITTEN:

4 Thank you. Questions for the panel?

5 Mr. Hood?

6 VICE CHAIR HOOD: I just had two  
7 quick questions.

8 Commissioner Grant, in your  
9 testimony you mentioned about a location of  
10 different uses. Had you had a chance during  
11 the Comprehensive Plan to maybe engage the  
12 Office of Planning or have you ever mentioned  
13 this previously?

14 COMMISSIONER GRANT: Regarding the

15 --

16 VICE CHAIR HOOD: The location of  
17 uses like in a C2A. You mentioned how they  
18 should be located?

19 COMMISSIONER GRANT: Okay, so for  
20 number one, no.

21 VICE CHAIR HOOD: I think that is  
22 an excellent piece, but I just wanted to know

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1 if you ever --

2 COMMISSIONER GRANT: I wish.

3 You're referring to number one?

4 VICE CHAIR HOOD: Yes, number one.

5 COMMISSIONER GRANT: I really wish  
6 I did. No, it was not submitted or even fully  
7 thought about at the time. It really is  
8 something I've just recently been pressed to  
9 be engaged with since I became Commissioner.

10 VICE CHAIR HOOD: All right, thank  
11 you. I have one other quick one.

12 Mr. Westbrook, you mentioned some  
13 of the quick problems and I wanted to hear it.

14 You said PUD amenities. I know you also had  
15 a list as Mr. Clark. Could you run that off  
16 right quick because I think you ran out of  
17 time, just the list.

18 When your testimony ended, you  
19 talked about problems. You mentioned the PUD  
20 amenities and you got cut off. Well, your  
21 time had expired.

22 MR. WESTBROOK: Yes, well, in the

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1 Southwest community we've been going on to  
2 this community benefits project for about  
3 three years now and it gets so nebulous about  
4 well what should you really be asking for in  
5 terms of a PUD approval or zone change or just  
6 straight any kind of development, what should  
7 be benefitting the community and how much and  
8 how do you measure this?

9 We're in the throes of this with  
10 all these recent zoning cases and how do you  
11 measure what should the community get and what  
12 it should be if you've got a huge redo of a  
13 mall or a housing project or anything else.

14 They're really struggling with  
15 that, but you want other things?

16 VICE CHAIR HOOD: One other  
17 question. Would I be right if I asked you  
18 also how long should an amenity last if we  
19 threw that into the equation?

20 MR. WESTBROOK: Should what?

21 VICE CHAIR HOOD: For example,  
22 amenities usually go away, a couple of dollars

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1 to a civic organization. As you just  
2 mentioned, the mall is going to be there for a  
3 while. It's not going away for a long time.  
4 So I guess another issue should the Commission  
5 also weigh looking at those amenities for  
6 longevity also?

7 MR. WESTBROOK: Well, whatever is  
8 in the zoning ordinance or zoning order that  
9 rides with the land.

10 CHAIRPERSON MITTEN: No, what Mr.  
11 Hood is asking is in judging amenities there  
12 are some -- they pay the money and it's over.

13 MR. WESTBROOK: Right.

14 CHAIRPERSON MITTEN: And there are  
15 some that more enduring.

16 MR. WESTBROOK: That's another  
17 problem with that like first source  
18 employment. How long is that supposed to  
19 last? If you can't accomplish it, how long do  
20 you force the issue and how do you make sure  
21 it's been at least tried?

22 VICE CHAIR HOOD: Thank you very

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1 much.

2 CHAIRPERSON MITTEN: Ms. Miller?

3 MS. MILLER: Thank you. I'd like  
4 to ask Ms. Zartman a question about the party  
5 status. I've been trying to think about it as  
6 you all have brought it up and I think it's an  
7 interesting idea. And I can understand the  
8 concern about knowing ahead of time whether or  
9 not you're going to be able to participate and  
10 that affects your preparation. And I'm just  
11 wondering if you've thought about it anymore,  
12 if you will, logistically how that would work  
13 in that now we have our cases and we do it all  
14 in one day and so it sounds like either  
15 suggesting that we consider like a month  
16 earlier having preliminary matters or  
17 something involving party status and perhaps  
18 other things, which would be adding a layer,  
19 another layer of hearings on the Board or  
20 whether any of this could be done on paper  
21 ahead of time?

22 MS. ZARTMAN: I don't know about

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1 doing it on paper because I always love to  
2 hear advocacy, but certainly doing it a month  
3 before the hearing would be an essential time  
4 line. If a community organization has to  
5 raise \$40,000 or \$50,000 for legal and expert  
6 costs, they aren't going to do that in two  
7 weeks. And they shouldn't have to do it if  
8 they're never going to be allowed to put a  
9 case on. And so separating the two portions  
10 of a case would, to me, to be a fair way of  
11 permitting because it really is permitting a  
12 community group to be a party. If they can't  
13 raise the money, if they're not going to be  
14 involved, then the case is treated very  
15 differently.

16 I just think that party status  
17 should be pretty factually based and should be  
18 pretty consistent. Actually hearing several  
19 seriatim might even add to the consistency in  
20 which factors that entitle an organization to  
21 party status could be considered and they  
22 could learn from one another.

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1 CHAIRPERSON MITTEN: Anyone else?

2 COMMISSIONER TURNBULL: Madam  
3 Chair, I just want to continue on. Would you  
4 be considering on that same issue at a pre-  
5 hearing?

