

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF: :

:

Text Amendment to Roof Top : Case No.

or Upper Floor Elements : 19-21

Regulations :

-----:

Thursday,

February 13, 2020

Hearing Room 220 South

441 4th Street, N.W.

Washington, D.C.

The Public Hearing of Case No. 19-21 by the

District of Columbia Zoning Commission convened at 6:30

p.m. in the Jerrily R. Kress Memorial Hearing Room at 441

4th Street, N.W., Washington, D.C., 20001, Anthony J.

Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

- SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director, Development
Review & Historic Preservation
JOEL LAWSON

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.
CHRISTOPHER COHEN, ESQ.
HILLARY LOVICK, ESQ.
MARY NAGELHOUT, ESQ.
LORI MONROE, ESQ.
MAXIMILIAN TONDRO, ESQ.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS STAFF
PRESENT:

KEITH WINSTON

The transcript constitutes the minutes from the
Public Hearing held on February 13, 2020.

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

(6:30 p.m.)

1
2
3 CHAIRMAN HOOD: All right, good evening, Ladies
4 and Gentlemen. This is the Public Hearing of the Zoning
5 Commission for the District of Columbia.

6 My name is Anthony Hood. Joining me is Vice
7 Chairman Miller, Commissioner Shapiro, Commissioner May, and
8 Commissioner Turnbull, also, the Office of Zoning Staff, Ms.
9 Sharon Schellin, as well as Mr. Paul Young, who is in the
10 back, doing all of our streaming.

11 I'm going to ask the Office of Attorney General,
12 if they would introduce their office and their staff -- well,
13 if he would introduce himself?

14 MR. GOLDSTEIN: Paul Goldstein, with the Office
15 of the Attorney General.

16 CHAIRMAN HOOD: And I'm going to ask the Office
17 of Planning if they would introduce themselves?

18 MS. STEINGASSER: Jennifer Steingasser with the
19 Office of Planning.

20 MS. LAWSON: Joel Lawson, also with the Office of
21 Planning.

22 CHAIRMAN HOOD: And if you would introduce
23 yourself.

24 MR. WINSTON: Keith Winston with DCRA.

25 CHAIRMAN HOOD: Okay. Welcome, Mr. Winston.

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1 We're getting some feedback. I don't know, whether it's my

2 --

3 (Off-microphone comments.)

4 CHAIRMAN HOOD: Somebody's --

5 SECRETARY SCHELLIN: Hopefully, Paul is hearing
6 us, in the back, because I -- yes. All of us are getting it
7 and, maybe, he can make an adjustment back there.

8 CHAIRMAN HOOD: Mr. Lawson, turn your mic off and
9 let's see if it's -- turn yours off, Ms. Schellin. Let me
10 see, are we still getting --

11 (Off-microphone comments.)

12 CHAIRMAN HOOD: Still getting feedback? Well --

13 (Laughter.)

14 COMMISSIONER MAY: Can you hear me, now? Is it
15 feedback?

16 (Off-microphone comments.)

17 COMMISSIONER MAY: No, so it's all you.

18 CHAIRMAN HOOD: Turn yours off.

19 COMMISSIONER MAY: All right.

20 CHAIRMAN HOOD: Does anybody hear feedback, now?

21 (Off-microphone comments.)

22 CHAIRMAN HOOD: So -- oh.

23 (Off-microphone comments.)

24 CHAIRMAN HOOD: Okay. All right.

25 (Whereupon, the foregoing matter went off the

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1 record at 6:31 p.m. and resumed at 6:32 p.m.)

2 CHAIRMAN HOOD: Okay, so notice of this hearing
3 was published in the D.C. Register and copies of that are
4 now, I noticed, are available, in the bin, at the door.

5 Because the hearing is being recorded, by a Court
6 Reporter and it's, also, Webcast live, we ask you to refrain
7 from any disruptive noise, or actions, in the hearing room,
8 including, displaying of any signs, or objects.

9 The hearing will be conducted, in accordance with
10 Provisions 11 Z DCMR, Chapter 5, as follows. Preliminary
11 matters, presentation, in this case, by the Office of
12 Planning, and we will also hear from DCRA, as well, I
13 believe.

14 Reports of other Government agencies, Report of
15 the ANC, testimony of organizations and persons, each having
16 five minutes and three -- each person having, organizations
17 having five minutes and individuals having three minutes,
18 respectfully, and we'll hear in the order of those in
19 support, opposition, and undeclared.

20 While the Commission reserves the right to change
21 the time limits for presentations if necessary, and intends
22 to adhere to the time limits, as strictly, as possible, and
23 notes that no time shall be ceded.

24 A couple of other housekeeping items. Please,
25 turn off all electronic devices, at this hearing, so this

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1 hearing is not interrupted. And I won't read the rest.

2 I think we have a lot of folks, who have already
3 been down here and they understand what our procedures are,
4 but I will say, the staff will be available, throughout the
5 hearing, to discuss procedural questions.

6 I'm hoping that those, who want to testify have
7 already signed into the kiosk so we can have a public record.
8 If you need some assistance, you can see Ms. Schellin; if
9 not, I would ask that you sign in, to the left, at our
10 up-to-date public kiosk.

11 Okay, Ms. Schellin, do we have any preliminary
12 matters?

13 SECRETARY SCHELLIN: Just one. Just the, if the
14 Commission, by consensus, would waive OP's late hearing
15 report, it just came in on Monday instead of Friday. So if
16 you just waive the --

17 CHAIRMAN HOOD: Okay.

18 SECRETARY SCHELLIN: -- late --

19 (Off-microphone comments.)

20 SECRETARY SCHELLIN: -- filing --

21 CHAIRMAN HOOD: No objections?

22 SECRETARY SCHELLIN: -- of that?

23 CHAIRMAN HOOD: No objections.

24 (Simultaneous speaking.)

25 CHAIRMAN HOOD: All right, anything --

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1 SECRETARY SCHELLIN: Thank you.

2 CHAIRMAN HOOD: -- else, Ms. Schellin?

3 (Simultaneous speaking.)

4 SECRETARY SCHELLIN: No.

5 CHAIRMAN HOOD: Before I turn it over to the
6 Office of Planning and DCRA, I would just ask -- it seems,
7 from the record that I've read, it seems like there's a
8 little bit of confusion with the -- let me just state it like
9 this.

10 Never would I sit down here and do away with the
11 ten-foot rule. Okay? So I'm going to start off with that.
12 So I would ask you to try to maybe address some of the
13 confusion, because it's more protective the way I read it.

14 But, I think, there's -- one thing about it, we're
15 good at getting misinformation out. And I don't mean no
16 disrespect, but we want to make sure that we all understand
17 it, because I will not sit down here and do away with no
18 ten-foot rule.

19 But, if you all can touch on those points, as we
20 move forward, I'd greatly appreciate it. So I'll turn it
21 over to the Office of Planning.

22 MS. STEINGASSER: Yes, sir. That was exactly
23 where we were going to start, is addressing the comments in
24 the record and the level of confusion.

