

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 Zoning Commission

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9 Public Meeting

10 1410th Meeting Session (10th of 2015)

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14 6:36 p.m. to 9:22 p.m.

15 Monday, June 8, 2015

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19 Jerrily R. Kress Memorial Hearing Room
20 441 4th Street, N.W., Suite 220 South
21 Washington, D.C. 20001

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1 APPEARANCES

2 Board Members:

3 ANTHONY HOOD, Chairperson

4 MARCIE COHEN, Vice-Chairperson

5 ROBERT MILLER, Commissioner

6 PETER MAY, Commissioner

7 MR. TURNBULL, Commissioner

8

9 Office of Zoning:

10 SHARON SCHELLIN, Secretary

11

12 Office of Planning:

13 JOEL LAWSON

14 JENNIFER STEINGASSER

15

16 OTHER:

17 ALAN BERGSTEIN

18 JACOB RITTING

19 LAWRENCE FERRIS

20

21

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23

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

2 CHAIRPERSON HOOD: Okay. This meeting
3 will please come to order. Good evening, ladies
4 and gentlemen. This is the public meeting of the
5 Zoning Commission for the District of Columbia.

6 My name is Anthony Hood. Joining me are
7 Vice Chair Cohen, Commissioner Miller,
8 Commissioner May, and Commissioner Turnbull, the
9 Office of Zoning staff, Ms. Sharon Schellin,
10 Office of Attorney General, Mr. Bergstein, Mr.
11 Ritting, and Mr. Ferris, Office of Planning, Ms.
12 Steingasser and Mr. Lawson.

13 Are we expecting to be joined by anyone
14 else?

15 MR. LAWSON: No.

16 CHAIRPERSON HOOD: Okay. Copies of
17 today's meeting agenda are available to you and
18 are located in the bin near the door. Excuse me.
19 We do not take any public testimony at our
20 meetings unless the Commission requests someone to
21 come forward.

22 Does the staff have any preliminary
23 matters?

24 MS. SCHELLIN: No, sir.

25 CHAIRPERSON HOOD: If not let us proceed

1 with the agenda.

2 First, final action, Zoning Commission
3 Case 14-11, Office of Planning Text Amendments to
4 Chapter 1, 3, 4, 26, and 31. Ms. Schellin.

5 MS. SCHELLIN: Yes, sir. At Exhibit 195
6 was the notice of proposed rulemaking that was
7 published for a 30 day comment period. Comments
8 to the proposed rulemaking start at Exhibit 196.
9 Included in those comments were reports from the
10 NCPC at Exhibit 207, ANC 6C at Exhibit 211, ANC 4B
11 at Exhibit 219, and ANC 4C at 264.

12 In addition OP filed their second
13 supplemental report at Exhibit 334 and then filed
14 a request to reopen the record to allow them to
15 file their third supplemental report, which was
16 approved. And therefore that report is at Exhibit
17 341.

18 In addition we received two other
19 requests to reopen the record over the weekend
20 from the public, which were approved. And those
21 filings are at Exhibits 343 and 345. So we'd ask
22 the Commission to consider final action on this
23 case this evening.

24 CHAIRPERSON HOOD: Okay. Thank you, Ms.
25 Schellin.

1 Colleagues, we have flushed a lot of this
2 out during the proposed action. I don't know if
3 we need to go through all the separate votes we
4 did on each one of these unless someone wants to
5 reconsider any one of those votes. And we can go
6 back through them if you'd like, but I'll leave it
7 up to the Commission's pleasure. Vice Chair
8 Cohen.

9 MS. COHEN: Mr. Chairman, I concur that
10 we have walked through this amendment fairly --
11 very thoroughly. So I would suggest that we just
12 move ahead and take any comments and then vote.

13 CHAIRPERSON HOOD: Okay. Anyone else?
14 Any other comments?

15 MR. MAY: Mr. Chairman, do we want to
16 walk through the issues that were raised in the
17 Office of Planning's last report?

18 CHAIRPERSON HOOD: I do want to talk
19 about the vesting issue.

20 MR. MAY: Right.

21 CHAIRPERSON HOOD: That was one. That's
22 on my agenda, but I'm talking about the issues we
23 dealt with proposed, I think was it like eight or
24 nine particular issues that we talked about,
25 conversions and increasing the height and some of

1 those things. And I just want to make sure, is
2 there anyone who have had a chance to rethink
3 their votes during proposed action? See if you
4 would like to reconsider any one of those votes.

5 MR. MAY: I don't know that I'd
6 necessarily want to reconsider them but I think we
7 ought to give some discussion to the conversion
8 issue given the number of comments that came in
9 related to the conversion issue.

10 CHAIRPERSON HOOD: Okay. Thank you. I
11 didn't want to be the one since I was on the
12 losing side of that, to bring that up. But that
13 actually is an issue that I would like for us to
14 look at. But since you brought it up,
15 Commissioner May, or you started it, let's go
16 ahead and let's talk about it.

17 MR. MAY: I'd be very happy to have you
18 share your opinion of it at this point.

19 CHAIRPERSON HOOD: Well, my opinion was
20 what I said previously. In proposal as you know I
21 advocated for it to be two, no more than two units
22 as we had with the special exception of more than
23 two units. That was what I advocated for at
24 proposed action and I stand on that. But I was on
25 the losing side of that particular issue and I

1 understand -- I can count, so unless someone else
2 would like to join me I think it was myself and
3 Commissioner Turnbull.

4 Commissioner Turnbull, you want to add
5 anything?

6 MR. TURNBULL: I would just agree with
7 that my position is still the same. I think it
8 takes a lot of control from the community away. I
9 think it's an egregious -- it's just too much. I
10 think having two units should be the matter of
11 right and if you need to go to more it should be a
12 special exception where the neighborhood can weigh
13 in, neighbors can weigh in and see if that's
14 really the choice that they want on the properties
15 in that area.

16 I think it's the appropriate way to go
17 about it. Otherwise I think this is thrusting
18 something down the neighborhood, the community's
19 throats. And I just think it's way too much. And
20 we shouldn't be doing it. And I still stand with
21 you on this.

22 CHAIRPERSON HOOD: Thank you, Mr.
23 Turnbull. Would anybody else like to join us?
24 Commissioner Miller?

25 MR. MILLER: Thank you, Mr. Chairman. I

1 didn't want to necessarily --

2 CHAIRPERSON HOOD: Want to join me? Oh.

3 MR. MILLER: -- join you but I thought
4 where the Commission landed, given all of the
5 testimony we received and given what the existing
6 matter of right zoning is for conversions, which
7 is basically almost -- as long as there is the 900
8 square feet of land area, it's a matter of right.
9 So there's almost an unlimited number if it's a
10 particularly large lot, which we know that there
11 are some unusually large lots in the city.

12 So I think we've arrived at a balanced
13 approach which -- and in the matter of right
14 scenario all these design criteria were added,
15 including you know, the no more than 10 feet to
16 the rear of the adjacent property, and the no more
17 of 30 percent demolition. I think it, in reality,
18 is that those criteria, that there will likely
19 have to be a review process if somebody wants to
20 propose something that maybe the neighbors might
21 support, but that doesn't quite meet -- I think
22 there were at least seven or nine, seven or eight
23 criteria that's in the proposal. So I thought it
24 was, that particular issue was a balanced
25 approach.

1 Anyone else? Anyone else like to comment
2 on that?

3 MR. MAY: So this is a difficult one. I
4 mean, we certainly didn't get a lot of comment on
5 this particular topic in the proposed -- from the
6 proposed regulations. You know, I guess what I
7 still struggle with is that I think that the
8 controls that are being put in place here, 35 foot
9 maximum, 900 square feet of land area per dwelling
10 unit, the 4th unit at IZ, 30 percent -- no more
11 than 30 percent demolition of the gross floor
12 area, 10 foot limit. I mean, all these things add
13 up to relatively small additions to row houses. I
14 mean, I think there is a concern that what we're
15 running into is that people don't want to see any
16 kind of addition or any kind of incentive for an
17 addition. And I think what we're experiencing is
18 that even with two units row houses are growing
19 exceptionally large and they're not resulting in
20 more and more affordable housing, necessarily.
21 They're simply -- I mean, you know, houses that
22 sell for \$500,000 get split into two condos that
23 sell for six and \$700,000. And because, you know,
24 they add a floor and they add the roof deck and
25 all these other things.

1 So I mean, I don't know. It's a real
2 quandary for me because I'm not sure -- you know,
3 I think that the limits that are being put on this
4 are actually quite reasonable and allow some of
5 the larger properties to become multi-unit as they
6 have for decades. But at the same time we're
7 seeing, I think, egregious examples of what people
8 will do when they redevelop some of these
9 properties. And we're not really even addressing,
10 you know, what can happen with just flats.

11 MS. COHEN: No, I concur that there has
12 been some horrible examples of additions that have
13 been made and that's why I think we see a lot of
14 people in the audience and we've received a lot of
15 comments. And again, if there was horrendous add-
16 ons or pop-ups as we all like to call them,
17 continue, there is going to be a problem.

18 Again, I think all along I did not see
19 this as a zoning issue but as an architectural
20 issue, and that we should have looked at it in
21 that way.

22 I would think that a lot of people do not
23 want to see added units to their neighborhood. I
24 mean, they like their neighborhoods, they're
25 peaceful, they're where they've put down their

1 roots. But we're a growing city and we need to
2 have the flexibility to enable other households to
3 come in to a neighborhood. And we need the
4 flexibility as an owner to be able to expand
5 within our own space, or to add our own family,
6 expanded family. I mean, there's lots of
7 different cultures who have more than one
8 household living in a home.

9 So I think that the problem that I see
10 with this is again, where illuminating personal
11 flexibility and not necessarily dealing with the
12 problem, which I'm not saying doesn't exist. But
13 I think that what we're doing is we're not giving
14 the people who have done it well, have had
15 setbacks, have been engaged with their neighbors,
16 the same opportunity to expand, and there are
17 tasteful examples throughout the city. So I guess
18 I just have the same dilemma you have, but I'm
19 looking at it more as a need to expand the
20 opportunity to add space in a particular row
21 house.

22 CHAIRPERSON HOOD: Okay. I would --

23 MR. TURNBULL: Mr. Chair, I wonder if I
24 could -- I have to comment on the Vice Chair's
25 comment. I mean --

1 CHAIRPERSON HOOD: Okay. Because I'm
2 going to comment on it too. Let me just say this,
3 Mr. Turnbull.

4 MR. TURNBULL: Yeah.

5 CHAIRPERSON HOOD: You know, I appreciate
6 the discussion and this may be out of line but a
7 lot of the stuff we say up here is shucking and
8 jiving. That's where I am. We're shucking and
9 jiving. We need to -- do me a favor, Hood didn't
10 want to bring the hood into the Zoning Commission
11 hearing, but that's what I believe. So if you all
12 -- you know, let's not demonstrate. If you feel
13 good about it keep it to yourself and smile or
14 frown, whatever, however you feel. But please
15 don't applaud.

16 But, Mr. Turnbull, that's kind of where I
17 am. We're still up here shucking and jiving.

18 MR. TURNBULL: Yeah, what I'm concerned
19 about, this is a zoning issue. This is not
20 architecture. This is a zoning issue and we're
21 talking about row house neighborhoods, comp plan
22 talks about preserving row house neighborhoods,
23 and this by increasing the density without impact
24 of that neighborhood in on it, to me is going
25 beyond the intent of what the comp plan had in

1 mind.

2 And I think as we said before, you should
3 have two as a matter of right and if you want to
4 go beyond you need a special exception and you get
5 the neighborhood to weigh in. And to me that's
6 following the comp plan, that's preserving the R-4
7 neighborhood.

8 CHAIRPERSON HOOD: I really, Mr. Turnbull
9 and colleagues, I really don't know what else to
10 do, what else to say. But, you know, I know where
11 we fall. I mean, I'm not trying to say your way
12 is wrong but I know that we are roving characters
13 and neighborhood character and everything else and
14 we need to put some controls. Is this going to be
15 the fix-all? No. There may be some things that
16 the Zoning Commission needs to come back and do at
17 a later date to perfect it. But right now we need
18 to do something. This is not the first time that
19 this Commission has been faced with to put
20 something in place to make sure that neighborhood
21 character is not being eroded.

22 I think the two conversions with the
23 third one being a special exception is just the
24 way to go. As Mr. Turnbull has said so
25 eloquently, it puts in neighborhood input. We get

1 neighborhood input. And I understand the
2 criteria, Commissioner May, the nine or 10 things
3 that are there. But I think to keep it simple, to
4 make sure that we give people a voice so they
5 don't try to jump through a whole lot of loop
6 holes. We just keep it simple. You know, let's
7 stop shucking and jiving up here. Let's keep it
8 real. This is a reality.

9 And this connection to affordable
10 housing, I'm sorry, I have not seen it yet. I
11 have not seen it. And I've been here 17 years.
12 I'm still waiting on it. Maybe it will reveal
13 itself to me one day, but right now I don't see
14 it. I hear it. I hear people talking about it,
15 but I don't see it. It's not a reality.

16 I have young people that work with me now
17 telling me they had to move to Silver Springs.
18 So, you know, so those are the kind of things that
19 I'm looking at. We're talking about affordable
20 housing. We need more space. Come on, let's be
21 real. What are we really doing?

22 So anyway, with all that said I don't
23 want to belabor the point. The biggest issue is
24 vesting. Does anyone want to change their issue
25 on conversions?

1 MR. MAY: No, I'm sorry, Mr. Chairman.

2 CHAIRPERSON HOOD: Yes.

3 MR. MAY: I'm actually still interested
4 in continuing this discussion and I don't consider
5 it to be the term that you used to describe it.
6 This is the --

7 CHAIRPERSON HOOD: Well, that's my term.

8 MR. MAY: I know. I understand it.

9 CHAIRPERSON HOOD: That's my term.

10 MR. MAY: And that's why I'm not using
11 it.

12 CHAIRPERSON HOOD: That's my term.

13 MR. MAY: I think this is a substantive
14 discussion and I am interested in talking about it
15 a bit more because I am undecided about this. I
16 voted one way before but I'm willing to be
17 convinced another way.

18 What I'd like -- I'd actually like to
19 talk a little bit about the broader issue of I
20 guess the architectural side of this and how it
21 applies to other zones because this is an issues
22 that we're -- I mean, we're addressing this in R-
23 4, but we're not talking about what's going on in
24 C-2-A, and we're not talking about what's going on
25 in R-5-A, R-5-B, and so on. And I think those are

1 issues that should be addressed.

2 And I don't know, I mean I guess I would
3 have the question of the Office of Planning about
4 whether they -- I know we didn't charge them with
5 thinking about this, but whether they think it's
6 feasible that we could introduce some sort of
7 architectural review that would address out of
8 scale additions in other zones; whether that's
9 something that you'd actually given any thought to
10 in some of those other ideas.

11 MS. STEINGASSER: No, sir, we haven't at
12 this point. Our focus has been on the R-4 row
13 house zones.

14 CHAIRPERSON HOOD: And let me just say
15 this since we're going to continue this subject.
16 And again I want to just comment, shucking and
17 jiving is my comment. But I will say this,
18 Commissioner May, I think we have asked them to
19 eventually, as we get to this point, to start
20 looking at it. I think the urgent need was in R-
21 4.

22 MR. MAY: Yes.

23 CHAIRPERSON HOOD: I think we have talked
24 about moving forward so I know the book is not
25 closed. We already know that we're going to move

1 forward but I think something in R-4 needs to be
2 done on me immediately. And that's kind of where
3 we are.

4 MR. MAY: I don't disagree with that.
5 I'm just wondering if they had given any thought
6 to it.

7 So I guess I would ask, Commissioner
8 Miller who has, in the past, spoken of having some
9 sort of architectural review as a way of
10 addressing some of the issues that come up here,
11 whether you have any further thoughts on that kind
12 of a process.

13 MR. MILLER: I always thought that the
14 issue, as the Vice Chair had said, with the pop-
15 ups, was a design issue. And when they were well
16 designed with the setbacks, with the same or
17 similar materials as the rest of the row house,
18 that you don't even know in many cases that it is
19 a pop-up.

20 So no, I'm open to that. I was just
21 going back. I was just going back, looking at my
22 notes on the worksheet when we looked at this at
23 proposed action, to see if I had supported an
24 alternative that had a special exception process
25 instead of where we've landed. And given that the

1 -- I think I do have some notes that indicate that
2 a special exception process, that included the
3 special exception for the 900 square feet, because
4 that's what we see all the time, many of the times
5 at BZA. But the ANC has supported it and the
6 neighbors have supported it, and yet they're not
7 even at the 900 foot square land area per unit
8 level. And so they then have to do the variance
9 test which is a very strict three-part test as we
10 all know. And the BZA sometimes is jumping
11 through hoops trying to accommodate what is a
12 well-designed project that is supported by the
13 neighbors and the ANC. It just doesn't meet the -
14 -

15 Anyway, all that to say is I could, in
16 response to Commissioner Turnbull, I would be open
17 to considering, reconsidering a special exception
18 process for units beyond two and a more spelled
19 out design criteria as part of that review. I
20 wouldn't limit it to a third unit as the chairman
21 prefers. But that's just where I am. So, yes.
22 That's a long way of saying I'm open to
23 alternatives.

24 MR. MAY: So if I can explore that a
25 little further? So you're suggesting that if

1 there were additional architectural criteria if
2 you will, you would consider going to a special
3 exception for the third unit and beyond?

4 MR. MILLER: Yes, I would consider that.

5 MR. MAY: Okay.

6 MR. MILLER: You don't think the
7 criteria, some of the design criteria, or maybe
8 you wouldn't even call them design criteria that's
9 in the proposal that we -- that was part of the
10 proposed rulemaking, you don't think some of that
11 does go in that direction, but it just may not go
12 far enough.

13 MR. MAY: Yeah, it does. I mean, we've
14 heard substantial comment from the public that
15 they think that it's still too easy, or the way
16 it's written, the matter of right to do a third
17 and fourth unit is too loose and would be abused
18 and would wind up with unacceptable additions in
19 R-4 neighborhoods. So, you know, I don't know
20 that I would necessarily want to add more
21 criteria, but I am more open to the idea of
22 handling this as a special exception process.

23 But I mean, what do you have in your mind
24 in terms of architectural criteria or
25 architectural review?

1 MR. MILLER: Well, I don't know if I have
2 anything in my mind. You just asked if I was open
3 to more architectural design review, and since I
4 always thought that was the issue and I thought
5 that the criteria that OP came up does go to that,
6 I would be interested in -- but I really haven't
7 thought about additional language.

8 MR. MAY: Right.

9 MR. MILLER: I was just willing to look
10 at the language to see if they have anything about
11 materials there.

12 MR. MAY: I mean, I think the only thing
13 that we really got into that was specifically
14 architectural as opposed to having to deal with
15 floor area and, you know, volume of building was
16 the treatment of things like turrets and so on,
17 that those sorts of features couldn't be
18 eliminated.