6 MS. ZARTMAN: It could happen any  
7 time from the decision to set a case down to I  
8 think a month before you're prepared to hear  
9 the case in chief.

10 CHAIRPERSON MITTEN: I think that's  
11 the challenge that Ms. Miller was focusing on  
12 which is they don't have a set down type of --

13 MS. ZARTMAN: Right.

14 CHAIRPERSON MITTEN: Operation.

15 MS. ZARTMAN: The equivalent when  
16 the case comes in, you'll know how many cases  
17 are there and how many people, well, you don't  
18 know under the current rules until two weeks  
19 before you're set to hear the case in chief  
20 that somebody is seeking party status. So  
21 that would require a change to allow early  
22 filing when the case is filed.

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1                   CHAIRPERSON MITTEN:    It really is  
2                   problematic because when you talk about  
3                   posting a notice, then you'd have to have all  
4                   that done well in advance of the hearing. I  
5                   mean it is an interesting idea to have it done  
6                   in advance.

7                   MS. ZARTMAN:    The ANCs get notice  
8                   automatically. They can be involved in the  
9                   process of alerting community organizations to  
10                  the need to file a request for party status  
11                  earlier --

12                  CHAIRPERSON MITTEN:    Yes, but it's  
13                  not just community organizations that come to  
14                  us.

15                  MS. ZARTMAN:    Of course, it's  
16                  neighbors and others.

17                  CHAIRPERSON MITTEN:    Yes.

18                  MS. ZARTMAN:    But the issue of  
19                  neighbor participation is pretty consistently  
20                  handled for immediate neighbors.

21                  CHAIRPERSON MITTEN:    Yes, but the  
22                  exercise has to be conducted once, not

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1 multiple times in a single case, I think.

2 You're blinking but not speaking.

3 (Laughter.)

4 MS. ZARTMAN: I'm thinking.

5 COMMISSIONER TURNBULL: I guess my  
6 concern was just carrying on with Ms. Miller  
7 that in the BZA if you -- the BZA simply can't  
8 do it in a closed room by itself and say look  
9 at the issues and say the applicant and then  
10 send something back. It still has to be  
11 deliberated in the open so that you've gotten  
12 testimony from everyone.

13 So it's almost like a two-step  
14 hearing process then.

15 MS. ZARTMAN: And sometimes that  
16 might be the only fair way to do it. I think  
17 the ones that most often come to my mind are  
18 PUDs, campus plans, the big cases that the  
19 Commission hears. But the BZA affects a great  
20 number of home owners and the associations  
21 that represent them. And I think there has to  
22 be a way to allow their participation without

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1 potentially forfeiting a great deal of money  
2 to secure appropriate resources to compete in  
3 a hearing. And when party status is denied,  
4 the community doesn't have a voice. Doesn't  
5 have a chance to affect the record, a basis  
6 for appeal. Any aggrieved party can  
7 technically file an appeal, but it will just  
8 get tossed out because you haven't perfected  
9 the record. You haven't elicited the  
10 information that you need to make your case.

11 CHAIRPERSON MITTEN: Clearly a  
12 subject for further discussion. We could have  
13 a whole separate --

14 MR. WESTBROOK: Chairman Mitten?

15 CHAIRPERSON MITTEN: Yes.

16 MR. WESTBROOK: Have you ever  
17 considered having a People's Counsel to aid  
18 the citizens without hiring a separate lawyer?

19 I think Montgomery County and Prince George's  
20 have this People's Counsel on zoning changes  
21 in BZA cases.

22 CHAIRPERSON MITTEN: That would be

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1 for the City Council to adopt. That's an  
2 interesting idea.

3 MR. WESTBROOK: Yes, but I mean  
4 that is a possibility.

5 CHAIRPERSON MITTEN: Absolutely.

6 MR. WESTBROOK: They do it in  
7 Maryland.

8 CHAIRPERSON MITTEN: Yes, that's an  
9 interesting idea.

10 MR. WESTBROOK: They don't do it in  
11 Virginia.

12 (Laughter.)

13 CHAIRPERSON MITTEN: Okay, anyone  
14 else have any questions for the Panel?

15 Okay, thank you all very much.

16 Is Anne Selene here? I still  
17 didn't see here.

18 Ann Hargrove, Laura Richards, Ray  
19 Valentine, Bill Spalding. Did you want to  
20 testify? No, you just signed in. Okay. That  
21 would be great if you could give it to staff.

22 Drew Roneberg. How many do I have now? Inez

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1 Sletta. No. Jim Lewis. Jim Lewis? Sally  
2 Kramm. No. Naomi Robinson? Anybody else  
3 want to testify?

4 Please have a seat. Don't forget  
5 to turn in those cards on your way up to the  
6 table.

7 Ms. Hargrove, why don't you go  
8 ahead?

9 MS. HARGROVE: I'm going to take a  
10 slightly different tact this evening, if I  
11 may, associate the Kalorama Citizens  
12 Association with the comments that have been  
13 made by the Committee of 100 and George Clark  
14 as to beginning a workable list that one can  
15 work with in terms of what we should do.

