

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 Office of Planning
3 Text Amendment re: Rooftop Penthouse Regulations
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9 Zoning Commission case 14-13
10 Penthouse Text Amendments
11 11/6/14 Public Hearing
12 Office of Planning Presentation to
13 The Zoning Commission
14
15

16 6:34 p.m. to 9:35 p.m.
17 Thursday, November, 6, 2014
18

19 441 Fourth Street N.W.
20 Room 200 South
21 Washington, D.C. 20001
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1 Board Members:

2 ANTHONY HOOD, Chairperson

3 MS. COHEN, Vice-Chairperson

4 MR. MILLER, Commissioner

5 MR. MAY, Commissioner

6 MR. TURNBULL, Commissioner

7

8 Office of Zoning:

9 SHARON SCHELLIN

10 Office of Planning:

11 MR. LAWSON

12

13 Participants:

14 DANA SLEEPER

15 ALMA GATES

16 ROBERT ROBINSON

17 MONTY HOFFMAN

18 NORMAN GLASGOW

19 JENNIFER STEINGASSER

20 CHIRS COLLINS

21 LINDSLEY WILLIAMS

22 ERIC SMART

23 CHRIS OTTEN

24 MARILYN SIMON

25

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

2 CHAIRPERSON HOOD: Good evening, ladies
3 and gentlemen. This is the public hearing Zoning
4 Commission for the District of Columbia. Today's
5 date is Thursday, November the 6th, 2014. We're
6 located in Jerrily R. Kress Memorial Hearing Room.

7 My name is Anthony Hood, joining me Vice
8 Chair Cohen, Commissioner Miller, Commissioner May,
9 and Commissioner Turnbull. We're also joined by
10 the Office of Zoning Staff, Ms. Sharon Schellin,
11 Office of Planning Staff, Mr. Lawson.

12 This proceeding is being recorded by a
13 court reporter, it's also web cast live. Notice of
14 today's hearing was published in the D.C. Register
15 and copies of that announcement are available to my
16 left on the wall near the door.

17 The hearing will be conducted in
18 accordance with provisions of 11-DCMR-3021 as
19 follows: preliminary matters, presentation by the
20 petitioner, in this case it's the Office of
21 Planning, report of the other government agencies,
22 our report of any ANCs, organizations and persons
23 in support, organizations and persons in
24 opposition.

25 The following time constraints will be

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1 maintained in this hearing. Office of Planning has
2 up to 60 minutes, Organizations five minutes,
3 individuals three minutes.

4 All persons appearing before the
5 Commission are to fill out two witness cards.
6 These cards are located to my left on the table
7 near the door. Upon coming forward to speak to the
8 Commission, please give both cards to the reporter
9 sitting to my right before taking a seat at the
10 table.

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

17 The staff will be available throughout the
18 hearing to discuss procedural questions.

19 Please turn off all beepers and cell
20 phones at this time so as not to disrupt these
21 proceedings. At this time the Commission will
22 consider any preliminary matters. Ms. Schellin, do
23 you have any preliminary -- does the staff have any
24 preliminary matters?

25 MS. SCHELLIN: No, sir, other than to say

1 that I believe we're going to be joined by Ms.
2 Steingasser shortly.

3 CHAIRPERSON HOOD: Okay. So we will be
4 joined by Ms. Steingasser shortly.

5 Okay. Anything else, colleagues? Not
6 hearing anyone, so we will go straight to Mr.
7 Lawson.

8 MR. LAWSON: Thank you, Mr. Chair and
9 members of the Commission, and members of the
10 public. I'm going to run though, as quickly as
11 possible, I guess, a brief presentation. I've
12 organized this presentation similar to the report
13 that we filed to the record, so you can follow
14 along. Of course I would leave it up to the chair
15 to decide whether you would want to have us address
16 any questions that the Zoning Commission wants to
17 raise, kind of as we go through it topic by topic,
18 or if you'd rather wait until I go through the
19 entire presentation, we're fine either way.

20 But like I said, I'll leave that up to
21 you.

22 CHAIRPERSON HOOD: Now, why don't we, as
23 we go through this, ask our questions? As long as
24 they're not too detailed. And then we'll also ask
25 questions on the backend. Why don't we do it that

1 way?

2 MR. LAWSON: Absolutely. Whatever works
3 for you.

4 So of course this initiative is with
5 regards to how the District regulates penthouses in
6 the District of Columbia. It arises, of course,
7 from the recent amendments to the Height Act
8 adopted by the federal government. Those changes
9 were basically to increase the permitted height to
10 -- or to establish a permitted height of 20 feet,
11 and to allow habitable space within that penthouse
12 area.

13 The zoning regulations currently have not
14 caught up to those changes, and so these changes
15 are intended to -- mainly intended to bring the
16 zoning regulations in line; more in line with the
17 Height Act, but also to provide additional clarity
18 in areas that we outlined in our report and as
19 requested by the Zoning Commission.

20 So the first slide that is also in the
21 report it simply compares, as I said. The current
22 Height Act, as well as the current zoning
23 regulations. The way that we organized our report
24 was to break out the issues into a series of topics
25 and that's how this presentation is set out as

1 well. The main difference between the presentation
2 and what you have in your report is we have
3 included some illustrations, which will hopefully
4 help to show what we're doing because it is a
5 difficult thing to illustrate, of course, because
6 even with the proposal there's a lot of flexibility
7 in terms of what could be done, what may be done,
8 what makes sense to be done. So typically what we
9 show are things like maximum possibles as opposed
10 to what may be practical or anything like that
11 because we just don't know.

12 So as I said, there are a number of topics
13 here, and of course we'll be providing as much
14 additional clarification on these as we go through
15 it, as we can.

16 The first topic, of course, is
17 definitions. We had proposed a couple of
18 definitions. The first one is Height Act. And
19 that's just because in the current regulations we
20 keep having to include the long title of the Height
21 Act, and amendments to the Height Act. And frankly
22 we went through the existing regulations. There
23 were all kinds of different, you know, things that
24 were called the Height Act. It all refers to the
25 same document but it had different names. So we

1 have proposed just to include the definitions so
2 that now throughout the regulations we can just use
3 the term, the Height Act, instead of all the rest
4 of it.

5 We've also proposed a definition for
6 penthouse, and that's -- whether or not it's the
7 best term for these, it's the term that's used in
8 the Height Act, and so we felt that it was
9 important for the zoning regulations to be
10 consistent with the Height Act, and that's why we
11 also went with the term, penthouse. Currently the
12 regulations more typically use the term, you know,
13 rooftop mechanical enclosed structure, or just all
14 kinds of different things.

15 And in some places the existing
16 regulations do use the term penthouse, so it's not
17 completely new, but this would make it a little bit
18 more consistent.

19 We also had to slightly -- we're proposing
20 to slightly amend the definition of story.
21 Otherwise some of the things that we are proposing
22 would result in a penthouse that would be
23 considered a story, which would be an issue in some
24 zones where story is limited. And we added some
25 additional definitely to the definition for top

1 story.

2 The first issue is setback. This is an
3 issue that was not changed in the Height Act, of
4 course. The Height Act requires a one to one
5 setback, and so did the zoning regulations. So
6 really what we proposed here is a clarification of
7 the existing regulations. Not really any
8 significant changes, but these are intended to be
9 consistent with the current zoning administrator
10 practice in most ways for measuring penthouse
11 setback. It's also consistent with what OP
12 proposed in the Zoning Regulations Review, or ZRR
13 process, which of course we're dealing with
14 separately.

15 So the setback would be measured from the
16 outside wall of the roof upon which the penthouse
17 sits, and would be required from any wall facing a
18 public street or a public alley and open court
19 facing on to a public street, any wall that
20 provides a setback from the property line that it
21 faces, or any -- now this one I have to read out.
22 Any wall that abuts a lot line and is taller than
23 the matter of right permitted height on the
24 building on the adjacent property. This would
25 generally occur when the common lot line is also a

1 zone boundary line. As I said, all of these are
2 already what you've accepted as part of ZRR.

3 We've proposed one additional one, which
4 also came out of ZRR. And that's to require a
5 setback from a property which is historic or
6 contains a historic building. We have received
7 some comments from members of the public that we
8 have some questions about this one. They feel
9 there is -- some of the comments say that this
10 requires additional clarification or definition,
11 and of course we've also received comments that
12 this setback should not be required at all. But we
13 certainly agreed that it may need some additional
14 definition. We'd be happy to work with OAG in the
15 Historic Preservation Office to make sure that
16 that's as clear as possible.

17 So that's setbacks. I do have a number of
18 illustrations come up which show how this might
19 translate on different lots. Of course, you know,
20 again, every single lot, every single building will
21 be different. But these are just some examples of
22 what you might see.

23 In this case, and this is a plan view
24 looking down on the building, looking down on the
25 roof from above, this one shows setbacks. And by

1 the way, all of these drawings show the setbacks as
2 we have proposed them in this text, and that's what
3 they're intended to illustrate.

4 So this one shows setbacks from facades
5 facing the streets, facing an alley, along open
6 courts, in this case as shown on the diagram you
7 can see that there is no setback on the left-hand
8 side, because that's a sidewall that faces on to
9 another property which could, of course, be as high
10 as this one.

11 As I said, all the setbacks shown are 20
12 feet, which corresponds to a 20 foot height limit,
13 and of course the actual penthouse size and
14 location might vary very much from what you would
15 see -- what you might see here.

16 And this is an example that is, I guess,
17 more typical of a commercial situation. Although,
18 it wasn't specifically intended to be that. This
19 one shows basically the same things as the last one
20 except it also shows a setback for the middle
21 building. It shows a setback from the left hand
22 property line, and that's because the zone to the
23 left of it is a lower zone, so the building would
24 only be permitted to a lower height. So the
25 setback to the penthouse would be required from

1 that line.

2 This is a 3D, obviously very simple
3 diagram of what the massing of a potential
4 penthouse could be, and it compares what the
5 massing of an existing penthouse could be under the
6 current regulations. Again, this does not reflect
7 existing buildings. These are hypothetical
8 buildings.

9 But this reflects, in orange is the
10 existing permitted penthouse, and that's based on
11 an 18 and a half foot tall setback, so an 18 and a
12 half foot setback. It's limited to one third of
13 the roof area and it provides a setback of one to
14 one as I said, from the edge of the roof.

15 The potential penthouse is the purple,
16 kind of translucent, and it shows a potential 20
17 foot tall penthouse with the one to one setbacks
18 corresponding to the diagram that we saw
19 previously. And that's what it would look like,
20 more or less, from street level, from this is the
21 eye level view. Of course, for the existing
22 penthouse in particular, the perspective shows the
23 size of the penthouse, but its exact location on
24 the roof could vary. For example the penthouse on
25 the building on the left is shown setback from the

1 front building more than it would be required to.
2 It could actually be in line with the penthouse
3 shown on the middle building, which would be up
4 closer to the front facade of the building.

5 This is a more, I guess, kind of a typical
6 multifamily residential configuration which show
7 buildings that include setbacks from side lot lines
8 and include open courts. Again, these are in plan
9 view, looking down on the roof. In this case we
10 show setbacks from the street, from the alley, from
11 a wall that provides a side setback, and from open
12 courts.

13 In addition it shows a setback for the
14 left building, from the adjacent lot line as the
15 adjacent property is historic. So that shows the
16 20 foot setback from the historic property.

17 The diagram also shows that sometimes the
18 setback requirements result in a penthouse area
19 that really isn't viable or usable, particularly
20 for a 20 foot tall penthouse. That would be the
21 case under the current regulations if habitable
22 space was permitted. And it's the case under the
23 current regulations. And we found this
24 particularly in residential buildings where arms of
25 a residential building of, for example, 45 to 50

1 feet are relatively common. Although the current
2 standard is probably closer to 60; between 60 and
3 70 feet. A lot of our older buildings have that 45
4 foot arm once you take off the 20 foot setbacks
5 from the court and from the side yard in this case,
6 you end up with a five foot penthouse area. And so
7 that would be, of course, unlikely to actually be
8 utilized.

9 This is another aerial view looking down.
10 These are the same buildings of course. Same color
11 scheme for the existing and the proposed penthouse,
12 just to show what it could look like. In this
13 case, for the building on the right we excluded
14 some of those unusable, likely unusable penthouse
15 areas. So we're left with more of a boxy
16 configuration for the penthouse, which in this case
17 is pretty close to what would be permitted under
18 the existing regulations, which would happen in
19 some cases.

20 MS. COHEN: But conceivably you could
21 extend the buildable space as long as there was the
22 proper setback. And there is --

23 MR. LAWSON: And that's a very good point.
24 Absolutely. For a lower height penthouse, for
25 example, if somebody did a 10 foot or a 12 foot

1 penthouse instead, their setback would be reduced
2 accordingly and then you would get the area that
3 would -- that may make sense for using that space
4 as habitable or some other space, yes.

5 Once again, a sort of eye level view.
6 It's taken pretty far back. We found that we tried
7 to do these drawings by the way as if, you know, it
8 was somebody looking up at a 45 degree angle, which
9 is kind of what you would see if you were actually
10 on the street in front of one of these buildings,
11 or across the street. We basically ended up with a
12 drawing that was a wall. It really didn't show
13 much, so we had to set people way back. So this is
14 assuming that there are no buildings in between,
15 you know, what this building would be in and any
16 others. But it really was intended to show to some
17 extent anyways, the relationship between the
18 existing penthouse provisions and the proposed
19 penthouse provisions.

20 The next issue I want to talk about is
21 penthouse height. And this is certainly one of the
22 things that was addressed in the Height Act, in
23 that the Height Act now permits a penthouse height
24 of 20 feet for habitable space, located above the
25 Height Act limit. And as our report notes, OP is

1 proposing that this be reflected in the Zoning
2 Regulations as well.

Increasing the height of a penthouse to 20 feet for a multi-family residential, commercial, and industrial buildings would provide additional design flexibility for new buildings, and would help to facilitate the placement of green roofs, potentially solar panels, and other environmentally friendly systems on penthouses for both new and existing buildings, since the one to one setback requirement would continue to apply a 20 foot tall penthouse would be required to setback correspondingly further back from the edge of the roof below.

15 And as you noted at the sit down meeting,
16 the public hearing notice includes in the
17 alternative, that the 18 foot six inch height limit
18 for the penthouses be retained.

19 There are some areas where we're proposing
20 that it not be 20 feet. And that's outlined here.
21 That was in our report as well. Currently an 18
22 and a half foot high penthouse is actually
23 permitted on a one family dwelling or flat,
24 although I would say it's pretty uncommon. But it
25 is possible. We are proposing to, as we have in

1 ZRR, to limit that height on a single family
2 dwelling or flat to 10 feet instead of allowing the
3 20 foot penthouse.

4 We think that this is more visually
5 consistent with the development patterns in areas
6 where the buildings tend to be shorter, because all
7 of our row house in single family zones currently
8 limit the height to 40 feet maximum.

9 And also, even if an elevator is provided
10 in a building of this size, it's less likely that a
11 more expensive elevator system that would require
12 an 18 and a half foot override would even be
13 required.

14 We are proposing this clarifications and
15 some modifications to this proposal, though, partly
16 based on the comments that we received and partly
17 based on the comments we received from the Zoning
18 Commission at set down, and also because what we
19 had proposed in our original proposal was just a
20 little bit different from what you saw in ZRR, we
21 wanted to make sure that they were as consistent as
22 possible.

23 Through ZRR the Zoning Commission
24 discussed limiting the height of a penthouse to 10
25 feet and a little bit broader. But there were some

1 -- I'm sorry, in our original proposal we didn't
2 clearly differentiate between our residential uses
3 and nonresidential uses, even in our low-density
4 zones. And we felt it was important to do that.

5 So we did get comments that of course
6 there are other uses permitted in our low-density
7 zones, and they may required elevator access to all
8 floors to meet code, and ADA requirements. And
9 there could be more substantial elevator
10 requirements. So these other uses like churches or
11 schools, or even existing apartment buildings that
12 may have to do repairs or improvements to their own
13 elevators, for them a height of 10 feet for the
14 mechanical equipment probably wouldn't meet their
15 needs.

16 We propose that you address this by
17 permitting the proposed 20 foot height limit for
18 mechanical equipment on these buildings for other
19 uses in low-density zones, but restrict the height
20 of any habitable space to a lower amount. In this
21 case what we're showing is a height of 10 feet for
22 the penthouse space. So essentially allowing two
23 heights, one for the mechanical override and one
24 lower height for habitable space.

25 Further, we also heard some concerns about

1 allowing a 20 foot penthouse in the current R5A
2 zone, which also limits height below what we would
3 normally see in our multi-family zones, and for the
4 low-density commercial zones, specifically C1,
5 which is intended to serve as a very local
6 neighborhood serving neighborhood development, and
7 is often applied to small areas surrounded by low-
8 density residential.

9 They also have a height, like I said in
10 the 40 foot range, so a 10 foot habitable penthouse
11 would seem more appropriate in scale. So once
12 again, similar to the diagram here, we're proposing
13 that a mechanical penthouse of 20 feet, but
14 limiting the habitable space to some lower height,
15 and we're suggesting 10 feet.

16 There were also some suggestions about C2A
17 or some comments about C2A. C2A is a slightly
18 higher density zone. It allows 50 feet by right
19 and more than that with a PUD, and is typically
20 located on commercial corridors, although it is
21 often adjacent to low-density residential that's
22 not always the case. So the Zoning Commission may
23 wish to consider applying this limitation to C2A as
24 well. We're not opposed to that, but we're also
25 not opposed to our original recommendation of

1 allowing the 20 foot penthouse in the C2A zone.

2 I just wanted to include a map. It's
3 going to be kind of hard for you to read because of
4 course it's a map of the entire city. But I did
5 want to show you where these low-density zones are
6 located in the city. In specific the bright red,
7 if you can make that out, that's the C1 zoning.
8 And you can see particularly in the blowup that the
9 C1 tends to be really embedded within low density
10 residential. Not always, in fact rarely -- I
11 shouldn't say rarely, but certainly not always on a
12 major corridor.

13 The darker blue, or the brighter blue is
14 C2A zoning. It does tend to be located on bigger
15 corridors, although not exclusively, and it does
16 tend to be more of a strip situation. There tends
17 to be a strip of C2A as opposed to a little pocket
18 of C1.

19 I've also showed the R5A zoning. That's
20 the kind of orangey color, and the background the
21 pale yellow is all of our R1 through R4, which of
22 course covers a lot of the district right now.
23 Just so you get a sense of where these are, these
24 zones are kind of in the District, but also in
25 relation to one another.

1 Penthouse stories. The height act also
2 addressed this issue in that it limited the number
3 of stories to one for habitable space within a
4 penthouse located above the Height Act. Currently
5 there is no limit on the number of stories in a
6 penthouse otherwise, either in the zoning
7 regulations or in the Height Act. So the current
8 regulations do not address this issue.

9 We propose to allow two stories, provided
10 that the penthouse is located entirely below the
11 permitted height under the Height Act, and that
12 would be the entire volume. We think that this
13 allows for a greater utilization of that space
14 within an existing -- what we're proposing to be a
15 permitted volume, and so that's why we're
16 recommending that.