25 And I want to reaffirm that we, Office of

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1 Planning, is not recommending the repeal of any of the
2 protections we're, are -- the ten-foot rule is still in
3 place, where they see things being deleted, it's because
4 they're repeated somewhere else.

5 And so we were trying to avoid the confusion that
6 the Board of Zoning Adjustment is off and faced with -- and
7 the permit review people, because the sections are repeated
8 in the subtitles, under Development Standards, and then,
9 again, as a Special Exception Standard, and then, as a third
10 time, under Uses.

11 And then, so it's in Subtitle U, where we've
12 removed the development standards and propose to leave them,
13 in Subtitle D, as they are.

14 So that's where the, the rear yard protections are
15 there and -- let's see what -- there was a -- yes, a request
16 to remove architectural elements, those are still there.

17 There's some modifications and clarification of
18 jurisdiction, and we'll be getting to that, but we are not
19 proposing to delete the protections.

20 We all, we all participated in the Public Hearing
21 of 14-11 and we are not weakening any of those standards, so
22 I just want to try to clarify that and we can walk through
23 some of the provisions and where they are, at the end.

24 But, with having said that, I do want to kind of
25 summarize what we heard from the, from all the public

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1 comments in the record. There seem to be five main points.

2 Expanding the protection of the solar panels, into
3 the -- for any attached, semi-detached, regardless of zone
4 that seemed to be very well-supported and for new
5 construction. So everybody seemed to support the expansion
6 of the protections.

7 There was some concern about the current shading
8 study standards and we'll get to that at the end. That's
9 what Mr. Winston can address, here from DCRA.

10 Keeping the current rooftop architectural element
11 protections, as is. I'm not really sure, how they mean that.
12 It says there's concern about all changes going from the BZA
13 will create, will make those decisions, subject to
14 determinations and burden the BZA.

15 The changes we're proposing through the, through
16 clarified special exception and through assigning the correct
17 jurisdiction to HPRB, Historic Preservation Review Board,
18 Commission of Fine Arts, would help, would help with that,
19 that burden and that flow, but we have not proposed any
20 changes to the actual protection standards.

21 The request to remove architectural, rooftop
22 architectural elements comply with all applicable development
23 standards and they do, there's nothing that exempts those
24 rooftop architectural elements from any of the development
25 standards.

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1 And that may be something that an additional
2 sentence, somewhere, would help people, if they saw that, in
3 writing, so that's something that we can consider.

4 Explain why the current language prohibiting
5 interference with neighboring chimneys or vents is no longer
6 necessary. And I'm happy to address that.

7 We talked both with the Office of the Zoning
8 Administrator and with OAG, and there was concern about the
9 chimney and vents are regulated by Building Code.

10 And having it be subject to Zoning as well, it
11 created a duplicity of regulation and review and there was
12 concern that there could be a conflict, if somebody requested
13 a variance before the BZA, that would not be permitted under
14 the Building Code. So it created a direct conflict in who
15 had, had the authority, ultimately, if there was relief
16 necessary.

17 There was also -- it was also pointed out that the
18 rooftop vents and chimneys are usually not on the roof where
19 the addition is going, or where the new construction is
20 happening.

21 So there is -- it's all -- by removing it, it
22 doesn't hurt the property owner, itself, it becomes more of,
23 just, more of the responsibility of the new construction, to
24 get the Building Code corrections right, so there was concern
25 about having that overflow and override, overlapping

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1 jurisdiction on that issue.

2 The other Regulation, with regards to rooftop
3 architectural elements, and these are just the architectural
4 elements, we recommend that those properties that are already
5 subject to Commission of Fine Arts or the Historic
6 Preservation Review Board not be subject to BZA approval.

7 The Historic Preservation Review Board is guided
8 by the Historic Preservation Act and they have a legal
9 responsibility under that Act to review all the eligible
10 properties within historic districts.

11 So there, there's no purpose in them then having
12 to go to the BZA for the same review, the same assessment,
13 when BZA doesn't have the expertise, and has yet to override
14 any of the Historic Preservation Review Board.

15 But it does add anywhere from, you know, one, one
16 week to three-month delay, for -- and of course there's the
17 additional cost of the, excuse me, the application, having,
18 having to have your professional representatives with you at
19 the meeting and just the time off, so that, again, was a
20 duplication of authority.

21 And considering the Historic Preservation Act
22 requires that HPRB and the HPO Staff review these, we felt
23 that was the appropriate jurisdiction for those.

24 And that would also help with the, with the,
25 having the right kind of review. So all those properties

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1 would still be subject to the same standard, but they would
2 be reviewed by the Historic Preservation Review Board.

3 Other than that, most of the changes have to do
4 with trying to remove the duplicity -- the -- my words just
5 keep getting, they're getting tongue-tied -- getting the
6 right jurisdiction and, and avoiding the duplicitous -- the
7 repetition, we'll go with repetition, in, in all the
8 different sections.

9 ANC 6C did submit some very thoughtful comments
10 that we greatly appreciate, starting with the effort, which
11 I just have to read out loud for my own sake.

12 In fact, OP's efforts have, in some places,
13 substantially improved their recommendations, so we really
14 appreciated that. We agree with most of their
15 recommendations, including Recommendation 1, where they talk
16 to the issue of the Special Exception Relief set out in 5207,
17 which is the new Special Exception for rooftop additions.

18 They're correct in that the relief is for
19 technical issue, dealing with solar, but the standards are
20 aesthetic review, so that, I think, we would ask that the,
21 we have an opportunity to revisit that particular Section
22 and, and consider how those -- what that criteria could be.

23 Let's see, and then, they also recommended
24 maintaining the vents and chimney protections. And, again,
25 that's the one we don't agree with, in substance, because of

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1 that replication.

2 And then, they had some rephrasing suggestions for
3 the replacement in kind of architectural rooftop elements,
4 and we also agree with those recommendations. We appreciated
5 that, that input.

6 So I think that, hopefully, clarifies what we're
7 trying to do. I mean, in a -- we tried to lay it out very
8 briefly in our, in our report, because we realized, there's
9 just this huge collection of details that was in this case
10 and sorting them into the right places.

11 So we tried to do just a summary in our report of
12 what we were doing and how they laid out. But I do want to,
13 again, assure everyone that we are not removing the
14 protections that were the result of Case 14-11.

15 I'm available for any questions.

16 CHAIRMAN HOOD: Okay. Thank you, Ms. Steingasser.
17 Maybe, we need to go to Mr. Winston, or, or, does he -- do
18 you have testimony, or you just want to -- you're here to
19 help answer some questions?

20 MR. WINSTON: Primarily, I'm here to help answer
21 questions. Yes.

22 CHAIRMAN HOOD: Okay.

23 MR. WINSTON: That's pretty much it.

24 CHAIRMAN HOOD: Okay, thank you. All right, let's
25 see, Commissioners, are there any follow-up? We can start

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1 off with Commissioner May.

2 COMMISSIONER MAY: Okey-dokey, thanks. So I
3 appreciate the recap of all the issues and I was with you on
4 almost everything, but I just have to clarify a couple of
5 things.