16 What I gave Sharon Schellin a  
17 moment ago is the Lewis Plan from 1958. I  
18 have only one copy of it, but I assume that  
19 you all are more wealthy than I am and can  
20 possibly get additional copies for people to  
21 review, because it should be an essential  
22 feature of the work. We need to know where we

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1 were at that time, what we tried to do, and  
2 how well we accomplished it and how poorly we  
3 accomplished it and to try to figure out what  
4 we really want to do this time that is  
5 substantially different from what we  
6 inherited.

7 I think it's significant that it  
8 was in that plan the 1956 plan that led to the  
9 1958 zoning that the basic structure of our  
10 present code, although it was quite similar in  
11 1938, it was improved so that we have the  
12 basic outlines of what was intended. Some of  
13 the problems they faced then still remain  
14 unresolved. For example, housing, the  
15 provision of housing for lower income people  
16 was a big issue with them and they hoped to  
17 remove what they called slum dwellings within  
18 10 years.

19 A similar problem was that they  
20 never managed to get together with a complete  
21 resolve of the issue of what we do about  
22 automobiles versus public transportation and

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1 highways. And that problem still remains  
2 today, at least some nuances of it, even  
3 though we do have a Metro system.

4 I think it's important for us to  
5 look at some of the things that they did and  
6 they wanted to do as at least we can learn  
7 from history and assume that we are not all  
8 that different than we were then about certain  
9 things. For example, it was felt we needed  
10 more zones including transitional zones. They  
11 did that to some extent. They thought that  
12 there were too many exceptions to the rules as  
13 well as exceptions to the exceptions. That  
14 sounds familiar. They thought that the  
15 effective regulations are confusing and overly  
16 complicated in some instances, and difficult  
17 to administer, and they're not being  
18 administered right. And they're very  
19 inadequate and they thought the enforcement  
20 was not being properly done.

21 They felt that -- I mean does this  
22 sound familiar, at least with some people,

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1 this litany?

2           There were problems with amendments  
3 that have permitted densities, heights, and  
4 intensity of use to creep up, rather than  
5 being pushed down and expansion of the areas  
6 of heightened intensity of development on the  
7 map steadily at the expense of low intensity  
8 zones. That sounds very familiar. And the  
9 need for eradication of spreading blight which  
10 we mentioned a minute ago.

11           Well, I guess what we really need  
12 to think about is what were the zoning  
13 regulations that emerged over the years, the  
14 40 years or so that we had from 1958? We  
15 changed map regulations. We upped the density  
16 in areas. We did all kinds of selective  
17 changes. We did text recommendations that  
18 were changed all around. And you can read  
19 this little guide, if you want to about some  
20 of the changes that we acquired, although  
21 they're not annotated by specific number and  
22 date precisely, some of the general categories

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1 are listed there.

2 One of the things that we need to  
3 think about is what are we talking about with  
4 regard today? Are we going to plan -- what  
5 are we using as our guideline and ostensibly  
6 since Congress said that we should and the  
7 first such Comprehensive Plan was in 1950,  
8 we're supposed to have a Comprehensive Plan  
9 that guides our zoning.

10 And so the question is what  
11 guidance does it give us on really highly  
12 specific details on how much latitude do you  
13 have to go beyond them in terms of  
14 interpretation. One example that I would give  
15 is that we did not in this Comprehensive Plan  
16 specify how much of the total land area should  
17 be residential, commercial, institutional,  
18 industrial or reserved for public use in the  
19 future. So without making some basic  
20 guidelines like that as you would see in some  
21 other plans, we really don't know how much  
22 commercial zoning we need, how much

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1 residential zoning we should strive for. And  
2 we're not even entirely sure even on the basis  
3 of the figures that were used in the plan,  
4 what our population growth can achieve and how  
5 much of it will be achievable in terms of  
6 absorption and the other elements one  
7 considers in the market analysis for the  
8 future. So we have some problems like that to  
9 worry about a bit as we go through it.

10 We have achieved some recent  
11 amendments that are not so recent. If we talk  
12 about future changes and I'm skipping around a  
13 lot in order to get through this, one of them  
14 is whether we want more latitude in our zoning  
15 changes or whether we want more restriction in  
16 our zoning changes. That's a very interesting  
17 topic which I hope you will look at on the  
18 pages which are in this because there are some  
19 options discussed in relation to what the  
20 implications might be for each of those  
21 directions.

22 In addition, I want to finish by

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1 saying that one of the key elements we need to  
2 deal with in this code is to think ahead of  
3 today and that is to be sure that we deal with  
4 green buildings, natural landscapes and energy  
5 efficiency and there's some discussion of that  
6 in this paper as well.

7 CHAIRPERSON MITTEN: Thank you for  
8 your good work on this and I'm going to assume  
9 that the Office of Planning is going to be  
10 having a robust web presence as we go through  
11 this like you did on the Comprehensive Plan.  
12 So maybe we can get some of these things  
13 posted.

14 MS. STEINGASSER: Yes, absolutely.

15 CHAIRPERSON MITTEN: Terrific,  
16 thank you.

17 Ms. Richards?

18 MS. RICHARDS: Good evening. I am  
19 here on behalf of the Penn Grant Citizens'  
20 Civic Association in Southeast Washington. I  
21 am authorized to make four points on behalf of  
22 the Association and I note at the outset that

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1 we are being very -- really affected by the  
2 Pennsylvania Avenue Great Streets ongoing  
3 programs of development. So this is not at  
4 all an academic issue for us.