19 MR. MILLER: Yeah, and I was even
20 concerned there if they could somehow rise with
21 the building if it was done nicely. But I was --

22 MR. MAY: Right.

23 MR. MILLER: -- told by some of the
24 architects that that's not going to happen.

25 MR. MAY: It's very hard to do well, yes.

1 MR. MILLER: Yeah.

2 MR. MAY: I think without having somebody
3 look at it and say, is this design sufficient.

4 MR. MILLER: Right.

5 MR. MAY: Okay.

6 CHAIRPERSON HOOD: Let me just ask this,
7 Commissioner May, are you and Commissioner Miller
8 working it out?

9 MR. MAY: Well, it certainly is I think a
10 productive discussion from my perspective. I
11 think that we need to take specific action tonight
12 to approve something one way or the other, and
13 that if there is anything that follows it would be
14 a follow on action. So.

15 CHAIRPERSON HOOD: What I would be
16 willing, and I don't know if Mr. Turnbull -- I
17 would be willing if you would come over and do
18 that, I would be willing that we, I guess, kick it
19 back to the Office of Planning and come up and
20 type up some of that design criteria. If you all
21 want to move forward tonight.

22 MR. MAY: Right. Right.

23 CHAIRPERSON HOOD: I would be willing to
24 do that.

25 MR. MAY: Okay. So I would be in favor

1 of, for right now going to special exception for
2 everything above two units, but that we would put
3 it back on the Office of Planning to find another
4 route to a matter of right availability of three
5 and four, if they can get there.

6 CHAIRPERSON HOOD: Let's do that.
7 Commissioner Turnbull and others, are we all on
8 the same page? Let me see.

9 MR. TURNBULL: Yeah, I would, as I say, I
10 think two as a matter right, and anything beyond
11 that has to be a special exception.

12 CHAIRPERSON HOOD: Okay.

13 MR. TURNBULL: And if we want to tighten
14 up some more architectural language I'm in favor
15 of that also.

16 CHAIRPERSON HOOD: Yeah, we can kick it
17 back, I believe, to the Office of Planning and we
18 can work on that. And we'll do that like we did
19 inclusionary zoning. We'll come back and deal
20 with that on the immediate.

21 Commissioner Miller, you wanted to say
22 something else?

23 MR. MILLER: I just wanted to say yes,
24 that I could be supportive of that as long as the
25 less than 900 feet is part of the special

1 exception as well, and the non-variance, because
2 that's where there's some cases. Maybe there is a
3 number in between. Maybe it's not zero.

4 CHAIRPERSON HOOD: Right.

5 MR. MILLER: So maybe it's 750 or
6 something.

7 MR. MAY: I would think that if we come
8 up with the right architectural review process
9 that that could be on the table.

10 MR. MILLER: Yeah.

11 CHAIRPERSON HOOD: Well --

12 MR. MAY: But I think it's probably --
13 you know, maybe it's not 900. Maybe, you know,
14 below 800 it has to be a variance or something
15 like that. But it would be part of what we would
16 ask the Office of Planning to look at.

17 MR. MILLER: Yeah, I was more like
18 thinking around 750.

19 MR. MAY: Well --

20 MR. MILLER: They're smaller units in
21 general.

22 MR. MAY: I'm not trying to present how
23 far we would go, only that in my mind it could be
24 on the table.

25 CHAIRPERSON HOOD: Right. And I don't

1 think we should do it from the dais. We need to
2 have some research and some study and we'll do it
3 in that order. But we can deal with the way that
4 we vote it.

5 I think we need to redo this vote.
6 Commissioner May, could you make a motion? And
7 I'll tell you the reason why, because I was in the
8 minority. So in order to bring a vote back up it
9 has to be somebody who voted in the affirmative.

10 MR. MAY: All right. So I'm going to
11 refer to the Office of Planning's report of June
12 24th where the original matrix was.

13 CHAIRPERSON HOOD: Let me, before you
14 start.

15 MR. MAY: Is that right?

16 CHAIRPERSON HOOD: Which exhibit was the
17 first one? We've got so many in this. Do you
18 know what the exhibit it is right off?

19 MR. MAY: I'm sorry.

20 CHAIRPERSON HOOD: We only have, what,
21 345 exhibits?

22 MR. MAY: Yeah, 193.

23 CHAIRPERSON HOOD: 193. Okay. Thank
24 you. Give us a minute to get there. Okay.
25 Everybody there? Okay, I'm sorry. Give us a

1 minute.

2 MR. MILLER: 193.

3 CHAIRPERSON HOOD: Exhibit 193.

4 MR. MAY: Are you ready?

5 MR. MILLER: Yes.

6 MR. MAY: Okay.

7 CHAIRPERSON HOOD: Mr. Turnbull, you --
8 we all together? Okay.

9 MR. MAY: All right.

10 CHAIRPERSON HOOD: Yes.

11 MR. MAY: So on page 8 of that report the
12 Office of Planning under other options -- well, I
13 would move that what we approved, we change our --
14 or that we reconsider the previous decision to
15 allow Option No. 1, which had a series of
16 conditions for matter of right conversions, up to
17 four, subject to 900 square foot of land, and
18 instead we allow conversions only by special
19 exceptions subject to the requirement of 900
20 square feet of land per dwelling unit, maximum
21 number of units would be four. Nine hundred
22 square feet per dwelling unit shall not have a
23 substantially adverse effect on the use and
24 enjoyment of any abutting or adjacent dwelling or
25 property, in particular light and air available to

1 neighboring properties shall not be unduly
2 effected, the privacy and use of enjoyment of
3 neighboring properties shall not be unduly
4 compromised. The effect of any chimney vents or
5 any solar energy system -- or sorry, the
6 effectiveness of any chimney vents or solar energy
7 system on neighboring properties shall not be
8 substantially reduced.

9 The resulting structure as viewed from
10 the street and other public ways shall not
11 substantially visually intrude upon the character,
12 scale, and pattern of houses along the subject
13 street frontage. And upper floor additions shall
14 not result in the removal of significant
15 alteration of a rooftop architectural element
16 original to the house, such as a turret or tower.
17 Any upper floor additions shall not block or
18 impede the functioning of a chimney or other
19 external vent required by any municipal code on an
20 adjacent property. And upper rear additions shall
21 not interfere with the operation of any
22 neighboring solar energy system. The Board shall
23 require special treatment in the way of design,
24 screening, exterior or interior lighting, building
25 materials, and other features for the protection

1 of adjacent nearby properties.

2 So that would be all under those
3 conditions that would be required for the special
4 exception review. And noting that we would ask
5 the Office of Planning to revisit the question of
6 whether and how we could come to agreement on some
7 sort of matter of right option that allows up to
8 four units under certain conditions or review
9 processes to be devised.

10 So that would be my motion.

11 CHAIRPERSON HOOD: So it's been moved.
12 Can I get a second?

13 MR. MILLER: Mr. Chairman, could I ask
14 the maker of the motion --

15 CHAIRPERSON HOOD: Let me see if I can
16 get a second first.

17 MR. MILLER: Well --

18 CHAIRPERSON HOOD: And then we'll --

19 MR. MILLER: Okay.

20 CHAIRPERSON HOOD: -- take discussion.

21 MR. MILLER: All right.

22 CHAIRPERSON HOOD: That would be the
23 second first and then --

24 MR. MILLER: I was going to be able to
25 second it if he would change the 900 foot thing

1 from a variance to a special exception.

2 CHAIRPERSON HOOD: We decided, remember
3 we said he has a motion on the table and I think
4 parlance procedures, we need to get a second on
5 his motion. So that's what I'm going to rule in
6 order. Can I get a second?

7 Okay. No second?

8 MR. TURNBULL: Mr. Chairman. I'm not
9 sure of what's all --

10 CHAIRPERSON HOOD: The issue for me,
11 though, I wanted to do a correction but I wanted
12 to get a second first. I wanted to make sure that
13 -- and I didn't allow Commissioner Miller so I'm
14 not going to -- can I get a second on what was
15 said?

16 Okay. Commissioner May? The reason why
17 I'm not going to second it is the same reason that
18 I have that Commissioner -- well, it's probably a
19 different reason, but that's not in order. So I
20 would ask you just can you take that motion off
21 the table for a moment?

22 MR. MAY: Certainly, but if I put it back
23 on do I have to read it again?

24 CHAIRPERSON HOOD: Look, I'm going to be
25 frank now. I don't want you to read it again

1 because I got it.

2 MR. MAY: Okay.

3 CHAIRPERSON HOOD: So, okay. You go
4 first, Commissioner Miller, your comment.

5 MR. MILLER: My only comment was I would
6 be willing to second that motion if he just
7 changed the 900 to 750 because the way it reads --
8 the way I understand it now from my questions that
9 I asked at the proposed action was that would be a
10 strict variance requirement. And so --

11 MR. MAY: Right. So I didn't think that
12 you were suggesting that we immediately change
13 that from 900 to 750. I was thinking --

14 MR. MILLER: Well, you were going to
15 immediately vote; change to make a motion. So --

16 MR. MAY: Okay. I see. Okay.

17 CHAIRPERSON HOOD: So I'm actually not
18 willing to do that.

19 MR. MAY: I'm not willing to go to 750
20 either.

21 CHAIRPERSON HOOD: I think that's
22 something we can look at though.

23 MR. MAY: I agree.

24 CHAIRPERSON HOOD: That's what we talked
25 about looking at.

1 MR. MAY: I agree that's something that
2 we can look at and that's what I would ask the
3 Office of Planning to look at, but I'm really
4 interested in right now voting on it at the 900
5 foot.

6 CHAIRPERSON HOOD: My only clarification,
7 we wanted to do two units as a matter of right.
8 Anything over the two units, the third unit and
9 the fourth unit would be a special exception.
10 Anything over the two units would be a special
11 exception, correct?

12 MR. MAY: Correct. The special exception
13 would go up to four and the fourth would be an IZ
14 unit. That's I think what was proposed.

15 MR. TURNBULL: Yeah, I just wanted to
16 clarify that the fourth -- if you get to a four
17 unit.

18 CHAIRPERSON HOOD: If you get there.

19 MR. TURNBULL: If you get there.

20 CHAIRPERSON HOOD: Yes.

21 MR. TURNBULL: It would be an IZ unit.

22 MR. MAY: Yes, that was what was in the
23 Office of Planning's proposal.

24 CHAIRPERSON HOOD: Okay. So Commissioner
25 May with that understanding could you put the

1 motion -- can you just say the same motion?

2 MR. MAY: Same conditions noting that for
3 further study I'm going to ask the Office of
4 Planning to look at further criteria for review by
5 the BZA or by some means determined essentially to
6 get to some kind of matter of right for a third or
7 fourth unit if possible, including the question of
8 whether the unit -- the square footage required
9 could be as low as 750 feet.

10 CHAIRPERSON HOOD: Okay. It's been
11 moved. Can we get a second?

12 Two units as a matter of right. I will
13 second that motion. Any further discussion?

14 MR. TURNBULL: The 750 is just something
15 that OP is looking at.

16 MR. MAY: Correct.

17 CHAIRPERSON HOOD: Seven fifty is not in
18 the equation.

19 MR. TURNBULL: Okay.

20 MR. MAY: It's still 900.

21 CHAIRPERSON HOOD: It's not in the
22 equation.

23 MR. TURNBULL: Okay.

24 CHAIRPERSON HOOD: We're not going to add
25 anything on the cuff on the dais. It's not even

1 in the equation.

2 MR. TURNBULL: Okay.

3 CHAIRPERSON HOOD: Okay? Moved and
4 properly seconded. Any further discussion?

5 MS. COHEN: Yes. I think if you could
6 limit it, it would not make economic sense because
7 -- again, and it won't be affordable. Building a
8 750 square foot unit costs a lot and I just feel
9 that again we're pushing away -- I'm shucking and
10 jiving again, the ability to allow a household to
11 use their premises to either house their family or
12 to make the economics of the project work for
13 them. So I have a whole problem with limiting the
14 square footage.

15 MR. MAY: So jus to be clear, it's not a
16 limitation of the square footage of the units.
17 It's how big the lot is.

18 MS. COHEN: Oh, the lot I'm okay with.

19 MR. MAY: Okay.

20 CHAIRPERSON HOOD: Okay. Any further
21 discussion?

22 All this in favor.

23 [Vote taken.]

24 CHAIRPERSON HOOD: Any opposition?

25 Okay. Ms. Schellin, would you record the

1 vote?

2 MS. SCHELLIN: Yes. Staff records the
3 vote three to two to zero to approve final action
4 allowing by matter of right up to two units and by
5 special exception, anything over two units with
6 the provisions provided in the Office of Planning
7 report dated June 24th, 2014, Commissioner May
8 moving, Commissioner Hood seconding, Commissioner
9 Turnbull in support, Commissioners Miller and
10 Cohen opposed.

11 CHAIRPERSON HOOD: Okay. The next issue,
12 I think -- let me ask you this. Out of those
13 other nine, other than that last one that I think
14 was, in particular as Commissioner May pointed
15 out, is there anything else that we may have voted
16 on that someone may want to reconsider? Other
17 than -- I know the vesting issue is still there,
18 and we do have an Office of Planning third
19 supplemental report which makes the recommendation
20 to us.

21 Okay. Let me ask, not hearing anything
22 we can go on with the vesting issue. I do want to
23 go to the Office of Planning, Ms. Steingasser, and
24 ask her if she can kind of help explain. So, you
25 know, clarify, explain what you have in this third

1 supplemental report about the vesting issue, if
2 you can help us. Make sure the public understands
3 as well as we do.

4 MS. STEINGASSER: Yes, sir. The first
5 supplemental report -- or actually the June 1st
6 supplemental report, which was report number 2,
7 included some corrections to the text that had
8 been advertised. It also had some zoning
9 administrator corrections that he had requested,
10 and then it finally addressed the issue of
11 vesting.

12 We then continued to hear as the comments
13 came in, additional issues about vesting after we
14 had already filed ours that morning and then
15 throughout the day, before the record closed.

16 So we have tried to take vesting and
17 treat it in two separate ways. One way looks at
18 the matter of right issues for flats, single
19 family and existing apartments, and let those
20 which are consistent with the intent of the R-4
21 zone as a row house flat zone, let those continue
22 if they've been in the process and they have some
23 kind of building permit or a foundation to grade
24 permit pending in front of DCRA as of February 1
25 this year. So again, those are flats, single-

1 family, and apartments.

2 And those three land use categories are
3 consistent with the intent to the R-4. The issue
4 of conversions for when a building becomes three
5 or more units, that vesting date we had proposed
6 as being the set down date of July 17th, 2014.

7 CHAIRPERSON HOOD: Okay. Thank you. Any
8 questions of Ms. Steingasser?

9 MS. COHEN: I just have a comment. I
10 think those are very reasonable thresholds.

11 CHAIRPERSON HOOD: Okay. Commissioner
12 Miller.

13 MR. MILLER: Yeah, I am concerned about
14 the vesting date being July 17, 2014 for
15 conversions that are a matter of right under
16 existing four decade, five decade old zoning law.
17 We are doing a major down-zoning under any of the
18 alternatives that we've discussed here today. And
19 it just seems to me that it would be penalizing
20 someone who has taken, on the due diligence, taken
21 the time to meet with neighbors, to maybe go
22 through an HPRB process even, or some other ANC
23 review process, and hadn't yet completed their --
24 didn't have a completed building permit
25 application file almost a year ago at this point

1 because they were working with the neighbors. And
2 this is matter of right under decades old zoning
3 law. And you're saying that they had to have a
4 completed application. They may have spent an
5 enormous amount of time and money and processes
6 with the neighborhood and with District government
7 and other District agencies. Unless I'm reading
8 this wrong it looks like you could really sweep up
9 into this, the better projects. The projects that
10 were taking the more time.

11 MS. STEINGASSER: And you are correct,
12 Commissioner Miller, and I apologize. We did add
13 on our June 4th, 2015 third supplemental that
14 those that have been in front of the HPRB, because
15 there are several, it's at the very bottom of the
16 page, if they've got approval from the HPRB, the
17 Commission of Fine Arts, or they have an existing
18 variance or special exception, that they be
19 allowed to continue also and file.

20 MR. MILLER: Yeah. No, I saw that but I
21 saw it under the category that included single
22 family flats and existing apartment buildings.
23 You didn't have that HPRB carve out when you got
24 to the category of convergence to more than two
25 units. So I didn't know that it applied to that

1 situation.

2 MS. STEINGASSER: I'm sorry. That
3 probably wasn't clear. We just referred to them
4 as residential buildings, and we meant all
5 buildings for residential use, whether they were
6 single-family or conversions. If they've been
7 going through any kind of design process or
8 governmental process, they've received a special
9 exception but they -- you know, you have two years
10 to file a building permit if you've received your
11 special exception. We wanted to make sure we
12 captured all of those, similar to the way we did,
13 the Commission did for the green area ratio and
14 pervious surface.

15 MR. MILLER: Well, that's reassuring. I
16 would still be more comfortable if there was the
17 same vesting provision, February 1st, 2015, for
18 conversions as there is for single-family flats
19 and existing apartment buildings. We're talking
20 about matter of right projects that still may have
21 been worked on with the neighbors. It may not be
22 in a historic district but they worked on it with
23 the neighbors. I would just be more comfortable
24 if we had the vesting provision exactly as you
25 have it in your report on page 1 of the June 4th

1 report, except for B. The first B, limiting it to
2 single dwelling units or flats or existing
3 apartment buildings.

4 CHAIRPERSON HOOD: Okay. Any other
5 comments? Commissioner May?

6 MR. MAY: Yeah. Could I ask a question?
7 Now I'm a little confused.

8 So looking at the report of June 4th, are
9 you saying that the last paragraph on the first
10 page says, "Addition of the construction of a
11 residential building," blah, blah, blah, that that
12 is meant to include conversion projects?

13 MS. STEINGASSER: Yes, sir.

14 MR. MAY: Okay. So yeah, I think -- I
15 don't know how this will get written up, but when
16 it gets written up it should be -- we should have,
17 you know, under the heading, single family flats,
18 all of the language. And then under conversions,
19 all of the language. I think to make it perfectly
20 clear.

21 MS. STEINGASSER: We'll be working with
22 the Office of Attorney General --

23 MR. MAY: Yeah, okay.

24 MS. STEINGASSER: -- to make that clear.

25 MR. MAY: All right. That makes sense to

1 me. Thank you.

2 CHAIRPERSON HOOD: Ms. Steingasser, do we
3 potentially know who is already in the pipeline?
4 Do we have a reference number of who is already in
5 the pipeline and how many people will be effected?
6 Because I too believe that the government should
7 be predictable, but I'm just curious. And I also
8 don't want to make sure we shift the problem from
9 the Zoning Commission over to DCRA. So, I guess
10 those are some of the things, the dynamics.

11 And I actually think what you all have
12 come up with is a good solution. But I'm just
13 curious, potentially down the line are there going
14 to be problems elsewhere?