6 So you stated that, for -- in the case where
7 there's some, potentially some modification of rooftop
8 elements, and it is an historic district, or it's in Old
9 Georgetown, these standards wouldn't apply because HPRB is
10 already going to be doing that?

11 MS. STEINGASSER: That's correct.

12 COMMISSIONER MAY: And so when you say that
13 they're already applying the same standards, what does that
14 actually mean? Do they have their own internal regulations,
15 or is it the same process, or what's the -- how are they the
16 same?

17 MS. STEINGASSER: They're -- when they would
18 review the exterior modification of a building deemed
19 eligible, or contributing in a historic district, they would
20 be looking at the character of the neighborhood and the
21 character and architectural styling of the building.

22 And that's the same basic -- just that these Regs
23 are trying to get at is the overall character. They will
24 actually be much -- they will scrutinize the application,
25 probably much -- in much more detail, because they have that

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1 authority, with broader --

2 COMMISSIONER MAY: Right.

3 MS. STEINGASSER: -- yes.

4 (Simultaneous speaking.)

5 COMMISSIONER MAY: Okay. So -- and this has come
6 up as a question before, and on BZA cases, do you -- I mean,
7 when, when we are trying to address the modification as part
8 of a BZA case, does the Office of Planning typically consult
9 with the Historic Preservation Staff, or is that -- because
10 it seems like it's been hit or miss.

11 MS. STEINGASSER: No. Typically, we don't. We
12 did, in one particular case --

13 COMMISSIONER MAY: I remember that case.

14 MS. STEINGASSER: -- but it was, it was just, kind
15 of, a casual -- their designers and we were just looking at
16 this --

17 COMMISSIONER MAY: Okay.

18 MS. STEINGASSER: -- particular case. But, no,
19 as a rule of thumb, we don't. I mean, the original
20 Regulation was really meant to get to the more egregious --

21 COMMISSIONER MAY: Right.

22 MS. STEINGASSER: -- cases, where they're chopping
23 off the top of a turret, or they're removing a tower, you
24 know, that kind of thing.

25 It was, it was -- it was really meant to hold that

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1 general form and shape. But, no, we don't have -- the
2 Historic Preservation Staff does not have the authority to,
3 to enforce their standards outside of historic districts.

4 COMMISSIONER MAY: Right. And it was just a
5 matter of whether, you know, whether it's a practice to look
6 to them for expertise, and you're saying that it, typically,
7 it doesn't happen?

8 MS. STEINGASSER: Typically, it's not the
9 practice, no, sir.

10 MS. LAWSON: I, I'll just, kind of, refine that
11 a little bit. When the case is within a historic district,
12 our staff, normally, will have --

13 COMMISSIONER MAY: All right.

14 MS. LAWSON: -- some discussion --

15 COMMISSIONER MAY: Yes.

16 MS. LAWSON: -- with the staff. It's when it's
17 outside of a historic district --

18 COMMISSIONER MAY: Yes.

19 MS. LAWSON: -- that, more typically, we would
20 discuss this with the, with our Urban Design Staff, as
21 opposed to our Historic Preservation Staff.

22 COMMISSIONER MAY: Okay. Got it. So the -- and
23 when it comes to OGB, I mean, the, I mean, there is -- in the
24 referral that's made to OGB, is, is that where the HPO Staff
25 gets to influence it, in some way, or is it just up to OGB

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1 and their whims?

2 MS. STEINGASSER: Typically, the referral is made
3 to OGB and then the recommendation comes back to the Historic
4 Preservation Review Board.

5 COMMISSIONER MAY: Right.

6 MS. STEINGASSER: And --

7 COMMISSIONER MAY: It's just a straight up
8 referral, without comment?

9 MS. STEINGASSER: I think, there's usually some
10 comment. And, if there is some concern --

11 COMMISSIONER MAY: Yes.

12 MS. STEINGASSER: -- oftentimes, the HP Staff will
13 attend the Old Georgetown Board Meetings. But, typically,
14 they, they accept the expertise of the Old Georgetown Board.

15 COMMISSIONER MAY: Right. Okay. Yes, I mean,
16 it's, it, I think that we need to be clear that it's, it's
17 not really the same standards, it's just a similar kind of
18 process and is the result of substantial expertise on
19 historic preservation matters --

20 MS. STEINGASSER: Yes.

21 COMMISSIONER MAY: -- on the part of that --

22 MS. STEINGASSER: Yes.

23 COMMISSIONER MAY: -- Board? Okay. Because they
24 are distinct boards and -- right.

25 MS. STEINGASSER: And they look at different

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1 things --

2 COMMISSIONER MAY: Right.

3 MS. STEINGASSER: -- that's correct.

4 COMMISSIONER MAY: So -- and I appreciate that
5 clarification. So that, sort of, segues into the next thing,
6 which is the inclusion of porches.

7 And there was another recent BZA case, very recent
8 BZA case, and I was involved in, you know, one where the
9 Preservation Staff was consulted. It was outside the
10 historic district and that was a, basically, a porch
11 replacement.

12 And what was being proposed was, perhaps,
13 historically-appropriate for the neighborhood, but not for
14 that particular building, based on the age of that building.
15 And so that, sort of, confused the ANC.

16 And the ANC, sort of, came down a different side
17 as the Historic Preservation Staff, and then, you know, a
18 month later, it's the same ANC, it's a different porch.

19 And that time, the Historic Preservation Staff was
20 not consulted and it further confused the ANC. And so I'm
21 wondering what we can, what can be done to, I don't know, to
22 --

23 MS. STEINGASSER: Well, in --

24 COMMISSIONER MAY: -- de-confuse that, ANCs in
25 general, and that one in particular, where there's Historic

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1 Preservation expertise?

2 MS. STEINGASSER: There -- in the first case, the
3 Applicant, part of their rationale and, and, for the porch
4 that they requested was that, it was historically accurate.

5 And because that was said, the Staff followed up
6 and asked the casual question during a general peer review.
7 And the general peer review is the HP Planners are just, are
8 standing around a big table and cases are flying around.

9 So -- so they asked, is this historically accurate
10 and they were following up on that, that particular
11 statement, they weren't trying to set a standard, or
12 precedent that HP Staff would now be part of the BZA review
13 for roof structures. So that, that's how it started.

14 You know, our, our solution would be to, to remove
15 HP's Staff from that, that reference. And as Mr. Lawson was
16 saying, we would work more appropriately with our Design
17 Review Staff when they're outside historic districts.

18 COMMISSIONER MAY: Okay. So I think you know
19 which ANC I'm talking about, I think it would, some direct
20 outreach might help clarify that, otherwise I think they
21 would want us to be more explicit in what regulations we're
22 writing, particularly with regard to porches.