17 In the alternative, of course, the Zoning
18 Commission could decide to either retain the
19 current situation where the number of stories is
20 not limited, or decide that the number of stories
21 should be restricted to one in all situations. You
22 did ask for some alternatives on that, but we
23 weren't -- to be honest with you, we weren't quite
24 sure which way you were leaning in terms of that
25 alternative.

1 This diagram shows what we were trying to
2 get at there. The diagram on the right -- or
3 sorry, the left, is limited to one story because
4 it's entirely above the Height Act. In the middle
5 is a penthouse which is split partially above,
6 partially below, and under our proposal it would be
7 limited to one story and the one on the far right
8 is completely below the height act limit and we're
9 proposing that be allowed to have two stories.

10 The recent comments received from the
11 public, I think from DCBIA, although I can't
12 remember for sure offhand, suggesting that in a
13 situation where the two stories should be allowed,
14 provided that it's only mechanical, nonhabitable
15 space in the story that's located above the Height
16 Act limit, so kind of in the middle scenario, in
17 the middle diagram, allowing habitable space below
18 the Height Act limit, and mechanical space above
19 the Height Act limit in a separate story. That
20 would be something that you may wish to consider.

21 Solar panels became quite an issue. More
22 than I kind of bargained for, actually, as part of
23 this. At the set down the Zoning Commission asked
24 us to address the issue of solar panels on top of a
25 penthouse roof. We've been working on this as part

1 of a separate initiative to bring forward a more
2 comprehensive set of regulations for solar panels.
3 But they weren't quite ready to be brought forward
4 so you asked us to bring forward some options, and
5 so that's what we did.

6 One of the options that you discussed was
7 to not allow any mechanical equipment on the roof,
8 and to include solar panels within that
9 nonallowance. And sorry, that on a penthouse roof.
10 Other Zoning Commission members at the set down
11 didn't seem to want to restrict the ability of
12 residents and property owners to install solar
13 panels in this way. So we had not a lot of time to
14 come up with some -- to come up with some options.
15 And we has also a pretty limited opportunity to
16 reach out to the development and the solar panel
17 community, which we would have liked to have done
18 more of. But just, you know, given the time
19 constraints we didn't have a lot of time to do
20 that.

21 But we did bring forward, as I said, the
22 series of options addressing different situations
23 to permit solar panels and to provide some
24 flexibility in their placement.

25 Without doubt the use of solar panels is

1 expanding in the District and it is a very
2 important component of broader planning initiatives
3 for the District, including Sustainable D.C. In
4 many ways the penthouse roof is the most logical
5 and efficient place to put solar panels. It's here
6 that they would be least likely to interfere with
7 other rooftop uses. They'd be least likely to be
8 shaded by other uses on or off site, and would be
9 least -- and could be a least visually obtrusive if
10 they're designed, located, and screened properly.

11 We have, however, been made aware of quite
12 a bit of opposition to what we proposed. There was
13 some support out there as well, but a fair amount
14 of opposition, mainly two provisions that would
15 limit the size or location of the solar equipment.

16 There was also a concern raised about, as
17 I noted, the limited opportunity for us to work
18 with the community to draft these appropriate
19 options. As such we have brought these forward for
20 your discussion, but we acknowledge that they don't
21 address every possible situation. They certainly
22 only address the situation of solar panels on top
23 of a penthouse roof, so they don't address solar
24 panels on other locations of the building or the
25 site, and they also don't address other energy

1 systems that maybe possible, either on the roof or
2 other portions of the site.

3 So, I'm raising this as an option. You
4 may wish to decide that it's more appropriate for
5 the Zoning Commission to address this issue of
6 solar panels on the roof top of the penthouse more
7 comprehensively as part of our pending broader
8 review of solar installations and regulations to
9 zoning. Staff and Zoning have been working with
10 DDOE and the solar community to prepare to do the
11 necessary analysis and to prepare a set of options
12 and recommendations for your, and we do plan on
13 bringing those proposals forward soon. So you may
14 wish to take that approach. But I'm happy to go
15 through the options that are here and talk --

16 MS. COHEN: Excuse me, Mr. Lawson, but are
17 you including the U.S. Green Building Council as a
18 possible entity to reach out, because I think they
19 are the experts in all green innovations, and I
20 think that they could help you guide you to see
21 what other communities have done that are concerned
22 about, again exposure, sun exposure and the
23 utilization of solar panels.

24 MR. LAWSON: Sure. Absolutely. Like I
25 mean, through DDOE, between DDOE and the staff

1 members who have been working on this for the
2 Office of Planning, they've been starting to reach
3 out too, as broad a community as possible, and I'm
4 sure it includes the Green Building Council.

5 UNIDENTIFIED SPEAKER: (Inaudible.)**28:16

6 MR. LAWSON: I'll make sure it does, if
7 they haven't already. Thank you.

8 And so in these examples, this first
9 situation shows a solar panel of less than four
10 feet in height, and is located entirely below the
11 height permitted for a penthouse roof. It would
12 provide the one to one setback.

13 We feel that the one to one setback and
14 the fact that it's below the height that's
15 permitted for the penthouse should address the
16 majority of the visual concerns, and our basic
17 recommendation is this should be considered as
18 being permitted.

19 The second situation is very similar
20 except that the solar panels are bigger. They're
21 more than four feet, and people sometimes ask,
22 well, you know, what's the four foot -- what's a
23 four foot got to do with it? And it really has to
24 do with the current regulations and what's
25 considered a structure and what's not considered a

1 structure. Right now something less than four feet
2 is typically not considered a structure.

3 The zoning administrator, to be honest, is
4 struggling with whether solar panels are structures
5 anyways. But when they increase in height over
6 four feet they start to get into that extra level
7 of kind of consideration, I guess, that he gives
8 them.

9 So in this example, the solar panels are
10 greater than four feet in height. They would still
11 have the one to one setback. They'd still be
12 located below the height that would be permitted
13 for the penthouse, and again we feel that it would
14 be appropriate to allow these penthouses. In this
15 case we've shown an option that the Zoning
16 Commission may wish to consider, which would be to
17 require a partial screening. A full size screening
18 would seriously impact the effectiveness of the
19 solar panels, so we have not proposed that. Given
20 sun angles we think that a screen of half the
21 height of the solar panels we'd have less of an
22 impact, but we've certainly heard loud and clear
23 from the solar community so far that they are
24 concerned that any screening, as well as any
25 setback, frankly, is going to limit the

1 effectiveness of the solar panels wherever they're
2 located on the roof or on the penthouse roof.

3 The third example is to address one of the
4 issues of the Zoning Commission specifically
5 raised, and that was a penthouse that does go up to
6 the maximum height permitted under the zoning
7 regulations, which as we're proposing is 20 feet.
8 In this case because the Zoning Commission seemed
9 less comfortable with solar panels on the penthouse
10 roof, we've suggested that we may want to consider
11 allowing a flat solar panel on a roof like this.
12 Our understanding is that given the improved
13 technology, a flat solar panel can, in some cases,
14 be viable. It's certainly not as effective as a
15 tilted panel, one that tilts towards the sun. But
16 it may be a case of at least this would be
17 something that would be possible.

18 Again, we're proposing that it would be
19 required to be set back one to one, although with a
20 height of 18 feet the setback would be relatively
21 limited. I suspect the setback just for
22 maintenance purposes would end up being more than,
23 you know, 18 inches, more than one to one. More
24 than one to one anyways.

25 And last but not least there is the

1 situation that we have right now, and that's that
2 there may be a lot of existing penthouses out there
3 that are 18 and a half feet tall, and what do we do
4 with those? In that case there may not be a need
5 to replace that penthouse so it's going to stay at
6 18 and half feet tall, and what kind of a solar
7 panel should be allowed on that. Once again, we
8 think it's appropriate to allow tilted solar panels
9 on this roof. The Zoning Commission again could
10 consider requiring a screen that would take the
11 penthouse up to the 20 foot height limit, so like
12 basically an 18 inch screen that would help the
13 screened in panels and probably wouldn't have a
14 great impact on the viability of the solar panels,
15 because the solar panels would also be setback from
16 that screen by an equal -- amount equal to their
17 height.

18 So those are the four options that we've
19 shown to you. There are, of course, a myriad of
20 others. And as I said, as you've I assume,
21 noticed, this you know, again, only deals with
22 solar panels that are on top of the penthouse roof.
23 It does not deal with solar panels on other
24 portions of the building.

25 I'm going to move on, then, to permitted

1 uses in a penthouse. Again, under the current
2 regulations people are currently limited. Sorry,
3 the Zoning Regulations currently limit uses
4 permitted with enclosed space on the rooftop to
5 mechanical equipment, elevator, and stair
6 overrides, and limited amenity space, which is
7 directly related to outdoor rooftop recreation
8 space, habitable space such as, you know, actual
9 living space, offices, commercial space, conference
10 rooms. None of those are permitted under the
11 current regulations.

12 The recent changes to the Height Act, of
13 course, would permit these forms of habitable space
14 within the penthouse, as well as other uses such as
15 mechanical equipment of course.

16 The use of rooftops for recreation space
17 has become pretty popular in the District lately.
18 We are definitely developing a useable roofscape,
19 particularly for our newer buildings. And that
20 applies to residential, hotel, and office
21 buildings, a broad range of uses. This space often
22 provides really valuable and desired amenities to
23 residents, guests, and workers of the building.
24 And the ability to locate the space on the roof
25 provides additional opportunities for developers to

1 provide this desired amenity space and additional
2 flexibility to deliver this space in a preferred
3 location.

4 Any use not permitted in the zone, under
5 our proposal, of course we would -- we're proposing
6 that a broad range of uses be allowed within this
7 habitable space, basically only restricted by the
8 uses that are permitted within that zone. So for
9 example in a residential zone a use permitted
10 within that residential zone would be permitted
11 within the penthouse space.

12 The Zoning Commission requested public
13 comment on whether certain uses should only be
14 permitted by special exception if located within
15 the penthouse. We didn't get a lot of comments on
16 that. We did receive comments from, once again,
17 DCBIA. They were opposed to that provision and
18 it's -- I'm sure you have it. It's definitely
19 worth reading the rationale. It's an interesting
20 rationale that space that we would typically, as
21 proposed by OP anyways, limit to special exception
22 is already administered and regulated through other
23 means, mainly through ABRA. So if they became
24 objectionable, there are already routes available
25 to address that, those objections.

1 Anyways, but if you wish to consider
2 special exception for certain uses, this could be
3 limited to ones that create objectionable
4 conditions in the evening, such as a night club or
5 bar. And the Commission could also further
6 condition that provision by requiring special
7 exception, only if the building in question is
8 located adjacent to a residential zone, or if there
9 is any residential use within the building.

10 So I think that we have some options.
11 We'd be happy to take some direction from the
12 Zoning Commission following comments from the
13 public on what you're most comfortable in this
14 respect.

15 Oh, we also -- sorry. We also received
16 another set of comments from the public that I
17 thought were interesting, and it talked about
18 nonresidential buildings within existing low-
19 density residential zones, things like churches and
20 schools. And suggesting that a penthouse space
21 should be allowed to include uses normally
22 associated with that nonresidential use within the
23 penthouse. We would agree with that and if the
24 Zoning Commission agrees we would be happy to work
25 with the Office of the Attorney General to craft

1 the language that would allow that.

2 Enclosing walls, the zoning regulations
3 currently require that all walls of the penthouse
4 be of one height, which can lead to situations
5 where penthouse walls are constructed to be higher
6 than what would be required by the internal use
7 provided. OP proposed to remove this requirement
8 to help ensure that the height of the penthouse
9 better reflects what was required, and to allow
10 greater design flexibility. Combined with the
11 other considerations of this penthouse text
12 amendment, it would also allow for better
13 utilization of penthouse space by allowing more
14 tiered space within the one to one setback
15 envelope, especially on smaller narrow lots.

16 As we discussed before an alternative may
17 be to allow one height for enclosures for
18 mechanical equipment, and a second height for
19 nonhabitable space, such as -- sorry. One height
20 for elevator enclosures and nonhabitable space such
21 as elevator overrides, and a separate height for
22 habitable space.

23 The second aspect to this provision is
24 that all walls must rise vertically. The Zoning
25 Administrator has interpreted that to be basically

1 90 degrees, but he does feel he has some
2 flexibility, a little bit of flexibility in
3 determining what's considered vertical. But we're
4 proposing that that provision be eliminated. We
5 think it would provide more design options and
6 could actually lessen the visual impact of
7 penthouses and just remove an unnecessary design
8 restriction from regulations.

9 So here we show a couple of examples of
10 how that might work out. And it shows two separate
11 heights, one for mechanical equipment and a second
12 lower height for -- this is the building on the
13 left. So it shows a mechanical height at the
14 maximum height permitted, which we're proposing be
15 20 feet, and a second height for habitable space as
16 well as for screening around open air mechanical
17 equipment.

18 There's also a dotted line that shows what
19 could be done under the current regulations.

20 The drawing on the right shows the
21 habitable space at the same height as the
22 mechanical penthouse with the screening around open
23 air equipment at a lower height. In each case
24 there are two heights shown, and we think that
25 provides at least a little bit more flexibility

1 than the current regulations which would require
2 all of the space to be at one height, which would
3 be in this case, the full 20 feet.

4 Penthouse area in FAR, in our report we
5 provided an estimate of how much additional
6 penthouse space might be possible. To do this we
7 examined about 120 current and proposed buildings,
8 buildings that have gone through a PUD process
9 recently. They include apartments, offices, and
10 hotels. We did this to establish the average lot
11 size, the average size of the actual roof top, and
12 the average size of the existing mechanical or
13 other penthouse located on the roof, and the area
14 enclosed for mechanical equipment for those
15 buildings.

16 The zones ranged widely, included
17 everything from R5B to R5D, as well as from C2A all
18 the way up to C4.

19 We then used the proposed setback
20 requirements that we discussed earlier to assess
21 the potential maximum size of a 20 foot tall
22 penthouse on those buildings using those actual
23 rooftops. Using that number we determined the
24 average potential penthouse FAR and how much of the
25 roof the penthouse would cover, and that's provided

1 in the chart that's in your report.

2 The maximum penthouse potential size, by
3 the way, includes penthouse -- it includes all
4 those little areas we discussed earlier that might
5 actually not be viable, but technically it was
6 penthouse areas we included in that area. So the
7 numbers that are provided here are probably, if
8 anything, a little bit on the conservative side.
9 And they are, of course, also for a 20 foot tall
10 penthouse.

11 We did, as we noted earlier, notice
12 especially on residential buildings that the
13 setback requirements often resulted in either no
14 penthouse at all, or a penthouse that was unusable.
15 So we duplicated some of our calculations for some
16 of these residential buildings using a 10 foot
17 penthouse instead of the 20 foot penthouse which
18 has a 10 foot setback, so therefore has a broader
19 area, and we provided that information in the
20 report; in the report as well.

21 But as you can see from the report, based
22 on the buildings that we looked at, the average
23 potential square foot, or the FAR for residential
24 building was about .26 FAR, and for a commercial
25 building it was a little bit higher. It was about

1 .43. It's higher for commercial buildings because
2 they just tend to be a little bit boxier, and
3 therefore the setback requirements were just a
4 little bit easier to meet. They're not necessarily
5 on larger lots, but the buildings themselves, the
6 roofs tend to be bigger, the setbacks are smaller
7 for the building itself, and as I said they're just
8 often a little bit boxier, which makes the setbacks
9 easier to provide.

10 Oh, and of course, I guess I didn't talk
11 about what we were recommending. We're
12 recommending that the current provisions in the
13 Zoning Regulations be eliminated, and that's both
14 the FAR limitation as well as the one third of the
15 total roof area limitation. The exception to that
16 would be within the low density residential zones
17 where we are proposing that the one third of the
18 roof area limitation be maintained.

19 MR. MILLER: On that recommendation where
20 you're retaining that the -- retain the requirement
21 that a penthouse area cannot exceed one third of
22 the total roof area within the R1 through R4 zones,
23 is there an exception there for the institutional,
24 church, and other thing, or is that not applicable
25 in this situation, that type of exception?

1 MR. LAWSON: We had not specifically
2 spelled that out in our regulations, so I think it
3 would be interesting to get comments on that. I
4 think that we would be comfortable with not
5 including that limitation for nonresidential
6 buildings, but we'd be happy to receive comments
7 from the Commission and from the public on that
8 issue.

9 Sorry. The next issue is special
10 exception relief. Of course currently the Zoning
11 Regulations allow special exception review from
12 most aspects of rooftop penthouses. There are some
13 exceptions to that where special exception relief
14 is not permitted, mainly issues related to, under
15 the current regulations, use and penthouse height.
16 But other things, you are allowed to do special
17 exception. We're proposing that that, of course,
18 be maintained and applied in the new regulations as
19 well.

20 You requested some clarification of the
21 term operating difficulties, and we've proposed
22 some language accordingly. I'm going to refer to
23 the DCBIA submissions a lot because they were very
24 thoughtful, I thought. All the submissions were
25 but theirs was specifically thoughtful in going

1 through our recommendations. They noted an error
2 in the OP report, just in some of the language and
3 I wanted to make sure that you were clear in our
4 intention. It inadvertently left out a setback, as
5 in the current regulations a setback is allowed to
6 be -- relief from setback requirement is allowed to
7 be approved by special exception.

8 We omitted to include that in our
9 language. That was an error on our part. That was
10 an oversight. We think that that should continue
11 into the new regulations, so we would add that back
12 in, that that provision be maintained.

13 PUDs, OP is proposing that the changes,
14 all of these changes, of course, in terms of the
15 allowed height, the area and the use be permitted
16 by right. As such in addition to be incorporated
17 into the design of a new building any existing
18 building could reassess its rooftop and make
19 conforming improvements which could foster both
20 design and environmental improvements to existing
21 rooftops.

22 The exception to that would actually be
23 PUDs, or things that will go through a design
24 review process approved by the zoning commission.
25 For these buildings, because there is an order in

1 place and the order includes the set of drawings,
2 the applicant would have to come back to you and
3 request a modification to the PUD, even to do
4 conforming changes, changes to the rooftop, the
5 penthouse, which would conform to the new
6 regulations.

7 And since typically this kind of change
8 would require a public hearing, we felt it was
9 appropriate that the Zoning Commission establish a
10 more streamlined process for PUDs to allow
11 conforming rooftop additions as we propose a
12 consent calendar process, consent calendar minor
13 modification process. It's not unsimilar to the
14 current minor modification process you already
15 have.

16 We've suggested a couple of conditions
17 that you may want to attach to that, just to make
18 sure that everybody is aware of these changes
19 before they go forward, and that's when they submit
20 the minor modification we want to make sure that we
21 include the appropriate plans so that you can see
22 what it looks like, and the community, you can also
23 see what it looks like.