5 Party status, one. We would like  
6 for party status to be granted liberally and  
7 we understand the logistical issues that have  
8 been discussed here. In our proposal for  
9 workable means of doing it is to grant Matter  
10 of Right party status to any civic or  
11 citizens' association or neighborhood group  
12 that has been in existence for a year before  
13 the hearing to avoid sort of chumped up fly-  
14 by-night entities. So if a group can, you  
15 know, bring in its minutes or whatever to show  
16 that it has been in business for year and it  
17 shows up at the hearing and it is in the  
18 affected area, it should be able to presume it  
19 will get party status. We think that well,  
20 you know, work for many neighborhoods.

21 My neighbors, although far from  
22 poor, are not in the business of raising

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1 \$50,000 to pay lawyers, would that they were.

2 Second point, with regards to the  
3 Height Act. We would like to see the Height  
4 Act enforced. We very much love our tree  
5 canopy and our vistas and we don't want to see  
6 any like encroaching buildings that ruin those  
7 things. So we want the Height Act enforced  
8 according to its terms and we would like for  
9 the regulations to be sensitive to vistas and  
10 tree canopy and to maintain the topographical  
11 bowl, so that one does see the ring of trees  
12 around the city.

13 We also would like for the Board to  
14 provide that heights must be measured from the  
15 lowest exiting points of a property and to  
16 cure other abusive height measurements whereby  
17 the heights measure from the street that's not  
18 the real frontage.

19 With regard to Planned Unit  
20 Development, I think that we are all agreeing  
21 that they need to be larger, of minimum size.

22 We're going to throw minimum five acres on

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1 the table. As to amenities, we would discount  
2 any amenities that have be provided as Matter  
3 of Right any way or that are being provided in  
4 exchange for any kind of government subsidy or  
5 any emolument. They need to be measurable.

6 We all know that many amenities  
7 have been laughable. I'll just mention since  
8 we are not talking about pending cases our  
9 favorite example of PUD abuse, and that would  
10 be the Salvation Army building just north of  
11 the Anacostia Historic District. YOU know,  
12 just one building. Well, this Board has  
13 granted 5,000 square foot PUDs and we all know  
14 that's really the size of a fairly modest  
15 suburban McMansion these days and some in-town  
16 McMansions.

17 Finally, with regard to the spirit  
18 in which the zoning regulations are rewritten,  
19 I am empowered to tell you that we do not want  
20 to see humpty dumpty rewrites. As you know,  
21 humpty dumpty told Alice the word means what I  
22 want it to mean, nothing more, nothing less.

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1 I'm sure that you understand this means that  
2 we are opposed to form-based codes. We would  
3 like to be able to open the book and point to  
4 the code and see exactly what we can or cannot  
5 do. We have enough kind of amorphous vision  
6 in our comprehensive plan. So we feel that if  
7 the plan is to balloon, the zoning code ought  
8 to be the anchor holding it on the ground.  
9 Only then can we have any kind of certainty so  
10 that zoning will truly work as a social  
11 contract as I'm sure Ms. Zartman has already  
12 said. Thank you.

13 CHAIRPERSON MITTEN: Thank you.  
14 Okay, Mr. Roneberg? You have to tell me, did  
15 the fence ever get built?

16 MR. RONENBERG: Excuse me?

17 CHAIRPERSON MITTEN: Did the fence  
18 around the school ever get built?

19 MR. RONENBERG: No.

20 CHAIRPERSON MITTEN: Okay, sorry.  
21 not my fault any more.

22 (Laughter.)

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1                   MR. RONEBERG: Good evening, Madam  
2 Chair and Commissioners. My name is Drew  
3 Roneberg and I am the chair ANC 6A's economic  
4 development and zoning committee. This  
5 evening I will highlight two broad issues that  
6 our ANC would like addressed in the new zoning  
7 code. In addition, we will submit written  
8 analyses recommending specific changes to the  
9 existing code.

10                   The two issues that I would like to  
11 address tonight are first, the need to  
12 eliminate or drastically overhaul the planning  
13 and development process. Second, the need to  
14 incorporate mandatory design standards into  
15 the zoning code. I strongly urge the  
16 Commission to consider these two issues  
17 because PUDs and the lack of design standards  
18 are transforming Washington, D.C. from Pierre  
19 L'Enfant's city of beautiful vistas and  
20 memorable architecture to little more than a  
21 nondescript office park.

22                   The zoning code that does not set

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1 minimum design standards signals to D.C.  
2 architecture that design does not matter. And  
3 D.C.'s architecture hears this message loud  
4 and clear. The consequence of the District's  
5 lack of architectural standards are well  
6 summarized in Phillip Kennicott's article "The  
7 Mediocre Mile" about the low-quality  
8 architecture of new construction on  
9 Massachusetts Avenue between 3rd Street and  
10 7th Street, Northwest.

11 These uninspiring buildings were  
12 built despite the fact that most of them went  
13 through the PUD process and were approved by  
14 this Zoning Commission. Furthermore, PUDs and  
15 lack of design standards are the primary  
16 mechanisms by which the steel-and-glass  
17 canyons on downtown office districts encroach  
18 onto the 8th Street corridor and many of the  
19 other unique neighborhoods in D.C.