23 Because there's lots of things that can happen
24 with porches and we seem to be focused on the profile and
25 form of the roof, as opposed to what happens with columns,

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1 or whether you --

2 MS. STEINGASSER: Right.

3 COMMISSIONER MAY: -- can add things like a
4 balustrade, which was one of the cases. So -- so long as
5 the, the basic form of that, when you're outside of a
6 historic district, as long as the basic form of it is not
7 changed --

8 MS. STEINGASSER: That's correct.

9 COMMISSIONER MAY: -- then you're going to be okay
10 with it, that, I think, that message has to be clear.

11 MS. STEINGASSER: Okay. We, we could put that
12 language, actually --

13 COMMISSIONER MAY: Well, I mean, if there's a way
14 to tweak the language, I think that might be worthwhile.

15 MS. STEINGASSER: Okay.

16 COMMISSIONER MAY: But, I'm not really asking for
17 that, at the very least I'm just asking to, somehow, outreach
18 to that ANC Commissioner --

19 MS. STEINGASSER: Okay.

20 COMMISSIONER MAY: -- who has some expertise in
21 historic preservation.

22 So, I think I wanted to touch on the solar review,
23 by DCRA, because that was a contentious issue. And so -- I
24 mean, if we -- if I could -- if you could just clarify how
25 this will happen, right, when -- in a, in a matter of right

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1 case versus, you know, what triggers this to go into relief
2 and go to those other standards?

3 MS. STEINGASSER: I'm going to ask Mr. Winston if
4 he can talk to how it's reviewed for a -- permitting?

5 MR. WINSTON: Sure. For very brief context,
6 people may remember that the very first iteration of the
7 Solar Access Provision is that, sort of a one-liner that
8 basically says, thou shall not interfere.

9 That got revised to a more detailed description
10 of five percent interference, et cetera. In that regard, it
11 was always hinged, it always hinged on performance, net
12 output, of this five percent output, which logically makes
13 sense, frankly.

14 However, it turns out that for the same reason the
15 one-liner got adjusted, in the second iteration, output opens
16 up a bunch of gray areas in our enforcement.

17 In other words, more or -- let me contextualize.
18 There is no such thing, as a solar study standard that,
19 actually, there's just no such thing as a solar study
20 standard. There's certainly no such thing that would, could
21 apply, in this case.

22 So we are creating something from scratch to do
23 what we need to do. And the danger being that we create
24 something that has a whole bunch of wiggle room built in to
25 it.

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1 And that leaves us with two competing parties
2 giving us shading studies that we literally have no way of
3 comparing, in a reliable manner and coming to the same
4 conclusion every time.

5 So for that reason -- and, and also, further --
6 and, finally, I guess I'll say, we want to make sure that
7 there is a fairness to the process. And we're not demanding,
8 at least, I think, this is reasonable, we don't want to, we
9 want -- don't want to overlay excessive costs on anyone,
10 unnecessary costs on anyone, and we -- or, or, or delays.

11 And we want to be completely impartial, as to
12 who's going to win, you know, with -- I don't know if I want
13 to put it that way, but, you know, which way it lands.

14 So the way that it works, the way that it's
15 proposed and pretty much the way that it's been done so far,
16 but improved upon in this current iteration, is the building
17 addition, or new construction builder will include in their
18 application one, or a couple of, propose -- right -- either
19 they're -- either, they're going to say, there is no solar
20 next door, and we'll check that on review. Or they'll,
21 they'll say, there is solar, but the owner has agreed to
22 allow us to proceed with our -- or they will submit a shading
23 study that says, this doesn't, you know, if you're more than
24 five percent by measure of shading.

25 That shading study will be introduced to us in a

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1 format that we will readily share, sort of, this is akin to
2 neighbor notification stuff in a little bit, with the
3 neighbor, so they don't have to start from scratch.

4 The reason I put some -- concentrate on that a
5 little bit, is that, that one of the challenges here is this
6 particular Regulation, sort of, gets between two neighbors,
7 which is actually somewhat of an unusual place for
8 regulations to get.

9 Most of the time, it's more holding developers,
10 or residents, to a specific standard. And -- and, as such,
11 it runs the risk of forcing a neighbor to a, to, to -- it
12 imposes expenses on a neighbor to defend existing property
13 rights. Right? And that can be unfair quick, I think. That
14 would be my concern.

15 So the point is that, the developer, we'll, I'll
16 call it, the person who wants to do the development, will
17 produce the shading study that will get shared with the
18 neighbor.

19 The -- it will rest on solid, fairly
20 straightforward concrete things, like how much shading is,
21 does this thing produce across the year?

22 You know, we got a model of this that has to do
23 -- I don't want to go into deep weeds. But, three times a
24 day, on solstice, is an equinox and it's weighted by season.

25 It's as straightforward as it can be, I believe,

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1 and have any hopes of being reasonably accurate, but it's
2 enough weeds that I wouldn't want to walk us all through it
3 right this moment.

4 In any case, the bottom line then becomes a
5 relatively simple question of, did the shading study follow
6 the rules? Did they do the Shading Study properly?

7 And, specifically, did they accurately capture in
8 the 3D model that is necessary for that shading study, the
9 proposed development? Because, mostly that's sort of what
10 it should come down to, right?

11 Like the, like, is it, you know, 38 feet high, or
12 did they draw it in the model as 36 feet high? And that two
13 feet can be the difference, and those, those little things
14 turn out to haunt us.

15 One quick line on this issue of -- I'll mention
16 one quick comment on the issue of performance versus shading.
17 Shading is a comparatively straightforward thing; how much
18 does it shade?

19 Not as simple, when you heard me warn you about
20 the weeds, it's, even it's a little complicated. When you
21 get to performance, all of a sudden you care about what kind
22 of invertors and what kind of modules and what --

23 Some very subtle things that, it turns out, I'm
24 not confident there even exists tight-enough monitor,
25 modeling software, to be confident and I'm quite sure that

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1 you could get two very acclaimed expertise arguing to no end
2 with each other over it, if it came down to it.

3 So we want to short-cut that, those kinds of
4 arguments for something that, you know, in the end, gives us
5 a relatively incontrovertible landing point.

6 COMMISSIONER MAY: Thanks. I appreciate that.
7 And I do know that the, the output question has a whole lot
8 of variables. I mean, I have a solar system, myself, and I
9 know how much things can vary and I know what the
10 differences, or some of the differences in the equipment and
11 so on.

12 So that, my next question is, what happens if it's
13 more than five percent based on the shading study? Then they
14 have to come into the BZA to get relief? And they could,
15 theoretically, compensate the neighbor who is affected
16 sufficiently for whatever the offset is for some period of
17 time, right?

18 MS. STEINGASSER: They, they could, yes.

19 COMMISSIONER MAY: Right.

20 MS. STEINGASSER: But they would be -- if they,
21 if they wanted to proceed, they would be required to come to
22 the BZA.

23 COMMISSIONER MAY: Right.

24 MS. STEINGASSER: And that gets to the issue
25 raised by ANC 6C about the criteria.

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1 COMMISSIONER MAY: Right. Right. So the -- in
2 that sort of a circumstance, if we wind up with just a slight
3 difference and the neighbor next door who has the solar
4 system isn't willing to, you know, be bought out for the one
5 percent additional shading, or something like that, it would
6 still be up to the discretion of the BZA when we're in
7 special exception territory?