24 We suggested they include a verification
25 that the ANC is being noticed of these changes so

1 that you know that the ANC is being made aware of
2 the changes, and that there be a 30 day period
3 required between when the application is filed and
4 when it's placed on your calendar. That would be
5 30 days minimum. And that makes sure that there is
6 time for ANC and staff review if the community or
7 if staff have concerns about what's proposed. We
8 would have a chance to address those before you
9 take action on your consent calendar item, as a
10 consent calendar item.

11 Housing linkage. These are probably ones
12 that generated the most comments from the public.
13 We received many submissions, mostly from the
14 development community on the proposals to link
15 these new permissions to the provision of
16 affordable housing.

17 Specifically the zoning commission
18 requested language for a meaningful affordable
19 housing linkage requirement. Right now I'm dealing
20 with nonresidential buildings. We'll deal with
21 residential buildings kind of in the next slide.
22 The processes for the two are quite different, so
23 I've separated them out here for you.

24 So OP is proposed -- OP proposed an
25 affordable housing linkage, which is generally

1 consistent with what's required currently for a PUD
2 that results in additional office space beyond what
3 would be allowed. That's in the current
4 regulations right now. And it would -- the one
5 that we brought forward would be based on the
6 amount of the square footage that's gained in the
7 penthouse of course, the nonresidential space
8 that's gained. And it would result in either the
9 provision of affordable units. And those, you
10 know, affordable units would likely be offsite, of
11 course. Or a payment to a housing production trust
12 fund. And that calculation would be consistent
13 with the current one which is in the regulations
14 for, as I said, for office space associated with
15 PUD.

16 You also asked for some ballpark figures
17 of what this might result in, so we undertook some
18 analysis to try to figure that out. First we used
19 some of the analysis I talked about earlier to
20 determine just how much space might be possible,
21 but also how much that space might be worth.

22 So we used our GIS records to come up with
23 what the average per square foot land value for
24 nonresidential development in each mixed use zone
25 was, using as I said, the current assessment

1 figures. We studied about 50 commercial buildings
2 in the district, the study that we talked about
3 before, about 50 of those were commercial and we
4 did that extra step to assess the current rooftop
5 area and approximate the existing penthouse size.
6 And then to use our setback provisions to
7 approximate how big the penthouse might be.

8 Again, we didn't really look at whether
9 the penthouse was viable or not. We just looked at
10 how much space there might be within that
11 penthouse. So as I said, once again, these are
12 probably fairly conservative figures.

13 We then used our existing data for
14 rooftops to estimate how much of that space would
15 likely be devoted to nonhabitable space. Again,
16 it's really just based on existing provisions, so
17 it includes things like elevator override stair
18 towers, as well as some mechanical equipment which
19 under the new system for a new building may or may
20 not actually be up there. But we use the existing
21 just as an estimate to kind of take that out of the
22 system because we don't think that that space
23 should be subject, mechanical space should be
24 subject to the housing linkage requirement.

25 And this was the fun part. We then tried

1 to determine the value of that space. And I've got
2 to tell you, I'm a little bit out of my comfort
3 zone here, so I worked pretty closely with other
4 members, other staff members in the Office of
5 Planning who are more familiar with these kinds of
6 things, and they kind of walked me through this
7 process a little bit and how we might do this to
8 come up with some ballpark figures. So, I do
9 apologize if some of my explanation is not as
10 detailed as you want. It's a little bit, as I
11 said, outside my comfort zone.

12 But again, we use the per square foot land
13 value assessment. We did establish a premium for
14 that space that's up on the rooftop because it is
15 more valuable. The premium varied, of course, from
16 building to building, so we used a premium based,
17 using a formula for how valuable upper story space
18 is compared to lower story space, and took into
19 account how high that penthouse space might be.

20 So for example, penthouse space in a C2A
21 zone isn't as valuable as penthouse space in a C4
22 zone, because it's at a height of, you know, 60
23 some feet instead of a height of over 130 feet.

24 So, we did all that and then averaged all
25 that to come out with the figures that are in our

1 report. There are, of course, all kinds of
2 variables and assumptions attached to this. What
3 would be possible on an individual property would
4 very wildly. But we think it --

5 (Phone ringing.)

6 MR. LAWSON: That may be my other staff
7 members telling me to shut up. I don't know.

8 But we do think --

9 MS. COHEN: Or how they calculated the
10 premium.

11 MR. LAWSON: Yeah, maybe. But we think it
12 does provide you, at least, with a bit of an
13 estimate of how much value this space might have
14 both under the -- both under the original proposal
15 and under the alternate proposal that was part of
16 the public hearing notice. So that's all I have on
17 that provision. I can move on.

18 MS. COHEN: Since you did use Office of
19 Planning staff I presume then you can elaborate on
20 the assumptions, for example, the premium
21 assumption.

22 MR. LAWSON: Yes. There's actually a
23 published premium assumption that OP staff have
24 used in the past, and we used for this. It just,
25 it basically calculates what the value of the

1 floors are, you know, as I said for each floor as
2 you go up.

3 It maybe isn't as much as you want and the
4 information they used actually had two values, one
5 for height, and one for a view premium. In this
6 case I did not use the view premium. I just used
7 the height premium because I have no way of knowing
8 whether any individual building would have a view
9 premium or not, where as the space would have the
10 height premium.

11 I should note that DCBIA, once again,
12 provided some additional calculations on this,
13 which I found much more detailed than mine, and I
14 hope they're available to you. They're certainly
15 worth taking a look at. I did run that submission
16 past the same staff members who helped me with
17 mine, and they felt that they were good sound
18 calculations. They thought they were good.

19 We're proposing a different process for
20 residential buildings because with residential
21 buildings we can apply the current affordable
22 housing program which is inclusionary zoning, or
23 IZ. So we worked with OAG to draft proposed
24 amendments to apply IZ to this new habitable space
25 in the penthouses of residential buildings. The

1 current program establishes the requirement based
2 on the ability to access bonus density, so it
3 applies broadly but does not apply in parts of the
4 city where a bonus of density is not possible to
5 offset the cost of affordable units. And areas
6 like that include the downtown TDR receiving areas
7 in a couple of the zones where that bonus isn't
8 possible.

9 So we propose that IZ be applied to the
10 penthouse space and the alternative was to
11 establish a broader requirement. Number one, to
12 apply IZ to penthouse base regardless of the zone
13 that it's in, or the location. So in other words
14 it would apply also to the downtown and these other
15 zones where IZ currently doesn't apply. And the
16 second portion of the alternative would be to
17 require a larger affordable housing set aside. And
18 the one that was suggested was one square foot of
19 inclusionary units for every square foot of
20 penthouse residential GFA and all of it targeted at
21 a low income, or 50 percent of AMI household where
22 as IZ currently splits between the AD and 50
23 percent.

24 So we wanted to give you some analysis of
25 what this might result in. So once again, we did

1 kind of a similar analysis to the last one, except
2 we used residential buildings. Obviously instead
3 of commercial buildings. Although obviously many
4 of the residential buildings were in mixed use
5 zones. So we determined how much penthouse space
6 there might be and then applied IZ to the space for
7 each one of those buildings that we studied and
8 came up with an average. I don't have it in front
9 of me but I think it was around 750 square feet,
10 would be the average of all these buildings that
11 the affordable -- the additional affordable housing
12 requirement would be.

13 And then based on that we did some
14 estimates of what the differential of that space
15 might be, compared to other space within the
16 building. We did note some concerns in our report
17 that we were concerned that the differential, just
18 that premium that you get for being up there,
19 probably wasn't enough to offset the cost of
20 actually constructing the space up there. So we
21 noted in our report, some concerns that by making a
22 program too much, it could actually end up being
23 counterproductive if it limits the ability to make
24 financial sense about, you know, providing the
25 penthouse space at all.

1 The last slide, I swear, is on parking.
2 And as you know, the current regulations do provide
3 some guidance on parking. Currently the
4 regulations exempt penthouse space from being
5 included as part of building gross floor area for
6 the purposes of determining parking requirements in
7 nonresidential zones. This exemption doesn't exist
8 in the residential zones, which make sense because
9 in the residential zones parking is based on units,
10 and units are not permitted within the penthouse.
11 However, that could change under the proposal
12 that's before you right now.

13 So under our proposal we have proposed
14 that additional residential units would increase
15 the parking. We feel that would increase the
16 parking demand within the building and so we
17 proposed the residential units within a penthouse
18 should count towards any parking requirement within
19 the building. We do think that other forms of
20 rooftop space within the residential building,
21 things like a communal recreation space, or
22 certainly mechanical space should not count towards
23 that parking requirement. They don't generate
24 existing parking demand, so we don't feel they
25 should be counted towards that requirement.

1 For commercial buildings I guess I would
2 say we're not opposed to including things like new
3 office space and the parking requirement for the
4 building as a whole. But once again we feel that
5 other forms of space that don't add to the parking
6 load for the building itself, mechanical space,
7 conference space amenity space for the workers
8 within the building, we don't feel that should
9 count towards any parking requirement as well.

10 And believe it or not, that ends my
11 presentation finally. And I am open for questions.
12 Thank you.

13 CHAIRPERSON HOOD: Okay. Thank you, Mr.
14 Lawson for your presentation. Let's see if we have
15 any questions we could ask as we went along. I
16 think some were asked, but we may have some on the
17 back end. Any questions or comments?

18 Mr. May?

19 MR. MAY: I waited to see if anybody else
20 wanted to go first. Anyway, I just have a few
21 questions. First of all, in the definitions of the
22 top stories seems perhaps to be in conflict with
23 the definition of story, and I think you just need
24 to look closely at that because you don't want to
25 create some weird situation where, you know, if you

1 did have a two-story penthouse, that somehow that
2 top story of the penthouse would be -- I mean, that
3 habitable level of the penthouse be considered the
4 top story, because it only excludes -- top story
5 excludes space used for mechanical or elevator
6 overruns, but it doesn't explicitly say habitable
7 space that would be considered a penthouse. Got
8 it. Okay.

9 I mean, some of my questions are actually
10 issues that I would raise when we are actually
11 deliberating. So I will skip over those.

12 Do you know what the optimum angle is for
13 a solar panel with this latitude?

14 MR. LAWSON: I'm definitely not a solar
15 panel expert, and I think there will be some
16 testifying tonight. But I suspect that the optimal
17 angle is 90 degrees to the sun. So the optimal --

18 MR. MAY: Yeah, but the sun, the angle of
19 the sun changes.

20 MR. LAWSON: Yeah. Right. So I was going
21 to say, the optimal situation, or some of the new
22 technologies actually allow the penthouse to pivot.
23 Or sorry, the --

24 MR. MAY: The panel.

25 MR. LAWSON: -- solar panel to pivot, to

1 be more in line with the sun. I think that's
2 probably a good question to ask. I normally see
3 them at somewhere in the neighborhood of between 30
4 and 45 degrees, but that's a great question to ask
5 the solar experts. I don't know.

6 MR. MAY: I don't think I recall in this
7 latitude seeing them in a 45, but maybe if they're
8 following; if they're following the angle of the
9 sun.

10 So the ZA is unsure whether a solar panel
11 is considered to be mechanical equipment and
12 subject to the limitations of the Height Act?

13 MR. LAWSON: I don't think he's unsure. I
14 think it's more a case of he's looking for
15 additional direction on how this should be
16 interpreted. Currently my understanding is that he
17 is allowing solar panels to a maximum height of
18 four feet on a roof, typical to other mechanical
19 equipment.

20 MR. MAY: On a roof, but not on tope of a
21 penthouse.

22 MR. LAWSON: And on a penthouse.

23 MR. MAY: And on a penthouse.

24 MR. LAWSON: That's my understanding, yes.

25 MR. MAY: Well, if that were the case then

1 the BZA case that I've been sitting on for months
2 and months and months, I don't think it would be
3 there because they've dropped down to four feet.

4 MR. LAWSON: I think that what triggered
5 that was that the solar panel was more than four
6 feet.

7 MR. MAY: Originally.

8 MR. LAWSON: Yes. Yes.

9 MR. MAY: It's been reduced. I mean, I
10 don't understand how, honestly, one could interpret
11 -- I mean, if it's not going to be considered
12 mechanical equipment, then what is it? It's not a
13 dome or a spire or any of those other things that
14 are given exceptions under the Height Act, so I
15 don't know what it would be.

16 And I'm, you know, honestly, want to have
17 a really clear explanation of this because I think
18 one of the things that many people were very
19 concerned about, this, on the penthouse provisions
20 and the Height Act discussion had to do with, you
21 know, well, what else could possibly go on top of
22 it.

23 And, I mean, it seemed pretty clear to me
24 that if it's, you know, if it's mechanical
25 equipment it's got to be less than 20 feet and in

1 that single story. And if it's anything else other
2 than a dome, a spire, a minaret, you know, those
3 are the only things that can go above Height Act
4 height. And the only exception is 20 feet for a
5 penthouse containing mechanical equipment, or
6 habitable space now.

7 So I don't, you know, if the ZA somehow
8 thinks that solar panels are not in that category
9 then I really need to understand why they would
10 think that.

11 MR. LAWSON: We'd certainly be happy to
12 follow up further with him. And when I did talk to
13 him, and this is a question to be honest, I didn't
14 ask him, he may have -- it's possible he was
15 referring to solar panels that did not exceed the
16 Height Act limit. It's possible, so.

17 MR. MAY: Okay. All right.

18 MR. LAWSON: It could be --

19 MR. MAY: So, and that's a completely
20 different case, right?

21 MR. LAWSON: Yes, exactly.

22 MR. MAY: So I have no issue with that.
23 For me it's all about, you know, living within the
24 limits of the Height Act on that, in that concern.
25 So, then the -- let's see. When it comes

1 to the treatment of the additional FAR that would
2 come in habitable space on a roof, essentially it's
3 more or less like getting some bonus density,
4 right? So, I mean, when you're in that sort of
5 circumstance and you have limitations on what the
6 FAR can be, it's broken up. I mean, let's go to
7 C2A, which is limited currently to 1.5 FAR
8 commercial and may go up to 2, depending on what
9 happens to the ZRR.

10 So if you add a habitable penthouse level
11 on top of a C2A building, does it have to be
12 housing in your thinking? Or could it be
13 additional commercial use?

14 MR. LAWSON: Under our proposal it could
15 be either.

16 MR. MAY: Could be either.

17 MR. LAWSON: Yes.

18 MR. MAY: And is that -- I mean, that's
19 what you want, or is that just kind of the way
20 you're reading the regs?

21 MR. LAWSON: I'm certainly not opposed to
22 that. Yep.

23 MR. MAY: Okay. I'm not sure I agree with
24 that. I mean, I think that one of the concerns
25 that we have with C2A is -- I mean, we heard

1 fervent testimony about not even going from 1.5 to
2 2.0. And so then we're going to throw additional
3 commercial use on the rooftop.

4 MR. LAWSON: I'll certainly agree, you
5 have that testimony. We very much disagreed with
6 that testimony.

7 MR. MAY: No, and I mean, I understand
8 that. But that was to a limit of 2.0. Now you're
9 talking about being able to go to 2.5 in effect.

10 MR. LAWSON: Unlikely you could get to 2.5
11 in a C2A property, but possible, yes.

12 MR. MAY: Well, if you're in a row house
13 circumstance. I mean a row circumstance, which is
14 not a-typical for C2A, then you just have to set
15 back from the front and the back. And if you're,
16 you know, all you have to be is 80 feet deep and
17 you get another .5 FAR.

18 MR. LAWSON: It's possible.

19 MR. MAY: Okay. All right. That's it for
20 the actual questions I have, and I may have -- I'll
21 certainly have more questions and more things to
22 discuss with the Commission.

23 CHAIRPERSON HOOD: Okay. Any other
24 questions?

25 Mr. Miller.

1 MR. MILLER: I probably should wait for
2 the deliberations to comment about the analysis
3 about the affordable housing. But since I was one
4 of those who suggested that we advertise in the
5 alternative and get public comment on the deeper
6 level of affordable housing requirement I would say
7 that the OP analysis is helpful to inform my
8 thinking, as is the testimony that's coming from,
9 so far from the development community. But I'll
10 listen to more.

11 But remind me what the housing linkage AMI
12 level is, if you know it. You may not know it off
13 the top of your head.

14 MR. LAWSON: You're talking about for the
15 commercial space.

16 MR. MILLER: Yes.

17 MR. LAWSON: The housing linkage? Well,
18 typically what happens is people make a
19 contribution to the Housing Production Trust Fund,
20 so it's a dollar amount. That's what honestly we
21 would expect more in this case, just because the
22 areas are relatively small. It would be difficult
23 to actually provide that housing somewhere. I
24 don't off the top of my head know if, even if there
25 is an AMI attached to that in the current

1 regulations. I'd have to look that up, and we can
2 get that to you.

3 MR. MILLER: So I could see going -- I had
4 gone back to the original proposal to require half
5 of the amount of penthouse space as affordable
6 housing somewhere else. But I still would support
7 the lower AMI level for both that proposal and for
8 the residential building. So I mean, I don't feel
9 as comfortable -- I don't feel comfortable with the
10 one to one on the residential at the -- I don't
11 feel comfortable with the alternative one to one
12 requirement. But I think the half requirement, not
13 just going with the eight to 10 percent IZ
14 requirement for the rooftop additional spaces is, I
15 think that's still appropriate in applying it to
16 other areas where it doesn't currently apply
17 because this now is bonus space. Unless I, you
18 know, hear testimony as to why it shouldn't. I
19 think it should apply to the downtown and other
20 areas that are getting additional space that they
21 otherwise wouldn't get on the most valuable rooftop
22 residential space. So, that was the only comment I
23 wanted to make. Thanks.

24 CHAIRPERSON HOOD: Any other comments,
25 questions? Commissioner Turnbull.

1 MR. TURNBULL: Oh, thank you, Mr. Chair.
2 Mr. Lawson, are you going to include any of these
3 wonderful illustrations in the zoning regs?

4 MR. LAWSON: Certainly through ZRR we're
5 proposing to include a lot of illustrations. I
6 think for the -- if whatever you choose to approve
7 happens before ZRR, for this the illustrations
8 won't go in, but they could go in as part of -- or
9 probably better illustrations than these, could go
10 in as part of ZRR.

11 MR. TURNBULL: I think that there are some
12 issues that come up that it's difficult to explain
13 in words and I think on some of these things I
14 think some of your little sketches here, you know,
15 highlight some of those issues very well. The
16 whole thing with the stories and the height,
17 different levels, I think it might be clearer to a
18 lot of people out there what is meant by that.

19 And I really appreciate. This is a very
20 nice -- the presentation that you did. I think
21 it's very clear on a lot of items.

22 I think getting back to what Commissioner
23 May was talking about with the solar panels, it
24 made such a new -- it's not a new field, but it's a
25 field that is growing and I think it's difficult.

1 I think we're going to need a lot more information.
2 I mean, once you start getting -- these structures
3 can be complicated. I mean, in essence in one way
4 they're very simple, but in another way they can be
5 very complicated. And if you get to be over four
6 feet then you do have structural issues on the
7 roofs. And I think that's where the ZA may be
8 coming in to that, what is this thing really on the
9 roof? You get concerns of wind, uplift, and so it
10 starts to bring up a lot of other side issues that
11 come into this.