15 MS. STEINGASSER: We don't know. We have
16 twice asked DCRA if they could figure it out and
17 they don't have any easy way to figure out what's
18 in an R-4 when it's a conversion versus a regular
19 flat. So we don't have that exact number. We
20 have become aware of about 10 that are in the
21 process legitimately that are flats and same
22 family houses. And the rain issue might be
23 height. I know one is like, I think they reported
24 it was 38 feet and they would be kicked out under
25 this.

1 So we did try to capture those that we
2 felt were consistent with the intent, but we don't
3 have a full number. The zoning administrator has
4 gone through these regulations, and he is aware of
5 them. And that's why he provided his comments as
6 well.

7 CHAIRPERSON HOOD: Okay. All right.
8 Well, thank you very much. Any other comments,
9 Office of Planning?

10 MR. MILLER: Yeah.

11 CHAIRPERSON HOOD: Commissioner Miller.

12 MR. MILLER: I do think it's problematic
13 that we don't know how many legal, lawful proposed
14 conversions under the existing Zoning Regulations
15 have had a building permit, completed building
16 permit filed after July 17th. It's such a -- it's
17 almost a 13 year old vesting date and they're
18 pending approval by DCR. We don't know how many
19 are going to be swept out, kicked out because of
20 this.

21 MS. STEINGASSER: Well --

22 MR. MILLER: Again, I would just -- I
23 don't understand why you can't go with the
24 February 1st vesting for lawfully proposed
25 conversions as you proposed for other matter of

1 right -- we're talking about matter of right
2 proposals.

3 MS. STEINGASSER: Well, we can continue
4 to try to get that number. Typically a building
5 permit would only be taking 11 or 12 months
6 because there's errors in the permitting. And so
7 there's additional information that's being
8 constantly requested or it's being kicked back for
9 additional corrections on the permit itself on
10 that application. So that's our understanding.

11 CHAIRPERSON HOOD: Okay. Any other
12 comments or questions of the Office of Planning?

13 Okay. I would be in favor of moving in
14 the recommendation of Office of Planning for
15 vesting and I'm going to move it like this with
16 the necessary change to be made earlier with the
17 conversions that all the other votes qualify for
18 Zoning Commission. I would move that we then
19 approve Zoning Commission Case No. 14-11 with the
20 correction that we made from a previous vote on
21 conversions, and also accepting the vesting
22 recommended and research done by the Office of
23 Planning and move that and ask for a second.

24 MR. TURNBULL: Second.

25 CHAIRPERSON HOOD: It's been moved and

1 properly seconded. Any further discussion?

2 MR. MAY: Mr. Chairman, if I could
3 clarify? I mean, there were a handful of other
4 smaller clarification, bits of clarifying language
5 that had been proposed by the Office of Planning
6 and I'm assuming that all of that is incorporated.
7 I don't think anything affects the substance. But
8 those are all clarifications and more precise
9 language, but essentially reflects the original
10 proposed action.

11 CHAIRPERSON HOOD: Right. Okay. Yeah,
12 that would include all those recommendations in --

13 MR. MAY: Right.

14 CHAIRPERSON HOOD: -- the motion. Any
15 further discussion?

16 MR. MILLER: Yes, Mr. Chairman.

17 CHAIRPERSON HOOD: Yes.

18 MR. MILLER: Would you entertain a motion
19 to change the vesting date for conversions, matter
20 of right conversions, to applications that were
21 filed and completed -- complete applications that
22 were filed before February 1st, which is the
23 vesting date that the Office of Planning proposed
24 for single family flats and existing apartment
25 buildings? You know, we have a lot of testimony

1 in the 90 comments we've received since, what was
2 it, Friday? Or last week? That they wanted even
3 a further -- they wanted a delayed effective date
4 on this particular proposal because of all the
5 things that are in the pipeline.

6 So I'm not even thrilled about the
7 February 1st, but I see that as a compromise, and
8 I am concerned about the number of -- would you
9 entertain a motion for amendment purposes to
10 change vesting date for conversions from July
11 17th, 2014 to February 1st, 2015 to be consistent
12 with the -- and to have a simpler vesting rule,
13 also, for DCRA to administer? But would you
14 entertain that as an amendment?

15 CHAIRPERSON HOOD: Well, Commissioner
16 Miller --

17 MR. MILLER: Just so I can record it on
18 the record at issue.

19 CHAIRPERSON HOOD: I hope you would be
20 recorded. I know that's a friendly amendment but
21 I'm not going to accept that friendly -- I'm a
22 friendly guy, but I'm not going to accept that
23 friendly amendment.

24 MR. MILLER: Can I move it as an
25 amendment?

1 CHAIRPERSON HOOD: I have a motion on the
2 table. If you want to move it as an amendment --
3 okay, it's been moved and did I get a second? I
4 didn't hear.

5 MR. MILLER: Yes, you did.

6 CHAIRPERSON HOOD: Who seconded? Oh,
7 okay, Mr. Turnbull. Moved and properly seconded.

8 Okay. So Commissioner Miller now has
9 asked for a friendly amendment.

10 MR. MILLER: Well, it's not friendly
11 because you don't want it so I would move it as an
12 --

13 CHAIRPERSON HOOD: I was going to let you
14 move it.

15 MR. MILLER: Oh, okay.

16 CHAIRPERSON HOOD: Yeah, I was going to
17 let you move it.

18 MR. MILLER: Okay.

19 CHAIRPERSON HOOD: Inside of that
20 amendment.

21 MR. MILLER: Okay.

22 CHAIRPERSON HOOD: Even though I'm not
23 going to go in favor of it. Yes.

24 MR. MILLER: Yeah, I understand that.

25 CHAIRPERSON HOOD: Okay. So go ahead.

1 MR. MILLER: So I would move an amendment
2 to change the vesting date as proposed by the
3 Office of Planning for conversion, matter of right
4 conversions of more than two units from July 17th,
5 2014 to February 1st, 2015 as it is proposed the
6 vesting provision for single family flats and
7 existing apartment buildings, and ask for a
8 second.

9 CHAIRPERSON HOOD: Okay. Commissioner
10 Miller has a friendly amendment, which I'm
11 actually not accepting but I'm letting him do it.
12 Is there a second to his amendment?

13 Not hearing any so that amendment fails.

14 Back to the original motion. I made a
15 motion, Mr. Turnbull has seconded as the orders I
16 described previously. All those in favor.

17 [Vote taken.]

18 CHAIRPERSON HOOD: So ordered. Ms.
19 Schellin, would you record the vote?

20 MS. SCHELLIN: Yes, sir. Staff records
21 the vote three to two to zero to accept the
22 vesting provisions that the Office of Planning
23 proposed in their report, their supplemental third
24 report, and also to accept the clarifications that
25 the Office of Planning proposed in their, I

1 believe it was their second supplemental report
2 and that had Commissioner Hood moving,
3 Commissioner Turnbull seconding, Commissioner May
4 in support, Commissioners Cohen and Miller
5 opposed.

6 CHAIRPERSON HOOD: Do we have anything on
7 this? Anything else?

8 MS. SCHELLIN: Unless the Commission
9 wants to bring anything further.

10 CHAIRPERSON HOOD: No, not on this.

11 Okay. Let's move on to the next case.
12 Zoning Commission Case No. 05-22A. This is View
13 14 Investments, LLC, PUD Modification at Square
14 2868.

15 Ms. Schellin.

16 MS. SCHELLIN: Yes, sir. At Exhibit 38
17 we have the applicant's draft findings of fact and
18 conclusions of law. At Exhibit 39 we have the
19 NCPC report advising that the project would not be
20 inconsistent with the Comp Plan for the National
21 Capitol, and we'd ask the Commission to consider
22 final action on this case this evening. Thank
23 you.

24 CHAIRPERSON HOOD: I'm trying to see what
25 we may have asked for, colleagues. Somebody like

1 to get us started on this particular case? Any
2 comments from anyone? Vice Chair Cohen?

3 MS. COHEN: Yeah. I have a comment with
4 regard to the draft order that I think on page 11,
5 6, I think the trash cleanup should -- my
6 understanding is that it's at the expense of the
7 applicant so I do believe that we should specify
8 that so there is no argument.

9 I believe that on page 26 of same order,
10 paragraph 26, we should specifically mention -- I
11 think it's 26. That the cleanup is going to
12 happen four times a week. Let me make sure that's
13 correct. I'm sorry. You're on the -- I'm looking
14 at the agenda. Oh. That's on the computer.

15 CHAIRPERSON HOOD: Do we have two
16 different agendas up here?

17 MS. COHEN: I have it. I'm looking at
18 the computer.

19 CHAIRPERSON HOOD: Okay. We're doing
20 Zoning Commission Case No. 05-22A.

21 MS. COHEN: Oh, sorry. I have it just in
22 a different --

23 CHAIRPERSON HOOD: Can you save all those
24 comments for the next case?

25 MS. COHEN: I will, sir. I don't have

1 any comments on this case. I think I commented
2 enough.

3 CHAIRPERSON HOOD: Okay. I don't think
4 we asked for anything. I think we did --

5 MS. COHEN: No, I think it's perfect.

6 CHAIRPERSON HOOD: I think we did
7 proposed action the night of -- I think we did a
8 bench decision. But anyway, anything else,
9 colleagues, on this particular case, 05-22A?

10 MR. TURNBULL: No, just interesting that
11 the facility will play chill music for dogs around
12 the -- that's very nice. I don't even get that in
13 my office, chill music. So.

14 MR. MILLER: We probably could use it
15 here too.

16 MR. TURNBULL: Yes, we could.

17 MS. COHEN: It's supposed to keep dogs
18 calm, chill music.

19 CHAIRPERSON HOOD: Okay. Can we get a
20 chill motion?

21 MS. COHEN: I'll move. I move to approve
22 for final action Zoning Commission No. 05-22A,
23 View 14 Investments, LLC., PUD Modification at
24 Square 2868, and ask for a second.

25 MR. MILLER: Second.

1 CHAIRPERSON HOOD: Okay. It's been moved
2 and properly seconded by Commissioner Miller. Any
3 further discussion? All those in favor?

4 [Vote taken.]

5 CHAIRPERSON HOOD: Any opposition? Not
6 hearing any, Ms. Schellin, would you record the
7 vote?

8 MS. SCHELLIN: Yes, sir. Staff records
9 the vote five to zero to zero to approve final
10 action in Zoning Commission Case No. 05-22A,
11 Commissioner Cohen moving, Commissioner Miller
12 seconding, Commissioners Hood, May, and Turnbull
13 in support.

14 CHAIRPERSON HOOD: Okay. Next let's go
15 to Zoning Commission Case No. 14-07, 1250 Saint
16 Eden's, LLC., First Stage and Consolidated PUDs
17 and Related Map Amendments at Square 3587. Ms.
18 Schellin.

19 MS. SCHELLIN: Yes, sir. At Exhibits 53
20 and 55 through 56C we have the applicant's post-
21 hearing submissions. At Exhibit 54 we have an
22 NCPC report advising that the project would not be
23 inconsistent witness the Comp Plan for the
24 National Capitol. We'd ask the Commission to
25 consider final action on this case this evening.

1 CHAIRPERSON HOOD: Okay.

2 MS. COHEN: Now can I speak?

3 CHAIRPERSON HOOD: Go right ahead. We on
4 the right case? Yeah, go ahead.

5 MS. COHEN: Okay. I just think that we
6 need to expand on page 11, that the trash cleanup
7 is at the expense of the applicant, because that's
8 my understanding.

9 And then I think on page 15 maybe it is,
10 I want to make sure that I says four times a week,
11 the cleanup will occur four times a week and now I
12 just lost the reference. So if OAG can just
13 confirm that, I'd appreciate it.

14 CHAIRPERSON HOOD: Okay. Anything else?
15 They will do that. Any comments on those post-
16 submissions that were asked for?

17 I will say that this particular
18 applicant, I think, did a good job on some of the
19 things that were asked for and some of those
20 submissions. They actually outlined them and they
21 talked about them specifically. I'm not sure if
22 it met everybody's needs, but it met mine; talked
23 about the LEED, the sustainability and some of
24 those things that we talked about and asked them
25 to submit. So I think some people want to see the

1 rec space diagrams. Anything of that nature
2 anybody have any comments on? I think they did a
3 good job.

4 MR. TURNBULL: Yeah, they did submit a
5 roof perspective view, which we had asked for and
6 our concern was on the lighting. And it does look
7 like it's subdued, although there's nothing in the
8 order that specifically calls out that they're
9 doing down-lighting. But as part of the LEED
10 requirements it usually mentions that they're
11 going to be doing that. But that would be the
12 only other thing that I think -- the rendering
13 looks like it's fairly -- like it's down-lighting.

14 CHAIRPERSON HOOD: Okay. Any other
15 comments?

16 All right. I will take a motion if
17 somebody is ready.

18 MR. MAY: Can I just make one note?

19 CHAIRPERSON HOOD: Sure.

20 MR. MAY: I mean, I still do think it's
21 rather odd, the parking flexibility that's been
22 requested in this, and it just seems to be that
23 they seem to think that 18 foot deep spaces with
24 24 foot aisle is better than the normal or the
25 standard that we have, which is nine by 19 spaces

1 with a drive aisle.

2 I mean, I don't feel really strongly
3 about it but I would remark that it's unusual and
4 I don't recall that we got a definitive word. I
5 mean, if this is something that we think is
6 perfectly acceptable because they think it's a
7 good idea, then maybe the zoning regulations that
8 we are in the process of revising need to reflect
9 that kind of flexibility. I mean, because maybe
10 it's perfectly fine having an 18 foot deep space
11 with a 24 foot drive aisle. It just seems -- so
12 I'll offer that up as a comment for the Office of
13 Planning to take into consideration as we get to
14 final and ZRR.

15 CHAIRPERSON HOOD: All right. I think
16 that was so noted. Any other comments?

17 Somebody like to make a motion?

18 MR. MILLER: Mr. Chairman.

19 CHAIRPERSON HOOD: Yes.

20 MR. MILLER: I would move that the Zoning
21 Commission take final action on Zoning Commission
22 Case No. 14-07, First Stage and Consolidated PUD
23 for 1270 4th Street Northeast, Parcels 129/77,
24 129/95, and 129/96 in Square 3587, and ask for a
25 second.

1 MR. TURNBULL: Second.

2 CHAIRPERSON HOOD: It's been moved and
3 properly seconded. Any further discussion?

4 [Vote taken.]

5 CHAIRPERSON HOOD: Any opposition? Not
6 hearing any, Ms. Schellin, would you record the
7 vote?

8 MS. SCHELLIN: Yes, sir. Staff records
9 the vote five to zero to zero to approve final
10 action in Zoning Commission Case No. 14-07,
11 Commissioner Miller moving, Commissioner Turnbull
12 seconding, Commissioners Cohen, Hood, and May in
13 support.

14 CHAIRPERSON HOOD: Okay. I'm sorry the
15 news cameras are leaving because we're getting
16 ready to do penthouses. That's a big issue. If
17 you want to get the story, you got it. I didn't
18 want you to leave. Help us get the word out.
19 Anyway, trying to get some free advertisement,
20 actually.

21 Okay. Next let's go -- where am I? Oh,
22 proposed action, Zoning Commission Case No. 14-13,
23 Office of Planning Text Amendment, Rooftop and
24 Penthouse Regulations.

25 Ms. Schellin, let me go to you first.

1 MS. SCHELLIN: Yes, sir. At Exhibits 90
2 through 118 we have comments that were received
3 from the public. At Exhibit 119 we have an OP
4 supplemental report, and at Exhibit 121 we have
5 the OP proposed worksheet. I would ask the
6 Commission to consider proposed action this
7 evening.

8 CHAIRPERSON HOOD: Colleagues, what I
9 would like to do, typically so we can get a better
10 explanation, is to go down the worksheet that was
11 provided and done by the Office of Planning. And
12 let's try to work through some of these issues as
13 we would have either Ms. Steingasser or Mr.
14 Lawson. I'm not sure who -- okay. Mr. Lawson
15 will go through this with us and outline each one
16 of the recommendations, suggestions. And then we
17 will pick which one we would like to move and
18 fashion, we can go from that point.

19 Okay. Mr. Lawson. I mean, let me make
20 sure, everybody is okay with that order, that
21 fashion? Okay. Mr. Lawson.

22 MR. LAWSON: Thank you, Mr. Chair. Well,
23 you have before you the most recent report from
24 the Office of Planning which provided information
25 that you requested from the last time you

1 discussed this as specific answers to specific
2 questions. That's in the report dated June 1st.

3 June 3rd is the worksheet that we
4 prepared for you to work form. Just a couple of
5 normal caveats. It includes, for all of these
6 issues, options that you could take for these. Of
7 course, once again it's very very interdependent.
8 What you do with one will probably impact how you
9 approach some of the subsequent issues you come up
10 with. And of course we don't pretend that this is
11 a full range of every option that's available.
12 But these are the options that were discussed the
13 most or seemed to reflect most of the comments
14 that came from the Zoning Commission and from
15 members of the public.

16 We always, by the way included, because
17 it should be an option that is available to you of
18 course, is the do nothing approach, just leaving
19 the regulations exactly the way they are. So
20 that's always here as well.

21 And of course when we're talking about
22 these options we are talking about penthouses
23 below the Height Act. Penthouses above the Height
24 Act are also limited by the Height Act itself. So
25 for example when you're discussing number of

1 stories, the Height Act itself limits a penthouse
2 above the Height Act to one story only. So of
3 course the more restrictive of the two would
4 apply.

5 So if you'd like I can kind of break into
6 it, or if anybody has any kind of general?

7 MR. MILLER: I just want to make a
8 general comment, Mr. Chairman. I just wanted to
9 thank the Office of Planning again for organizing
10 this options matrix, which I think is very helpful
11 for both us and the public to review this case and
12 for all the work that you've done on the case and
13 throughout the case.

14 MR. LAWSON: Well, thank you. We
15 appreciate that. We're of course looking forward
16 to a resolution to this issue. We've heard a lot
17 of comments from the public that this issue is due
18 for a resolution for some zones, if not for all
19 zones at this point because people have been
20 starting to kind of work with what they think the
21 new regulations might be. So getting a sense
22 would be great.

23 Now, we've organized it a little bit
24 differently here from what you've seen before in
25 that we've organized it by kind of building

1 height/zone category, which we hadn't done before
2 but we thought so many of these issues that you
3 were discussing really were -- you seemed to be
4 discussing, or certainly members of the public had
5 discussed taking a different approach depending on
6 the permitting height of the building, and
7 therefore the zones. So we tried organizing it
8 that way and we thought that it might be helpful
9 so that's why it's this way.