8 MS. STEINGASSER: That's correct.

9 COMMISSIONER MAY: All right. But, if we get into
10 variance territory, then I don't even know how you would do
11 it.

12 MS. STEINGASSER: I --

13 COMMISSIONER MAY: How you would do it.

14 MS. STEINGASSER: We, we wrestled with that this
15 afternoon trying to think through how a variant standard
16 would be applied. A special exception gets to the issue of
17 no adverse impact.

18 And it seemed like it was a more logical path, but
19 we also stumbled a little bit with what criteria would we use
20 to go down that path and, and that's, you know, something
21 that --

22 COMMISSIONER MAY: Yes. I mean, the variance
23 path, it's extremely difficult, because it's, you know, you
24 have to get at the issues of the exceptional issue of the
25 property and the, the --

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1 MS. STEINGASSER: Right, and --

2 COMMISSIONER MAY: -- you know, the, the practical
3 difficulty and I, you know, again, it's -- that has to do
4 with, well, what are we entitled to --

5 MS. STEINGASSER: Right.

6 COMMISSIONER MAY: -- on our property and at what
7 point does it become a practical difficulty? So -- all
8 right. I'm satisfied in this. I -- thank you, Mr. Chairman,
9 for indulging me for all that time.

10 CHAIRMAN HOOD: Well, I think that was a good
11 discussion and it probably helped a lot of us as well. So
12 thanks to whoever fixed my mic, because I don't hear the
13 feedback. So it might have just been me. But, anyway. Who
14 would like to go next? Other questions? Okay.

15 Do you have questions for us?

16 COMMISSIONER SHAPIRO: I'm fine, Commissioner May
17 ran through all the questions that I had as well.

18 CHAIRMAN HOOD: Okay. All right, Mr. Turnbull.

19 COMMISSIONER TURNBULL: Yes. Thank you, Mr.
20 Chair. I just had a question for Mr. Winston. So based upon
21 what I've just heard, it sounds like that DCRA has a set of
22 regulations, or a set of requirements, as to what is to be
23 included in a shade study, a solar study, you have a listing
24 of what the Applicant needs to provide?

25 MR. WINSTON: Yes. We've got -- we've had a

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1 working, a, sort of, developing working model of how best to
2 do it. And that's when -- and through that -- in the, in the
3 -- with the current regulations, and through that process,
4 discovered the limitations of the output-based --

5 COMMISSIONER TURNBULL: Okay.

6 MR. WINSTON: -- model. And so we've got a new
7 set of proposals, internal proposed modeling approach that,
8 I think, addresses all that, once we have the language to
9 build it on.

10 COMMISSIONER TURNBULL: Well, one of the things
11 that we've often had on BZA is an Applicant will submit a
12 shade study, solar study, and the next-door neighbors, maybe
13 one on one side, whatever, will say, no that's not quite
14 right, we think they made a mistake, and they go out and they
15 will get their own shade study, which will show a slight
16 difference.

17 If you look at that, are you analyzing, or saying,
18 which one is closer to the reality? I mean, you, basically,
19 you're coming down, as the judge and jury on this, then.

20 MR. WINSTON: Yes, I think, I think there's no
21 avoiding that, that I've figured out.

22 COMMISSIONER TURNBULL: Okay.

23 MR. WINSTON: And the dilemma -- this is sort of
24 what I was getting at before. The way that it is set up
25 right -- the way that the Regulations speak to this right now

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1 have inadvertently, I -- and no one saw this coming -- forced
2 us down a path that has an unfortunate degree of subjectivity
3 to it. Right? So we --

4 COMMISSIONER TURNBULL: Yes, I, I --

5 MR. WINSTON: -- there's, there's --

6 COMMISSIONER TURNBULL: -- I would agree.

7 MR. WINSTON: -- no way to get around -- and, and
8 there's some ways, I, personally, in trying to make those
9 judgments, I've, sort of, tried to break it down into little
10 bits of pieces of subjectivity, one piece at a time.

11 But -- and to hold as much, you know, sort of
12 concrete, you know, evidence to bear as I can -- bring as
13 much concrete evidence to bear as possible.

14 The intention of both the adjusted language and
15 then the subsequent new approach to shading study analysis
16 is to have the discussion come down as much as -- and
17 actually, I think, almost entirely to concretely verifiable
18 measurements. Right?

19 In other words, for example, it's sort of like if
20 you were to say, you know, if the Regulation was to say, your
21 neighbor can argue whether -- if you try -- if you want to
22 build over 39 feet, then your neighbor can argue that you
23 can't. Right?

24 And, and the nice about that is that it's a nice,
25 concrete number and all you have to do is figure out whether

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1 or not you're building over 39 feet or not.

2 And no one can argue more subtle terms about how
3 your invertor works and whether these high-performance
4 modules work differently than those other modules, or any of
5 those kinds of things. It's a nice, concrete thing.

6 So the way that this is hopefully going to work
7 is that, unfortunately, in these sort of tight circumstances,
8 shading situations that we're talking about here, you are
9 forced to start from a 3D modeling approach. There's no two
10 ways about that, I will suggest.

11 And, and so then the very first question is, what
12 is that three, you know, is that, does that 3D model
13 accurately represent the current and proposed buildings?

14 And that's a concrete question. But, you know,
15 you can look at the plans, you can go take pictures of the
16 buildings, you can answer that.

17 The second question then is, how much does that
18 shade the existing solar study, solar system? That's, that's
19 pretty concrete. It's one minor step less concrete, but when
20 you get down to it, you can really figure that out with a
21 high-degree of precision.

22 And then, as long as you pull out, and this is
23 what I'm proposing, any wiggle room around seasonal, seasonal
24 weighting. When you -- when you do, you have to do a series
25 of averages, to figure out --

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1 COMMISSIONER TURNBULL: I --

2 MR. WINSTON: -- that five percent. As long as
3 you -- as long as we give you the seasonal weighting, so that
4 people don't get to play a game around seasonal weighting,
5 and a couple of other little adjustments, but small potato
6 stuff.

7 Then, now we've suddenly got a report, or two
8 reports that we can really say, this one misrepresents the
9 buildings, or this one miscounted the shade.

10 COMMISSIONER TURNBULL: Okay.

11 MR. WINSTON: And this other -- you know, gets us
12 out of that back and forth.

13 COMMISSIONER TURNBULL: All right. Well, thank
14 you very much for that. My next question is talking about
15 the, the solar energy system, the 2kW, is that, now, I'm just
16 figuring out as a minimal residential size, is that, was that
17 input by DOE, is that a K --

18 MR. WINSTON: Yes.

19 COMMISSIONER TURNBULL: -- is that a threshold
20 number --

21 MR. WINSTON: Yes.

22 COMMISSIONER TURNBULL: -- that --

23 COMMISSIONER TURNBULL: So that number -- I mean,
24 yes, so it was an effort that arose from the first iteration
25 of, of language. So that's not new to this --

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1 COMMISSIONER TURNBULL: Right.