12 And I have a few other comments, but
13 basically on the special exception idea for some of
14 the uses on the roof, but I think we can get into
15 that when we start talking about it. So, thank
16 you.

17 CHAIRPERSON HOOD: Any questions? Vice
18 Chair Cohen?

19 MS. COHEN: Thank you, Mr. Chairman.
20 Again, Mr. Lawson, I agree with Commissioner
21 Turnbull that this was a very thorough
22 presentation, plus your review. But I would still
23 like to see some of the backup for the assumptions.
24 I just would be more comfortable, as you brought it
25 up, so it just raises some concerns, although there

1 may be testimony presented where I could ask more
2 questions with regard to those assumptions that you
3 may have borrowed. But I'd like to see them.

4 CHAIRPERSON HOOD: I will say that I was
5 glad to see the letter from a congressperson on the
6 Hill. And she states, "I write only to clarify
7 this bill's intent was to give the city, using this
8 home rule authority, discretion to implement the
9 amendment as the city desires."

10 That doesn't put me under a gun to have to
11 move on anything because you know, while it's there
12 it just gives this city the ability to be able to
13 maybe decide how we're going to move forward.

14 But one of the concerns, and I may have
15 missed this, I saw the comments from the developer
16 roundtable -- one of the things that concerned me
17 says, "But the present proposals are likely to
18 yield very little or either if affordable housing
19 then triggered as a result of incremental space is
20 calculated." And this is in the report, the
21 developer round -- this came out of the conclusion
22 of the developer roundtable.

23 I'm just curious. You know, I know that
24 the developer is the one who is going to be doing a
25 lot of the development, but was there -- who

1 initiated the developer roundtable? Was it the
2 developers or was it Office of Planning? And I may
3 have missed it.

4 MR. LAWSON: Yes, it was not Office of
5 Planning.

6 CHAIRPERSON HOOD: The developers --

7 MR. LAWSON: It was their initiative, yes.

8 CHAIRPERSON HOOD: Okay. Okay. All
9 right. So I don't need to ask my second question.
10 Was there any communities that wanted to
11 try to do something of this nature, anybody? And
12 did we hear anything like that where community
13 folks wanted to comment and do something like what
14 the developers did?

15 MR. LAWSON: To do a roundtable?

16 CHAIRPERSON HOOD: Yeah, a roundtable or
17 whatever the developers did.

18 MR. LAWSON: I'll be honest, I heard from
19 very few people on this initiative; a surprisingly
20 small number of people. Most of the comments I
21 received were from members of the development
22 community and from the solar panel community, and I
23 received one phone call from a member of a citizens
24 organization asking for some clarification. Kind
25 of on the same question that Marcy raised, what our

1 assumptions were for some of the figures we
2 included in the report.

3 CHAIRPERSON HOOD: Because what they sent
4 -- the way I read the letter and maybe somebody
5 here would be able to expound upon it, but it says
6 what the present proposals are likely to yield very
7 little or even if affordable housing then
8 triggered. Maybe I don't understand that
9 statement, but it looks -- I mean, these are the
10 guys who are the experts. They're the subject
11 matter experts in this. What they're saying is --
12 the way I interpret this is, we're not
13 accomplishing what we think we're accomplishing.

14 MR. LAWSON: And I think there are
15 probably members of that roundtable who may be here
16 tonight and they may be able to address this better
17 than I can because I wasn't there. My reading of
18 the letter is that they're saying that the more
19 restrictive affordable housing options, the
20 alternatives for affordable housing, might be
21 counterproductive because they might restrict the
22 ability to do any penthouse space they might result
23 in less affordable housing.

24 But I do think it's important to remember
25 that although there is certainly potential up there

1 on the rooftops, and we definitely want people to
2 take advantage of it, we're probably not talking
3 about millions of square feet. At least not for
4 some time. Maybe over the course of time it will
5 add up to something. So any affordable housing
6 program is going to be, you know, relatively
7 incremental as new buildings come on stream that
8 utilize some of this space, and as some existing
9 buildings try to retrofit.

10 We have certainly heard comments from the
11 development community that even though the
12 potential may exist for, you know, .5 FAR of
13 additional space or in some cases more, there are
14 other things that would restrict the ability to
15 actually do that, particularly for existing
16 buildings, things like the existing structural
17 condition of the roof, the ability to access that
18 space. There are all kinds of things that may
19 limit the ability of people to do this. So I think
20 it's a great program to make this tie for
21 affordable housing, but it's probably not the
22 solution to the affordable housing issue in the
23 District.

24 CHAIRPERSON HOOD: Right. Right. And
25 we're talking about new construction here, right?

1 Just new construction.

2 MR. LAWSON: We're definitely talking
3 about new construction but that could include a
4 rehab of an existing building's penthouse space.
5 And I certainly hope so. I hope that one of the
6 things that could happen here is that people are
7 able to use this to upgrade their rooftops, and
8 maybe while they're at it, install some green roof,
9 install some solar panels, install some storm water
10 management that the buildings don't currently have.

11 It's going to be difficult in a lot of
12 instances. Like I said, because of the existing
13 building structure, but I think it will be possible
14 in some instances that it would be a rehab of an
15 existing rooftop.

16 CHAIRPERSON HOOD: Okay. And if we do a
17 rehab, I'm just trying to think this thing through,
18 we would -- I'm sure the load test and other
19 regulations will come into place to make sure we
20 don't have any disasters. So, okay.

21 MR. LAWSON: Absolutely. The building
22 code would certainly apply.

23 CHAIRPERSON HOOD: Okay. The proposal for
24 the 10 feet of habitable penthouse space as opposed
25 -- and then going up to 20 feet, your

1 recommendation on page 15, what kind of comments
2 did you get back? And you may have mentioned this.
3 What kind of comments did you get back, or have we
4 got any back on this proposal, penthouse height,
5 new proposal?

6 MR. LAWSON: We didn't get a lot of direct
7 comments because this is kind of new. We kind of
8 hinted around at this, or we had part of this in
9 our original proposal. Excuse me. We expanded it
10 in the current provision to apply more broadly in
11 the current proposal. We didn't receive a lot of
12 comments, but the comments we received were
13 generally supportive. A lot of the comments voiced
14 support for a lower height limit within --
15 certainly within the residential areas. I think
16 the issue of within, you know, C1 or C2A, that's
17 something that we didn't receive a lot of comments
18 on because it wasn't part of our original proposal.

19 CHAIRPERSON HOOD: Okay. I too want to
20 associate myself with the comments I heard about
21 this PowerPoint presentation. I didn't say I agree
22 with all of it, but I appreciate all the work that
23 went into it, and especially with the diagrams.
24 For a lot of the lay folks, this would be very
25 helpful. So I appreciate it.

1 MR. LAWSON: Thank you.

2 CHAIRPERSON HOOD: Any other questions or
3 comments?

4 Okay. Let's go to -- did we have any
5 other reports of other agencies? We had quite a
6 few comments that are germane to the topic tonight.
7 But what I'll do is just, we'll get to that. Did
8 we have any reports of the ANC? Any ANCs?

9 Okay. Let's go to the organizations of
10 persons who are here in support. Do we have a
11 witness list? So we'll just call those who, up in
12 support of this, to come forward at this time.

13 MS. COHEN: (Inaudible.)*1:19:27

14 CHAIRPERSON HOOD: We do have a list.
15 That's okay. It's not overly crowded in here.
16 What I'll do is those in support, those in
17 opposition, and those that want to see some
18 refinement. Well, does that make anybody feel a
19 little comfortable? Okay.

20 We'll just go by the witness list.

21 MS. COHEN: Yeah. I'll have to go make a
22 copy but that's what we've got so far if you want
23 to --

24 CHAIRPERSON HOOD: Okay. Okay. We'll go
25 by the list.

1 Okay, we'll go in this order: Norman
2 Glasgow, Holland & Knight, Chris Collins, DCBIA,
3 Lindsley Williams, Monty Hoffman, P N Hoffman, and
4 Eric Smart. Those are the proponents.

5 Anyone else who is here in support? Okay.
6 So hopefully you all remember the order and we'll
7 go in that order. Maybe you can't.

8 Oh, I'm sorry. You know what? They must
9 have used this on somebody. Who was in here last?

10 MR. GLASGOW: No, I've got it on now.

11 CHAIRPERSON HOOD: No, actually it was off
12 up here.

13 MR. GLASGOW: Oh, all right.

14 CHAIRPERSON HOOD: We have a button. We
15 don't have to use it often.

16 MR. GLASGOW: I'm aware of that, Mr.
17 Chairman. We ready? All right. Thank you.

18 Good evening, members of the Commission.
19 For the record my name is Norman M. Glasgow Jr.,
20 the law firm of Holland and Knight to provide
21 testimony concerning the rooftop regulations.

22 Just starting off, with respect to the
23 developer roundtable, I think if you look at the
24 date of their letter it was October 13th. It was
25 before the OP report was issued. I think that a

1 number of the issues that they were most concerned
2 about were dealt with with the OP recommendations.
3 So I think that you would see that if there were to
4 be a second letter. So that's one thing that you
5 would want to be aware of.

6 We're appreciative that the Commission has
7 promptly scheduled this hearing on this matter,
8 because there are many projects that we have that
9 are impacted by this and we were looking forward to
10 being able to proceed forward on this.

11 Then going down through quickly, with
12 respect to the setback requirements for exterior
13 walls in Section 2 of the OP report, we do support
14 the position set forth in the written submission of
15 DCBIA. We also support the penthouse height of 20
16 feet for uses other than single family dwellings or
17 flats.

18 With respect to uses within a penthouse in
19 Section 6 of the OP report, we do not have an
20 objection to the limitation for penthouses within
21 the R districts as proposed by OP. We also support
22 the set down proposal which limits uses within the
23 penthouse to any permitted use within that zone.

24 With respect to the limitations on uses
25 referenced in the notice of hearing, as well as on

1 page 10 of the OP report, we believe that special
2 exception relief for a permitted use should be only
3 required for certain types of use if the building
4 is located adjacent to a residential zone. We do
5 not believe such relief should be required if there
6 is a residential use within a building, because
7 when you have the use of the rooftop space, if it's
8 a condominium, it's going to be in the condominium
9 documents. And if it's an apartment building, the
10 use of the rooftop space would likely be something
11 that's advertised as amenity for the building.

12 So in other words, you're not going to
13 either rent or buy a unit in a building and not
14 know what was intended to be up on the roof. And
15 if it's a commercial building we don't see why
16 there should be any need for a special exception.
17 If it's next to a residential zone, I understand
18 that. If it's in the middle of downtown then we
19 think that that should be handled differently.

20 With respect to the enclosing walls in
21 Section 7 of the OP report, we support the OP
22 recommendation for multiple heights because it's
23 going to provide flexibility and better options for
24 the design and placement of roof structures.

25 With respect to FAR in paragraph 9 of the

1 OP report, we support DCBIA's comments on the
2 proposed revisions to the regulations.

3 Section 10 of the OP report, we support
4 the proposed text and notice of the public hearing.
5 We are concerned that the alternative text in it's
6 specificity and design, all operating difficulties
7 does not necessarily cover the myriad of issues
8 that we have seen over the years as to why roof
9 structures might -- roof structure relief might be
10 needed in various situations. We recommend that
11 whether operating difficulties has been established
12 continue to be a determination made by the Board of
13 Zoning Adjustment.

14 I've tried a lot of roof structure cases
15 over the years and it seems, a lot of them there
16 are a lot of just different unique situations for
17 different buildings and different areas of the
18 buildings, different lot sizes, and I think that
19 it would be a mistake to make that too limiting as
20 to what operating difficulties are.

21 For amending a PUD we certainly set --
22 support the OP report on that, and the DCBIA
23 proposals.

24 With respect to Sections 12 and 13 of the
25 OP report I think I heard Commissioner Miller say

1 that for both commercial and residential, looking
2 at the 50 percent number is done with the old alley
3 closing things and the things that we worked on
4 years ago when that was put into the code. That's
5 what I heard you say with respect to both of those;
6 not doing the eight percent for residential, but
7 doing the 50 percent of the assessed value. And I
8 think that's something that I think the development
9 community, that's something that could be worked on
10 across the board.

11 What we were most concerned about is some
12 of the alternatives, where I had a number of
13 clients just say if we go in the much more, call it
14 Draconian for lack of a better word, thing that
15 they just weren't going to be able to make the
16 numbers work. And I think there are some reports
17 and economic analysis to support that conclusion.

18 I also wish to clarify that I think with
19 respect to rooftop amenity space, and this was
20 something that Commissioner May had brought up I
21 think during the set down, that that not be subject
22 to the IZ calculation if it's just something that
23 is amenity space that's up on the roof on that
24 building. And I would hope that that would be
25 clarified in the regulations on that.

1 That concludes my testimony.

2 MR. MAY: I think that's what OP is
3 recommending, that it not be included in the IC
4 calculation.

5 MR. GLASGOW: Okay. I --

6 MR. MAY: That it's only -- it's actual
7 housing, so.

8 MR. GLASGOW: That's great.

9 CHAIRPERSON HOOD: Okay. Next?

10 MR. COLLINS: Good evening, members of the
11 Commission. My name is Christopher Collins with
12 Holland and Knight. I'm here tonight as counsel to
13 the D.C. Building Industry Association.

14 We submitted two letters. The first is
15 Exhibit 9, our October 31 letter, where it was
16 simply a cover letter submitting the Bold and Smart
17 Associate report, and Mr. Smart is here to talk
18 about that.

19 Exhibit 15 is our November 6th letter,
20 which goes through our substantive comments on the
21 proposed regulations. We believe that the OP
22 report of October 27th gives a very helpful
23 framework, so our comments follow that framework
24 using the same heading so you can easily compare
25 our letter against their report. And I'll

1 summarize that quickly in the time that I'm given.

2 Number one, definitions, we support the OP
3 recommendation.

4 Number two, setback requirements, we
5 support the alternative text. It provides clarity.
6 We do not support OP's additional recommendation
7 regarding setbacks from historic properties. The
8 historic preservation laws and regulations provide
9 limitations on historic properties. We believe
10 that zoning should not expand those obligations to
11 abutting owners.

12 Third point I want to make, just a point
13 of clarification. The term, exterior wall, has
14 always meant different things under zoning and
15 under the Height Act. Since this text amendment is
16 intended to respond to changes to the Height Act,
17 it's equally important that the Height Act
18 definition of exterior wall remain in place and not
19 be changed as part of this text amendment.

20 Number 3, the OP report on height, we
21 support the proposed text.

22 Number 4, number of stories, we support
23 the proposed text with one change. And that is, I
24 just want to clarify that I don't believe that Mr.
25 Lawson's characterization of our suggestion was

1 what we intended. What we intended is even if a
2 penthouse is on a building that is at the Height
3 Act limit, it can be 20 feet but you can limit it
4 to only one story of occupiable space. It can be
5 two stories but only one of them can be occupiable
6 space. So the envelope will not change. It's just
7 limiting it to only one story of occupiable space
8 so that you can have the mechanical space above
9 that if you needed to.

10 Number 5, solar panels. We support the OP
11 recommendation. Plus we ask that you also, if
12 you're going to do that, also allow green roofs on
13 the top of penthouses as well to satisfy the GAR
14 requirements under the same recommended terms and
15 conditions as you are considering for solar panels.

16 Six, uses within the penthouse, we support
17 the proposed text for Sections 411.1 and 411.2. We
18 do not support allowing certain otherwise permitted
19 uses only by special exception. If the issue is in
20 fact external effects, these can be controlled by
21 other existing laws and regulations.

22 Number 7, enclosing walls, we support the
23 OP recommendation.

24 Number 8, the permitted penthouse size, we
25 support the proposed text.

1 Number 9, FAR, we support the proposed
2 text for 411.8. We recommend that 411.8 and 411.19
3 be combined into one section because they
4 essentially say the same thing. We don't support
5 including penthouse in the overall FAR building
6 limitation. But if you do, then we suggest that
7 penthouse space should not be subject to the
8 housing linkage or IZ requirements in that
9 instance.

10 Number 10, special exception review for
11 penthouses, we support the proposed text and not
12 the alternative text. We thank OP for clarifying
13 that Section 400.7 is included as part of that
14 special exception provision for setbacks and
15 residential zones.

16 Item 11, the process for mending the PUD
17 or design review, we support the proposed text with
18 a comment. And that is, if there is no change
19 proposed to the exterior design or envelope of the
20 penthouse then the Zoning Administrator should be
21 allowed to administratively approve and expand the
22 use of the penthouse, provided that the application
23 complies with Section 414 and/or Chapter 26.

24 Number 12, affordable housing linkage, we
25 support the proposed text of Section 414.13. We do

1 not support the alternative text. We support the
2 alternative text for Section 414.2.

3 Item 13, IZ in nonresidential buildings,
4 we support the proposed text of Section 2603.1 and
5 2603.2. We do not support the alternative text for
6 Chapter 26, but we do support the alternative text
7 for Section 414.2 as I mentioned previously.

8 Parking, item 14, we support the OP
9 recommendations.

10 And finally we have an additional comment
11 on Section 411.16. We recommend that on page 7 of
12 our letter that the Commission consider updating
13 the list of pipes, shafts, and ducts that can go on
14 the roof to reflect modern technology. Thank you.

15 CHAIRPERSON HOOD: Thank you. Next.

16 MR. WILLIAMS: Ladies and gentlemen, good
17 evening. My name is Linsley Williams and I am here
18 actually for the second time on this topic. The
19 last time was about 15 years ago when we started to
20 develop rules to allow the rooms that serve pools
21 and other things that are up on the roofs right now
22 in many residential areas. It's an early start on
23 the roof use and now we're doing some more. So
24 let's keep going.

25 Broadly speaking I have proposed what you

1 proposed in your notice that's intended to further
2 unlock the potential of rooftops while remaining
3 within the limits of the Height Act as now amended.

4 I was glad to hear from Mr. Lawson about
5 why everything now is called a penthouse. It's
6 because of the way in which it's cast in the Height
7 Act. I honestly feel that what's needed is to have
8 a penthouse be a penthouse and the other things be
9 other things, and that the Height Act be a footnote
10 in the regulations to explain that it has some
11 peculiar language. It just does not make sense to
12 me, and that's the middle paragraph of my first
13 page.

14 Jumping ahead I would recommend that you
15 rearrange the provisions in Section 411 so that you
16 say what's being counted and broadly what's not
17 being counted, including all those modern things
18 that Chris was just talking about.

19 As to the setbacks that are proposed, I
20 favor all of the alternatives but with one very
21 important exception, and that is that the last
22 item, which is typically the fifth one on the list,
23 it says, "You go out and you make a measurement in
24 determination of what happens on the adjacent
25 property."

1 If that's a corner property or something
2 that happens -- or it's at a different height, the
3 person that is filing for the permit next door is
4 going to have to get a surveyor to go around the
5 corner to make measurements and then make
6 assumptions from that that are just going to be a
7 great deal of additional expense and subject to all
8 the interpretations of what is the frontage and so
9 on and so forth. It will set off all kinds of
10 opportunity for difficulties and challenges to
11 determinations.