10 So the very first one is dealing with
11 detached dwellings, row houses, and flats. This
12 is the one that kind of deals with the use of the
13 structure. The others all deal with the height.
14 So this would be in any zone, what your preference
15 would be for dealing with penthouses on top of a
16 detached dwelling row house and flat. And of
17 course just to remind you, as part of ZRR I
18 believe you've already taken proposed action to
19 limit the height of a penthouse on this type of
20 use to 10 feet. Under the current regulations
21 what you're permitted in terms of a penthouse is
22 18 foot, six inches.

23 So for these zone/height categories, and
24 in this case the use category, we brought forward
25 three of the issues for you to deal with kind of

1 interrelatedly. Penthouse height, penthouse
2 stories, and permitted uses within the penthouse.
3 I suspect that you do not want me to read through
4 all the options, although I can if you want me to.
5 But you'll see in each case there is a series of
6 options that had been discussed. There is also
7 now a more definitive OP recommendation for each
8 one of these options. Usually that OP
9 recommendation is one of the options up above.
10 Sometimes it's a combination of some of the
11 options up above. So sometimes it looks a little
12 bit different, but that's usually because we've
13 combined some of the options.

14 So with that if you would like me to read
15 through these, as I said, I'd be happy to.
16 Otherwise I'll turn it back over to the Chair.

17 CHAIRPERSON HOOD: Okay. I would just
18 think that if you just elaborate -- we don't need
19 to read through all of them. I had to do that for
20 ZRR and I know that's very tiresome. But I think
21 what we can do is just say like, for example
22 number one, penthouse, we have some of the options
23 and then you have the Office of Planning's
24 recommendation. And if you want to maybe explain
25 that and then we will move forward.

1 MR. LAWSON: Sure.

2 CHAIRPERSON HOOD: I think that would be
3 the more efficient way.

4 MR. LAWSON: Sure. The basic options
5 here are certainly leave it as it is, allow a
6 reduced penthouse height, which is what you
7 considered under ZRR. And the third option, which
8 received a lot of discussion earlier by the Zoning
9 Commission was to not allow a penthouse at all on
10 top of a row house. And instead to allow a
11 penthouse only by either a special exception. And
12 what we heard from the public, more so than from
13 the Zoning Commission, was to not allow a
14 penthouse and allow one only by variance.

15 The Office of Planning came down, UCR
16 recommendation there to not allow a penthouse by
17 right but to allow a penthouse by special
18 exception, but to limit that penthouse height by
19 special exception to 10 feet. So if somebody came
20 in and wanted a penthouse of 15 feet on the row
21 house, that would require a variance as opposed to
22 a special exception.

23 CHAIRPERSON HOOD: Okay. We have the
24 opportunity's recommendation and in this case it
25 looks like it's two different ones put together in

1 the first one. So any comments or questions or
2 any additions? Or are we willing to accept what
3 the Office of Planning is proposing?

4 MR. MILLER: Are we going to vote on each
5 one with motions? Or you just want to do it by
6 consensus and see if it's a --

7 CHAIRPERSON HOOD: I think it would be
8 quicker to just do it by consensus.

9 MR. MILLER: If somebody has an objection
10 then --

11 CHAIRPERSON HOOD: Any objections on
12 number 1, anyone? Okay, good. Let's move right
13 on. Let's go to number 2, Mr. Lawson.

14 MR. LAWSON: Number 2 is number of
15 stories. This one is pretty simple. Not allowing
16 a penthouse, but if you do one by -- if permitted
17 now that you voted on this by special exception by
18 the BZA to limit it to one story.

19 CHAIRPERSON HOOD: Okay. Any problems?
20 Okay. Let's go to the next one.

21 MR. LAWSON: And last but not least is
22 penthouse use. This one did generate some
23 discussion by the Zoning Commission. And this is
24 whether or not to permit habitable space within
25 the penthouse, and your options are obviously to

1 allow habitable space or to not allow habitable
2 space, or to allow limited habitable space. Where
3 the Office of Planning came down was now that
4 you've established it would be permitted by the BZA
5 by special exception, to limit any use of that
6 penthouse to mechanical equipment or access to the
7 rooftop. Or for ancillary space directly related
8 to a rooftop deck. So a place to store your deck
9 chairs or that kind of thing.

10 CHAIRPERSON HOOD: Okay. Commissioner
11 May.

12 MR. MAY: So, I'm okay with this
13 recommendation but I think that we need to have a
14 maximum square footage on the ancillary space
15 because of the way, you know, we've seen some
16 things come before us at the Zoning Commission.
17 You know, you have a stairway going up to an
18 individual penthouse and they've got a little
19 extra space there and the little extra space gets
20 a little bigger here and there and you wind up
21 with essentially a room. And I think we want to
22 avoid a room.

23 So I would suggest that we limit it to
24 something like 30 or 40 square feet as a maximum
25 because that should be enough for storage space.

1 I mean, five by five. 25 feet is probably enough
2 but I'd say 30 or 40.

3 MR. LAWSON: I would just remind --
4 sorry, I'm going to break right in and you can
5 stop me if you don't want me doing this. But I
6 remind you that there is a provision coming later
7 on that limits the area of the penthouse, and in
8 these zones it would be limited to one third the
9 size of the roof area.

10 Now that may be larger than what you're
11 contemplating, but that's kind of coming later if
12 you want.

13 MR. MAY: Yeah. I mean, I'm just talking
14 specifically about the ancillary space that will
15 be -- we'd have a limit on that because otherwise
16 it could wind up being a, you know --

17 MS. COHEN: A habitable space.

18 MR. MAY: Correct. A habitable space.
19 So intended to be, so --

20 MS. COHEN: So my question would be, what
21 are the arguments against using this as habitable
22 space?

23 MR. MAY: Well, again, you know, I think
24 we're not trying to allow this as a way of getting
25 additional space. And we're talking about

1 buildings that are already limited to three
2 stories. You don't want to, you know, allow a
3 back door way to get a fourth story. Generally
4 speaking they're three stories.

5 CHAIRPERSON HOOD: Okay. Commissioner
6 May, go ahead.

7 MR. MAY: So I mean, I would recommend
8 that we accept the OP recommendation but that we
9 put a cap of 30 square feet on ancillary space.

10 CHAIRPERSON HOOD: Okay.

11 MS. COHEN: But then -- excuse me.

12 CHAIRPERSON HOOD: Uh-huh.

13 MS. COHEN: But then, you know, it may
14 contradict that one-third --

15 MR. MAY: No, I don't think it would.

16 MR. LAWSON: No, I agree. I was just
17 bringing that up as one option that you could have
18 taken if you wanted to. So the way I'm reading
19 what --

20 MS. COHEN: So why don't we just do the -
21 -

22 MR. LAWSON: -- Commissioner May is
23 saying is it would be 30 square feet for the --

24 MS. COHEN: Right.

25 MR. LAWSON: -- ancillary space. Some

1 additional area would also be permitted for the
2 stairwell itself, going straight up. And you
3 know, we can deal with the one-third when we get
4 to it.

5 CHAIRPERSON HOOD: Commissioner Miller.

6 MR. MILLER: I just had a question for
7 the Office of Planning. Do you think the maximum
8 of 30 square feet is reasonable?

9 MR. LAWSON: I think that's fine and, you
10 know, also this is proposed action so if people
11 feel that it's too little or too much, they would
12 be able to comment on -- make a comment on that if
13 they wish to. So, but 30 square feet, that's five
14 feet by six feet. That's not a small space.

15 MR. MILLER: Thank you.

16 CHAIRPERSON HOOD: Okay. We ready to
17 move forward?

18 MR. LAWSON: The next item is dealing
19 with the residential zones, the low density
20 residential zones for uses other than a single
21 family or a flat. Now this would include
22 institutional uses in the low density zones. It
23 could also include small apartment buildings in
24 some of the zones that allow a small apartment
25 building like R-5-A, where it's permitted by

1 special exception, or the R-5-B zones where the
2 height and the overlays, where the height is
3 limited to 40 feet.

4 So once again, we've broken it out into
5 the three same topics, penthouse height, penthouse
6 stories, and penthouse uses. This is one place
7 where you'll see something a little bit different
8 from what we had talked about before. As you know
9 the Commission received a lot of comments from the
10 development community saying that a penthouse on
11 either an institutional building or on an
12 apartment building of 10 feet of height simply
13 doesn't work. It can't be done.

14 The research that we did online, as much
15 research as we could do, was a little bit
16 conflicting because we definitely found some
17 examples of buildings that seemed to have a 10
18 foot penthouse with an elevator override. What
19 they didn't tend to have was an elevator providing
20 access to the rooftop. And that, I started to
21 see, was becoming the real problem. If we want to
22 permit or even encourage the use of rooftops for
23 deck space, for terrace space, then additional
24 height for an elevator is necessary. If you do
25 provide access to the rooftop for something other

1 than a single family dwelling, ADA requirements
2 are that you must provide elevator access to that
3 space. The evidence seemed to be pointing that if
4 you restricted the penthouse to 10 feet you would
5 be basically eliminating the possibility of having
6 a rooftop deck because you wouldn't be able to
7 provide ADA access to that rooftop deck.

8 So you'll see that what we have shown are
9 certainly the options that you discussed earlier.
10 But where the Office of Planning came down at this
11 point, just partly for simplicity and partly for
12 consistency was just to retain the 18 foot, six
13 inch height for these zones, but to limit the
14 habitable space within that penthouse to 10 feet
15 maximum.

16 I think there was some concern that
17 multiple stories might be possible within there
18 and we thought this might be one way that would
19 address that issue. And so, anyways, you'll see
20 in the recommendation that's where we ended up.

21 CHAIRPERSON HOOD: Okay. Thank you, Mr.
22 Lawson. Colleagues, you've heard the rationale
23 for Office of Planning's recommendation. Any
24 objections?

25 MR. MAY: Yes.

1 CHAIRPERSON HOOD: Yes. Commissioner
2 May.

3 MR. MAY: So I coincidentally recently
4 attended the convention of the American Institute
5 of Architects and there are a lot of companies
6 that sell elevators, and they have a lot of
7 information about what the specifications are for
8 low overhead machine-room-less elevators driven by
9 belts, the latest technology for these things.
10 And typically it seemed to me for buildings that
11 are of this height it would be very easy to use a
12 modern elevator and get it all in, in 15 feet.
13 And that is the regulation insurance some
14 jurisdictions, 15 feet, and it is possible to get
15 up to a rooftop deck in 15 feet.

16 These newer technology elevators may be a
17 little bit more expensive right now but they are
18 also a lot more energy efficient. They use belts
19 rather than wire rope. The gears are smaller and
20 require less energy to operate. Plus they all
21 capture the energy that the system expends when
22 you're actually, you know, dropping the weight of
23 the elevator. All of the energy that goes back
24 into the system and is restored, so I think it's a
25 technology that we should be encouraging. And I

1 would say that for proposed action that we
2 recommend a height limit of 15 feet for elevator
3 penthouses only.

4 CHAIRPERSON HOOD: I don't know if I -- I
5 didn't attend the AIA conference, unfortunately.

6 MR. MAY: I'll invite you next time.

7 CHAIRPERSON HOOD: Huh?

8 MR. MAY: You want to go next time?

9 CHAIRPERSON HOOD: Where is it at?

10 MR. MAY: Philadelphia.

11 CHAIRPERSON HOOD: No, that's okay. But
12 I'm not sure where. I'm trying to understand that
13 and I know you have an advantage over me because
14 you went to the conference. Where was this one
15 at? Where was this conference at?

16 MS. COHEN: Atlanta.

17 MR. MAY: Atlanta.

18 CHAIRPERSON HOOD: That's okay. But
19 anyway, I don't know if we want to put that burden
20 on the -- as you said, expensive. You said it's
21 expensive right now.

22 MR. MAY: I didn't say that it's
23 expensive. I said it may be more expensive. I
24 didn't really know. I mean, they are all
25 marketing them as if they are just as affordable.

1 You know, there are some limitations to it. I
2 wouldn't necessarily go this route if we were
3 talking about requiring these shorter overrides in
4 taller buildings, because when you go to taller
5 buildings you want to have a higher speed elevator
6 and they typically will require a little bit more
7 headroom.

8 But I think that for small buildings like
9 this it's perfectly reasonable to require a 15
10 foot, or limit it to 15 feet. And I'm suggesting
11 we take this at proposed, and then hear what the
12 community has to say because if we get, you know,
13 a massive backlash you know, then we can adjust
14 course. But I think if we leave it at 18-6 and
15 then try to go smaller later on, we can't do it.

16 CHAIRPERSON HOOD: So you're not
17 suggesting do something in the alternative. Just
18 put it out there 15 and see what comes back.

19 MR. MAY: Yes. Yeah.

20 CHAIRPERSON HOOD: Is everyone in support
21 of that? Commissioner Miller?

22 MR. MILLER: Did you say that these are
23 currently more expensive but they're cost
24 efficient in the long run?

25 MR. MAY: What I was told is that they're

1 more cost efficient in the long run. You know,
2 you can't price an elevator at a convention. But
3 what they will tell you is that they are
4 competitive with the current technologies, but
5 they may be a little bit more expensive.

6 MR. MILLER: Yeah, because what we were
7 talking about is the institutional -- their
8 institutional use, churches, museums, public
9 libraries.

10 MR. MAY: Right. Yeah. But I mean
11 again, in the long run it will save money because
12 it saves more energy.

13 MR. MILLER: Well, I'd be more
14 comfortable if we could have it as maybe in the
15 alternative.

16 CHAIRPERSON HOOD: Let's do --

17 MR. MILLER: Not advertised, but a
18 proposed --

19 CHAIRPERSON HOOD: Yeah.

20 MR. MILLER: I don't know if we can do
21 that.

22 CHAIRPERSON HOOD: Yeah. We can do it.

23 MR. BERGSTEIN: I kind of want to
24 discourage you from doing alternatives in a
25 proposed. It's obvious that they could do either

1 one. But if you really want to we can just drop -
2 - but then you have to decide what the main thing
3 is. Which are you going to propose, which is the
4 alternative, you know, because when you do a
5 notice of proposed rulemaking you have to state
6 the text. And so we would have to either do two
7 provisions that are exactly the same and one says
8 one, one says the other. Or I guess do
9 parentheticals or whatever.

10 So I discourage you from doing that
11 because obviously people can comment one way or
12 the other. But if you feel you need to do it to
13 reach a consensus then we'll figure out some way
14 of doing it.

15 MR. MAY: So you know, again, I'm
16 perfectly willing to revisit this at final. I
17 just think that if we stake it out at, you know,
18 18-6 right now, we'll never get it any lower.
19 Whereas if we state it at, you know, 15 feet now
20 and we hear a lot back from, you know, the
21 potential you know, users of -- or the
22 organizations or building owners that have
23 properties like this, we hear back from them
24 strongly that this isn't going to work then we can
25 change course then and I'm perfectly willing to,

1 you know, to reconsider at that point.

2 MR. MILLER: Well, I'm glad to hear that
3 but I guess I would be more comfortable with it if
4 you had that as the preferred option and the
5 alternative as the OP recommendation at 18-6. I'm
6 just concerned about the increased financial
7 burden placed upon institutional users as -- I
8 don't know enough about the convention you went
9 to, to be comfortable.

10 CHAIRPERSON HOOD: I guess you and I need
11 to go.

12 MR. MILLER: Yeah, I guess --

13 CHAIRPERSON HOOD: Figure out what's
14 going on.

15 MR. MILLER: -- invite us next time.

16 CHAIRPERSON HOOD: Yeah. I think I would
17 be willing to actually do the May amendment to
18 this. And as Mr. Bergstein -- I would be actually
19 interested in seeing what comes back. You know,
20 let's put it out there. I don't know. Mr.
21 Turnbull?

22 MR. TURNBULL: Yeah. I mean, I kind of
23 like the idea of getting penthouses as low as we
24 can get them. But I also, I mean, we've had
25 comments before by other people that we need 18-6,

1 oh we need 20 feet, oh we need 25 feet for a
2 penthouse.

3 I think if we can get some documentation
4 back on the 15th foot, that would really help.
5 But maybe the Office of Planning can help
6 spearhead that.

7 MR. MAY: Well, I think the Office of
8 Planning has done some substantial research into
9 this. I just think that they haven't necessarily
10 come to the same conclusion about it. I mean, at
11 this point I'm more interested in hearing what the
12 public has to say about it. I mean, I'm not
13 objecting to the Office of Planning. I just
14 wouldn't want to put the burden on them again
15 because I know they're going to research it.

16 MR. TURNBULL: Is there anything from the
17 convention as far as documentation that we could
18 get?

19 MR. MAY: There certainly is information
20 from the convention.

21 MR. TURNBULL: Okay.

22 MR. MAY: I did take home samples of
23 information, yes. Yeah, we'd have to enter it
24 into the record.

25 MR. TURNBULL: Yeah, or maybe -- yeah,

1 okay. I think it would be good. I mean, I think
2 it would be good to entertain that. I think it,
3 you know, it's the fallback is always 18-6 then.

4 MR. MILLER: Are you going to propose
5 this everywhere where it's proposed to be
6 recommended at -- that we retain the 18-6 current
7 penthouse height? I mean, it seems to me this is
8 a broader issue that you're raising that maybe
9 should be in a separate section that puts it out
10 there.

11 MR. MAY: So my thought was that 40 and
12 50 feet, that this is appropriate. But I'm not
13 pushing it at the 60, 65 level.

14 MR. TURNBULL: It's really only at the
15 lower height buildings primarily. You know?

16 MR. MAY: That's where I feel confident
17 about it. At the higher heights I think it could
18 probably work as well. I just don't have the same
19 level of confidence. I'm not ready to suggest
20 that at this moment.

21 CHAIRPERSON HOOD: Okay. Can we all
22 agree for the May amendment? I'm going to call it
23 the May amendment.

24 MS. COHEN: Yes.

25 CHAIRPERSON HOOD: So when it comes back

1 --

2 MR. MILLER: I don't agree because I
3 don't have the confidence that these institutional
4 users can afford to install the latest elevator
5 technology in these zones. I just don't know
6 enough, but we'll hear it with your proposal.

7 So with that objection noted I don't mind
8 it going forward.

9 CHAIRPERSON HOOD: Well, I actually have
10 the same concern. But again, we put it out there
11 and let's see what comes back.

12 MR. MILLER: Okay.

13 CHAIRPERSON HOOD: See if we can get
14 there. I think it's a good attempt to throw it
15 out there.

16 Okay. So with that said, Mr. Lawson,
17 we'll move on to the next one.

18 MR. LAWSON: Sure. I know I shouldn't
19 weigh in at this point but I will say that, that's
20 actually more or less in line with a lot of the
21 comments we did get from the public already. A
22 lot of the very informed comments we got from
23 people from the development communities seemed to
24 be saying that for lower scale buildings there
25 were these alternatives, they were financially

1 viable, but that 10 feet was too low and the
2 number that they came up with tended to vary
3 somewhere between 14 and a half feet and 16 and a
4 half feet. There wasn't really unanimity of what
5 that should be.