2 MR. WINSTON: -- new to this, it was done in this

3 --

4 COMMISSIONER TURNBULL: Yes.

5 MR. WINSTON: -- second iteration of the, of the
6 Regulations. The, it, in the very first iteration, there was
7 no such mention of minimum system size.

8 The danger being that, you know, and I don't know
9 that this would ever happen, but someone could go get a
10 garden light, you know, with a solar cell two inches in
11 square and put it on their roof, call it their solar system.
12 You know, if you don't define solar system --

13 COMMISSIONER TURNBULL: Right.

14 MR. WINSTON: -- then, you know, and they can put
15 it right in the shade. So a 2kW is a fairly minimal --

16 COMMISSIONER TURNBULL: It's a threshold --

17 MR. WINSTON: -- like full-size --

18 COMMISSIONER TURNBULL: Yes.

19 MR. WINSTON: --- system. You know, it's about
20 --

21 COMMISSIONER TURNBULL: Okay.

22 MR. WINSTON: -- in fact, I almost never see
23 systems that small, put on a house in D.C., at this point,
24 but, no.

25 COMMISSIONER TURNBULL: Okay, thank you. The new

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1 Regs in 20813, we talk about the written agreement by the
2 next-door owner, and if he doesn't sign, he's got to go to
3 the BZA then and ask for relief and/or --

4 So that gets to be a very tough question at the
5 BZA as to what, is this really worth it, or can the
6 Applicant, the, why he wants, why the owner wants to build
7 this, can he reduce the size of his project, by such that he
8 can limit the amount of effect that he has? And my feeling
9 that's the way it's got to go.

10 MR. WINSTON: I mean, thankfully, mostly, I'll say
11 I don't actually have to weigh in on that, because I'm a DCRA
12 and not a, and not OP or anything.

13 But I will say that, it's, it might be -- and I
14 -- again, not to go into these weeds very deeply, but I'll
15 say, if one wants to understand the impact, there's sort of
16 two, oh let's call it three, value, values that, I think, you
17 can reasonably consider, from the solar system. Right?

18 There's the economic value of the electricity that
19 it generates. There is the -- both economic and then I'll
20 just call it the third sort of moral value, which are all --
21 both are captured in something called solar renewable energy
22 credits, SRECS.

23 And they are sort of an independent income stream,
24 or tracked output of your system that specifically represents
25 the environmental value of your system.

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1 It's intended -- and you can sell that
2 environmental value to other people who need environmental
3 value. And, in fact, it's worth more than the electricity
4 by two or three-fold.

5 When all is said and done, because of the way
6 these systems, because of the way the accounting works on the
7 SRECS, those don't change.

8 They, this, none of this has an impact on SRECS.
9 If you -- if your solar system gets shaded, for a small
10 residential system, because of the way SRECS are calculated,
11 that value is actually not affected.

12 It -- it's strange, it's -- if you're, if you're
13 following me closely enough, you should probably be saying
14 that's not right, but that's the way it works.

15 COMMISSIONER TURNBULL: Okay, okay.

16 MR. WINSTON: The -- on, on the electric -- so --
17 so all we're talking about is the value of electricity, which
18 would typically be a couple hundred dollars a month -- a
19 year, perhaps.

20 COMMISSIONER TURNBULL: All right, thank you.

21 MR. WINSTON: Yes.

22 COMMISSIONER TURNBULL: My next -- my last
23 question, here, is really for OP. On 5203.1, Board of
24 Adjustment may grant as a special exception under Subtitle
25 A, blah-blah-blah, a maximum building height of up to 40

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1 feet.

2 Now, and the Regs already say 35 feet, you can go
3 to 40. I don't know if that's for new construction, though,
4 or -- I can't recall exactly how the Reg reads.

5 But this, normally, what the old language would
6 say, would be 40 feet and then it would say, in parentheses,
7 three stories. You've, you're omitting the three stories
8 here, and I'm just wondering is that just because you don't
9 think it's necessary, or you don't think anybody's going to
10 try to get a fourth story out of this?

11 MS. STEINGASSER: No, sir. That was not the
12 intent. The -- it looks like the original -- you said it's
13 5203.1, is --

14 COMMISSIONER TURNBULL: Right.

15 MS. STEINGASSER: Right. The original language
16 did not have the three stories, but I think that's, that's
17 a good catch. We put three stories in there.

18 COMMISSIONER TURNBULL: Okay. All right, thank
19 you. That's it for me, Mr. Chair.

20 CHAIRMAN HOOD: Thank you. Any other questions?
21 Vice Chair Miller.

22 VICE CHAIR MILLER: Yes, just briefly. Thank you,
23 Mr. Chairman. I appreciate all the dialogue up here on the
24 dais about the significantly interfering and how this will
25 work. That clarifies some confusion that I had in my mind

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1 coming into this hearing.

2 On the five percent threshold, I wonder if Office
3 of Planning or the DCRA -- oh, and I appreciate ANC, all of
4 the ANC's comments that helped improve the text and provide
5 greater clarity and eliminate confusion as well.

6 But on the five percent threshold, which is, I
7 guess, the existing, do you think that that is the
8 appropriate threshold for a trigger?

9 Is it -- is it too low, should it be ten percent,
10 or is it, do you think it, if it's, that works well in terms
11 of being able to assess significant interference or have an
12 assessment be made about significant interference, but did
13 you look at whether it should be changed in any way, either
14 lower or higher? And I was, personally, thinking higher, but
15 --

16 MS. STEINGASSER: The Office of Planning did not
17 look at that number, whether we should change that number.

18 VICE CHAIR MILLER: Mr. Winston, do you think it's
19 working, it works well as a threshold? With, with the
20 changes that you're now proposing to be tied to shading, not
21 output?

22 MR. WINSTON: I'll say first, that the concept of
23 significant interference is an undefined term, and so it's
24 sort of arbitrary.

25 And, I don't think DCRA would want to try to

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1 define it for Planning or Zoning, you know, I, it's not
2 exactly -- I mean, to me, it's not exactly our position to
3 want to get into that too much.

4 On the other hand, having it completely undefined
5 works against our ability to have reliable, repeatable
6 results in a, in an assessment, so we -- so it does need to
7 be set at something, I believe.

8 I will say, there's an argument, I think, it made
9 by the, in the paper, by the Committee of 100 that points
10 out, and I didn't read everyone's responses, so I may have
11 missed it elsewhere, but that points out the nature of the
12 effect of shading on solar systems is not linear, right, it's
13 an exponential relationship.

14 So -- so as you shade a system more than a, more
15 than a little bit, the impact can be higher and it also
16 depends on where exactly you shade it and, you quickly, once
17 again, you quickly get into weeds, you know, are they, is it,
18 are the modules landscape, or, you know, or portrait?

19 So -- so five percent is, it's sort of, it's sort
20 of a, I think, it -- I had something to do with the original
21 rewriting of the second iteration of the language, and so I
22 can say that five percent was somewhat pulled out of a hat
23 intended to be low enough that it felt like people were
24 taking seriously the concept of significant interference.