12 The simple thing to do is to take the
13 characteristic of the adjacent lot, the other zoned
14 category, but apply it to the lot lines where it
15 faces on the property that's being reviewed, and
16 not the way you struck it here.

17 It also needs to be adjusted, I believe,
18 so as to account for situations when you have, on
19 your property, the target site, you have is in a
20 receiving zone, so is the other property. That is
21 a by right addition. The same thing could be said
22 for arch overly and other things where you can gain
23 by right or by acquisition, certain additional
24 height. And if that's what you get or could get,
25 it seems to me that's what you want to put in that

1 section. I'll defer to others about historic.
2 I've given you a thought or two on that.

3 Mr. May, several weeks ago you had a
4 discussion about how architects want to get the
5 stairways away from the end of the buildings, and I
6 provided a diagram thinking about you --

7 MR. MAY: They don't seem to want to. I
8 want them to, but they don't seem to want to.

9 MR. WILLIAMS: Well, here is a way that I
10 think we can get somewhere with a little bit of
11 flexibility, and trying to pick up on the angled
12 approach that you talked about already in this
13 process. I welcome some further study of this.
14 You certainly don't want to hire me, however, doing
15 the diagramming in this process.

16 And finally, on page three, I just would
17 like to throw out an idea here, and that is that
18 instead of worrying about all the formulas and
19 everything else that makes the regulations read
20 like a tax code, let's try, particularly for the
21 commercial lots, where you have a rooftop use that
22 has got a defined interior occupied space and some
23 outside patio space. Let's create a new kind of a
24 lot up there, like an air rights lot or another
25 kind of a lot. Let it be assessed by the

1 assessment process. Let the funds be appropriated
2 or to flow through to the housing trust fund or
3 others as directed by the counsel at whatever tax
4 rate is involved. We don't have to get into 50
5 percent of this or one square foot of that. It
6 just goes on the basis of the numbers that are
7 valued. I think it would be an awful lot simpler
8 and keep you guys doing zoning, and let the tax
9 people do what they're supposed to do. Thank you
10 very much.

11 CHAIRPERSON HOOD: Thank you. Next.

12 MR. HOFFMAN: Chairman Hood and
13 Commissioners, thank you for your service and time
14 tonight. I'm Monty Hoffman and I'm here on behalf
15 of P.N. Hoffman. I have been fortunate enough to
16 develop in the city over the last 20 years and I
17 know firsthand how meaningful the rooftop terraces
18 are to the market. So the ability to occupy
19 mechanical penthouses is a unique opportunity for
20 the market and the District of Columbia, and it's
21 essential to get this right.

22 I have read and I agree with the Office of
23 Planning's recommendations. In particular,
24 applying current IZ regulations to habitable
25 penthouses on residential buildings, and for

1 nonresidential buildings, a contribution to the
2 Housing Production Trust Fund equal to half the
3 assessed value, strikes a balance between the goal
4 of directly producing more affordable housing and
5 allowing incentive for someone to build out such
6 spaces, creating long-term tax revenue to the
7 District, which in and of itself can be used
8 towards affordable housing.

9 To state the obvious, without incentive
10 there is no penthouse build out and nothing gets
11 accomplished. The reality is that build out of
12 penthouses for human occupancy inherently carries
13 significant premiums, and I just want to go over a
14 few to light.

15 And we all know that the diagram for
16 housing is stacked. All the kitchens are stacked,
17 bathrooms are stacked. Usually bathrooms are in
18 toward the interior or the core and the kitchens
19 alike. What we have is whenever we have a one to
20 one setback on the roof, that stacking no longer
21 occurs. So there has to be substantial transitions
22 between the plumbing, the waste, the trash shoot,
23 storm water, mechanical lines, and the like. All
24 that creates a premium for the designers and for
25 the builder to have to put occupiable housing on

1 the roof, or in the penthouse.

2 There's other areas which you may not
3 think of, such as solving for smells. The sewer
4 vents are discharged directly to the roof. The
5 same with restaurants and the like. Most of our
6 buildings today are mixed use, which is a great
7 thing. But we have restaurants on the lower levels
8 and the first floors. All that is discharged up
9 into, through the penthouses. So those exhaust
10 shafts and the like have to be designed around
11 whenever you occupy in the center of the building.

12 We also have to solve for vibration, heat,
13 and sound. Our mechanical equipment are up in the
14 penthouses. We have to add isolators for the
15 mechanical equipment, and masonry demising wall,
16 similar to an elevator shaft when you're down
17 below. You dare not just put extra studs and
18 drywall around it. You're going to use the
19 concrete sheer walls or CMU to divide that off.
20 The same will also be true if we occupy the
21 penthouses.

22 So these are obstacles that can be
23 overcome, but the overall build out is much more
24 expensive than the uniform stacked units.
25 Penthouses also compete with green roofs, which

1 I've heard a little about earlier, and the idea of
2 solar panels and possible cogent plants, such as
3 we're putting in at the Warf, all of that competes
4 with the same space.

5 So all this is good for the environment.
6 Everything that P. N. Hoffman builds today is LEED
7 certified, and we enjoy this. We like occupying
8 penthouses. We would like to occupy the
9 penthouses, but we have to be creative and there
10 are premiums to it to create this sort of happy
11 coexistence up on the roofs. To overburden it with
12 some of the alternatives that I had read earlier
13 would diminish if not prevent optimization of
14 rooftop penthouses and what it could become.

15 So it's clear to me that the Office of
16 Planning has studied and considered all of this,
17 and I believe they have got it right. I also read
18 the Bolan and Smart report on behalf of DCBIA and
19 that seems to confirm this as well.

20 We would love to occupy portions of
21 penthouses on the Warf and other projects we have
22 right now in predevelopment. It would add
23 substantial ongoing tax dollars to the District.
24 Under the Office of Planning's recommendation it
25 would provide more affordable housing, it would be

1 beautiful, and it would be sustainable and good for
2 the environment. So my hope is that the Commission
3 can embrace the Office of Planning and
4 Recommendations, and all of these attributes can be
5 realized. And I would be happy to answer any
6 questions if you have them.

7 CHAIRPERSON HOOD: Thank you. Next.

8 MR. SMART: Eric Smart with Bolan and
9 Smart Associates. Good evening. We're an economic
10 advisory firm in the District. I didn't come
11 anticipating, contemplating making a formal
12 presentation. Our analysis was attached, as Mr.
13 Collins said, to one of the submissions from DCBIA.
14 We had looked at the economic feasibility of some
15 of the proposals, some which were found to be
16 balanced, if I could say that in terms of their
17 incentive structure, impacting the developer. And
18 one in particular being onerous to proceed with.

19 I would be delighted to answer questions
20 or provide more testimony, but I can sum it that
21 our analysis was more or less consistent with what
22 you've heard before from the Office of Planning and
23 from Mr. Hoffman. Thank you.

24 CHAIRPERSON HOOD: Thank you.
25 Commissioners, any questions of this panel?

1 Commissioner May.

2 MR. MAY: So, Mr. Collins, you touched on
3 this. You're not supporting the setback from a
4 historic building. I'm sure others don't as well.
5 But how do we deal with this problem because right
6 now you can build a penthouse that abuts, you know,
7 a property line, even to 18/6, and frankly people
8 are lazy about it and put all sorts of junk right
9 up against that wall. And so you know, when you're
10 -- I mean, I don't even want to have the -- I want
11 to apply the setback condition any time the
12 building next door is lower than the building
13 you're building, because you can see that. I mean,
14 I don't know, if you ever come over from Virginia
15 you can see it on the side wall of whatever that
16 development is at the end of Maryland Avenue there,
17 coming over the 14th Street Bridge. Giant white
18 wall with a giant white penthouse right up
19 alongside of it. And I'm sure it was a matter of
20 right.

21 And, you know, we see these things. I get
22 to complain about the stair setback, and sometimes
23 those get fixed when we see them as PUDs. But they
24 don't get fixed otherwise. And, you know I mean,
25 the whole point of the setback provision is to

1 reduce the visibility of the penthouses.

2 You know, I was a big supporter of the use
3 of penthouses, expending the use of penthouses in
4 the entire Height Act debate. But I also am a
5 strong believer in reducing the impact of the
6 visibility of those penthouses and the setback is
7 how do you do it? So how do you do it if you're
8 not going to support something like setting back
9 from, at least historic properties?

10 MR. COLLINS: I have two responses. First
11 of all, the building that you mentioned coming
12 across, and the white wall, that's the Portals
13 Development.

14 MR. MAY: Right.

15 MR. COLLINS: And that's the reason you
16 see it that way is that there is --

17 MR. MAY: An unfinished --

18 MR. COLLINS: That's a phase of a project
19 that's yet to be built.

20 MR. MAY: Right. Right. Yes, and it's
21 been that way for 10 years.

22 MR. COLLINS: Well, the -- right.
23 Exactly.

24 MR. MAY: Right.

25 MR. COLLINS: But to get to your point,

1 our point is that historic landmarks have property
2 lines. Historic districts have set boundaries.
3 And our view is that for Historic preservation
4 purposes you should not impose a historic
5 requirement (indiscernible)**23:51.

6 MR. MAY: I understand why you're arguing
7 against the requirement. Tell me how to solve my
8 problem. Tell me how to fix the visibility of
9 penthouses on these side walls when it's adjacent
10 to a property that's lower in height, and at some
11 case going to be that way forever because it
12 happens to be a historic building.

13 MR. COLLINS: Well, we support the Office
14 of Planning's recommendation on that issue outside
15 of historic -- you know, setting aside the historic
16 preservation issue that you raised, we support the
17 Office of Planning's recommendation on that issue.

18 But in terms of historic preservation, our
19 view on the historic preservation is that you're
20 imposing --

21 MR. MAY: Wait a minute. I thought you
22 said that you're opposed to it when it's setback
23 from an historic property.

24 MR. COLLINS: Right. Well, there was two
25 issues and you're talking about -- we're talking

1 now about historic preservation. I was saying on
2 the other issue about when a building is lower or -
3 -

4 MR. MAY: Right.

5 MR. COLLINS: -- saying we dealt with
6 that. But in the historic preservation our view is
7 simply, you should not impose a historic
8 preservation requirement on an adjacent property.
9 It's up to the Commission to decide, you know, what
10 you want to do about that. But our view is, if
11 you're doing it in the name of historic
12 preservation you shouldn't impose a historic
13 preservation requirement.

14 MR. MAY: So you really don't care about
15 how your building looks next to another building,
16 right?

17 MR. COLLINS: I guess that assumes that
18 the penthouse --

19 MR. MAY: Well, you know, you're not
20 interested in showing any deference to the adjacent
21 property or the neighborhood.

22 MR. COLLINS: I guess we have a different
23 view on that and that assumes that all penthouses
24 are ugly. And so that's -- I don't know that we
25 can --

1 MR. MAY: People can write long books on
2 that one. All right. Well, anyway, I mean, I'm
3 struggling with this because I'm looking for
4 answers and the only answer that I can think of is
5 that, you know, any time a building -- you're
6 building next to a shorter building that you've got
7 to setback. I mean, that's the simplest way from
8 my perspective to preserve the notion that the
9 penthouse is not adding perceived height to the
10 building. So I mean, if --

11 MR. GLASGOW: Commissioner May, well, then
12 it's a sight line issue then. And I guess that
13 because when we do try cases before the Historic
14 Preservation Review Board we do go around
15 properties and you're always looking at the site
16 lines. And maybe one way with respect to a
17 historic property is to think about, well, if you
18 have a sight line that shows that this roof
19 structure is not visible from the street, that that
20 would have one way of dealing with that as opposed
21 to just blankets saying that no matter what you
22 have -- because some of the historic properties
23 that we have are fairly sized and there could be a
24 two or three story difference. But that property
25 is a long property.

1 MR. MAY: Right. I mean, okay. I can see
2 if it's a long property. I mean, it's also
3 possible that it could be a historic property and
4 it's actually, you know, close enough to the matter
5 of right height that it wouldn't be visible.

6 MR. GLASGOW: Right. That's what I'm
7 thinking, that I don't think it's a one size fits
8 all situation for what you're talking about.

9 MR. MAY: Well, but I mean -- right. So
10 maybe there --

11 MR. GLASGOW: And I think the regs --

12 MR. MAY: But the only way to do that is
13 to evaluate it as a form of relief, a special
14 exception.

15 MR. GLASGOW: That could be looked at.

16 MR. MAY: Right. So it could be included
17 as grounds for a special exception if you can
18 demonstrate that it's not physical.

19 MR. GLASGOW: If you can demonstrate that,
20 or possibly do something similar to what we're
21 talking about with almost some type of consent
22 calendar thing, because I know they've been looking
23 at that from time to time with BZA.

24 MR. MAY: Uh-huh.

25 MR. GLASGOW: And saying that if you can

1 establish that then it's just a consent calendar
2 and you move on. You don't have to stop and have a
3 hearing on all of those type things.

4 MR. MAY: Okay. All right. That was it
5 for my question.

6 CHAIRPERSON HOOD: Commissioner Cohen.

7 MS. COHEN: Thank you, Mr. Chairman. I'd
8 just like to say that you know, all my colleagues
9 and myself, we don't want to put into place any
10 disincentive to affordable housing. So I think
11 that that's an important thing. But we must push
12 the envelope. We're in a crisis situation.

13 And one of the observations that I've made
14 and, Mr. Smart, maybe you can help me understand
15 something. And that was the first principle. I
16 appreciated all those numbers. I used to do that
17 for a living, but actually I forgot a lot. But an
18 18 percent return, was that gross or net?

19 MR. SMART: The 18 percent return that we
20 showed on there would be gross. Now I should say
21 that that is in order to get the project financed,
22 and we used illustration of a for sale property.
23 But really the economics are the same if it's
24 rental. You still have to realize that. And let
25 me comment in terms of the gross, if you will, is

1 that that's on the cost of the rest of the project,
2 because that's the definition for that. And that's
3 not just over one year period. That's over a
4 multi-year development period. So it's not as if
5 someone is earning 18 percent every year. It's 18
6 percent on the entire cost. So it's less than that
7 if you factor the cost of the project over a period
8 of time.

9 MS. COHEN: So then if, let's say, an
10 investor was looking for like, if you go online and
11 see TIAA-CREF and CalPERS, their portfolio this
12 year is looking anywhere from a 12 to 14 percent
13 return. And that's really on an average basis.
14 Obviously certain commercial things will give a
15 higher return and some lower.

16 So you're saying that it's 18 percent over
17 a three year or a two year period? Is that what
18 you're saying?

19 MR. SMART: I guess if it's the -- for the
20 entire rest of the cost of the project it's an 18
21 percent return on the rest of the cost, and --

22 MS. COHEN: Who is getting that?

23 MR. SMART: -- just one of the points in
24 discussion with the development industry that they
25 feel it's actually higher than that. I mean,

1 you've probably had presentations you've seen at 20
2 percent as a minimum threshold.

3 MS. COHEN: No, I've seen less, actually.

4 MR. SMART: Oh, I also have to say that
5 usually in the published sources it can be
6 considerably lower than that at even the numbers
7 that you're referencing, depending on whether it's
8 a development deal that's in place, whether the
9 entitlements are in place. There's many factors
10 that go into that.

11 But the at risk, going in, evaluation for
12 before a project is constructed, when it's being
13 contemplated, those are pretty much minimum
14 thresholds for in our marketplace to take on all
15 the risk that's associated with committing the
16 capital. I think perhaps Mr. Hoffman would like to
17 add to that if you chose.

18 MR. HOFFMAN: I would love to. Thank you.
19 Eighteen percent would be probably a minimal on a
20 project IRR going in on a smaller project of say
21 150 units or less. Condominiums would actually
22 want more and the reason is that it's treated as an
23 earned income when you're done, as you know. And
24 the money is in and it's out.

25 And so in those cases investors are

1 looking for 20 percent or so, because it's earned
2 income treatment and it's only deployed for maybe
3 three years. Apartments are a little bit less
4 because if it's a long-term proposition and it's a
5 capital gain.

6 MS. COHEN: But all your investors are
7 pension funds, aren't they, and foreign entities?
8 Pension funds.

9 MR. HOFFMAN: We work with Prudential, we
10 work with different life insurance --

11 MS. COHEN: Oh, insurance.

12 MR. HOFFMAN: -- companies, and we work
13 with PSP, which is a pension fund out of Canada,
14 and I can tell you firsthand that -- and I wish if
15 I could get 12 percent money I would absolutely
16 take it. The prefs may be 12 percent, but the
17 overall returns are much higher.

18 MS. COHEN: All right, because I thought
19 that they were going for more consistently safer,
20 lower returns in certain markets, which I would
21 think Washington, D.C. represents one of the safer
22 markets at this point in time.

23 MR. HOFFMAN: I would say at this point in
24 time there are concerns about saturation. There's
25 a lot of talk about a bubble and a lot of, you know

1 -- I mean, you well know, probably before this
2 Commission, a lot of projects that are queued up
3 and going in place over at NOMA, over at the
4 ballpark area, and several other areas.

5 MS. COHEN: Well, I certainly would
6 encourage all of you. I'm not going to ask how to
7 solve a particular problem, but I think that, you
8 know, affordable housing does impact on your
9 businesses as well. So, anything you can suggest,
10 it would be very helpful.

11 MR. HOFFMAN: And no, I appreciate the
12 comments and that's why I embrace the Office of
13 Planning's linkage to the Affordable Housing. I
14 recognize that need. We're providing a substantial
15 amount of affordable housing on the Warf, and then
16 the other projects. All the projects we're doing
17 have elements of affordable housing and we have
18 workforce housing too. Not only here, but in
19 Bethesda, we have both affordable and workforce.

20 It's just my points that I was trying to
21 make earlier is we still need to maintain an
22 incentive to do the penthouse occupancy to begin
23 with. And I think there needs to strike a
24 reasonable balance. I'm not trying to
25 overcomplicate it, but it is complex. Every

1 project is different, every neighborhood is
2 different, everything that we do, you know, on the
3 buildings are all different. And I think we just
4 need to be careful. If we overload it we won't get
5 the desired effect.

6 MS. COHEN: Well, again, I just want to
7 state that 80 percent of the median income is not
8 what is affordable in Washington, D.C., and I'm
9 glad that at least at the waterfront we see some 50
10 and 60 percent of median, which I hope all other
11 developers will take to heart.

12 MR. HOFFMAN: Thank you.

13 CHAIRPERSON HOOD: Any other comments,
14 questions? Commissioner Miller?

15 MR. TURNBULL: Yeah.

16 CHAIRPERSON HOOD: Okay, Mr. Turnbull.

17 MR. TURNBULL: Do we have all your
18 comments from early, from what you presented?

19 MR. GLASGOW: I'm sorry?

20 MR. TURNBULL: Do we have all of your
21 comments that you were -- from your presentations
22 at the table tonight?

23 MR. GLASGOW: I just, I prepared those
24 this afternoon and sent it.

25 MR. TURNBULL: Okay. Well, if you could

1 send them for the record, I think it would be good
2 for going back and looking at your comments
3 tonight.