20 ANC's first point is that the  
21 current PUD process is broken beyond repair.  
22 Its original purpose was to offer additional

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1 density for community amenities and superior  
2 design. However, in practice, communities are  
3 being asked to trade their precious light and  
4 air for a few token street trees, sidewalk  
5 repavings, and limited access to private  
6 recreational facilities. In our neighborhood,  
7 we've seen a PUD approved in the 1980s to  
8 receive almost 20 years of extensions while  
9 the existing buildings were allowed to sit  
10 vacant and attract crime, vermin, and blight.

11 This unbuilt PUD burdens the  
12 community in its absence. When it is built,  
13 it will also burden the neighborhood with an  
14 uninspired design and massive structure that  
15 is completely out of scale and character with  
16 its surrounding rowhouse neighborhood.

17 In additional, PUDs and associated  
18 up zonings are hindering the revitalization of  
19 the western end of the 8th Street corridor,  
20 because landowners are unwilling to  
21 rehabilitate two to three story structures  
22 when they anticipate being paid top dollar by

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1 land consolidators, able to recoup their costs  
2 through additional density from a PUD and its  
3 associated upzoning. In fact, the eastern end  
4 of H Street, which is far from any  
5 transportation hub, has seen many more  
6 rehabilitated structures and proposed in-fill  
7 construction than the western end. Despite  
8 the western end's natural advantages of being  
9 close to Union Station, its economic  
10 resurgence is hindered by rampant land  
11 speculation, fueled by the anticipation of  
12 additional density from PUDs and associated  
13 up-zonings.

14 ANC 6A feels strongly that the new  
15 Zoning code can be made to work without the  
16 PUD process. However, if the Zoning  
17 Commission is unwilling to completely abandon  
18 the PUD concept, we respectfully request the  
19 following changes be made: one, applicants  
20 can no longer apply for associated map  
21 amendments as part of PUD process; number two,  
22 there would no longer a consolidated PUD

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1 application; number three, the incremental PUD  
2 density would be significantly reduced so PUDs  
3 would not be out of scale with surrounding  
4 neighborhood.

5 A good example of PUD -- excessive  
6 PUD density is the C2B zone which allows 3.0  
7 FAR as a Matter of Right and a 6.0 FAR in a  
8 PUD.

9 Number four, additional density  
10 should be granted on a sliding scale that is  
11 directly determined by the dollar value of the  
12 community amenities.

13 The second point that the ANC feels  
14 strongly about is that mandatory design  
15 standards should be incorporated in the Zoning  
16 Code. We already have a viable model of this  
17 in H Street design guidance which is part of  
18 the H Street zoning overlay. Despite their  
19 name, all structures requiring a special  
20 exception to the overlay must be in line with  
21 the mandatory development and architectural  
22 standards in these guidelines. The guidelines

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1 direct the mass of the building, the materials  
2 required, and how the building should exist  
3 within the architectural context of H Street  
4 and the surrounding neighborhood.

5 The design guidelines are simple to  
6 understand and have already improved the  
7 architectural quality of buildings proposed  
8 for the corridor. There are first statutes in  
9 the 600 H BZA case which the Applicant was  
10 seeking Matter of Right heights and densities.

11 In this instance, the community successfully  
12 worked with the developer and the project's  
13 architect to move from an initial proposal  
14 that violated many of these design guidelines  
15 to a much more attractive building which  
16 achieved 100 percent compliance with the  
17 guidelines' architectural standard and  
18 received the support of all five neighborhood  
19 groups.

20 The Zoning Guidelines also allow  
21 for exceptions to be granted under appropriate  
22 circumstances. In the 600 H, the developers

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1 asked for exceptions to three development  
2 design guidelines because of the uniqueness of  
3 the shape and lot. This is basically the  
4 standard of a variance which the community  
5 groups supported.

6 The 600 H case demonstrates that  
7 design standards can work and can be  
8 successfully incorporated into the Zoning  
9 Code. And by giving a common set of  
10 expectations to developers about what we  
11 expect our city to look like, we can make D.C.  
12 a much more attractive place.

13 Thank you.

14 CHAIRPERSON MITTEN: Thank you very  
15 much

16 Please go ahead.

17 MS. SMITH: Good evening. Thank  
18 you for allowing me to testify. My name is  
19 Debbie Smith. I am a past ANC Commissioner  
20 and was the chair for Economic Development for  
21 5C.

22 I'm here on behalf of the Edgewood

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1 Brookland and Bloomingdale community to  
2 testify about exactly what is happening with  
3 the zoning regs. They are prehistoric and  
4 they need to be totally revamped. And I want  
5 to give one clear example of why I say that.

6 The issue of a piece of property at  
7 19 Adams Street where the Zoning Administrator  
8 had taken the liberty of having --

9 CHAIRPERSON MITTEN: I just want to  
10 caution you. At the beginning, and perhaps  
11 you weren't here --

12 MS. SMITH: I'm sorry, I wasn't  
13 here.

14 CHAIRPERSON MITTEN: Is not to talk  
15 about specific cases, but to talk more  
16 generically.

17 MS. SMITH: Okay. With the --  
18 having properties rebuilt -- having a Matter  
19 of Right owners develop their properties to  
20 where they use zoning regs to change a  
21 finished grade when a finished grade is not  
22 truly defined in any of the zoning regs, that

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1 causes a serious issue. To include the fact  
2 that when an elevation is allowed in a  
3 community, then it also has a very  
4 -- it leaves the community in a very bad  
5 situation whereas it is not in conformity with  
6 the rest of the community, because you have a  
7 high-low, high-low situation.