25 It doesn't take much to shade something five

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1 percent. On the other hand, high enough that it's, that's
2 it's not just, you know, one little corner of those, of the,
3 of the, of a ray being shaded for one day a year.

4 So it -- but that said, it's -- there -- I don't
5 -- there's no, I don't know -- there's no, nothing but pure
6 subjectivity to draw upon from the point for the, for
7 determining a number on that.

8 The, the, the -- oh, the other thing, though, I
9 will say is, not to dive into the math too much, but because
10 there was an exponential relationship, as you're down at that
11 low number, the exponential effect is much smaller, so five
12 percent shading is much more likely to correlate with
13 something like five percent performance reduction, whereas
14 once you get into ten percent, or 20 percent shading, you
15 might have 50 percent performance reduction.

16 So there's that advantage, but I, I don't want to
17 go, you know, rely too much on that, frankly.

18 VICE CHAIR MILLER: Okay. Thank you very much.

19 CHAIRMAN HOOD: Okay. Mr. Winston, let me ask
20 you, you mentioned about the work that, I guess, DCRA had
21 been doing, in the evaluation, I think, you said they use a
22 frame of like, 38 feet, whether it's 38, whether it depicts,
23 the pictures shows accurate, that it's represented
24 accurately.

25 And this, might not be a Zoning question, I'm just

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1 curious. I don't like to put regulations on anything on
2 paper and put people on promised land. Let me ask you, does
3 DCRA have the staff -- does -- do you all have the staff to
4 be predictable and then also to carry this out?

5 MR. WINSTON: Let me put it this way. On, on one
6 hand, we have not gotten a lot of these thus far, right, so
7 it's not -- I actually, frankly, thought we were going to get
8 more when the very first version came out.

9 But, a handful a year, maybe. And the -- for our
10 parts, the new language is more enforceable, more easily
11 enforceable, so this will only improve our ability to enforce
12 it reliably.

13 CHAIRMAN HOOD: Okay. So your track record right
14 now shows that, even with the evolution of everything, it
15 shows that it can be handled where it is?

16 MR. WINSTON: Yes.

17 CHAIRMAN HOOD: Okay.

18 MR. WINSTON: I think so.

19 CHAIRMAN HOOD: Okay. I had one other question.
20 That was it. But, let me just say, I do appreciate, Ms.
21 Steingasser, for me, this is more clear. We may not all
22 agree to it, some of the, some of the submissions.

23 But, when I, I can tell you, when I heard about
24 the ten-foot rule and people thinking it was going away, as
25 hard as we -- even got to a point -- and I hate to do this,

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1 I just really think that we need to make sure that we
2 understand, before we put, put it out there and we put it out
3 there incorrectly.

4 Because the -- when I saw that, I'm like no, not
5 as far as -- not from this Commissioner. But, I appreciate
6 you clarifying those. And I'm hoping we hear some of that
7 in the testimony, but I'm not going to belabor it unless
8 there are others, because I would like to hear from the
9 public. Anybody else?

10 (No audible response.)

11 CHAIRMAN HOOD: All right, Ms. Schellin, do we
12 have the -- let me see. Let me go down the list here.

13 SECRETARY SCHELLIN: Yes. Do you want me to just
14 --

15 CHAIRMAN HOOD: Let me, let me, go down --

16 SECRETARY SCHELLIN: -- publish all of them?

17 CHAIRMAN HOOD: No, let me, let me --

18 SECRETARY SCHELLIN: Can you see it?

19 CHAIRMAN HOOD: -- do the -- do we have any other
20 submissions?

21 SECRETARY SCHELLIN: Oh.

22 CHAIRMAN HOOD: Now I'm getting a serious
23 feedback.

24 (Off-microphone comments.)

25 CHAIRMAN HOOD: No, it's this microphone. Maybe,

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1 if I step back. Can everybody still hear me?

2 (Off-microphone comments.)

3 CHAIRMAN HOOD: Okay. So -- so I didn't see
4 anything else, other than what we've already discussed. DOE,
5 and they have a letter in support. All right, let me see.
6 I think what we can do tonight, we can just take everybody
7 and whether they are in support, or opposition, or
8 undeclared, at the same time, let's see if they --

9 SECRETARY SCHELLIN: Do you want me to call them
10 up --

11 CHAIRMAN HOOD: Yes, you can call --

12 SECRETARY SCHELLIN: -- from this?

13 CHAIRMAN HOOD: -- we'll get --

14 SECRETARY SCHELLIN: Okay.

15 CHAIRMAN HOOD: -- eight up and then, we'll take
16 the other two.

17 SECRETARY SCHELLIN: Ms. Armstrong, Mr. Hargrove,
18 Ms. Green, Ms. Bong Jeong. I'm not sure, if I called that
19 -- or, Mister.

20 (Off-microphone comments.)

21 SECRETARY SCHELLIN: You're not testifying?

22 (Off-microphone comments.)

23 SECRETARY SCHELLIN: Okay. Mr. Gambrell and Mr.
24 Eckenwiler, who will go last.

25 CHAIRMAN HOOD: So what I want to do, even though,

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1 we have everybody at the table, I'm going to the ANC
2 Commissioners, first in that order, and then we'll go to
3 everybody else. All right.

4 SECRETARY SCHELLIN: Mr. Eckenwiler has asked to
5 go last, though, after everybody else. He is representing
6 --

7 CHAIRMAN HOOD: Oh, okay.

8 SECRETARY SCHELLIN: -- the ANC, but he would like
9 to --

10 CHAIRMAN HOOD: So do we --

11 SECRETARY SCHELLIN: -- go last.

12 CHAIRMAN HOOD: -- have any other ANC
13 Commissioners here?

14 SECRETARY SCHELLIN: Mr. Gambrell is --- well,
15 he's representing himself. He is the only ANC Rep.

16 CHAIRMAN HOOD: Okay.

17 MR. GAMBRELL: I'm --

18 SECRETARY SCHELLIN: And I --

19 MR. GAMBRELL: I'm former.

20 SECRETARY SCHELLIN: -- see --

21 CHAIRMAN HOOD: Former, okay. Yes, I was speaking
22 in terms of Mr. Eckenwiler.

23 SECRETARY SCHELLIN: I see --

24 CHAIRMAN HOOD: So we'll let Mr. --

25 SECRETARY SCHELLIN: -- Committee of 100 coming

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1 in, now. She -- come to the table.

2 CHAIRMAN HOOD: Is there anybody else that's going
3 to testify tonight, in the audience?

4 (No audible response.)