4 MR. GLASGOW: Certainly.

5 MR. TURNBULL: And so, Mr. Hoffman, I
6 guess you know, if everything goes you may be back
7 before us six more times or whatever, how we
8 divided up the Warf for changes.

9 MR. HOFFMAN: You mean for penthouses?

10 MR. TURNBULL: For penthouses.

11 MR. HOFFMAN: Yeah, that did occur to me.
12 We would like to be back and we would like to do
13 that.

14 MR. TURNBULL: Okay.

15 MR. HOFFMAN: As some of the cases more
16 than others, I think.

17 MR. TURNBULL: Okay. Thank you.

18 CHAIRPERSON HOOD: Okay. Mr. Miller.

19 MR. MILLER: Thank you, Mr. Chairman. So
20 each of you are supporting the Office of Planning
21 Affordable Housing trigger for the rooftop
22 habitable space, whether it's commercial or
23 residential. For the residential buildings the
24 Office of Planning is proposing that that rooftop
25 habitable space just be included as part of the IZ,

1 inculsionary zoning. That calculation, which we
2 know is eight to 10 percent of the total square
3 footage, should then be set aside for affordable
4 housing somewhere in the building.

5 Did I hear you say, Mr. Glasgow that you -
6 - and with the alternative that was proposed,
7 proposed a one to one that you have to do, you
8 know, 100 percent of the square footage that you're
9 putting on the roof at an affordable level
10 somewhere in the building. And you all, you know,
11 opposed that and said that's overly burdensome.

12 But what would you support a lesser
13 percentage that's comparable to the housing linkage
14 requirements for commercial buildings, which is
15 either the 50 percent contribution to the housing -
16 - 50 percent of the assessed value of that rooftop
17 space going to the Housing Production Trust Fund,
18 or a higher percentage than the IZ eight to 10
19 percent for setting aside residential space.

20 I mean, the housing linkage requires, if
21 you go with the construction option as opposed to
22 contribution option if you're going to actually
23 build the space, I think it's -- you'll correct me
24 if I'm wrong, Mr. Glasgow. There's an incentive
25 that's tried to built in to try to make that less

1 costly, the construction option, than just giving
2 to the housing -- providing a check to the Housing
3 Production Trust Fund. Just to ensure that we get
4 the affordable housing built. I think it's one
5 quarter of the bonus housing if it's on or adjacent
6 to the site, it's one third if it's in the ANC
7 area, then it's one half if it's anywhere else in
8 the city.

9 Would you support that housing linkage for
10 me which is currently particular to bonus office
11 space for alley closings and for --

12 MR. GLASGOW: Well, I think it should be
13 in the context of the overall, plus the ability to
14 do the 50 percent, so that we had a lot of
15 different options. As you probably recall, we
16 spent a lot of time on that with Chairman Clark
17 years ago when he essentially called me up and I
18 think you were in the room and a number of the
19 affordable housing providers in the city. I wasn't
20 asked to come to the meeting. I was told, this is
21 when the meeting is and be down here.

22 MR. MILLER: I remember.

23 MR. GLASGOW: Yes. Lloyd Smith and a lot
24 of people that aren't with us now were down at that
25 meeting. So we worked through that and we had a

1 lot of different options. You could pay into the
2 trust fund or you could do a production option, and
3 it was all designed on an incentive basis. I know
4 it was the chairman's view at that point in time
5 that if he could get the developers to actually put
6 their brainpower and economic muscle into producing
7 the housing or having an opportunity to contribute
8 that to 50 percent of the assessed value, that we
9 would end up getting a lot more housing than we
10 would otherwise, and I think you and I at one time
11 did an analysis of all the housing that we got
12 through the Alley Closing process, and it was
13 hundreds of units that were produced that way.

14 So I'm thinking that that's why I'm
15 supportive of what it is that -- but to have those
16 options, so if you want to do the 50 percent of the
17 assessed value, do that. If you want to do the
18 production option on the same type of basis, then
19 you could do those options also.

20 MR. MILLER: Okay. Thank you.

21 CHAIRPERSON HOOD: Any other questions?
22 Okay. I want to thank this panel. We appreciate
23 your comments.

24 Anyone else here in support? Okay.

25 Let's go to persons in opposition. I have

1 Ms. Marylyn Simon, Ms. Alma Gates, Dana Sleeper,
2 Robert Robinson, and I think I've called everyone
3 who is here. Anyone else who would like to come
4 forward who is in opposition? Chris Otten. Anyone
5 else?

6 Okay. Let's go in the order I called your
7 name. Ms. Simon, Ms. Gates, Dana Sleeper, Robert
8 Robinson, and then we'll hear from Chris Otten. In
9 that order.

10 Ms. Simon.

11 MS. SIMON: My name is Marilyn Simon and
12 I'm speaking on behalf of Friendship Neighborhood
13 Association.

14 The proposed text amendments are not
15 required by the recent amendments to the Height
16 Act, but rather the proposed tax would grant large
17 increases in matter of right, height, and density
18 city wide. It will, in many cases, result in
19 manner of right, heights, and densities that are
20 inconsistent with the comprehensive plan.

21 The current zoning regulations on height,
22 density, and rooftop structures serve a purpose in
23 shaping our built environment. The loosening of
24 federal regulations which involves minor changes in
25 limited locations should not be used to justify

1 major changes in the restrictions on rooftop
2 structures across the District.

3 Further, changes in the federal
4 regulations on rooftop structures in those limited
5 locations don't trigger a requirement that the
6 district change its regulations to match the new
7 limits of the Height Act, and certainly don't
8 trigger massive up-zoning outside those limited
9 areas.

10 At most the changes in the Height Act
11 could trigger a process that might lead to the
12 submission of new text that applies only to those
13 areas that are currently constrained by the Height
14 Act, and that text would only be submitted after
15 careful evaluation of the impact of the likely
16 changes and uses in dimensions, including a full
17 examination of the changes in the incentive and
18 ability to have larger structures with more
19 intensive use.

20 Instead the Zoning Commission has been
21 presented with a proposal that increase the
22 dimension in uses of rooftop structures while
23 exempting this additional volume, height, and
24 intensity of use from the zone limits on height and
25 FAR. We concur with others concerned about the

1 impact of this text amendment on rooftop structures
2 in areas that are currently constrained by the
3 Height Act, the treatment of rooftop structures and
4 existing PUDs, and very weak affordable housing
5 requirements.

6 Tonight I will focus on how these text
7 amendments, if adopted, will affect D.C.'s mixed
8 use corridors. Especially those like Wisconsin
9 Avenue and Georgia Avenue which are near low
10 density residential neighborhoods.

11 Large portions of Wisconsin and Georgia
12 Avenues are designated for low density commercial,
13 moderate density residential in the future land use
14 map of the comp plan. They are zoned C2A.

15 The current limits for this zone are 50
16 feet in height and an FAR of 3.0. The proposed
17 text amendment would allow a 20 foot, two-story
18 penthouse, which would not count toward the height
19 and FAR limits. This would be a substantial
20 increase in the effective height, FAR, and
21 intensity of use. The Office of Planning provided
22 estimates on the average increase and allowable
23 FAR.

24 For buildings which are not constrained by
25 the Height Act these estimates do not capture the

1 full increase in the rooftop structure since there
2 is assumed to be only one story in the 20 foot tall
3 structure, and the proposed regulations would allow
4 the lower floor of the structure to have a larger
5 footprint than the upper floor.

6 If we adjust OP's estimate to account for
7 these factors we find that the proposal will allow
8 even higher increases in matter of right FAR. For
9 residential buildings the average allowable FAR
10 could increase by as much as 0.65, rather than OP's
11 estimate of 0.26.

12 For a C2A zone the average FAR increases
13 from 3 to 3.65. This is substantially higher than
14 the 2.5 limit that was in place when C2A was used
15 in the comp plan definition for a low density
16 commercial area.

17 The amendment provides an incentive to
18 build up to 70 feet in height and to expand the
19 footprint of the rooftop structure beyond the
20 maximum of one third of the rooftop. Based on OP
21 samples, the first floor of the rooftop structure
22 might cover up to 75 percent of the roof area; more
23 than twice the current limit. For commercial
24 buildings the increase in average FAR could be
25 approximately .99 rather than OP's estimate of .43

1 being two stories it's definitely at least twice
2 the .43 OP provided.

3 Building with these new dimensions are not
4 consistent with the comprehensive plan designation
5 for the C2A zones. We've also listed some of our
6 other concerns in the written comments. The OP
7 proposal is inconsistent with the comp plan and
8 should be rejected. Further, any change in the
9 rules for rooftop structures related to the change
10 in federal regulations should be limited to those
11 areas where the height is constrained by the Height
12 Act and the impact of those changes should be
13 carefully studied prior to adoption of any
14 proposal.

15 If after study it is determined that it is
16 in the public interest to liberalize the use and
17 dimensions of the rooftop structures in those areas
18 currently constrained by the Height Act OP can
19 submit a proposal that focuses on just those areas.
20 Thank you very much.

21 CHAIRPERSON HOOD: Thank you. Next.

22 MS. GATES: Good evening, Members of the
23 Zoning Commission. I am Alma Gates.

24 Recent zoning cases give the impression
25 the city is for sale to the highest bidder.

1 McMillan, Berry Farm, and now rooftop penthouses
2 are on the selling block. Families that have lived
3 in the District for generations find themselves
4 looking elsewhere to survive the rising prices that
5 accompany rising development and height. Even
6 millennials who have been so effective in pushing
7 decision makers, are feeling the financial squeeze
8 of living in the nation's most expensive city.

9 An article in the October 25th issue of
10 the Wall Street Journal clearly lays out the
11 importance of views to the city, to Washington
12 power brokers. It noted, building restrictions
13 limit locals with a view; balcony envy. Is that
14 what this is really about? Gambling with over 100
15 years of height limits for a few pieces of silver
16 from power brokers?

17 As the article notes, a strictly
18 nonpartisan battle is underway among Washington,
19 D.C.'s power brokers and party planners for
20 rooftops with the best views. Without question the
21 headline supports the finding that Washington, D.C.
22 is the nation's most expensive city and the higher
23 the rooftop, the more exclusive the view, the more
24 premium space. Let's be honest and get the reason
25 behind tonight's hearing on rooftop penthouse

1 regulation changes straight. It's about money.

2 On page five of the Office of Planning's
3 October 27 memorandum under a discussion of setback
4 requirements for a penthouse, it is noted that the
5 proposed clarification language is generally
6 consistent with the current zoning administrator
7 practice for measuring penthouse setback. At the
8 very outset of the ZRR task force meetings the
9 Zoning Commission was informed there would be a
10 Section M which would contain the interpretation of
11 the height of buildings act by the Zoning
12 Administrator. Tonight we are without that
13 guidance and nothing is in writing with regard to
14 the zoning administrator's interpretation. How
15 convenient that everything is still in his head.

16 In the time I have left I want to point
17 out some unintended consequences of the proposed
18 changes in both practical and graphic terms. A
19 small area of McArthur Boulevard between Reservoir
20 Road and V Street which serves as the Palisades
21 Central Business District is zoned C2A. A recent
22 proposal by Safeway to build a new store as part of
23 a PUD development brought home the fact that the
24 proposed zoning changes would have a profound
25 affect on that small area. Even gas station

1 magnet, Joe Mamo, was lining up potential buyers
2 for his Exxon station site because he knew once the
3 Safeway got it's PUD and enclosed penthouse there
4 was no stopping development in the CBD.

5 Fortunately Safeway's new owner decided to
6 sell its east coast interest, but that doesn't mean
7 another developer won't attempt the same out of
8 scale development.

9 The current height of the single story
10 Safeway front façade is 20 feet. The allowable
11 height is 50 feet and a PUD would bring height up
12 to 65 feet. Proposed penthouse development could
13 raise the height to 85 feet. That would be a 65
14 foot increase in height over what currently exists,
15 and 35 feet above what is currently allowed and the
16 proverbial camel's nose.

17 No one expects heights on McArthur to
18 remain at 20 feet, but an increase to 85 feet is
19 completely out of scale with surrounding R1B
20 neighborhood character. While extreme, this could
21 happen city-wide to any C2A zoned district.
22 Members of the developer roundtable, the city's all
23 star lineup, have already begun to whine loudly
24 regarding proposed housing linkage requirement.

25 They lack (indiscernible)**50:38 a sense

1 of benevolence and only want to reap the profits
2 ensured through penthouse envy. Affordable housing
3 is at the bottom of their list of development
4 priorities, so the Zoning Commission must stick to
5 its guns if it is serious about the housing linkage
6 provision.

7 And a word about affordability.
8 Affordable for home. This point has been raised
9 repeatedly in CRR testimony and other major zoning
10 cases. Please, don't issue another blank check for
11 roundtable members. Penthouse development must
12 come at a price, and it can. But the regulations
13 that permit that development must be written to
14 benefit and balance outcomes for everyone; the
15 city, its residents, and the developers.
16 Penthouses should not be seen as another means to
17 change low density neighborhood character. For
18 that reason Neighbor's United Trust opposes the
19 text amendments as proposed for low density
20 commercial areas in case number 1413. Thank you.

21 CHAIRPERSON HOOD: Thank you. Next.

22 MS. SLEEPER: Good evening, Commissioners.
23 My name is Dana Sleeper and I'm here today on
24 behalf of the Maryland, D.C., and Virginia Solar
25 Energy Industries Association. I'd like to just

1 express our concerns regarding the proposed text
2 amendments, specifically those which relate to
3 solar installations and further restrictions that
4 may be placed on them.

5 The District Government, through the
6 leadership of the D.C. Council and multiple mayoral
7 administrations has committed to fostering a local
8 solar community. The renewable portfolio standard
9 and numerous government sustainability initiatives
10 encourage solar adoption within the District. The
11 District's commitment to solar continues to have a
12 significant economic impact. NBBC currently has
13 over 100 corporate members in the Washington D.C.
14 Metro area, many of whom do business in the
15 District.

16 The Solar Foundation, a D.C. based
17 national nonprofit organization, released a report
18 last year that stated there are over 800 full time
19 solar jobs here in the District, and over 45
20 hundred jobs across the region impacted by the D.C.
21 solar market.

22 It's also important to note that over 12
23 megawatts of solar have been installed in the
24 District. Extremely conservative estimates equate
25 the installed megawatts with more than \$42 million

1 in investment.

2 The key to success for the D.C. solar
3 market has been progressive solar policies,
4 including solar friendly legislation and
5 regulations issued by the Office of Planning, DDOE,
6 and DCRA. These policies were developed in
7 collaboration with the solar industry. This
8 collaborative process is essential to continue the
9 District's solar job growth, ensure the District's
10 legislatively mandated solar requirements are met,
11 and together achieve successes such as the
12 continued growth of solar installations on
13 affordable housing in D.C.

14 We are concerned that the proposed solar
15 related text amendments will inhibit the District's
16 ability to accomplish goals and hinder a burgeoning
17 industry and job sector. We've outlined a few of
18 our concerns and would be happy to discuss them in
19 greater depth. For now I'm going to highlight just
20 a few of those items.

21 First, district, commercial, and multi-
22 family building stock is diverse, resulting in a
23 range of techniques required for solar
24 installation. The proposed language does not
25 reflect this reality. Blanket zoning language will

1 slow and restrict deployment and expansion of solar
2 installations in the District.

3 Second, the proposed amendments do not
4 account for multiple solar technologies, including
5 solar thermal, which is solar hot water. Solar
6 thermal is generally a much taller system than
7 solar PV, and there is currently a program through
8 DCSEU to install solar water heating systems on
9 affordable housing buildings in the District. The
10 rules as drafted would prohibit solar thermal
11 systems on these penthouses.

12 Third, without a guaranteed that penthouse
13 roofs will have similar structural requirements as
14 building roofs, penthouse roofs would not be able
15 to support solar. This would eliminate solar as an
16 energy choice for building owners.

17 And finally, penthouses constructed in the
18 vicinity of solar installations may create shading
19 of nearby solar installations, reducing solar
20 energy output and related revenue streams,
21 negatively impacting project economics and
22 financing.

23 Together the restrictions on solar that
24 these rules impose would raise the cost of solar
25 installations, reduce the number of rooftop spaces

1 uses for solar, hurt district solar businesses, and
2 jeopardize the District's ability to meet
3 legislatively mandated solar and sustainability
4 targets. Given the importance and priority that
5 the council and the citizens of the District have
6 placed on developing a thriving solar community,
7 the D.C. solar industry strongly believes that any
8 rules pertaining to sighting solar, and rooftops
9 and penthouses, should undergo an open and
10 comprehensive stakeholder development process.
11 Just as the District has done with other solar
12 related policies and regulations, MDCB recommends
13 that in crafting solar sighting rules the Zoning
14 Commission undertake a collaborative process with
15 OP, DDOE, DCRA, and the solar industry, and any
16 language relating to solar installations be removed
17 from the text amendments regarding rooftop
18 penthouses until the Office of Planning can convene
19 a series of stakeholder meetings to deal with these
20 complex issues.

21 I'd like to thank you for the opportunity
22 to provide comments on the proposed text. We look
23 forward to working with all of you to resolve this
24 issue.

25 CHAIRPERSON HOOD: Okay. Thanks. Next.

1 MR. ROBINSON: Thank you, Members of the
2 Commission. My name is Robert Robinson. My wife,
3 Cheryl, and I are original members of the Mount
4 Pleasant Solar Co-op and co-founders of D.C.'s
5 Solar United Neighborhoods. I was not aware until
6 Monday that the SEIA would be presenting testimony
7 so I'm not going to touch on the very same issues.
8 Additionally we were unaware that new solar
9 regulations had been developed by the Office of
10 Planning. So we really haven't had a chance to
11 study them. But I want to talk about some of the
12 background of this.

13 The reason the Mount Pleasant Solar Co-op
14 and D.C. Solar United Neighborhoods have been
15 working in communities all over D.C. is because the
16 cost of being a resident in Washington, D.C. is
17 becoming increasingly difficult to afford. As
18 early as 2006 a woman by the name of Mary Schwartz
19 and Ellen Wilson, who are employed at the Census
20 Bureau, developed a report called, "Who can afford
21 to live in a house?" And it specifically
22 underscored the fact that utilities were one of the
23 factors that were making it more and more difficult
24 for either homeowners or renters to stay in their
25 property.

1 Let me give you a couple of statistics
2 about D.C. particularly. Between 2000 and 2013 the
3 cost of our electric rate increases has gone up 61
4 percent here in Washington, D.C. The cost of
5 living has increased about 38 percent. Another
6 fact that's very difficult to get specific
7 information on is the number of homeowners ever
8 year in Washington, D.C., or renters who have to go
9 to request low-income home energy assistance
10 program supports.

11 We know that the number is between 20 and
12 30,000, but specific information is not available
13 to us. But that's a significant number of families
14 in Washington, D.C.

15 So the reason that solar is important to
16 people in D.C. is not because it's purely
17 environmental, it's not because it's a great fad,
18 it's because it helps people stay in their home.