6 We just proposed 18 and a half feet for
7 simplicity, I guess. We're a little bit concerned
8 that we're getting a real smorgasbord of
9 regulations here, and so we thought this might be
10 someplace where we can get some consistency across
11 the regulations. But what Commissioner May
12 proposed is absolutely in line with the
13 information we've already received from the
14 development community for these lower density
15 zones. For 40, 50 feet above that, the
16 information we got from the development community
17 was that even 16 and a half feet would not
18 typically be enough to provide a proper elevator.
19 So if that makes you feel a little bit more
20 comfortable with the direction that was taken.

21 The second item was --

22 MS. COHEN: Could I just add? I wanted
23 to just state that the energy efficiency that may
24 be realized is very, very important not to
25 overlook.

1 MR. LAWSON: Okay. Thank you. Penthouse
2 stories, we're simply recommending it be limited
3 to one story. But you would have the option of
4 course to not regulate the number of stories which
5 is the current situation, or allowing some other
6 option.

7 CHAIRPERSON HOOD: Okay. Commissioner
8 May, did they talk about that down at the AIA?
9 Okay. Let me open it up. Colleagues, everyone
10 accept the OP recommendation?

11 Okay. All right. Mr. Lawson, what's
12 left?

13 MR. LAWSON: And last but not least,
14 penthouse uses. Once again, you know, the broad
15 range of options are there. Office of Planning
16 was recommending to allow limited habitable space.
17 Once again, ancillary space directly associated
18 with a rooftop deck only as opposed to other forms
19 of habitable space in these zones.

20 MR. MAY: If I could request some
21 clarification? So ancillary as opposed to
22 accessory. So is this the 30 foot space that
23 might serve a personal penthouse? I guess this is
24 not a -- these are all institutional uses so it's
25 really only going to be a community use, isn't it?

1 MR. LAWSON: Yeah, not necessarily.
2 There are some multi-family zones in here and
3 there is even multi-family buildings in R-4.

4 MR. MAY: Okay.

5 MR. LAWSON: So it could be a residential
6 building. And no, we had seen this a little bit
7 broader than the low density zones. We saw this
8 as --

9 MR. MAY: Right.

10 MR. LAWSON: -- enclosed space. Kind of
11 what the current regulations allow for
12 residential.

13 MR. MAY: Right. So it could be -- I
14 mean, it could be a 30 foot space to serve a
15 private rooftop deck, or it could be accessory to
16 a communal rooftop deck.

17 MR. LAWSON: Correct. I think.

18 MR. MAY: Either way.

19 MR. LAWSON: That's our proposal, yes.

20 MR. MAY: Correct. Okay. So an
21 accessory fitting the standard definition of 20
22 percent compared to the exterior space?

23 MR. LAWSON: Well, of course that's kind
24 of an interpretation as opposed to a definition.

25 MR. MAY: Right.

1 MR. LAWSON: But we could certainly
2 establish that as the regulation if that's where
3 the Commission wished to go.

4 MR. MAY: I don't feel strongly one way
5 or another. I mean, I think there are other
6 controls on how big the rooftop deck can get. And
7 I'm okay with this the way it is.

8 CHAIRPERSON HOOD: Okay. Any other
9 comments? Okay. Mr. Lawson, we can continue when
10 you're ready.

11 MR. LAWSON: Sorry. Just taking some
12 notes.

13 CHAIRPERSON HOOD: Okay.

14 MR. LAWSON: Making sure I capture what
15 you're saying.

16 The third grouping is buildings that are
17 limited to a height of 50 feet, so you kind of
18 exclude the ones you've already dealt with. So
19 these are the ones that are typically allowing 50
20 feet of building height. You can see it's a mix
21 of zones now. It's residential zones, low to
22 moderate density commercial zones, a couple of the
23 waterfront zones, even one of the industrial zones
24 as well as -- in case you're wondering what these
25 are, HE is Hill East and Saint Elizabeth's. Some

1 of the zones are captured in this as well.

2 So once again, height, stories, and uses.

3 In this case it's kind of the same range of
4 options more or less. But Office of Planning is
5 recommending that you once again retain the 18
6 foot six inch height limit. You may want to
7 revise that to what you just adopted for the lower
8 density zones, but limit habitable space to 10
9 feet height.

10 And by the way, we've also kind of threw
11 out -- I realize I put it in here, but we've
12 recommended this throughout, that we clarify that
13 all building height is measured from the roof that
14 the penthouse actually sits upon; whether that's a
15 height for habitable space, or whether that's
16 height for the penthouse as a whole to make sure
17 that's really clear in the regs. And that's why
18 that's there.

19 MR. MAY: Okay. So again, I would
20 suggest that we reduce this at the building
21 heights of 50 feet to a 15 foot penthouse, again
22 for the elevator purposes. And I think that does
23 allow a roof. Within 15 feet you can still have a
24 room of habitable space. And then you could have
25 like a condenser farm or something like that on

1 top of it, and still within the 15 feet. So I
2 think that that can still work in this
3 circumstance.

4 CHAIRPERSON HOOD: Okay. Anyone else?
5 All right.

6 MR. LAWSON: The second item is number of
7 stories. Office of Planning in this case was
8 recommending that habitable stories be limited to
9 one, but that a second story for mechanical
10 equipment be permitted by right on top of that
11 habitable space. That's kind of the current
12 situation. We've seen that a number of times
13 already under the current regulations so it's kind
14 of maintaining what the current regulations allow,
15 except in this case now that you've suggested 15
16 feet that would be within the 15 foot height
17 limit.

18 MR. MAY: So in the circumstances where
19 we have this occurring right now is it typically
20 the second floor is an open air condenser farm
21 kind of situation, or is it taller equipment?

22 MR. LAWSON: It's not necessarily taller
23 equipment but it's not necessarily open air
24 either. It tends to be relatively small and I
25 don't think I've seen an example of habitable

1 space on top of mechanical space.

2 MR. MAY: Right.

3 MR. LAWSON: I think that we'd be
4 comfortable making sure the wording is such that
5 the habitable space is below.

6 MR. MAY: Right. Okay. Thanks.

7 CHAIRPERSON HOOD: Okay. So we --

8 MR. MAY: So I mean, I think this is an
9 issue we have to consider carefully because even
10 15 feet -- 15 feet for an elevator override is
11 understandable but 15 feet for the entire thing,
12 and we're talking about a 50 foot building being a
13 65 foot building. I mean, I know that now we have
14 a 50 foot building as a -- can be a 68 and a half
15 foot tall building. But you know, I think we are
16 going to get substantial comment on this about 50
17 feet buildings because of the number of things
18 that have occurred in C-2-A zones and R-5-Bs and
19 so on. I'm okay with proceeding with this but I
20 think we'll get substantial comment.

21 CHAIRPERSON HOOD: Okay.

22 MR. LAWSON: Well, if I may? That's one
23 of the reasons why in the one above we suggested
24 that you may want to limit the height of habitable
25 space. Of course to do that effectively you would

1 have to kind of open up your permissions for
2 allowing penthouses of different heights, because
3 right now the regulation is that the penthouse
4 must all be of one height.

5 MR. MAY: Right. Right. Yeah, I think
6 we're headed there. Anyway, but --

7 CHAIRPERSON HOOD: Okay. We all on the
8 same page with that one?

9 MR. MAY: Yeah.

10 CHAIRPERSON HOOD: Okay.

11 MR. LAWSON: Okay.

12 CHAIRPERSON HOOD: All right. What's
13 next?

14 MR. LAWSON: So the third one is
15 penthouse uses. And once again of course we're
16 talking about the habitable uses within the
17 penthouse. The Office of Planning's
18 recommendation was to permit habitable space, but
19 limits specified uses to being permitted only by
20 special -- but limit some uses to be only
21 permitted by special exception, things that are
22 like a bar, restaurant, or night club if that use
23 is permitted in the zone. And of course in some
24 of these zones those kinds of uses would not be
25 permitted at all anywhere in the building.

1 CHAIRPERSON HOOD: Okay. Any comments?

2 We're going to -- I know some people have a soccer
3 game. I mean --

4 MR. MAY: That's okay.

5 CHAIRPERSON HOOD: Okay.

6 MR. MAY: I can watch it later if I need
7 to.

8 CHAIRPERSON HOOD: Okay.

9 MR. MAY: On Demand.

10 CHAIRPERSON HOOD: You can watch it
11 later? Okay. I'm in no rush.

12 MR. LAWSON: I'm sorry, just for clarity.
13 So --

14 CHAIRPERSON HOOD: We're in no rush.
15 Everybody is wondering what we're talking about.
16 Sometime we have to have a little fun.

17 MR. LAWSON: I'm sorry. But since we
18 have to actually come up with text does the Office
19 of Planning have basically the discretion, because
20 these are examples of uses. So for the purpose of
21 this we're actually going to have to list the uses
22 in terms of text by special exception, by zone.
23 So do we have the flexibility to basically use
24 this guidance and identify the comparable uses by
25 special exception as opposed to identifying the

1 uses now?

2 MR. MAY: Assuming we all agree on this.
3 We haven't gotten to the point of agreeing on
4 this.

5 MR. LAWSON: Okay. Okay.

6 MR. MAY: I mean, at least that's what I
7 would suggest.

8 You know, for me there's a real question
9 for buildings that are 50 feet or less, whether we
10 ought to consider simply limiting this, the
11 habitable space being limited to something that's
12 ancillary to rooftop deck only. Because you know,
13 as it is right now I think that we have a number
14 of areas where, you know, small commercial areas
15 that are zoned C-2-A and they've got rooftop decks
16 and it causes problems. I know they have to go
17 through licensing problems or licensing and all
18 that sort of thing for restaurants and bars.

19 But I'm just thinking that something
20 that's more in line with the other residential
21 permitted uses, which is ancillary to rooftop
22 decks, so it's really just, you know, the
23 community room on an apartment building or the
24 ancillary space for a private deck. It may be the
25 safer route for buildings of these heights.

1 MS. COHEN: But if it's going through
2 special exception it's likely that certain noise
3 attenuation standards have to be met and I would
4 think that we could elaborate on that.

5 MR. MAY: So a special exception is for
6 anything that --

7 MS. COHEN: That's I think noise --
8 creates a lot of noise.

9 MR. MAY: And that creates noise. I'm
10 not sure. I mean, I'm -- other thoughts. Other
11 commissioners?

12 MS. COHEN: Maybe OP can elaborate on
13 that a little bit more about noise attenuation
14 requirements.

15 MR. LAWSON: Sorry. That would be one of
16 the standard kind of special exception criteria
17 that you would look at, potential impacts on
18 adjacent properties, whether it be privacy, light,
19 noise. That's so we can capture --

20 CHAIRPERSON HOOD: So it would be
21 basically the typical special exception criteria
22 for the most part?

23 MR. LAWSON: It could be, or we could
24 certainly come up with individualized specialized
25 criteria if the Commission wishes us to.

1 CHAIRPERSON HOOD: So, Mr. Turnbull?

2 MR. TURNBULL: Yeah, and I think you're
3 right. I think we get into a lot of those things
4 with either a night club or a bar. Whether it's
5 not only noise, it's light, it's a big screen TV.
6 So it's all those kinds of issues that would have
7 to be specified or called out for review.

8 But again, it's all part of the
9 neighborhood impact.

10 CHAIRPERSON HOOD: Okay. So do we want
11 to accept the OP recommendation?

12 MR. MILLER: Mr. Chairman, I support the
13 OP recommendation. I think the special exception
14 process as a proposal, we'll get comment back and
15 --

16 CHAIRPERSON HOOD: I see.

17 MR. MILLER: -- and I, because I don't
18 support it being a special exception process in
19 the high density zones for these types of uses
20 which are permitted as a matter of right in the
21 underlying building. So I'd like to be on record
22 supporting it here in these lower density
23 commercial zones that are adjacent to residential
24 neighborhoods.

25 CHAIRPERSON HOOD: Okay. All right. Mr.

1 Lawson, I think we're ready to move.

2 MR. LAWSON: Great. Thank you, Mr.
3 Chair. Now we're getting kind of in to the
4 moderate to medium density zones. Again, a broad
5 range of different kinds of zones, including
6 residential mixed use and industrial in some of
7 the specialized zones. Penthouse height, stories,
8 and uses once again.

9 Here once again we suggested that you
10 retain the 18 foot six inch height limit. Once
11 again we suggested limiting habitable space to 10
12 feet clear height, measured from the roof. And
13 that's our recommendation.

14 CHAIRPERSON HOOD: Okay. Any comments?
15 Vice Chair Cohen?

16 MS. COHEN: I have a question. We're at
17 70 feet or more, correct? I just want to make
18 sure I'm on the same page.

19 MR. LAWSON: No, we're at 65 feet.

20 MS. COHEN: Oh.

21 MR. LAWSON: The one before.

22 MS. COHEN: No, I have a question on 70.

23 CHAIRPERSON HOOD: Any comments on that?

24 MR. MAY: It seems that 60, 65 foot,
25 these are all pretty much the same recommendations

1 at 40 to 50, isn't it?

2 MR. LAWSON: They're similar, yep. Now
3 you've already taken some slightly different
4 action from the OP recommendation so this is why
5 I'm kind of glad we did break these out so you
6 could now discuss whether it's appropriate here as
7 well.

8 MR. MAY: I think the only difference,
9 really, was the 15 foot limit on 50 foot
10 buildings. So I'm okay with these
11 recommendations; all three.

12 MR. MILLER: As proposed by OP?

13 MR. MAY: Yes.

14 MR. MILLER: Okay.

15 CHAIRPERSON HOOD: Are we all on the same
16 page? I'm fine.

17 Okay, Mr. Lawson, we can jump over.

18 MR. LAWSON: Yep. Moving on. And now
19 we're in to the high density zones or medium to
20 high density zones. That's building height of 70
21 feet or more. That's all the way up to 160 feet
22 in some of these zones. And once again, it's a
23 broad range.

24 Height, stories, and uses, we've proposed
25 here to allow the 20 foot height limit. We think

1 that allows some extra flexibility in terms of the
2 elevator penthouse, and of course is not
3 inconsistent with the Height Act to allow the
4 habitable space within the penthouse, of course.
5 And here we are under stories, once again
6 recommending that the habitable stories be limited
7 to one.

8 But there was some discussion about
9 whether or not a mezzanine should be permitted
10 within that 20 feet. Office of Planning is not
11 opposed to allowing that 20 feet, that mezzanine
12 within that space, and of course allowing for a
13 second story for mechanical equipment. And maybe
14 I'll leave it at that and I can discuss uses; OP's
15 recommendation for uses in a second if you'd like.

16 Oh, and sorry. I should note, there were
17 a couple of recommendations from NCPC staff. I
18 should note those for penthouse height for very
19 specific areas. Number one, they recommended the
20 penthouse not be permitted within the Pennsylvania
21 Avenue plan area -- Development Corporation area.
22 Brain freeze there. Sorry.

23 We disagreed with that recommendation.
24 There were already some significant restrictions
25 within this area. The building is required to be

1 setback 50 feet from Pennsylvania Avenue. It's
2 then required to step back above 135 feet, and
3 then the penthouse is required to be setback even
4 further from that. We didn't see a reason to
5 prohibit a penthouse all together within that
6 area.

7 The second recommendation was to not
8 permit a penthouse along the south side of
9 Independence Avenue. We had the same concerns
10 about that, however we did feel it may be
11 appropriate to require the larger setback
12 requirement from Independence Avenue the same as
13 required within the PADC area, which is a two to
14 one setback as opposed to a one to one setback.

15 So that's part of our recommendation.

16 MR. MAY: So just to clarify, I mean, I
17 thought NCPC was thinking that the PADC area,
18 there is not an allowance for penthouses. Is that
19 incorrect?

20 MR. LAWSON: That certainly wasn't my
21 reading of the PADC when I read through the plan,
22 and when I had certainly read through the zoning.
23 There seemed to be no restriction on providing a
24 penthouse whether or not it's always done, I don't
25 know. But I could find no reference to anything

1 prohibiting a penthouse.

2 MR. MAY: All right. We'll I assume that
3 we'll hear from NCPC if they think that we're
4 interpreting things --

5 MR. LAWSON: I suspect so.

6 MR. MAY: Incorrectly.

7 MS. COHEN: Mr. Lawson, I understand
8 though, the Secret Service has no problem with
9 your proposal.

10 MR. LAWSON: We will be getting to some
11 concerns they had on some other issues, but they
12 did not raise any concerns related to Pennsylvania
13 Avenue or Independence Avenue.

14 MS. COHEN: Okay. Thank you.

15 MR. TURNBULL: So how will you cover the
16 Independence Avenue?

17 MR. LAWSON: Our recommendation is to
18 allow a penthouse, but require that it be setback
19 at a rate of -- you'll see this when we get to the
20 setback section. But we recommended that the
21 setback of two to one --

22 MR. TURNBULL: Okay. So it will be
23 called out specifically back there.

24 MR. LAWSON: Yes. Yes.

25 MR. TURNBULL: Okay.

1 CHAIRPERSON HOOD: Okay. Any other
2 comments. Can we move on? Okay, Mr. Lawson.

3 MR. LAWSON: We didn't discuss habitable
4 space within the penthouse for the high density
5 zones. In this case Office of Planning is
6 recommending that habitable space be permitted.
7 This is where Commissioner Miller, I'm sure, will
8 have some comments.

9 We recommended that the same uses that
10 are limited in the lower density zones also be
11 permitted only by special exception within these
12 zones. We acknowledge that within these zones
13 there are an increasing number of residential
14 buildings which are of the same height as the
15 nonresidential buildings, so you could have a
16 residential building right next to the bar or the
17 night club on top of a hotel or something like
18 that, and we felt that it was appropriate for that
19 to go through a special exception process as in
20 the lower density zones. But I certain understand
21 Commissioner Miller's comments as well.

22 And lastly, this is where we get to the
23 Secret Service comments. They requested that no
24 form of habitable space be permitted within a
25 penthouse. It's basically an area of about two to

1 three blocks around the White House. This is a
2 little bit different from what their original
3 proposal was.

4 We did meet with the Secret Service with
5 NCPC and they strengthened their original
6 position. You may remember their submission to
7 you is to not allow residential habitable space.
8 But they since expanded that. We kind of
9 regretted that expansion, but at the same time we
10 totally understand the constraints they're working
11 under and so we would recommend that that
12 restriction be put in place.

13 There was some thought that maybe that
14 restriction on habitable space within that area,
15 though, should only count if the space is above
16 the Height Act limit. There are already a number
17 of buildings at the Height Act which would provide
18 the, I guess the buffer, between the White House
19 and those buildings. So perhaps that space could
20 apply only to -- that restriction on use could
21 apply only above the Height Act or perhaps there
22 would even be a way that we could provide language
23 that prohibition would only come into play if
24 there wasn't a taller building in between the
25 building and the White House. We're getting down

1 to some pretty nuanced language here, but some of
2 these concerns have been raised. So I bring them
3 to your attention as well.