8 To include the fact that with an  
9 elevation of any type of grade and there is no  
10 height restriction on the piece of property,  
11 it causes an issue and this is what has been  
12 happening in several different communities  
13 around Washington, D.C.

14 Also, to include during the process  
15 of trying to figure out the definitions in the  
16 regs, it has been very cumbersome. As we know  
17 throughout the last 10 or 15 years, a lot of  
18 companies have realized that the language  
19 that's being used is not in layman's terms is  
20 not easily to be read. And that needs to be  
21 addressed. To include a lot of people will  
22 say well, this is what's happening in

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1 Arlington. This is what's happening in  
2 Maryland or in other counties, but Washington,  
3 D.C. is a different character because we're 60  
4 miles radius. We have no representation in  
5 Congress while others do. And even though  
6 we're too -- look at history, because history  
7 will define what could possibly happen in the  
8 future. A lot of democracy -- democracy is  
9 now a thing whereas everybody is trying to  
10 rise up and everybody wants to be a part of,  
11 so I'm asking that this Commission look at the  
12 situation in a holistic approach to realize  
13 that there are younger people. Things change  
14 all the time and that the regs need to really  
15 be looked at in a holistic approach to having  
16 more readable, more distinct and definition  
17 and to be able to have it whereas anyone, at  
18 least an eighth grader can understand it and  
19 know where to go in order to get information  
20 as far as referencing. Thank you.

21 CHAIRPERSON MITTEN: Thank you very  
22 much. Any questions for the panel?

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1                   COMMISSIONER JEFFRIES:    I have a  
2 question.

3                   Mr. Roneberg, exactly who would  
4 establish these design guidelines that you  
5 speak about?

6                   MR.        RONEBERG:            The design  
7 guidelines for the issue I related were  
8 established by the Office of Planning and it's  
9 part of the community process.    They're  
10 referenced in the H Street overlay.  There's  
11 about 10 to 15 development standards which  
12 basically tell you where you have to put the  
13 building envelope, side yard requirements,  
14 things like that.

15                   In the 600 H case and the  
16 exceptions, it was a strange lot and so the  
17 side yards were actually abutting the rear  
18 yards of a neighboring property and it didn't  
19 make any sense, so they argued for uniqueness  
20 of that on a variance at the standard of a  
21 variance.

22                   So I think the design standards

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1 need to come probably from Office of Planning  
2 with tremendous consultation of the community,  
3 but if you look at the H Street design  
4 guidelines, they're very accessible to the lay  
5 public, very understandable and they have done  
6 a good job of directing not just large-scale  
7 developments on H Street, but there's some new  
8 ones that are coming up that look just  
9 beautiful and it's exactly what the  
10 neighborhood had wanted.

11 COMMISSIONER JEFFRIES: My question  
12 is would these design guidelines show up in  
13 like neighborhood overlays? I mean obviously  
14 what is so-called appropriate design in one  
15 neighborhood might not be appropriate in  
16 another and then secondly, I always get a  
17 little nervous about uniformity in terms of  
18 like design guidelines. You don't want a  
19 situation where we have a town that's looking  
20 somewhat similar. So I just, if you could  
21 just comment on that.

22 MR. RONEBERG: Mr. Jeffries, your

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1 point is well taken. I think that the design  
2 guidelines for one neighborhood should not be  
3 the same as for another neighborhood. And  
4 perhaps the design guidelines of Capitol Hill  
5 shouldn't look like upper Northwest or  
6 Brookland or something like that. So there  
7 should be some neighborhood uniqueness to what  
8 is in the design guidelines. But I don't find  
9 them overlay prescriptive. One I think is  
10 very well done it just calls for buildings to  
11 have a distinctive bottom, middle and top and  
12 that has made a -- that one design guideline  
13 has made a big difference in at least the 600  
14 H case in getting a superior design.

15 COMMISSIONER JEFFRIES: I don't  
16 want to get back and forth you. I do know  
17 there's some developers and architects who  
18 don't feel that necessarily the Office of  
19 Planning should be in the business of being  
20 into design review. Design is very, very  
21 subjective and again, this city is quite  
22 diverse, lots of different neighborhoods, lots

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1 of different residential styles of  
2 architecture. So I think what you're saying,  
3 I think you're absolutely right. It's the  
4 business of putting it into action and that's  
5 really the question.

6 MR. RONEBERG: To some degree, I  
7 agree with you, but if you look at the  
8 Mediocre Mile, the designs aren't that --  
9 they're all big glass and steel boxes and in  
10 modern construction without any design  
11 guidelines, they all end up pretty much  
12 looking the same anyway in my opinion.

13 CHAIRPERSON MITTEN: Anyone else,  
14 Mr. Hood?

15 VICE CHAIR HOOD: I wanted to ask  
16 Ms. Richards, you mentioned party status  
17 liberty. I think that's what you said.

18 MS. RICHARDS: Liberal party  
19 status.

20 VICE CHAIR HOOD: Right, being  
21 liberal with party status.

22 MS. RICHARDS: Yes.

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1                   VICE CHAIR HOOD: And you mentioned  
2 one or two requirements, if your constitution  
3 and by-laws are in order and I think you  
4 mentioned on other one.