19 Recently we had occasion to work on
20 drafting and enacting a bill called, "The Community
21 Renewable Energy Act of 2013." What that bill will
22 actually do is make solar accessible to anyone,
23 whether you own a roof or are a renter or a small
24 business person or a church, you may subscribe to a
25 solar array that's located someplace in D.C. and

1 receive credit for that portion of the array on
2 your monthly energy bill.

3 Now one of the things that's going to make
4 the development of these community solar arrays is
5 going to be able to use roofs. So one of the
6 concerns that we've had increasingly is that
7 because of matter of right height increases that
8 are allowed in residential districts and now are
9 being considered for commercial districts that are
10 adjacent to residential districts, the increasing
11 height of buildings will shade solar arrays that
12 are already in D.C. and render them inefficient.

13 So our concern is that before that happens
14 we want to have an opportunity to enact legislation
15 that will create solar air access rights for solar
16 families in D.C.

17 I would like to also add that when we
18 drafted the Community Renewable Act of 2013, we
19 sought to involve every single stakeholder that we
20 could that was involved. That includes end-users
21 like ourselves, the Maryland, D.C., Virginia Solar
22 Energy Assistance, the Apartment and Office
23 Building Owner's Association, the key utilities
24 that are involved, regulatory agencies such as the
25 Public Service Commission, DCRA, and administrative

1 agencies of the government such as the D.C.
2 Department of Environment, the Sustainable Energy
3 Utility, DHCD, the D.C. Office of Planning, the
4 Office of the Attorney General and the CFO, even
5 the Office of Aging.

6 We also sought outside experts such as the
7 Interstate Renewable Energy Council, Vote Solar,
8 and professional groups such as the North American
9 Board of Certified Energy Practitioners, as well of
10 course, as the executive and the council. We did
11 this so that everyone could get involved and make
12 sure that the development of this legislation would
13 meet the best interest of all of the stakeholders.

14 I want to also say that we're trying to
15 conform with the existing regulations and
16 appreciate them. This is my home at 1631 Newton
17 Street in the historic district of Mount Pleasant.
18 In a historic district a solar ray must be
19 invisible from the street in front of the home, and
20 that includes you can't run inverters and put
21 conduits down the front of the building. We all
22 comply with that and we encourage everyone that
23 decides to go solar that we work with, as well as
24 installers that we work with, to make sure that
25 they follow those regulations.

1 So we don't think that no regulations are
2 good for D.C., but we think that regulations that
3 completely flout the ability of people to make
4 solar after they've done it, is not a very good
5 idea. And we would very much appreciate that the
6 government treats us, who have been trying to bring
7 this enabling legislation, with the same courtesy
8 that we tried to treat the government and the
9 private sector in making it available to everyone
10 and making it the economic engine that it is.
11 Thank you very much. That concludes my testimony.

12 CHAIRPERSON HOOD: Thank you. Next.

13 MR. OTTEN: Good evening. My name is
14 Chris Otten. I'm with D.C. for Reasonable
15 Development, and I'm down here tonight strictly out
16 of the pure attempt to see that rulemaking in the
17 District of Columbia is not arbitrary and
18 capricious.

19 Now what we see here tonight is kind of a
20 180 degree flip of the current zoning regulations
21 about rooftop structures and our roofs in D.C. We
22 go from zoning regulations that exist right now
23 that try to minimize the impact of the roof
24 structures in terms of visibility, in terms of
25 sight lines, in terms of privacy issues, in terms

1 of noise, to making it a completely active rooftop
2 privatized to individual patios, to mechanicals
3 moving up to the top of the rooftop structures,
4 several different heights. I mean, it's just the
5 complete opposite of what we have right now.

6 And that's not what the, you know, change
7 to the zoning -- I mean, change to the Height Act
8 meant to do. And especially not without any study
9 of the adverse impact per Section 6-6401.02 of the
10 D.C. law. So while OP is pushing these changes
11 without study, I mean, I don't believe the Office
12 of Planning has done any modeling studies or any
13 study on how activating the rooftop structures in
14 the way you're suggesting won't impact surrounding
15 properties, have you?

16 CHAIRPERSON HOOD: Just give us --

17 MR. OTTEN: Okay.

18 CHAIRPERSON HOOD: -- your objection now.

19 MR. OTTEN: I don't see any studies on the
20 record in terms of noise, privacy, sight lines, and
21 the solar information we heard tonight.

22 So while OP is pushing these changes
23 without study, we hear OP has really likened
24 themselves to the Building Industry Association's
25 comments and positions and I really find that

1 disturbing. We heard today that -- we heard that
2 some of the Building Industry Associates care more
3 about profit margins than the impacts on
4 surrounding properties, including historic
5 properties. So we understand why this is being
6 generated, for profit. But we do want to see
7 rulemaking done in a way that's not arbitrary and
8 looks at impacts that this will have on surrounding
9 properties. Privacy, noise, impacts to solar, as I
10 said. But killing the far calculations in terms of
11 habitable space. I mean, I just don't know where
12 this comes from.

13 Eliminating the one third area on the
14 rooftops, so now you can have a night club and bar
15 on your roof. People could be hanging out right on
16 the roof, right up to the edge of the roof. You
17 know, I mean, what kind of impacts will this have
18 with this type of land use and density change, have
19 on the underlying zoning districts? We're not
20 hearing that.

21 Instead what we're hearing is from the
22 developers, you know, we want to unlock the rooftop
23 potential. Don't be too restrictive about
24 affordable housing or, you know, zoning regs. You
25 know, limit the affordable housing requirements.

1 And, we don't want to be at hearings anymore. You
2 know, this should be in the consent process or a
3 matter of right.

4 The rooftops in the District are, you
5 know, they serve a purpose. And that is to be a
6 place where mechanicals and a penthouse, and maybe
7 some communal space is had. Not a party zone.
8 Not, you know, and then move the mechanicals up. I
9 mean, this is what I'm hearing tonight. This is
10 where we are now. We have one uniform penthouse
11 structure with some mechanicals on the roof and
12 maybe a communal space. Now we're going to have
13 separate rooftop heights, party zones or various
14 patios on top, and then mechanicals on top of that;
15 on top of the new rooftop height.

16 So has there been any analysis of the
17 noise coming out of putting this now even further
18 up on the roof? How about visually? How does that
19 look? Activity to the edge, what does that do?
20 Anyway, I guess I'll just conclude with when we're
21 here in D.C. and we see changes to the rules that
22 govern our development in a way that does not
23 compute and calculate the adverse impacts, we can
24 only conclude that this is just being done in an
25 arbitrary capricious way. We would like to see

1 those studies done, Office of Planning. I mean,
2 that's what your job is and it's also what the law
3 requires, according to 6-641.02. I'm sure you've
4 looked at that.

5 But we'd like to see some action on that.
6 Thank you.

7 CHAIRPERSON HOOD: Thank you. And, Mr.
8 Otten, I would ask that you submit your -- we're
9 going to need a record of them so you submit what
10 you were showing us for the record with a detailed
11 explanation of what you were saying while you were
12 doing that because that didn't help us by showing
13 it. We've got to have copies so we can -- for the
14 record, so we can review it. Okay?

15 MR. OTTEN: Sure, no problem.

16 CHAIRPERSON HOOD: All right. Okay, let's
17 see if we have any questions of this panel. Any
18 questions, Commissioner May?

19 MR. MAY: So, Ms. Sleeper, the -- all
20 right. So can you answer my question from earlier
21 from the Office of Planning, what the optimum angle
22 is?

23 MS. SLEEPER: So, that actually varies a
24 little bit. But what I can tell you is for a PV
25 it's about 30 to 40 degrees. That puts it at about

1 four feet. But for solar thermal, again as I
2 mentioned, it has to be at a different angle so 40
3 to 45 degrees and that's about -- puts it at about
4 seven feet, which would eliminate solar thermal
5 from being used on those; those rooftop structures.

6 MR. MAY: Okay. So 34 degrees, that's
7 assuming a five foot panel?

8 MS. SLEEPER: It's a standard panel size.
9 Off the top of my head I don't happen to have the -
10 -

11 MR. MAY: Okay. So I mean, I assume it's
12 five foot.

13 MR. ROBINSON: They're about five by
14 three, a standard panel.

15 MR. MAY: Yeah, that's what I recall. I
16 mean, I have them on my roof so I know how big they
17 are. I know generally how big they are. I don't
18 know. But it's, you know, they're made in China so
19 I don't, you know, they're metric I guess. I don't
20 know. About three by five.

21 It would actually be helpful to understand
22 what that really does mean in terms of a structure,
23 so if there's sort of a standard detail, just to
24 understand what that means.

25 And you say solar thermal, seven to eight

1 feet? Because the diagram that you -- or the photo
2 that you submitted doesn't seem to show -- it's
3 hard to tell, but it doesn't seem to show anything
4 that's that tall. It looks like there's one here
5 that doesn't look more than a couple of feet tall
6 unless -- yeah, it only looks a couple of feet
7 tall.

8 MS. SLEEPER: Right. So again, that
9 really depends on the installation and the rooftop
10 space that's available. This particular system did
11 not require that kind of height, but some of them
12 would, depending on their location.

13 MR. MAY: Right. So, let's turn the
14 question around then. If you could only -- if you
15 had to work within four feet aren't there systems
16 then that could be deployed in that circumstance
17 that would work? I mean, there's nothing that says
18 that we have to do everything. I mean, we're not
19 going to allow mirror systems with giant
20 collectors, you know, 100 feet in the air, right?

21 MS. SLEEPER: Of course. No. I mean, I
22 certainly think that the solar industry could work
23 within certain constraints, but it would be my
24 recommendation to the Commission that you have a
25 stakeholder meeting to discuss what would be best

1 based off of industry perspective, because by
2 enforcing a particular height rule without
3 considering what the economic effects would be on
4 the system, it could make it impossible for them
5 financially to put that system up on a roof.

6 MR. MAY: Uh-huh. Right. Well, you know,
7 I appreciate the notion of getting more input on
8 this, but you know, we don't do stakeholder
9 roundtables on something like this. The way that
10 this happens is for us to get specific feedback,
11 perhaps through the Office of Planning. And it may
12 well be that we decide to defer some of these
13 specific regulations because they do need to study
14 it further. But it's generally, you know, we're
15 looking for information that would come through the
16 Office of Planning.

17 I think right now one of the things that
18 is unclear to me is I was operating under the
19 premise that if you have an 18 foot six penthouse
20 that you could not put solar collectors on top of
21 that now, and what they're proposing is a provision
22 that would allow it. So I mean, maybe this is -- I
23 need clarification from the Office of Planning.
24 Did you tell me earlier that in fact the Zoning
25 Administrator has allowed four feet of solar

1 collectors on top of 18 foot six penthouses?

2 MR. LAWSON: That is my understanding,
3 yes.

4 MR. MAY: Okay. So I want to know more
5 about that because again, I'm not sure how that
6 complies with the zoning regulations, let alone the
7 Height Act, if it was a Height Act circumstance,
8 because I thought we were actually trying to
9 describe what could be allowed rather than trying
10 to restrict something that, you know, is it's just
11 the wild, wild west up there and you can do
12 whatever the heck you want. I don't think it's
13 that way.

14 Of course, we do have the other concern
15 that comes up with the provision for additional
16 height of penthouses in the first place, so we're
17 trying to do two things at once because additional
18 height on penthouses could restrict air rights or
19 light access to the sun, I guess is the right --
20 whatever the right term was, what Mr. Robinson was
21 referring to. So we're trying to figure out how to
22 avoid circumstances where things could become
23 shaded.

24 But theoretically if we have the setbacks,
25 I think the only place where we're going to have

1 problems is when we're talking about, you know,
2 when two properties share a property. I mean,
3 their buildings are on the property line. Whether
4 it's a party wall or whether it's, you know, just
5 commercial office buildings and their penthouses
6 abut as well. I mean, I think it's when you get
7 something that's taller that's right next to it.
8 Otherwise it's going to be set back. I mean, I
9 think the provision for penthouses is to have them
10 generally speaking, set back.

11 And that's going to be at a one to one, so
12 it's 45 degrees, so that may give you -- still
13 allow the optimal sun angle.

14 The more specific information you can
15 provide about, you know, the kinds of systems and
16 what the constraints are, I think the better off we
17 would be. I know that most of the domestic PV
18 systems that I see are installed at a very shallow
19 angle. I mean, the one on my -- mine follows my
20 roof and it's, you know, 15, 10 degrees. Something
21 like that. And that's fairly typical in my
22 neighborhood. Which is also a historic
23 neighborhood, and which you can see them all over
24 the place, even when you're walking down the
25 street. But it's down the alleys and things like

1 that where you can see them.

2 MR. ROBINSON: One of the problems comes
3 from anchoring, and there are some installers that
4 have tried anchoring panels to the parapet walls
5 and as a result of that they've decided that it
6 would be a great idea than to make the angles more
7 oblique. But as you say, in most cases it can be
8 done directly to the roof and stay below 15
9 degrees.

10 MR. MAY: Right. And mask fairly well
11 from the sides.

12 MR. ROBINSON: Yes. There are a number of
13 structural issues that get raised by these things
14 that are put on the parapets that are very, very
15 height.

16 MR. MAY: Right. Okay. Thank you.

17 CHAIRPERSON HOOD: Any more questions or
18 comments?

19 MS. COHEN: Yes. For the solar people.
20 You really argued that because of the cost of
21 living and the District is getting really so high
22 people are finding that, you know, utilities have
23 gone up a great deal, yet people who would like to
24 put up a solar system the capital expenditure up
25 front, you know, I think it doesn't pay itself off

1 for several years. I don't know what the initial
2 investment payoff period is. Three years? Five
3 years?

4 But how do you then believe this will take
5 off if people find that it's difficult to come up
6 with the first capital outlay?

7 MR. ROBINSON: These things are funded
8 with money that we've been paying on our utility
9 bills. The sustainable energy trust fund,
10 renewable energy development fund, for years and
11 years and years. But there have been no programs
12 until the clean affordable energy act of 2009. And
13 even then we had to create solar renewable energy
14 credits and interconnection and net metering
15 provisions.

16 So what we're finding is that when I put
17 my -- when my wife and I put our solar on in 2009
18 we had to spend \$8 a watt to install it. So the
19 total cost of a 3 kilowatt system was about
20 \$24,000. But the incentives, the federal tax
21 credit, the SRECs which you can either sell up
22 front or take for cash on a quarterly basis, and
23 the renewable energy incentive which no longer
24 exists in D.C., but the funds still do. That
25 brought our cost down to below \$13,000.

1 This same system today would cost \$10,000,
2 maybe less. And the total amount of money that you
3 would have to pay up front would be more like
4 \$3,000. So with the savings on your system, and
5 with the SREC values, if you choose to get paid
6 back in cash, you can bring the return of the
7 investment down lower than that. If you then
8 allocate some of that money for low-income solar
9 programs, and what we have developed is a program
10 where you bring groups of homeowners or renters
11 together, it would be different if you were going
12 to do community solar, and you bid the jobs out to
13 installers and then the homeowners or the renters
14 themselves choose which estimate they're going to
15 go with. Thos can bring down the costs even below
16 the \$3 a watt, which they are now. So the costs
17 have already gone down below 50 percent of what
18 they were in 2009, and because of some of these
19 other techniques they're going down faster and
20 faster.

21 The other issue is we have to show
22 building owners how they can use solar panels
23 either for the benefit of their own buildings, or
24 they can develop the rooftop surfaces as some
25 additional revenue stream for people that want to

1 put community solar up there.

2 CHAIRPERSON HOOD: Any comments? Mr.
3 Turnbull?

4 MR. TURNBULL: I just had a question on
5 the solar. The technology is constantly changing.
6 Everything is getting more efficient. I mean, I
7 can remember going to different seminars and
8 conferences where they're putting them on the side
9 of buildings. And I think there used to be a
10 company that used to make a solar shingle at some
11 point. But I haven't seen that around anymore. I
12 don't know if that is not as efficient anymore, or
13 just isn't working.

14 But I mean, assuming that these things as
15 they get more efficient, and that the cells get
16 more production, the costs are going down. I mean,
17 is this mainly an overseas production, or is it
18 still in the United States? Is there still
19 American made?

20 MS. SLEEPER: I mean, it does depend on
21 the manufacturer, but we have manufacturing members
22 out in Virginia, there's folks out in Delaware who
23 produce panels. And especially given the recent
24 trade case that occurred for overseas panels that
25 it increased the price for them so a lot of folks

1 are considering purchasing more domestically. So
2 there are still manufacturing jobs in the United
3 States tied to panel production.

4 MR. TURNBULL: But these are still the
5 larger panels which are three by five or whatever.

6 MS. SLEEPER: Uh-huh.

7 MR. TURNBULL: So, do you see these
8 getting more compact or more efficient as it goes
9 along, or --

10 MR. ROBINSON: Right now they're getting
11 significantly more efficient. I mean, I think the
12 efficiency has gone from an average of 220 up to
13 about 250 or 260, or something like that now. So
14 we used to be able to figure that with 100 square
15 feet of roof you could get about one kilowatt,
16 which would, say for an average family about 10
17 percent of their energy bill. But now you can get
18 much more because of the increasing efficiency of
19 the solar panel arrays. But the still tend to be
20 about the same size. They're not now making --
21 although there are some window unit panels that are
22 made specifically for apartments.

23 CHAIRPERSON HOOD: Okay. Thank you.
24 Commissioner Miller.

25 MR. MILLER: Yes, briefly, Mr. Chairman.

1 Thank you. I just wanted to comment to Ms. Gates
2 and Ms. Simon. You both raised the C2A issue and I
3 think OP does have as an alternative consideration
4 of a more restrictive penthouse on the C2A.

5 MS. SIMON: I was only using C2A as an
6 example. I picked it because it's in my
7 neighborhood near our low-density R2 it's across
8 the city in places like Georgia Avenue.

9 But the same issue comes up with a lot of
10 the other zones. You're adding a massive amount of
11 height and density and you are sometimes taking
12 that zone out of the range that is on the comp plan
13 future land use map --

14 MR. MILLER: No, I understand.

15 MS. SIMON: -- for that particular site.

16 MR. MILLER: Right.

17 MS. SIMON: And that's the concern. So
18 C2A was just an example.

19 MR. MILLER: But I understand. But I
20 think they have proposed something that does
21 address adjacencies to low-density residential
22 zones and the low-density residential zones that is
23 more restrictive. I just wanted to make sure that
24 was on the record.

25 MS. SIMON: Yeah. It is more restrictive.

1 I don't think it goes far enough.

2 MR. MILLER: I appreciate that.

3 MS. SIMON: Thank you.

4 MR. MILLER: And I agree with Commissioner
5 May and others that we do need more information on
6 the solar. What is allowed under the existing
7 regulations versus what is being proposed, it was
8 my impression that what was being -- without
9 knowing very much, that what was being proposed was
10 going to be facilitating more than what's currently
11 allowed, which I actually generally I'm in support
12 of that concept. And I think in general it was my
13 understanding that that's what OP was trying to do
14 except for maybe their screening proposals which I
15 don't necessarily support.