4 CHAIRPERSON HOOD: Okay.

5 MR. MAY: So did we skip over number two
6 entirely? Or were you just trying to wrap all
7 that discussion together?

8 CHAIRPERSON HOOD: I thought you were
9 wrapping up.

10 MR. LAWSON: I'm sorry. I thought we had
11 discussed that, along with penthouse height. I
12 apologize if that discussion hadn't happened.

13 MR. MAY: Well, maybe we did and I missed
14 it. I would like to go back to number two.

15 MR. TURNBULL: Right.

16 MR. MAY: Because I don't like the idea
17 of the mezzanine for habitable space, and
18 buildings of 70 to 80 feet because I think that
19 drives a really strong incentive to create
20 essentially rooftop apartments. Not that I'm
21 against having apartments, I just think that for
22 buildings that are only 70 feet tall, driving
23 those penthouse up higher to create, you know, the
24 luxury penthouse apartments I don't think is
25 really what we want to promote.

1 I'm all for having rooftop recreation
2 space and I'm okay with having housing units
3 there, but --

4 (Thereupon, due to equipment malfunction
5 approximately 9 seconds of audio could not be
6 transcribed.)

7 MR. MAY: -- in buildings of these
8 heights.

9 MR. TURNBULL: Buildings of the 70 to 80.

10 MR. MAY: Seventy to 80.

11 MR. TURNBULL: Not the -- because --

12 MS. COHEN: But it's within the
13 enclosure.

14 MR. MAY: I understand that.

15 MS. COHEN: So --

16 MR. MAY: But if we didn't have that
17 ability to have a mezzanine you probably wouldn't
18 see as tall penthouses. They wouldn't necessarily
19 go all the way up to 20 feet. They'd go to 10 or
20 12 feet. Something like that. Because everybody
21 tries to keep down the height of them to what they
22 have to be.

23 MS. COHEN: Uh-huh.

24 MR. MAY: And it's only when you have
25 that extra incentive of the mezzanine that it

1 becomes --

2 MS. COHEN: But does that enable more
3 creative architecture on that?

4 MR. MAY: I'm not a big fan of creative
5 rooftop architecture. I think I probably have
6 said that before. I like really bland
7 disappearing architecture. You know, now bland
8 disappearing architecture with some windows.

9 CHAIRPERSON HOOD: Okay.

10 MR. TURNBULL: So are we looking to
11 modify this only for buildings over 80 feet or 85
12 feet tall?

13 MR. MAY: Well, it's -- and we're really
14 talking about --

15 MR. TURNBULL: Ninety feet?

16 MR. MAY: -- recommendations for
17 buildings of 70 to 80 feet. So in this category
18 do we allow mezzanines or not? And I would say
19 not.

20 MS. COHEN: I would like to have further
21 discussion from the public on that.

22 MR. MAY: Well, I'm sure we will.

23 CHAIRPERSON HOOD: I think you're going
24 to get it. That's what I think Commissioner May
25 is saying.

1 MR. MAY: Yeah.

2 CHAIRPERSON HOOD: What we're going to
3 advertise will not allow the mezzanine habitable
4 space, and we'll get those comments back.

5 MR. MAY: Yeah, either way we decide it
6 we'll get comments back.

7 CHAIRPERSON HOOD: You'll get it back
8 either way, so.

9 MR. TURNBULL: So we're saying no
10 mezzanine for 70 to 80, but a mezzanine for 90
11 feet or more?

12 MR. MAY: I'm not saying anything about
13 90 feet or more right now. All I'm saying is that
14 for 70 or 80 --

15 MR. TURNBULL: Okay.

16 MR. MAY: -- that no mezzanines in the
17 habitable space. That's the only thing I'm
18 suggesting as a change to the OP recommendation.

19 MR. TURNBULL: Can I ask a question about
20 that change, that suggested change to OP? I'm
21 just trying to -- I guess I don't understand
22 mezzanines enough.

23 So how much less housing -- how does that
24 affect the amount of housing? Or does it affect
25 the amount of housing that can go up there and

1 thereby affect the amount of affordable housing
2 that might get triggered under other proposals?

3 MR. LAWSON: A mezzanine is typically not
4 considered a story when it's one third the area of
5 the floor plate below. So if your unit is 600
6 square feet, the mezzanine could be 200 square
7 feet. And then it would become an 800 square foot
8 unit. So that 200 square foot of mezzanine space
9 would count towards affordable housing. Your
10 affordable housing requirement. It's not exempt
11 space. It's just not considered a story under the
12 current regulations.

13 And I just wanted to make something
14 really clear. The section we're dealing with now
15 actually deals with all buildings greater than 70
16 feet. The chart broke out buildings of 70 to 80
17 feet from buildings that are 90 feet or more. We
18 didn't have any separate recommendations between
19 those two. We broke out those zone groupings just
20 in case you did and you wanted to know which zones
21 were those different heights. We could certain
22 institute a permission for mezzanines above 90
23 feet and not permission below 90 feet if that's
24 where you decide to go. I just want to make sure
25 that you're clear that you're dealing with all of

1 those zones right now.

2 MR. MAY: Yeah, that's fine. I mean, my
3 recommendation is really only about 70 to 80.

4 MR. TURNBULL: I'm okay with that.

5 CHAIRPERSON HOOD: Only 70 and 80, so --

6 MR. MAY: No mezzanines in building
7 heights 70, 80 feet.

8 CHAIRPERSON HOOD: So, Mr. Lawson, you're
9 saying you can break it out?

10 MR. LAWSON: Easily, yes.

11 MR. MILLER: And I encourage comments
12 from those stakeholders who are concerned about
13 the effect of that change on reducing housing and
14 thereby producing the trigger for affordable
15 housing. So I have some concerns about it but I'm
16 fine with letting it go forward as a proposal for
17 comment.

18 MS. COHEN: I concur with you,
19 Commissioner Miller. I have some concerns as well
20 and, yeah, let's see what we get back.

21 MR. MILLER: We just had these -- and I'm
22 going to make this point when we get to our next
23 topic, but these are our highest density zones.

24 CHAIRPERSON HOOD: Okay. Which number
25 are we on now?

1 MR. LAWSON: I don't think the -- or
2 sorry, that the Commission resolved penthouse uses
3 in high density zones, whether it's 70 and 80 feet
4 or 90 feet and above.

5 CHAIRPERSON HOOD: Okay. You don't have
6 to repeat all that you gave us because
7 Commissioner May might not have been paying
8 attention. I don't even know where we left off.
9 I know you gave us --

10 MR. LAWSON: Essentially the Office of
11 Planning is recommending allowing habitable space
12 within those zones, except for those uses are
13 going to be spelled out by special exception. The
14 kind of kicker here, the unusual circumstance is
15 the Secret Service restriction that is kind of on
16 top of what the Office of Planning has recommended
17 for that area around the White House.

18 CHAIRPERSON HOOD: Okay, Commissioners.
19 We have in front of us the recommendation of the
20 Office of Planning with the caveat of discussions
21 the Office of Planning has been having with Secret
22 Service through NCPC and all that, that Mr. Lawson
23 has already explained. Any comment on this
24 recommendation?

25 MR. MAY: I'm okay with this

1 recommendation.

2 CHAIRPERSON HOOD: Okay.

3 MR. MILLER: Mr. Chairman, I am not okay
4 with this recommendation. These are our highest
5 density commercial zones which this Height Act
6 change was, if anything was most directed at
7 changing to activate these rooftops. I think that
8 whatever these zones allow as a matter of right
9 should be allowed on the rooftop. And I think
10 that many of these projects -- all of these
11 projects for those types of uses that you're
12 concerned about will involve other licensing
13 regulations that go to the noise and other issues.
14 And many of them will have PUDs that will come
15 before us, and I think they will take care of the
16 adverse impact that would require a special
17 exception process for a use that's permitted as a
18 matter of right in these highest density zones
19 when the whole purpose of this Height Act was to
20 activate the rooftop with what's allowed in the
21 zones. It just, to add another six months to the
22 process, require them to go through a special
23 exception process, seems to me, unnecessary and
24 counterproductive.

25 CHAIRPERSON HOOD: Okay. Any other

1 comments?

2 MS. COHEN: I think that was well stated.
3 Commissioner Miller and I concur with your
4 analysis.

5 MR. TURNBULL: I would just think that
6 OP's statement that a lot of these buildings are
7 next to residential neighborhoods of the same
8 height and I think it deserves extra
9 consideration. So I would agree with the OP
10 recommendation.

11 CHAIRPERSON HOOD: Okay. Commissioner
12 May?

13 MR. MAY: Yeah, I mean I agree with
14 Commissioner Turnbull. And I disagree with
15 Commissioner Miller about what the purpose of the
16 Height Act change was. I mean, I think there were
17 a lot of purposes that were in play at that point.
18 I wouldn't say that this is the sole one.

19 And I do think it is a consideration. I
20 think we've actually seen that in cases that we've
21 taken up here where people were very concerned
22 about PUDs that involved rooftop uses and the
23 noises that might be generated. And they were in
24 neighborhoods where people were nearby and in
25 relatively tall apartment buildings.

1 So I think having the community input is
2 good. And again, it's one of those things where
3 we'll hear from the community, we'll hear from
4 business interests as well, and I'm sure if this
5 is a highly problematic provision that we'll hear
6 from that sector of the community. And honestly
7 I'll be surprised if we get a whole lot on it. I
8 think this is a reasonable recommendation.

9 And remember, a special exception, I
10 mean, means that it's an appropriate use. It's a
11 matter of whether the impacts associated with that
12 particular use can be mitigated, and that's what
13 the community input is for.

14 CHAIRPERSON HOOD: Okay. Commissioner
15 May, I want you to put this in your archive. I
16 think that was very well stated.

17 I'm going to go along with Commissioner
18 Turnbull and Commissioner May on this in how we
19 move forward with the Office of Planning's
20 recommendation. Okay? And again, we will hear
21 back from them, from the public, on that
22 particular one. Okay?

23 MR. LAWSON: And if I may ask, just for
24 clarity so we know when we're drafting this up,
25 did the Commission had any comments on the Secret

1 Service provision?

2 MR. MILLER: I did have a question. Does
3 that mean that existing penthouses under the
4 existing regulations are going to become
5 nonconforming, a certain percentage or a certain -
6 - or it has no effect on --

7 MR. LAWSON: Yeah. For the most part
8 they wouldn't be habitable space. But to the
9 extent that there may be some habitable space that
10 was somehow approved upon the penthouse then that
11 would be an existing nonconforming use.

12 Now a lot of the land within this area is
13 federal. A lot of it's within a historic district
14 which often limits the ability to do an awful lot
15 on the roof. So it's a fairly small number of
16 buildings. But as I said, we did hear that one
17 concern about maybe nuancing this language a
18 little bit to not absolutely prohibit it where
19 that penthouse space would clearly have no impact
20 on the Secret Service ability to do their jobs.

21 CHAIRPERSON HOOD: I'm not really sure.
22 Again, it goes back to your last statement, the
23 Secret Service doing their job. I'm not really
24 sure because of the nature of what they're asking
25 us, I would go along with, I guess making an

1 accommodation for that because of the nature of
2 their business and their work. So I'm not really
3 sure what's being asked. You asked us about the
4 comments. I think we need to adhere to the
5 comments and adhere to them. I'm not really sure
6 what else you're asking for, Mr. Lawson. Maybe I
7 misunderstood.

8 MR. LAWSON: Well, and that's because
9 it's a pretty tough one to kind of sort out
10 myself. It really is, as I said, just to provide
11 -- to see if we can provide a little bit of
12 flexibility. I think we can imagine what the
13 concerns of the Secret Service are. Where those
14 concerns aren't a concern to not prohibit the
15 penthouse use.

16 Now, I don't know how that's done to be
17 honest. It may be that we can carve out specific
18 properties to allow a penthouse use. It may be to
19 allow a penthouse use by special exception which
20 would include referral to NCPC/Secret Service.
21 I'm not quite sure how that would work. Quite
22 frankly I'm not particularly excited about opening
23 up negotiations with the Secret Service again. I
24 think the conversations were really good. Trust
25 me, it was an interesting discussion and I very

1 much respect the work that they're doing and I
2 don't really want to second guess them very much.
3 But at the same time I think some of the concerns
4 about it I've heard are legitimate. I'm just not
5 quite sure whether the Commission kind of wants me
6 to go the direction of trying to come up with
7 something else, or if you're just comfortable with
8 it the way it is.

9 CHAIRPERSON HOOD: I personally, the
10 nature of the business, I'm fine with their
11 recommendations. That's where I am. I don't
12 think for me there's any other way.

13 MR. MAY: I agree with that

14 MS. COHEN: I agree.

15 CHAIRPERSON HOOD: Oh, the three of us --

16 MR. TURNBULL: Ditto. I would support --

17 CHAIRPERSON HOOD: We finally found one
18 that you agree with?

19 MR. TURNBULL: No, no.

20 CHAIRPERSON HOOD: Oh.

21 MR. TURNBULL: I was in favor of more
22 discussion. And I think that there may be nuances
23 that where -- you know, security in this town is
24 used overly broadly and there may be nuances and
25 ways -- and there have been many arrangements that

1 have been worked out with the adjacent buildings
2 currently. So I would support nuances. But -- in
3 terms for the discussion but if the direction of
4 the Commission is that they not pursue it and OP
5 doesn't particularly want to do it anyway because
6 they think they got to a good place, that's fine
7 with me.

8 MR. LAWSON: You know, just to be -- I'm
9 totally comfortable doing it if you wish, and I'm
10 sure NCPC would be very helpful in kind of getting
11 those discussions going. But I just want to make
12 sure that it's something that you would want staff
13 to further investigate.

14 CHAIRPERSON HOOD: Okay. Again, I'd
15 rather leave it up to the subject matter experts
16 from my standpoint.

17 MR. LAWSON: And you certainly may get
18 some comments from the public on this issue then.

19 MR. MAY: Yeah. And I'd be interested in
20 hearing if the public has something to say about
21 this. But I think for right now I'm comfortable
22 going ahead with this, potentially revisiting it
23 later on. I think that it's the sort of thing
24 that might take a little while to figure out
25 properly and I wouldn't object to there being some

1 follow on at some later date based on further
2 discussions.

3 But I think the basic meat of the
4 penthouse regulations I would want to try to move
5 forward and simply respect the concerns of the
6 Secret Service.

7 MR. MILLER: I would think the downtown
8 bid might have something to say. But most of
9 these properties are already built out. So
10 anyway.

11 CHAIRPERSON HOOD: Okay. So we will move
12 in that fashion. Mr. Lawson.

13 MR. LAWSON: Thank you very much.

14 CHAIRPERSON HOOD: Next.

15 MR. LAWSON: That was great direction.
16 Thank you. We're now kind of moving --

17 CHAIRPERSON HOOD: Are you sure that was
18 great direction?

19 MR. LAWSON: It's all great direction.
20 Thank you.

21 So we're now kind of moving beyond the
22 kind of zone based sections. Section 6 is dealing
23 with penthouse setbacks. There's a lot of
24 language here so I'm not going to read through the
25 whole thing. It basically boils down to retaining

1 the current setback requirements and the current
2 interpretations by the zoning administrator, using
3 text which you took forward already as part of
4 ZRR, except once again clarifying that setback is
5 always measured from the edge of the roof upon
6 which the penthouse actually sits.

7 Or it could be as I said, requiring
8 additional setbacks beyond what you took as part
9 of ZRR. And once again, I think I noted earlier,
10 the two to one setback requirement that exists in
11 the PADC area and that we're recommending also for
12 the Independence Avenue.

13 So essentially what we're proposing or
14 what we're recommending is that you use the
15 setback provisions that you adopted -- took
16 proposed action on, I'm sorry, as part of ZRR,
17 except for that one clarification for how it's
18 measured. But keeping those two to one setbacks
19 in the PADC and applying it also to Independence
20 Avenue.

21 CHAIRPERSON HOOD: Okay. Colleagues, any
22 comments on this? Commissioner May?

23 MR. MAY: Yeah, we went through it all at
24 ZRR and I'm comfortable with this.

25 CHAIRPERSON HOOD: Okay. Mr. Lawson.

1 MR. LAWSON: Next is penthouse area. We
2 alluded to this one a little bit earlier.
3 Currently there is a provision that the roof
4 structure can't exceed one third of the roof area
5 on those zones that have a limit on the number of
6 stories. And those zones are listed in the title.
7 We're in section 7 now, by the way, on page 12.
8 So that's certainly one of your options, just
9 keeping it exactly the way it is.

10 You could retain the one third limit on
11 some of those zones instead of on all of those
12 zones. You could remove it all together. Oh, and
13 as part of ZRR, I forgot to mention this earlier,
14 you also took proposed action to include a one
15 third limit for the penthouse on those buildings
16 fronting Independence Avenue. So in addition to
17 the setback there is the one third limit.

18 So essentially Office of Planning's
19 recommendation is to retain the one third of roof
20 area limitation for the penthouse for all of the
21 zones where it currently exists, with the
22 exception of C-3-B, which is a medium kind of
23 density zones where all the other ones are much
24 lower density zones, clarify that that one third
25 applies to the roof; applies to the roof that the

1 penthouse structure actually sits on, not all
2 roofs associated with the building, and include
3 that area restriction for buildings that front on
4 to Pennsylvania Avenue. Thank you.

5 CHAIRPERSON HOOD: Okay. Commissioners,
6 any objections to the recommendation? Or
7 additions, comments?

8 Okay, Mr. Lawson.

9 MR. LAWSON: Next up is exemption from
10 FAR. This was a big issue, received a lot of
11 comments and certainly one that we thought about a
12 lot and you certainly discussed a lot as well.
13 Currently there is an exemption from FAR for a
14 penthouse and that is currently .37 FAR. Now of
15 course under the current regulations very little
16 of that, or in most cases, none of that can be for
17 habitable space, and that's the difference.

18 But that's certainly one of your options,
19 to simply exempt all penthouse space from FAR.
20 Other options would include establishing some kind
21 of a limit on what that exemption might be, or
22 removing that FAR exemption all together. In
23 other words, applying -- including the penthouse
24 space, all of it, or most of it within FAR.

25 The Office of Planning came down with

1 this recommendation to continue to exempt
2 mechanical space from FAR if it's located in the
3 penthouse. But also excluding enclosed communal
4 rooftop recreation space. We think that may help
5 to encourage that type of use up on the roof,
6 include other forms of habitable space on the roof
7 within FAR, but provide a .4 FAR maximum exemption
8 for the habitable space.

9 If you want I can explain where we came
10 up with that a little bit. We were trying to kind
11 of thread the needle a little bit. As
12 Commissioner May pointed out earlier, the whole
13 issue of allowing expanded use of the penthouse
14 has many different purposes, and we were trying to
15 balance some of those. You could certainly
16 include all of the penthouse space in FAR and that
17 may help to address some design related issues
18 because you kind of get more -- as explained in
19 our report, you get a little bit more space of
20 height where you can put the same amount of FAR
21 and that allows for a little bit more flexibility
22 if you take that route.