5                   How would that -- let me ask this  
6 because you were the chair of the BZA at one  
7 time?

8                   MS. RICHARDS: Many, many years  
9 ago.

10                  VICE CHAIR HOOD: I didn't want to  
11 put that into this. But how would that work?  
12 Would it be similar to the fashion of how we  
13 handle ANC now? I think it's a good idea.  
14 I'm just curious, how would it work?

15                  MS. RICHARDS: Pretty much, yes.  
16 Although ANCs have statutory great weight and  
17 they get noticed and that sort of thing, and  
18 I'm not really suggesting that we go that far  
19 with every group because you can't know them  
20 all, but I'm simply suggesting that if a  
21 community organization incorporated or not  
22 shows up and is able to make a threshold,

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1 colorable demonstration that it's been in  
2 business for a year before the hearing, that  
3 it's simply a body trumped up to take a  
4 position on a particular case, because that  
5 does happen. Then they should be able to  
6 count on getting party status.

7 My own organization is  
8 incorporated, but it wasn't always. So we  
9 could obviously say okay, here's our  
10 certificate of incorporation dating back X  
11 years. But with other groups they're going to  
12 be able to show hey, here's evidence of on-  
13 going activity. And upon making that  
14 threshold liberal showing, they should be able  
15 to count on getting party status.

16 VICE CHAIR HOOD: Okay, thank you.

17 MS. MILLER: I'd like to just  
18 follow up on that. Since you were chair of  
19 BZA and you've had experience with this, do  
20 you see a distinction with respect to party  
21 status between party status for special  
22 exceptions and variances and appeals with

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1 respect to the proposal that you're saying  
2 that they automatically would get party  
3 status?

4 The standard is different in the  
5 regulations right now.

6 MS. RICHARDS: Right, and I think I  
7 would apply a uniform standard because just  
8 from the neighborhood side, you don't sort of  
9 think is this an appeal or is this an  
10 exception. You just think hey, this is an  
11 issue that's affecting my neighborhood that I  
12 need to address. And so whether you're  
13 appealing a building permit that you think was  
14 kind of improperly granted through error or  
15 whatever or which again we have in our  
16 neighborhood, or whether you want to  
17 participate in a case that's properly set down  
18 with notice and so on and so forth, I think  
19 the standard should be the same.

20 CHAIRPERSON MITTEN: Anyone else?  
21 Mr. Parsons?

22 COMMISSIONER PARSONS: Ms.

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1 Hargrove, I think I understand in your  
2 discussion of PUDs which you think should be  
3 eliminated, but if they're not, you say -- I'm  
4 sorry.

5 MR. RONEBERG: We look quite alike.

6 MS. HARGROVE: Speak for yourself.

7 (Laughter.)

8 COMMISSIONER PARSONS: Should we  
9 start over again?

10 (Laughter.)

11 I withdraw my question. You say  
12 that map amendments should not be allowed, I  
13 guess, or permitted in a PUD process. So if a  
14 map amendment was needed, because it's  
15 inconsistent with the Comprehensive Plan or  
16 some other reason, you would allow that to go  
17 forward on its own as a map amendment and then  
18 if somebody wanted to come back with a PUD  
19 they could come back later or what are you  
20 suggesting here?

21 MR. RONEBERG: Yes, that's what I'm  
22 suggesting. It appears from my somewhat

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1 limited experience that almost every PUD comes  
2 with an associated map amendment. So it's  
3 like getting additional density and then  
4 getting other additional density on top of  
5 that. It's double density in a certain way.  
6 So the PUDs that come through and I know we  
7 can't reference any specific cases, but are  
8 often just completely out of scale with what's  
9 -- with the surrounding neighborhood. And  
10 part of that problem comes about from that  
11 double density.

12 COMMISSIONER PARSONS: Well, my  
13 experience most cases there's an inconsistency  
14 with the Comprehensive Plan. A map change has  
15 occurred, Georgia Avenue is a good example and  
16 other cases where you've got a Metro stop and  
17 R5B is not what's suggested or what may be  
18 there in existence. And a PUD comes forward  
19 to say in order to be consistent with the  
20 Comprehensive Plan and smart growth, I need  
21 this, but I'm going to do that with a PUD.  
22 That doesn't --

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1 MR. RONEBERG: Perhaps I didn't --  
2 I would certainly allow people to come up with  
3 a stand-alone map amendment -- I just want to  
4 break the link between having a map amendment  
5 and a PUD together. If a Metro stop does go  
6 some place and it makes sense to have a higher  
7 density, by all means. Someone can come in  
8 with a map amendment and up zone that portion  
9 of the land.

10 COMMISSIONER PARSONS: So the  
11 frustration then of the community is well,  
12 what is he going to build? What is it going  
13 to look like? What is it? What is the design  
14 of it? And that's the purpose of a PUD. So I  
15 just wanted to --

16 MR. RONEBERG: I understand. As  
17 part of the 8th Street overlay we had up  
18 zonings without -- we had just up zonings  
19 without associated PUDs. We have some up  
20 zonings from C2A to C2B, close to Union  
21 Station, to incentivize. And now what we find  
22 is that just one year after the up zonings

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1 occurred, they're coming with PUDs and  
2 additional requests for up zoning. So we  
3 originally thought --

4 CHAIRPERSON MITTEN: Which we're  
5 not going to talk any more about because we  
6 know there's a pending case.

7 COMMISSIONER PARSONS: Let's move  
8 on then.

9 CHAIRPERSON MITTEN: You're getting  
10 real close to the --

11 COMMISSIONER PARSONS: To your  
12 number four, where it appears as though the  
13 density would be granted based on cash  
14 contributions or cash to the community. It's  
15 almost like selling density. If you  
16 contribute \$1 million, we'll give you so many  
17 FARs, is that what you mean?