16 But I think we just need some analysis and
17 I think you might not want to ask for deferring
18 dealing with it, if it is actually -- if the goal
19 is to facilitate and make clear what's being
20 permitted and it's more than what's currently
21 permitted. But I would encourage OP to reach out
22 to your organizations and meet with you, and maybe
23 give us some feedback on that subject as we go
24 forward.

25 CHAIRPERSON HOOD: Any other comments?

1 MR. MAY: I have one quick question.

2 CHAIRPERSON HOOD: Mr. May.

3 MR. MAY: From Mr. Robinson, that system
4 that you showed us that you said is \$10,000 now --

5 MR. ROBINSON: Yes, about.

6 MR. MAY: -- how big is that? I mean, how
7 --

8 MR. ROBINSON: Just 3.04 kilowatts.

9 MR. MAY: Okay. Thanks. I'm just trying
10 to figure out if I got a good deal. You know. It
11 was a few years ago, but it wasn't too far off from
12 that. Thanks.

13 CHAIRPERSON HOOD: And I'm just going to
14 end up with saying that, here we are again. And I
15 know this is a major undertaking. This affects the
16 whole city. We had five people who were in support
17 and five people in opposition. Again, I don't know
18 what the issue is, but this is a major issue for
19 the city as a whole, and I appreciate the five that
20 we have in opposition and the five that we have in
21 support. But this is going to affect a lot of
22 folks in the city. And I don't know whether it's
23 not a major issue or what, but I'm concerned about
24 not seeing more people down here in front of this
25 Commission testifying and making comments.

1 And also, the other thing is about the
2 stakeholder issue, we did it with the antennas. If
3 requirement is needed this Commission here will be
4 advocate for having a roundtable. I heard that
5 earlier. But we did it with antennas, we did it
6 with campus plans, and we can do it again. So, you
7 know, I heard that discussion. I didn't agree with
8 it because I know what this Commission has done
9 previously.

10 But we'll see what information we get back
11 from the Office of Planning, but I am very
12 concerned again, about the -- and folks who came to
13 participate, I appreciate it. I thank you for your
14 comments, everyone. But here we go again. We've
15 got 10 people who have given us comments along with
16 the Office of Planning's report. I'm out here in
17 the neighborhood, and I don't know whether it's an
18 after the fact issue, and I'm saying this for those
19 who are probably at home. We need to get involved.
20 We need to hear from you. Like with the solar
21 panel issue. We don't know who all we're affecting
22 and what the unintended consequences will be.

23 And here we are, we've got 10 people. Now
24 those 10 people may get mad, but I'd rather have 10
25 than 600,000 mad with me. I'm just advocating for

1 those other 600,000 plus -- well, probably won't
2 get 600. Even if we got 200, we can get a more
3 variety of what's going on across this city.

4 Ms. Gates.

5 MS. GATES: Chairman Hood, I think you are
6 very aware that we have just had an election in the
7 city. Every single ANC Commissioner --

8 CHAIRPERSON HOOD: My feet actually are
9 aware.

10 MS. GATES: Every single ANC Commissioner
11 had to run again for reelection. Their interest
12 was in winning their races, not unfortunately, in
13 penthouses. I agree the outreach on this has been
14 minimal. I don't think I would know about it
15 except I'm kind of keyed in. But if I were an ANC
16 -- I was at RANC meeting last night. They didn't
17 have a clue about this. They get a notice, it says
18 of interest to all ANCs. The ward planners aren't
19 out there talking to them. So, we're really in the
20 same boat we were in with the ZRR. And as I said
21 to you earlier, people in this city are going to
22 wake up one morning and say, what the hell happened
23 here. Thank you.

24 Would you leave the record open, please?

25 CHAIRPERSON HOOD: We're going to actually

1 leave the record open until Monday for Mr. -- yeah,
2 Monday. And for Mr. Ardens (phonetic). But I
3 think more is going to happen, at least from my
4 standpoint, for this particular rendition, until
5 Monday because I think you bring up a good point.
6 Maybe that's why we don't have as many
7 Commissioners because you're right, they were all
8 out there running. I was out there all day too
9 with them. I wasn't running for anything, but I
10 was out there. And I think their focus was --
11 maybe it was a timing issue, now that I think about
12 it. So, I don't know. I don't know.

13 MS. GATES: Well, the announcement from OP
14 was October 27th. The election was November 4th.

15 CHAIRPERSON HOOD: I wonder if -- I'm just
16 trying to think how we can -- because there are a
17 lot of new ANC Commissioners, and how fast they can
18 come up to speed. I'm just wondering. But I don't
19 know. Let me see how this is going to go. But
20 again, back to that, we do do roundtables. Okay?
21 And let's think about this issue with the ANCs and
22 how quickly they can come up to speed. I don't
23 know whether we need to ask Ollie Simon to try to
24 bring those new Commissioners up to speed. I don't
25 know what's going to happen. They don't get sworn

1 in until January. That's a whole other issue.

2 MS. SIMON: I think there's also a lot of
3 community organizations. I think if you're going
4 to get more testimony or leave the record open
5 longer, it shouldn't just be limited to ANCs. I
6 think people all across the city, if they know
7 about the issue, might have something to say.

8 CHAIRPERSON HOOD: Well, let me ask you
9 this; I know for a fact when we did the ZRR, I
10 don't necessarily agree with what I hear about how
11 it wasn't, because I personally did a lot of
12 outreach. And I personally asked Mike DeBonus
13 (phonetic) to put it in the newspaper. And I know
14 Office of Planning did and I know others did. So I
15 understand that argument to a point, but there's a
16 point when I cut it off. We did what we could.
17 But tonight, I'm back on that argument because I
18 see 10 people.

19 MS. GATES: I used ANC as an example
20 because --

21 CHAIRPERSON HOOD: Right. I'm sorry.

22 MS. GATES: -- they're the ones who should
23 be here. I understand neighborhood -- and I would
24 agree with Ms. Simon, absolutely.

25 CHAIRPERSON HOOD: Okay. All right.

1 MR. MAY: Mr. Chairman, could I ask a
2 question?

3 CHAIRPERSON HOOD: Yes.

4 MR. MAY: You said the record will be open
5 until Monday.

6 CHAIRPERSON HOOD: I was going to leave it
7 open until Monday because I wanted to get --

8 MR. MAY: Right. And I asked for some
9 information from Ms. Sleeper and I didn't think
10 that was going to be coming that quickly. So, you
11 know, I would be open to the idea of leaving the
12 record open a good bit longer to receive additional
13 information.

14 CHAIRPERSON HOOD: Well, to capture what
15 I'm trying to get, the record would have to stay
16 open until March.

17 MR. MAY: Well, right.

18 CHAIRPERSON HOOD: I mean, from what I'm -
19 -

20 MR. MAY: Especially if you want to
21 schedule a roundtable, which I do agree, we have
22 done before, although the last time I remember one
23 was the antenna one which was probably 10 years
24 ago.

25 CHAIRPERSON HOOD: But what I also -- the

1 reason why I said, let's get to this point, because
2 I think we need to liberate what we have in front
3 of us, not that we're going to make any decision.
4 I mean, you call can let me know how you want to do
5 it because I heard that you're going to get some
6 information back from the Office of Planning and
7 look at it.

8 MR. MAY: I was hoping at least for, you
9 know, maybe another week or so to get some better
10 information. I agree we probably -- you know, in
11 some of these areas we may not have enough to be
12 able to make all the decisions.

13 CHAIRPERSON HOOD: And that's what I was
14 trying to --

15 MR. MAY: And then we may need to open it
16 up again later.

17 CHAIRPERSON HOOD: Right.

18 MR. MAY: But I think at least in this
19 initial round it's more than just getting a couple
20 of bits of testimony submitted. I'm actually
21 asking for some new and detailed information from
22 Ms. Sleeper and with regard to the requirements for
23 solar systems, which may not be something that can
24 be, you know, put together by Monday. Not if we're
25 going to let her, you know, have any fun this

1 weekend.

2 CHAIRPERSON HOOD: Well, and Ms. Sleeper,
3 if you don't have any sleep could you have it to us
4 by Monday. No, I'm just kidding. That was a cheap
5 joke. That was cheap. I should not have said
6 that. But could you have it in by Monday or is
7 that too soon?

8 MS. SLEEPER: To be perfectly honest, I
9 think that might be a little bit short for us to
10 get input from our member installers, especially if
11 you want to have specific examples, which I think
12 would be useful for the Commission.

13 Again, I really would like to have a
14 stakeholder process, whether that be a roundtable
15 or whether that be with OP, I think that would be
16 the best way to go about it so we're done with DDOE
17 and DCRA and other folks in the past. It's been
18 very effective.

19 CHAIRPERSON HOOD: How much time you think
20 you could -- to satisfy us and get us something?
21 How much time you think you need?

22 MS. SLEEPER: For just the questions that
23 Mr. May asked?

24 CHAIRPERSON HOOD: Right.

25 MS. SLEEPER: I would say at least a week.

1 Yeah, next Friday would be sufficient I would
2 think.

3 CHAIRPERSON HOOD: Next Friday? Next
4 Friday. Okay. So can we do next Friday? And
5 again, don't count out the stakeholder meeting
6 because I like that idea. That gets me to my other
7 point of hearing from others. Might throw some
8 other things in there. Okay.

9 All right. Anything, Mr. Trumbull.

10 MR. TURNBULL: Well, Mr. Chair, you're
11 talking about that we might not do anything with
12 solar right now? To defer it or put it off?

13 CHAIRPERSON HOOD: That may be one of the
14 issue, depending upon the information. I was just
15 trying to keep the process going.

16 MR. TURNBULL: Right.

17 CHAIRPERSON HOOD: Because my biggest
18 concern is the piece overall.

19 MR. TURNBULL: Right.

20 CHAIRPERSON HOOD: The whole rulemaking.
21 And I think, I forgot what the questions were that
22 some of the questions that Mr. Arden mentioned.
23 But if you could put that in your submission that
24 would be helpful.

25 MR. TURNBULL: Okay. No problem.

1 CHAIRPERSON HOOD: Okay.

2 MR. TURNBULL: Okay.

3 CHAIRPERSON HOOD: Commissioner Miller?

4 MR. MILLER: Yeah, I support keeping the
5 record open a little bit longer than -- so a week
6 from Friday. But I think that -- and if OP can get
7 us the information I think to the extent we do have
8 deliberations and see if we are able to come up
9 with a proposal that the majority supports, I just
10 wanted to put on the record that that proposal
11 would be put back out there since it's proposed
12 rulemaking for further public comment. The process
13 right now, even before we do anything else, already
14 builds in another opportunity for public comment.
15 I just wanted to make that clear for the record.

16 CHAIRPERSON HOOD: I will just say this to
17 that, is that typically if we were to decide
18 something, we put it out, it's usually 30 days.
19 It's going to take 90 days for the ANC
20 Commissioners to find -- some of them to find out
21 where their offices are. And I know being a new
22 ANC Commissioner is not easy. You don't get paid,
23 you're not appreciated, you work hard. So I
24 understand that. I've worked very closely with
25 them for years. So I just think that in all

1 fairness we need to see how we go, but we need to
2 allow that opportunity.

3 It may be the same 10 people at the next
4 one in March, but I don't know. But at least we
5 need to do all this Commissioner can do to make
6 sure we've reached out enough, like I think we've
7 done in the ZRR. People may disagree but we tried
8 hard in the ZRR, specifically. And I was making
9 announcements at church. So I know we tried hard
10 in the ZRR.

11 MR. MILLER: That was 1,000 pages. This
12 is only like 20.

13 CHAIRPERSON HOOD: Yeah, but we still
14 tried hard. But it's still the magnitude, you
15 know? You know? I hear those comments. I'm out
16 there. So anyway.

17 MS. SCHELLIN: Chairman Hood, it sounded
18 like you guys asked the Office of Planning for a
19 lot more information, so does OP need more than a
20 week? It sounds like they need more than a week to
21 make their submission, and that's what I was
22 looking at, that we wouldn't take this up until
23 December 8th. Is that what OP is looking at?

24 MR. LAWSON: Well, we're not looking at a
25 particular date. That's up to the Zoning

1 Commission to decide.

2 MS. SCHELLIN: How much time?

3 MR. LAWSON: Frankly I'm not clear on what
4 additional information the Zoning Commission is
5 looking for from us. I understood some of it. It
6 didn't seem like it was an enormous amount of
7 information.

8 MS. SCHELLIN: Okay.

9 MR. LAWSON: A lot of it centered on the
10 issue of solar panels. We've already opined that
11 it we think it may be prudent to --

12 MS. SCHELLIN: Come back later?

13 MR. LAWSON: -- set that aside.

14 MS. SCHELLIN: Okay.

15 MR. LAWSON: And let that go forward with
16 the other solar panel modification that's coming
17 forward that is more comprehensive --

18 MS. SCHELLIN: Okay.

19 MR. LAWSON: -- than this one was ever
20 intended to be. That's where it seemed like a lot
21 of the comments were coming from.

22 MS. SCHELLIN: Okay. So, does that mean
23 that maybe you could also meet the 3:00 p.m.
24 deadline for next Friday, the 14th?

25 MS. STEINGASSER: It's unclear to us.

1 What would help OP is if the Commission did
2 deliberate and start to create some buckets of
3 areas where you want the information from us. To
4 be honest, supplying anything next Friday will be
5 almost impossible for us. Tuesday is a Holiday,
6 the government is closed. Monday we'll be filing
7 the final draft for the ZRR. So that gives us
8 Wednesday and Thursday. That's going to be really
9 difficult, but it's also -- we're not sure what it
10 is you're asking us for. We didn't see a lot of
11 information at this stage. After you deliberated
12 it seemed quite clear that there were things you
13 were going to ask us for as you deliberated. But
14 Ms. Cohen asked us for some of our background
15 assumptions. We have all that. That's easy enough
16 to get into the record.

17 MR. MAY: So, Mr. Chairman, if I might
18 suggest? I think that we asked a few basic
19 questions and some queries of the Zoning
20 Administrator and things like that. Whatever time
21 it takes to get that.

22 And then I think that when we actually do
23 start to deliberate I don't think that we would
24 take proposed action at that point. I think what
25 we'll have at that point is a list of --

1 MS. STEINGASSER: Is just a discussion?

2 MR. MAY: -- other things that we need to
3 have clarified.

4 CHAIRPERSON HOOD: And let me just say
5 this, I would agree. That's why I didn't say we'll
6 put this whole thing off until March and do what we
7 talked about with the ANC because I think we need
8 to keep it moving and kind of keep it started. So
9 I would agree with what I heard. We just need to -
10 - I think there were some things that was asked for
11 and whatever timeframe that is. That's, as you
12 stated, that would be fine.

13 MR. MAY: So I mean, the record needs to
14 stay open for a little bit and if you need, I mean,
15 more than a week to answer those basic questions
16 then whatever time you need.

17 MR. LAWSON: We should not. And in fact I
18 would have to get the comments in probably before
19 that. The only one I'm not 100 percent sure of is
20 getting the information that you want from the
21 Zoning Administrator. So, I'm not sure how long it
22 will take to get that.

23 MR. MAY: Right. Right.

24 MR. LAWSON: But I can certainly try to
25 have that information.

1 CHAIRPERSON HOOD: Can we do two weeks?
2 What is two weeks?

3 MS. SCHELLIN: I think taking in the
4 consideration of the holiday, maybe if we could
5 just say how about November 24th for OP? Does that
6 work?

7 CHAIRPERSON HOOD: We're going to leave
8 the record open. When is our next meeting?

9 MS. SCHELLIN: November 24th.

10 CHAIRPERSON HOOD: When is Thanksgiving?

11 MS. SCHELLIN: The 27th.

12 CHAIRPERSON HOOD: We want to do a special
13 meeting on the 27th?

14 MR. MAY: No.

15 CHAIRPERSON HOOD: Okay. I knew I could
16 get a good no for that. That's why I asked it.

17 MS. SCHELLIN: But I thought that we would
18 put it on for December 8th.

19 CHAIRPERSON HOOD: Okay. December 8th.

20 MS. SCHELLIN: For discussion. If they --

21 CHAIRPERSON HOOD: This is actually going
22 to take longer than the hearing tonight.

23 MS. STEINGASSER: Actually, Mr. Lawson is
24 going to be out of the country until December --

25 MR. LAWSON: I'm going to be out until

1 December 1st. I could probably get the information
2 to you before I go. But if you wanted me here for
3 your deliberation then the 24th wouldn't work. The
4 8th would work.

5 CHAIRPERSON HOOD: Let's go with the 8th.

6 MS. SCHELLIN: Right. That's what I
7 said, the submission --

8 CHAIRPERSON HOOD: Let's go with the 8th.

9 MS. SCHELLIN: -- you'd have until the
10 24th to submit it, and then it would be on the
11 December 8th meeting is what I was saying. Not
12 that you had to be here on the 24th.

13 CHAIRPERSON HOOD: Yeah, well we want you
14 to enjoy your trip and be ready for us on the 8th.

15 UNIDENTIFIED SPEAKER: Maybe we could join
16 you there.

17 MS. SCHELLIN: And Commissioner Turnbull
18 reminded me that he asked for Mr. Glasgow's
19 testimony. So the record is open on the 14th, 3:00
20 p.m., for the three submissions that were asked
21 for.

22 CHAIRPERSON HOOD: Okay. So we're going
23 to move in that -- open until what date?

24 MS. SCHELLIN: For the three submissions,
25 Mr. Glasgow, Mr. Otten, Ms. Sleeper's submissions,

1 3:00 p.m. on the 14th, OP 3:00 p.m. the 24th, and
2 then we'll put it on for December 8th for
3 discussion. It will be under proposed, but it will
4 be for discussion only.

5 CHAIRPERSON HOOD: Okay. Do we want to
6 open it up for everyone?

7 (Several in agreement.)

8 CHAIRPERSON HOOD: Yeah. Leave it open
9 everybody.

10 MS. SCHELLIN: Until the 14th.

11 CHAIRPERSON HOOD: To whatever date we're
12 closing it.

13 MS. SCHELLIN: The 14th. Okay. Thank
14 you.

15 CHAIRPERSON HOOD: It's whatever date
16 we're closing it. Whatever date we're closing it.

17 Let's have one date to close it for
18 everybody.

19 MR. MAY: Including OP.

20 CHAIRPERSON HOOD: We're the ones going to
21 read it so let's just --

22 MR. MAY: Right. Including OP. Right.

23 CHAIRPERSON HOOD: The 24th.

24 MR. MAY: Right.

25 MS. SCHELLIN: The 24th now. Okay.

1 CHAIRPERSON HOOD: Okay. So everything
2 will be closed on the 24th. OP kind of understands
3 we will deliberate and that's where you will hear
4 more about what we're asking for. Yeah.

5 Okay. Do we have anything else?

6 MS. SCHELLIN: No.

7 CHAIRPERSON HOOD: All right. So I want
8 to thank everyone. And even the 10 people. I want
9 to thank you all for your participation tonight,
10 and all of us, and this hearing is adjourned.

11 (Hearing adjourned at 9:35 p.m.)
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