23 However, we think that there is very
24 little to no incentive for people to do that space
25 if you also include the affordable housing

1 provisions that you're going to be talking about
2 later. It's basically a double hit, and we think
3 that very little of it will happen. In which
4 case, as you'll see later if you take that
5 approach, then we would recommend that you
6 basically eliminate most of the habitable -- or
7 sorry, most of the affordable housing provisions,
8 other than standard IZ for residential buildings.

9 So design is one. Habitable space -- or
10 sorry, affordable housing is another issue that
11 we're tackling with her. It wasn't part of the
12 height act discussion, but it definitely became
13 part of the discussion in front of the Zoning
14 Commission. And so trying to kind of balance some
15 of those issues, which is why we came down where
16 we did.

17 MR. MAY: So the point for FAR, I mean,
18 how much of a typical penthouse would that
19 actually exempt?

20 MR. LAWSON: Are you talking about under
21 the proposed regulations where habitable space
22 would be permitted?

23 MR. MAY: Yes.

24 MR. LAWSON: It would likely, in most
25 cases, exempt most of the penthouse. I think

1 especially once you take out mechanical space, it
2 will not be common. This is what our research
3 indicated, anyways, that a building will be kind
4 of large enough and square enough that a penthouse
5 exceeding .4 FAR would be possible. So it would
6 really probably just affect a limited number of
7 fairly large buildings.

8 A typical building -- our research
9 indicated, on a typical building the penthouse
10 space, especially once you took out the mechanical
11 area, would be less than .4 FAR. Does that make
12 sense?

13 MR. MAY: Yeah. I mean, I was trying to
14 do the math in my head and I mean it seemed to me
15 that effectively it makes up for very few cases
16 we're exempting everything from FAR, in effect,
17 right?

18 MR. LAWSON: In many cases that would be
19 the case, yes.

20 MR. MAY: Many? Most?

21 MR. LAWSON: Probably most.

22 MR. MAY: Probably most.

23 MR. LAWSON: Now, to some extent --
24 again, I keep talking about how these are all
25 interrelated.

1 MR. MAY: Yeah.

2 MR. LAWSON: To some extent it may relate
3 a little bit to how you deal with a future issue,
4 which is penthouse design. And that's whether you
5 allow penthouses of different height.

6 Right now, if you decide not to allow
7 penthouses of different height, then they'll
8 typically have a much larger setback. And of
9 course the bigger the setback, the smaller the
10 area. So the penthouse -- habitable space would
11 have to match the penthouse elevator height.
12 Let's assume it's 15 feet, so the setback is 15
13 feet.

14 If you allowed more flexibility in terms
15 of more than one penthouse height, then it would
16 be possible for the penthouse habitable space, for
17 example, to be only 10 feet tall. And then your
18 setback would only be 10 feet so the area of the
19 penthouse would be correspondingly larger.

20 When OP did its research, most of our
21 research was based on a 20 foot penthouse. And we
22 found few examples where the penthouse would
23 exceed .4 FAR. If you were to shrink that down to
24 a 10 foot, or even a 15 foot setback, the
25 penthouse becomes correspondingly larger and there

1 would be more examples where the .4 FAR would
2 become a limit.

3 MR. MAY: Okay. So that seems to be the
4 real purpose of having that .4 FAR limit, is that
5 it's going to force -- well, it means that some of
6 that penthouse space won't simply be free FAR and
7 they'll have to balance that out against, well,
8 you know, higher ceilings or more outdoor rec
9 space or whatever.

10 MR. LAWSON: Correct.

11 MR. MAY: Yeah, okay. All right, so now
12 I understand its purpose.

13 MR. LAWSON: But it is a good point and I
14 think it's important to remember, this is not a
15 limitation of .4 FAR if the Zoning Commission
16 takes this route.

17 MR. MAY: I understand.

18 MR. LAWSON: Yeah, it's an exemption.
19 You could do more up there but it would start to
20 count towards your building FAR beyond that limit.

21 MR. MAY: Right. Which is a strong
22 disincentive, right.

23 MR. LAWSON: Yes, like I said, it may
24 also encourage people to put recreation space up
25 there if the Commission decides to exempt

1 recreation space from the FAR limit.

2 MR. MAY: Right. So if you have
3 recreation space and other habitable space does
4 the recreation space count towards the .4?

5 MR. LAWSON: Well, that would be up to
6 you to decide, but our recommendation is that it
7 would not.

8 MR. MAY: Okay.

9 MR. LAWSON: It would be the habitable
10 space that would count towards -- the kind of
11 privatized habitable space as opposed to the
12 communal habitable space.

13 MR. MAY: Right. So I mean, I guess I'm
14 okay with proceeding with this recommendation but
15 I think I'd like to see some diagrams that
16 illustrate how this might work out, to know if
17 it's the right numbers. I mean, you know, we want
18 to do thing -- we want to make use of this
19 additional space to incentivize, you know,
20 appropriate use of the rooftop and as a result
21 more affordable housing. Although, you know,
22 those are good things but we also want to make
23 sure that we're, you know, incentivizing all the
24 right things or, you know, trying to strike the
25 balance between the incentives and the

1 disincentives.

2 MR. LAWSON: And we could certainly work
3 on preparing those. As you go through this you're
4 really narrowing down the -- the problem up until
5 now has been there's been so many options and so
6 many alternatives it was pretty much impossible to
7 draw them all out. I think now as you're
8 narrowing it down we should be able to provide
9 some more definitive examples of how this might
10 actually look.

11 MS. COHEN: So, Mr. Lawson, can we --
12 your sketches will show height. They'll also show
13 us the roof and the consequences with affordable
14 housing. Is that possible to do? If you do this,
15 you'll get this.

16 MR. LAWSON: I think that we could
17 certainly look at -- the sketches could include
18 some description indicating what the approximate
19 affordable contribution, whether it's numbers of
20 units or whether it's contribution to a trust
21 fund, what that might be. Yes.

22 MS. COHEN: Great. Thanks.

23 MR. MILLER: I think OP has threaded a
24 very difficult needle.

25 CHAIRPERSON HOOD: Okay. Mr. Lawson,

1 when you get ready. We're not rushing you because
2 it's --

3 MR. LAWSON: So, next one?

4 CHAIRPERSON HOOD: -- raining so hard we
5 won't be able to go anywhere anyway.

6 MR. LAWSON: Okay. Well, we had talked
7 about this one a little bit. I'll try to speed
8 up. I'm sorry. Penthouse --

9 CHAIRPERSON HOOD: Just fine. Just fine.

10 MR. LAWSON: Penthouse, I really want to
11 make sure that we get this one down pat so that
12 when Mr. Bergstein and I draft up the language we
13 know what we're drafting up.

14 For penthouse design there are three
15 issues that we noted, walls of equal height, walls
16 required to be vertical, and number of permitted
17 penthouse structures. None of these relate to the
18 Height Act changes that were adopted last year but
19 there were things that the Commission raised that
20 you wanted to address as part of this initiative.

21 Walls of equal height has in some
22 respects been a much more difficult one than we
23 thought it might be. It has taken on all kinds of
24 options. You can -- you know, you see the options
25 there. You could maintain the current provision

1 which is to require that the entire penthouse be
2 one height. We had some concerns raised about
3 that from the Historic Preservation Office who
4 were seeing some inappropriate penthouses, they
5 felt inappropriately large penthouses because of
6 that. So you'll see some other options there.

7 Where the Office of Planning eventually
8 came down was to have a recommendation to permit
9 up to three heights. Wouldn't have to be three
10 separate heights, but up to three heights. One
11 penthouse height for mechanical equipment and that
12 would capture the elevator override. One would be
13 for habitable space. And one would be for
14 screening for uncovered mechanical equipment.

15 That's where we're at with that one.

16 CHAIRPERSON HOOD: Didn't we discuss this
17 once before? Didn't we discuss that equal heights
18 and -- we didn't make a decision? I thought we
19 did.

20 MR. MAY: I think we punted to this case.

21 CHAIRPERSON HOOD: Oh, so here it is
22 again. Okay. I thought we talked about it.
23 Okay, let's open it up.

24 MR. MILLER: I would support the OP
25 recommendation. I think we have a lot in the

1 record, I think from the architectural community
2 in particular, asking for this flexibility, both
3 on the walls of equal height and the number of
4 permitted penthouse structures. And we see this
5 in almost every PUD case where we're giving this
6 relief because the existing requirement creates a
7 larger size or a greater visibility from the
8 street than if you allowed the flexibility, which
9 is why we've granted the flexibility in those
10 cases. So there's a reduced visibility and not as
11 large a structure.

12 So I'm supportive of this direction.

13 CHAIRPERSON HOOD: Okay. Anyone else?

14 MR. TURNBULL: This is sort of the worst
15 case scenario. We don't see this with all
16 applicants. A lot of applicants are very
17 conscientious with their mechanicals and you have
18 just one penthouse and everything is included.
19 And our split level penthouse would take care of
20 some of those other habitable spaces in there.
21 This is where we have these mechanical farms that
22 come up. I don't want to call it a lesser grade
23 mechanical system but you've got these variations
24 that show up periodically on some of our planned
25 unit developments.

1 So I'm okay with this. It's one of those
2 things that just happens. You know, I think a lot
3 of times we see applicants struggling on how to do
4 this. So I am okay with this.

5 MR. MAY: I'm okay with it too. I think
6 actually we'll wind up seeing less of this, that
7 the incentives that we have to create robust
8 penthouses is going to mean that we'll see more of
9 the at 20 feet with all of the -- you know, making
10 use of habitable space, et cetera. But you know,
11 I've always had an issue with having too many
12 heights on penthouses. I could see two heights
13 pretty easily, one for the elevator, one for
14 everything else. But you know, I guess I'll go
15 along with this.

16 Can we include a provision that if they
17 put in cellular antennas that they're behind a
18 screening so that we don't see all these things
19 being decorated with those beautiful cellular
20 antennas everywhere?

21 MR. LAWSON: I would love that too, and
22 we can certainly look into whether or not that can
23 be done.

24 MR. MAY: All right. That's just another
25 one of my pet peeves. Those rooftop antennas need

1 to get -- painting them the same color as the
2 penthouse is just not enough. Thanks.

3 CHAIRPERSON HOOD: Anything else on this?

4 MS. COHEN: No.

5 CHAIRPERSON HOOD: Okay.

6 MR. LAWSON: The second one is requiring
7 walls to be vertical. Once again, I didn't expect
8 this to be an issue but it ended up being a pretty
9 big one. Right now the regulations require that
10 penthouse walls all be vertical. Straight up and
11 down. Although the zoning administrator has
12 indicated that he has been comfortable with
13 granting some flexibility of what's considered
14 vertical because vertical is not defined in the
15 regulations.

16 So we proposed that that clarification be
17 provided to maintain the requirement that it be
18 vertical, but provide some clarification of what's
19 considered vertical. We didn't get a lot of
20 comments on this one, but that basically remains
21 our recommendation.

22 CHAIRPERSON HOOD: Okay.

23 MR. MILLER: I guess I have a question,
24 is what is the problem with allowing up to 45
25 degree slope?

1 MR. LAWSON: If that's what the
2 Commission wishes to do, we're comfortable with
3 that. It certain expands the area of, the
4 potential area, of the penthouse over what it
5 could be. The penthouse can then extend basically
6 right out to the edge of the roof, although it
7 would be a sloped wall instead of a vertical
8 straight wall.

9 You know, other than that, to be honest
10 the Office of Planning in this case probably
11 doesn't have quite frankly a really strong opinion
12 one way or another, so we're happy to take
13 direction from the Commission.

14 MR. MILLER: It would start at the edge
15 because the setback is measured from the top of
16 the --

17 MR. LAWSON: The setback is a one to one
18 requirement. So, which is a 45 degree slope. And
19 I'm not -- I'm not commenting on whether that's a
20 good thing or a bad thing, I'm just saying that
21 that would be permitted if it was a 45 degree
22 slope.

23 MR. MAY: So if I could comment on that.
24 You know, I think that in theory one might look at
25 this and say, well okay, this allows a softening

1 of the edges of penthouses or, you know, the
2 creation of slightly different rooftop treatments.
3 However, when you start to think about what those,
4 you know, what having a, you know, up to 20 foot
5 truncated pyramid on top of a roof, you know, adds
6 to the form of it, I don't think it's very much.
7 I mean, for me it conjures some of the more
8 unattractive brutalist buildings that we have in
9 Washington where there's a lot of those 45 degree
10 angles and things that, you know -- towers that
11 come up and turn at 45 degrees. I mean, it's not
12 like it's going to yield beautiful spires like you
13 have on top of skyscrapers in other cities.

14 So I just don't think it necessarily adds
15 a really good thing. What it does is it makes it
16 easier for architects who are not really working
17 very hard to sort of figure things out. To do
18 things like have their stairwells all the way at
19 the outside of the building because they know they
20 can go up and, you know, slope the roof of the
21 stairway, especially if it's, now we're going to
22 allow these separate stairways. So we're going to
23 wind up with a whole bunch of stairways that are
24 on the outside of the building that just go up and
25 go like that, because it's, you know, it's cheap

1 and easy. That's what it opens the door for, and
2 I just don't think it's very attractive.

3 MR. MILLER: But we could require an
4 additional setback for those kinds of -- that
5 might allow for more creative and attractive. No?

6 MR. LAWSON: I just don't, I don't see a
7 lot of -- I don't think you get a lot by giving
8 them 45 degrees. I think that I might agree if I
9 saw that there was some potential for vastly
10 improved roofscapes. But I just don't see the
11 potential for it. I really just, you know, given
12 that we're only talking about 20 feet of overall
13 height in that area, I don't think it adds very
14 much.

15 MR. TURNBULL: I don't know if many
16 applicants would want to do it. I mean, it's
17 going to -- it gets to be an awkward -- it's extra
18 floor area space that's got to be accounted for in
19 the footprint of the building. And I just think
20 when you start getting up to a 45, the space other
21 than a stairwell is going to be very awkward to
22 use. And I think from a measurement standpoint it
23 complicates things, I think, for everyone.

24 I think that 20 degree is a more
25 practical solution. I think it allows some

1 flexibility in what they're trying to do. But I
2 just think 45 is a -- it just seems like it will
3 be an awkward, awkward thing to have on the
4 building, trying to accommodate that and yet allow
5 -- because what are you going to do, just have one
6 little 45 bump out, or are you going to want to
7 carry that all the way around the penthouse?

8 If you do that, then you've got a floor
9 plate that's -- I mean, the applicant is not
10 gaining anything by doing that. I think it makes
11 more sense to have the 20 degree. I think it's a
12 more practical solution for what they're trying to
13 do. It allows some architectural flexibility
14 within that.

15 CHAIRPERSON HOOD: Okay.

16 MR. MILLER: Thank you. Thank you for
17 that discussion. I just wanted to hear what the
18 downside was and I appreciate.

19 MR. LAWSON: Okay. Thank you. And I
20 would just ask for one little bit of flexibility
21 here to continue to work with the zoning
22 administrator on exactly how that language should
23 be worded. I've had preliminary discussions.
24 We're not quite sure whether 20 percent from
25 vertical is the appropriate way, but maybe it

1 should be degrees. But it would be something
2 approximating at 20 percent from vertical. So --

3 CHAIRPERSON HOOD: Mr. Lawson, let me ask
4 you a question.

5 MR. LAWSON: Sure.

6 CHAIRPERSON HOOD: I thought when it was
7 not defined in the zoning regulations, what does
8 the ZA look to? Does it go to Webster's? I mean,
9 what does he look to?

10 MR. LAWSON: I would assume that he looks
11 to Webster's and he looks to common practice.

12 CHAIRPERSON HOOD: Okay. Yeah, that
13 actually concerns me when I heard the definition.
14 That really concerned me. I had actually missed
15 most of that discussion because I was more
16 concerned about that, about -- because it wasn't
17 defined in the regulations, that I'm hoping that
18 we're going to Webster's. But anyway, that's
19 probably a whole other amendment.

20 MR. LAWSON: I can certainly clarify that
21 with the zoning administrator, kind of separately
22 if you would like me to.

23 CHAIRPERSON HOOD: Yes. Thank you.

24 MR. LAWSON: Last but not least for
25 penthouse design is number of structures. We took

1 our direction from the Commission and recommended
2 that they remain -- that the requirement that it
3 be in one structure remain with the exception of
4 emergency egress stairwells, which could be
5 separate, would not have to be kind of falsely
6 attached to the main penthouse.

7 CHAIRPERSON HOOD: Comments on that?
8 Okay. We're ready to keep moving.

9 MR. LAWSON: We're getting there. Oh,
10 yeah. Affordable housing linkage. Minor issue.

11 So we broke this out into two, one for
12 nonresidential buildings and one for residential
13 buildings because they're two very different
14 processes and requirements. Of course right now
15 for nonresidential buildings there is no
16 affordable housing linkage. But for residential
17 buildings there is IZ right now.

18 So for nonresidential buildings our
19 recommendation pretty much remains the same. And
20 that's that the current provisions in both the
21 zoning and the Comprehensive Plan that additional
22 density, you know, use this one particular formula
23 that's spelled out in the zoning, so we're
24 continuing to recommend that that same formula be
25 used for habitable nonresidential buildings. And

1 I think you've already taken action on the FAR
2 limit so you can kind of ignore the second
3 sentence of our recommendation.

4 CHAIRPERSON HOOD: Okay. Any comments on
5 this? Okay. We can keep moving.

6 MR. LAWSON: Yep. For residential
7 buildings you could take -- you know, maintain the
8 current provision which is just simply to apply
9 IZ. However, we certainly discussed some changes
10 from IZ, number one, to apply the affordable
11 housing provision to all zones in all parts of the
12 city. Currently IZ does not apply in all zones
13 and parts of the city. But the recommendation is
14 that it would; that all affordable units be
15 provided at 50 percent AMI and that's pretty much
16 where we came down.

17 There was also a lot of discussion of how
18 to handle some very particular circumstances, and
19 that would be circumstances where small penthouses
20 being provided in an area where IZ is not
21 otherwise required, or if you're providing
22 penthouse space on an existing building. Or a
23 third one, actually, that's not spelled out here.
24 If you're providing a new building in an area
25 where the IZ requirement is 80 percent and you're

1 providing a small amount of penthouse space which
2 would be at 50 percent, and how is that
3 accommodated.

4 And an example would be let's say your IZ
5 requirement for the penthouse would be 100 square
6 feet. There's really no -- I don't think we're
7 encouraging 100 square foot units within the
8 building and if there's no other place to put it
9 we felt that it was appropriate to allow that to
10 be provided through a contribution to a Housing
11 Production Trust Fund, similar to the
12 nonresidential buildings. So there's kind of
13 those three instances where we feel it's
14 appropriate to allow that. It's essentially where
15 the IZ unit could not be reasonably accommodated
16 on site, allowing it to be accommodated through a
17 contribution.