18 MR. RONEBERG: No, I don't mean  
19 cash contribution, but if one of the community  
20 amenities is planting street trees, then you  
21 can value a tree. I don't know how much a  
22 tree costs, \$100 a tree. When we've tried to

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1 quantify the value of additional density from  
2 a PUD in an up zoning versus the value of the  
3 operative community amenities, we've  
4 oftentimes it's one to two percent and I think  
5 that gives the communities the short end of  
6 the stick because they're paying for that  
7 additional density with their light and air.

8 COMMISSIONER PARSONS: So we should  
9 establish regulations that would have a  
10 financial contribution made for the density  
11 given, is that what you're suggesting?

12 MR. RONEBERG: Yes.

13 COMMISSIONER PARSONS: A percentage  
14 or --

15 MR. RONEBERG: The value the  
16 density in dollar terms and you value the  
17 community benefits in dollar terms. And if  
18 they're offering very minimal community  
19 amenities, you don't give them the full PUD  
20 density. You give them a PUD density that's  
21 proportional to the value of the community  
22 amenities that are offered.

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1 COMMISSIONER PARSONS: Thank you.  
2 Thank you, Ms. Hargrove.

3 CHAIRPERSON MITTEN: Anyone else?  
4 (Laughter.)

5 COMMISSIONER TURNBULL: Madam  
6 Chair?

7 CHAIRPERSON MITTEN: Yes, Mr.  
8 Turnbull.

9 COMMISSIONER TURNBULL: I wonder if  
10 I could ask Ms. Richards a question. On your  
11 third point on PUDs, you listed some  
12 qualifications. You talked about a five acre  
13 minimum. And I think you also talked about  
14 amenities which were sort of gimmes or  
15 inherent in the project as something that's  
16 there already that are -- you felt are being  
17 over used.

18 I'm just wondering like, for  
19 instance, in getting back to a development  
20 near a Metro site, is often considered an  
21 incentive to get more density. Is that  
22 something that you're opposed to or how would

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1 you look at that?

2 MS. RICHARDS: That's an incentive  
3 to get more density, but then -- that's  
4 different from the question of like the  
5 amenities being offered. The amenities, I  
6 think he said should have some measurable  
7 relationship to the density that's being --  
8 extra density that's being sought. And I'm  
9 saying whether or not the extra density should  
10 be granted, you know, if it is granted, it  
11 should at least be a proffer of amenities on  
12 the table that is more than just sort of the  
13 price of lunch.

14 That doesn't mean that I think we  
15 should be selling density. I'm very concerned  
16 about scale and over-building, but certainly  
17 to have -- to grant extra density and sort of  
18 to give it away and just sort of like give the  
19 amenities up -- provisions of the law, the  
20 back of your hand is really just an insult to  
21 not just to the community, but to the whole  
22 legal process. It's just so arbitrary. It's

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1 offensive.

2           So what do you do, other than  
3 value? I guess I'm at the specific point and  
4 then I'll close. The amenities for which the  
5 extra density may be accorded should not be  
6 things that have to happen any way and that is  
7 really such as hiring local people.  
8 Developers often have to do that because  
9 they're getting some kind of I guess city  
10 funding of some sort or I guess doing  
11 plantings or doing some art because there's a  
12 two percent art requirement attached to many  
13 things any way. Or I think people have done  
14 like a day care center or a community room  
15 which is so sort of de minimis. Never take  
16 anything small. Set the price high enough,  
17 that kind of thing.

18           So the density should be  
19 appropriate, but to the extent the process is  
20 used, there should be a meaningful exchange of  
21 value for loss of I guess scale.

22           COMMISSIONER TURNBULL: So for a

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1 source agreement would be more of an implied  
2 requirement rather than a proffer by --

3 MS. RICHARDS: Absolutely and it's  
4 a matter of experience. We sort of know that  
5 it doesn't even work anyway, really.

6 COMMISSIONER TURNBULL: Thank you.

7 CHAIRPERSON MITTEN: I don't think  
8 we have any more questions for the panel, but  
9 thank you very much.

10 Is there anyone else who would like  
11 to participate this evening?

12 MS. HARGROVE: May I ask a quick  
13 question?

14 CHAIRPERSON MITTEN: Sure.

15 MS. HARGROVE: There was a map that  
16 I was supposed to attach to the back of the  
17 stuff that you guys got tonight and I pulled  
18 it out of the original Lewis Plan to Xerox it  
19 and failed to bring it tonight. So I'll  
20 deliver it later, but you should remember that  
21 there is a map missing.

22 CHAIRPERSON MITTEN: Thank you.

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1 MS. HARGROVE: Thank you.

2 CHAIRPERSON MITTEN: All right,  
3 again, I'd like to ask you all to ask anyone  
4 else that you know that might be interested in  
5 participating in this process to encourage  
6 them to attend our next roundtable which is  
7 Thursday, July 12, 2007, 6:30 in this room.  
8 And thank you all for coming out tonight.

9 (Whereupon, at 8:37 p.m., the  
10 public roundtable was concluded.)

11

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