18 CHAIRPERSON HOOD: Vice Chair.

19 MS. COHEN: Thank you. So basically if
20 we're going to allow any penthouse anywhere,
21 you're in agreement to expand the affordable
22 housing -- I mean, the IZ requirement?

23 MR. LAWSON: Oh, absolutely. And I think
24 --

25 MS. COHEN: Okay.

1 MR. LAWSON: -- we heard quite clearly
2 from the development community that they are
3 comfortable with this as well.

4 MS. COHEN: Okay. The only issue has to
5 do really with if we're providing recreation space
6 we will not require the housing linkage or --

7 MR. LAWSON: Well, I think that's a
8 question that -- and I'm sorry. I forgot to
9 mention this one. That's a question that it was
10 kind of discovered today in some of my
11 conversations, additional conversations with other
12 staff. This is something that we -- that's a
13 little bit outstanding. And I'm really sorry that
14 this outstanding issue exists. And it relates to
15 how recreation space within a building is
16 currently counted towards IZ, whether it does or
17 it does not count towards IZ.

18 We're not proposing anything
19 significantly different from -- excuse me, from
20 what the current provisions are. But right now to
21 be honest there's a little bit of confusion, at
22 least in my mind, about how that recreation space
23 currently counts towards IZ.

24 So one of the decision points as you see
25 here, is should IZ -- should the penthouse IZ

1 requirement apply to communal recreation space
2 within the penthouse, our originally
3 recommendation was, yes it should. But there's
4 some question about what the impacts of that might
5 be. So to be honest, this is probably the one
6 issue in all of this that some last minute
7 discussion came up where we're not entirely clear
8 on what our recommendation, frankly, is to the
9 Zoning Commission. It needs a little bit more
10 thought; a little bit more study and
11 clarification.

12 CHAIRPERSON HOOD: Okay. So --

13 MR. MAY: But that's as it applies to
14 rooftop recreational space.

15 MR. LAWSON: And certainly for the
16 purposes of what you're dealing with, is how it
17 applies to rooftop recreation space. At some
18 point in the near future you're going to be
19 getting a more comprehensive IZ program, and it
20 may address that issue more comprehensively. I
21 think that we just want to make sure that what is
22 being done on the rooftop is not significantly out
23 of step with what's being done for recreation
24 space in the rest of the building.

25 MR. MAY: So I mean, I raised the

1 question just to understand how we -- what the
2 effect of our actions are tonight. If we go
3 through all of these things and make all these
4 decisions, this is the one thing that seems to be
5 up in the air. Does that mean that we will see
6 some, you know, just a new decision on that in a
7 couple of weeks that we can act on so that while
8 you're drafting you can get it completed, or do we
9 give you direction on this and then take it up
10 later?

11 MR. LAWSON: My suggestion, actually if
12 you're comfortable with this, is giving me
13 direction on this so we can draft it up and we
14 would get this issue completely resolved before
15 final action.

16 MR. MAY: Right.

17 MR. LAWSON: So I'm just kind of bringing
18 this up because it may mean that there's some
19 minor adjustments made at final action to address
20 this issue.

21 CHAIRPERSON HOOD: Any recommendations?

22 MR. MAY: I mean, can we cut this into
23 pieces to try to understand? So, for residential
24 buildings, new habitable penthouse space in all
25 zones triggers IZ with all affordable units at 50

1 percent. That's your first recommendation.

2 MR. LAWSON: Correct.

3 MR. MAY: Okay. I'm good with that.

4 Everybody else good with that?

5 MS. COHEN: Yes.

6 CHAIRPERSON HOOD: I actually think a
7 number of us are good with everything they have.
8 So cut to chase.

9 MR. MAY: Okay. But I don't --

10 CHAIRPERSON HOOD: But if you want to
11 walk through it --

12 MR. MAY: I just don't even understand
13 what they all are. That's my problem.

14 CHAIRPERSON HOOD: Okay. But I think --
15 well, anyway. Go ahead. Go ahead. I'll let you
16 -- go ahead, Mr. Chairman.

17 MR. MAY: No, I'm just -- no, I'm happy
18 to have you walk me through, Mr. Chairman.

19 CHAIRPERSON HOOD: No, no, no, you go
20 right ahead because I'm fine with it. Go ahead.

21 MR. MAY: So, well then maybe you want to
22 explain to me how the -- I'm confused by the
23 rooftop recreation aspect.

24 CHAIRPERSON HOOD: What he's saying is
25 there's some -- if we adopt the recommendation --

1 at least the way I -- and, Mr. Lawson, you can
2 correct me. If adopt the recommendation you have
3 some further work that you need to do, correct?
4 Before final.

5 MR. LAWSON: Yes. Essentially, I guess,
6 our recommendation if you wanted something
7 different from here would be that the rooftop
8 recreation space be treated the same way as
9 recreation space in the rest of the building.
10 That means if it's included in the rest of the
11 building it would be counted in the penthouse. If
12 it's not included in the rest of the building it
13 would not be counted in the penthouse.

14 MR. MAY: In terms of calculating IZ
15 requirements.

16 MR. LAWSON: In terms of - correct.

17 MR. MAY: All right. Okay. I'm okay
18 with that.

19 MR. TURNBULL: So if you want more
20 housing you count it. Or if you're looking at the
21 calculations --

22 MR. LAWSON: Including recreation space
23 within the calculation would increase the amount
24 of --

25 MR. TURNBULL: That's right. Okay.

1 MR. LAWSON: -- affordable housing --

2 MR. TURNBULL: Affordable housing.

3 MR. LAWSON: -- required. Yes.

4 MR. TURNBULL: Okay.

5 CHAIRPERSON HOOD: Okay.

6 MR. MILLER: But we don't know whether or
7 not that's the current way it's being calculated
8 under the existing --

9 MR. LAWSON: My understanding is that
10 it's not being included in the current
11 calculation. The question is whether or not it
12 should be.

13 MR. MILLER: So I look forward to your
14 analysis on that.

15 MR. LAWSON: Thank you.

16 CHAIRPERSON HOOD: Okay. So ended up
17 where we started. Okay. Just --

18 MS. COHEN: I think we should --

19 CHAIRPERSON HOOD: Just took us a little
20 while to get back there. Okay. All right. So
21 are we all straight?

22 MS. COHEN: Yeah. I think we're going to
23 proceed with what's been proposed.

24 CHAIRPERSON HOOD: Okay. Yes. That's
25 what we said. And then -- okay.

1 MS. COHEN: Right.

2 CHAIRPERSON HOOD: All right. Okay.

3 Next, Mr. Lawson?

4 MR. LAWSON: Parking for habitable space.
5 Currently parking is not applied to penthouse
6 areas, but that's because there's really not a lot
7 of habitable space permitted up there. We're
8 proposing that you exempt mechanical space and
9 communal recreation space from parking
10 requirements because neither one of those generate
11 a parking requirement. But that other uses, such
12 as additional residential units or new office
13 space, or additional retail space, any of those
14 would generate a parking requirement similar to
15 what it would be for the rest of the building.
16 That's been our recommendation pretty much all
17 along.

18 CHAIRPERSON HOOD: Okay. Any concerns
19 with that? Okay, let's go to the next one.

20 MR. LAWSON: For amending a PUD we had
21 recommended that a modification process be
22 established for review proposals to permit
23 conforming habitable space within an approved PUD.
24 And I could probably extend that to include, or
25 design review project, a project approved by the

1 Zoning Commission, with the proposed criteria
2 which are listed above. That remains the OP
3 recommendation.

4 The alternative would be to not provide
5 that, which would mean that any applicant who
6 wanted to utilize the penthouse provisions would
7 have to come back as a setdown, have a hearing
8 scheduled, and then move on. If there was this
9 minor modification process it would come to you as
10 a consent calendar item which you could keep on
11 the consent calendar if you were comfortable with
12 it, or take off consent calendar as you've done
13 many times with minor modification requests and
14 schedule a public hearing.

15 CHAIRPERSON HOOD: Okay. Any comments,
16 Commissioner May?

17 MR. MAY: So under the OP recommendation
18 it says, establish a modification process which
19 you really mean is a minor modification process.

20 MR. LAWSON: Yeah, it's basically
21 applying the current process for doing that
22 consent calendar process.

23 CHAIRPERSON HOOD: Okay. Any objections
24 on that?

25 MS. COHEN: No.

1 MR. TURNBULL: But I'm just curious. A
2 minor modification as opposed to a consent. So
3 the ANC would not get notified?

4 MR. LAWSON: Well, we've proposed some
5 conditions that the applicant would have to
6 indicate that the ANC had been notified of this
7 request, of the request.

8 MR. TURNBULL: Okay. Okay.

9 CHAIRPERSON HOOD: ANC is not notified on
10 minor modifications or consent calendars?

11 MR. TURNBULL: Not on consent, I don't
12 think.

13 MS. SCHELLIN: If it's a case the
14 applicant serves all parties. If it's a previous
15 case.

16 CHAIRPERSON HOOD: So they are notified.

17 MS. SCHELLIN: If it's a previous case.

18 CHAIRPERSON HOOD: Right. Okay.

19 MS. SCHELLIN: Yeah.

20 MR. LAWSON: Yes, so the requirement that
21 the ANC be notified is not particularly out of
22 line with the current practice.

23 CHAIRPERSON HOOD: Okay. I just -- okay.

24 MR. LAWSON: Special exception review.
25 Again, you've got some -- we're on the last page

1 now. Some various options. You did ask us to
2 look at what some additional special exception
3 review criteria might be. We felt that those
4 additional special exception review criteria were
5 pretty much wrapped up in the criteria that
6 already exist. But if you are more comfortable
7 with having those criteria, we're happy to include
8 them. Our recommendation is that other than the
9 clarification and operating difficulties we think
10 the existing criteria covers it.

11 CHAIRPERSON HOOD: Okay. Any additions,
12 corrections, comments, questions?

13 MR. MAY: Yeah. So the one problem I
14 have with definition of operating difficulties is
15 the word maximize efficiencies in the lower
16 floors, maximize. Because I think that's an
17 avenue for taking advantage of the system. I
18 mean, maybe it's just substantially increase
19 efficiencies or something like that. I don't
20 know. I'm just not --

21 CHAIRPERSON HOOD: So your trouble with
22 maximizing --

23 MR. MAY: Well, I mean, I don't know. I
24 guess I'll leave it as it is and we'll see what
25 happens in the public comment. I'm okay.

1 CHAIRPERSON HOOD: Okay. Anybody else?

2 Okay, Mr. Lawson.

3 MR. LAWSON: Saved the best for last, and
4 that's the definitions. I don't think I have
5 anything to add to this, we recommend the
6 definitions as we stated.

7 MS. COHEN: Mr. Lawson, did we define
8 accessory in the ZRR? I don't recall.

9 MR. LAWSON: Accessory as in --

10 MS. COHEN: As in, we talk about
11 accessory and auxiliary.

12 MR. LAWSON: Oh, I see what you're
13 saying.

14 MS. COHEN: So I'm trying to remember if
15 we --

16 [Interruption by cell phone ringing.]

17 MS. COHEN: You're too popular all of a
18 sudden. Yeah, did we define?

19 MR. LAWSON: We had anticipated that when
20 we draft up the language --

21 MS. COHEN: Yeah.

22 MR. LAWSON: -- that it wouldn't be so
23 much a definition of ancillary, so we kind of used
24 shorthand in this document, that we would spell
25 out what it was that would be permitted. So we

1 wouldn't use the term accessory or ancillary. We
2 would stipulation what those uses are.

3 But if you would prefer we could
4 certainly come up with a definition that would --
5 it might be confusing because of course accessory
6 is used for a number of different purposes for
7 different things interview he Zoning Regulations,
8 but I think your point is taken that that needs to
9 be defined.

10 MS. COHEN: Yeah, somewhere.

11 MR. LAWSON: That needs to be --

12 MS. COHEN: Clarified.

13 MR. LAWSON: It needs to be defined what
14 the -- clarified of what those are and we can work
15 with OAG to come up with that language.

16 MS. COHEN: Okay.

17 CHAIRPERSON HOOD: Okay. Anyone have
18 anything else? That's it? Okay.

19 MR. LAWSON: That's it for me.

20 CHAIRPERSON HOOD: All right. Mr. Lawson
21 and Ms. Steingasser, we want to thank you for
22 taking us through that and thank you for the whole
23 evening, actually. Commissioner May, you had
24 something you wanted to add?

25 MR. MAY: Absolutely. I just want to

1 point out in that in the 89th minute the U.S.A.
2 Soccer Team is ahead three to one over Australia.

3 MS. COHEN: Yeah.

4 MR. TURNBULL: And I would point out,
5 that's in Winnipeg.

6 CHAIRPERSON HOOD: I want to point out,
7 Thursday night I would like to be out of here --
8 no, I'm not going to do that.

9 Okay. Thank you, Commissioner May. So
10 you're interested in -- I found out what sport
11 you're interested in.

12 MR. MAY: It took you this long?

13 CHAIRPERSON HOOD: Actually, you got me
14 started watching the World Cup.

15 Okay. Did we have anything else?

16 MS. COHEN: Did you vote?

17 CHAIRPERSON HOOD: Did we vote? Oh, we
18 got so interested in the soccer score. Do we need
19 to vote?

20 MS. SCHELLIN: Yes.

21 CHAIRPERSON HOOD: Okay. Someone like to
22 make a motion?

23 MR. MAY: I would move that we take
24 proposed action to approve the decisions made
25 tonight and have the Office of Planning and OAG to

1 finalize this in language to be published.

2 MS. COHEN: Second.

3 CHAIRPERSON HOOD: Okay. It's been moved
4 and properly seconded. Any further discussion?

5 I would just -- I know this is probably
6 going to muddy the waters. It's normally a 30 day
7 -- I'm just trying to -- the timing of it. You
8 know how I am about the timing of it. This is
9 July. We'll be in July shortly. And this is a
10 lot so.

11 Okay. So we're probably going to being
12 published like in September? September?

13 MR. LAWSON: We would certainly look to
14 the Office of Zoning and OAG to determine that. I
15 will note, you know once again, that we received a
16 lot of comments from land owners. Particularly in
17 the higher density zones, that they're very
18 anxious to move forward with these changes and
19 they're hoping for -- I'll speak on their behalf.
20 They're hoping for -- at least on that portion of
21 the changes as quick a review as possible.

22 CHAIRPERSON HOOD: You know, we always
23 get beat up and I know it's emotional. But let me
24 carry this out. Let's vote on it and then we'll
25 talk about the timing of it.

1 It's been moved and properly -- any
2 further discussion?

3 [Vote taken.]

4 CHAIRPERSON HOOD: Any opposition? Not
5 hearing any, Ms. Schellin, would you record the
6 vote?

7 MS. SCHELLIN: Staff records the vote
8 five to zero to zero to approve proposed action in
9 Zoning Commission Case No. 14-13, Commissioner May
10 moving, Commissioner Cohen seconding,
11 Commissioners Hood, Miller, and Turnbull in
12 support.

13 CHAIRPERSON HOOD: Okay. We always --
14 you know, it's always funny around this time when
15 it's vacation time, July and August. And I always
16 say this, we want to get some -- and I'm not
17 trying to get an extension of any time, but I can
18 tell you for some reason we always run up against
19 a clock where things look like they're going to
20 happen in August. And that becomes a problem
21 because you know, the public thinks that we're
22 trying to get something in, even though we've been
23 working on it for a while.

24 So I'm just concerned about the timing of
25 this and how it's going to be advertised and when

1 people are going to be able to have a public
2 comment. Is it 30 days, because this is quite a
3 bit, because if you think about it we started this
4 about 7:30. It is now 9:20. So you know, those
5 are some things I would ask the Office of Zoning
6 staff and OP and OAG and all, to consider -- and
7 my colleagues, as we move forward. I'm just
8 throwing that out there. I don't have a
9 recommendation because I don't know when it's
10 going to fall.

11 Do we know when this will probably be
12 advertised?

13 MS. SCHELLIN: As long as we get it to
14 the Register by noon next Thursday, which is the
15 18th, it would be published on June 26th, and the
16 comment period would expire in July.

17 CHAIRPERSON HOOD: July. July 26th?

18 MS. SCHELLIN: It would actually be July
19 27th.

20 CHAIRPERSON HOOD: Okay. Then let me ask
21 this; what are we going to be doing between July
22 27th and September 1st? What are we going to be
23 doing? We're going to be off the whole month of
24 August, right? So does it make sense for us to --
25 because this is some of the stuff that's going to

1 come up. So does it make sense for us to cut this
2 off in August, or July 27th when we're not going
3 to get to it anyway? No, it doesn't.

4 MR. MAY: No.

5 CHAIRPERSON HOOD: I already know the
6 answer. I'm just asking the question.

7 MR. MAY: I'd be fine if, I mean, if we
8 assume that it's going to go into first or second
9 week of September, because people are not going to
10 want to comment at the end of August. They're
11 going to want to have a week or two back in
12 September.

13 CHAIRPERSON HOOD: Okay. So we need to
14 try to -- Ms. Schellin, try to have it around the
15 second week sometime in September if we can
16 arrange that. No, we can arrange it. Let's
17 arrange it.

18 MS. SCHELLIN: So you want to have the
19 comment period go from whenever we advertise it,
20 whatever day it's published, through how about
21 September 11th?

22 CHAIRPERSON HOOD: Probably the second
23 Friday in September.

24 MS. SCHELLIN: September 11th. That
25 would be September 11th.

1 CHAIRPERSON HOOD: Yeah. Okay.

2 September.

3 MS. SCHELLIN: Okay.

4 CHAIRPERSON HOOD: September 11th.

5 MS. SCHELLIN: So however many days that
6 ends up being, you're good with.

7 CHAIRPERSON HOOD: Yeah.

8 MS. SCHELLIN: It doesn't matter.

9 CHAIRPERSON HOOD: Let's do that. And
10 that way we'll cut off the whole issue about us
11 doing something in August or in July. Yeah.

12 MS. SCHELLIN: To September 11th. Okay.
13 All right. That's fine. And then we'll bring it
14 up at the September 21st meeting because that's
15 the only meeting we have in September.

16 CHAIRPERSON HOOD: Okay.

17 MS. SCHELLIN: Okay.

18 CHAIRPERSON HOOD: Commissioner Miller,
19 you had something you wanted to --

20 MR. MILLER: No, say we're actually
21 proposing something in June and there's a lot of
22 time to comment on it. So I think that's
23 appropriate.

24 CHAIRPERSON HOOD: Okay. All right. Do
25 we have anything else?

1 MS. SCHELLIN: No, sir.

2 CHAIRPERSON HOOD: Okay. I want to thank
3 everyone for their participation tonight,
4 especially Office of Planning. They've done a
5 great job in getting a lot of things prepared for
6 us to be able to make informed decisions and as
7 well as our staff, the Office of Zoning. And all
8 those who've stayed here with us this long this
9 evening. So with that, this meeting is adjourned.

10 (Meeting adjourned at 9:22 p.m.)
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