5 SECRETARY SCHELLIN: So --

6 CHAIRMAN HOOD: Okay. So --

7 SECRETARY SCHELLIN: -- I've --

8 CHAIRMAN HOOD: -- this is it.

9 SECRETARY SCHELLIN: -- cut off registration --

10 CHAIRMAN HOOD: This is it.

11 SECRETARY SCHELLIN: -- already.

12 CHAIRMAN HOOD: So, Mr. Eckenwiler, you, you can
13 go last. Who wants to go next-to-last?

14 Okay. So who would like to go first? Ms. Green,
15 you like to go first?

16 MS. GREEN: Okay. Oh --

17 CHAIRMAN HOOD: You may begin.

18 MS. GREEN: I'm not a great person to go first
19 here, but, you know, for whatever my statement is, I know
20 you'll take it, as it is. My name is Sara Green, I live in
21 Takoma Park, D.C., Historic District, I have for 45 years,
22 on Piney Branch Road.

23 And this is really a big deal. I think the stakes
24 are extremely large. Simply because people are going to be
25 spending 15, \$20,000, whatever it is, on these solar systems,

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1 with the hope that they will be saving money.

2 That they will be helping to save the planet and
3 their neighborhood and all kinds of stuff that, we can all
4 agree, is desperately wonderful.

5 However, someone like myself, who has a very hard
6 time understanding this stuff, and normally the zoning
7 language is difficult to understand and you can sit down and
8 look at it.

9 But some of this language, about five percent and
10 this and that, it is not, it is not accompanied with any
11 drawings or diagrams. It is not accompanied with any visual
12 exhibits to help us understand what's going on.

13 And I really think that the Department of Energy
14 and OP and DCRA, all of them, ought to be required to come
15 up with some kind of something that a college graduate can
16 actually look at and see and touch.

17 There is modeling out there. Department of Energy
18 -- Environment, sorry --- the Department of Environment did
19 a lovely job with the interactive mapping system that allows
20 me to go online and see, oh, if I put a solar in, what's my
21 -- it's fabulous.

22 I just did it this afternoon. I saw what it might
23 cost, what my house might look like. Why can't that happen
24 for a process as important as this, to some extent?

25 So that's why I would say maybe you all ought to

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1 wait a little while, and have people come up with something
2 that we can all look at and understand together, rather than
3 the conjecture that we just heard from DCRA, as well-meaning,
4 as it is.

5 The other point I wanted to make was about the ten
6 --- the ten-foot. And I hope, I hope we all understand it.
7 And I hope we're not undoing what millions of -- no, what
8 many hundreds of people spent a long time testifying and
9 talking about and looking at.

10 But I am unclear about something to -- and I would
11 like to make it -- ask a question. It seems that the city
12 is encouraging the conversion of single-family homes into
13 apartments.

14 And I want to know why that is, given that we have
15 an extreme need for affordable housing for families of
16 various incomes, particularly low incomes.

17 So if we take single-family homes that are housing
18 families, two, three children, whatever, and we start cutting
19 them up and making them into apartment buildings that are
20 going to handle one, one bedroom, or studio apartments, why
21 is that in the public interest?

22 Why is that in the interest of what the Mayor has
23 told us we need to do? I'm seeing a contradiction here and
24 I hope that this Panel and everybody else will start asking
25 the Office of Planning how every one of the proposals that

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1 they put forth, how will that contribute to affordable
2 housing?

3 How will that contribute to affordable housing for
4 families? I don't think I've seen it. I don't think I've
5 seen it here, and I hope you will ask for it. Anyway, thank
6 you.

7 CHAIRMAN HOOD: Thank you. Next.

8 MS. ARMSTRONG: Good evening, Chairman Hood, and
9 other Members of the Commission. My name is Fay Armstrong
10 and I'm Vice President of the Board of the D.C. Preservation
11 League.

12 Your -- Chairman Hood, your first comment that you
13 were, you weren't going to overturn the ten-foot rule this
14 evening, was music to my ears.

15 Because you'll -- I have a prepared statement,
16 which you've received and you'll find that perhaps I'm
17 confused by what OP has proposed.

18 And if that's -- that turns out to be the case,
19 I would like to have the opportunity to have my understanding
20 corrected and be reassured about the, you know, the
21 intentions here. But let me go through my short, my shorter
22 statement here, and see where we are.

23 Zoning, as a planning tool, is generally used to
24 regulate density and use, not design. However, as a result
25 of Case 14-11, the Regulations were amended in an effort to

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1 protect character-defining rooftop architectural elements in
2 R-4 Zones, as more and more houses were being expanded and
3 converted into apartment houses.

4 To control these pop-ups and other oversized
5 additions, OP initially proposed to limit further conversions
6 of R-4 Zones to non-residential buildings and only by special
7 exception. DCPL supported that proposal.

8 The Zoning Commission rejected it, ultimately
9 approving a confusing set of new regulations for R-4 zones
10 that included protection for adjacent solar installations.
11 We fully support the use of solar power and extending
12 protection for existing solar panels to other residential
13 house zones.

14 However, as explained in our written submission
15 and, I would suggest, as confirmed by this rather unusual
16 discussion I have just witnessed here, we would question
17 whether the zoning regulations are the right place to do
18 that. We would like to take our time this evening instead
19 to focus on other aspects of the 2015 amendments.

20 From a preservation standpoint, there were two key
21 provisions, reduction of matter height -- matter of right
22 height from 40 to 35 feet and prohibition of the removal of
23 rooftop architectural elements.

24 In fact, the protections for architectural
25 elements came in a web of contradictions. Under Sections E

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1 206.2 and E 5203.3, which had to be read side by side just
2 so you could understand what was being said, the BZA was
3 authorized to provide special exception relief from some of
4 the new design requirements, but not the one on architectural
5 elements.

6 However, under Section E 5203.2, BZA could waive
7 the architectural elements requirement entirely where relief
8 was being sought from the new height limitation.

9 Then again under the U Section a similar two-step
10 occurred where architectural elements had to be protected in
11 a special exception, but then it could be waived where a
12 conversion was proposed. Thus, with respect to the two
13 issues of most concern to R-4 homeowners, protection came
14 with authorization to revoke it.

15 How could this simultaneous giving with one hand
16 and taking back with the other ever have been considered a
17 possibly adequate response to the urgent pleas of homeowners
18 for protection from oversized additions in the conversions
19 of pre-1958 houses to multiple-family dwellings?

20 In one of first cases to test the 2015 amendments,
21 OP recommended issuance of the special exception to remove
22 a turret where relief from the height limit was not needed
23 and no conversion was being made.

24 OP's recommendation though seems to us to have
25 been contrary to the law. DCPL, among others, objected. BZA

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1 made no independent finding that the relief was necessary and
2 deferred to the Zoning Administrator to, quote, deny any
3 application for which additional or different zoning relief
4 is needed. The ZA also refused -- also failed to recognize
5 the distinction.

6 This is but one example of the confusion created
7 by the R-4 amendments. It is not the only case we have found
8 where OP and the BZA failed to protect architectural elements
9 as we believe was required by the 2015 amendments.

10 The cases moreover demonstrate the ineffectiveness
11 of ordinary special exception standards to protect broader
12 issues of neighborhood character.

13 OP's current proposal to strike confusing language
14 from the 2015 amendments and to rely instead on the regular
15 special exception test to protect rooftop elements is a bid,
16 in our mind, instead to remove any meaningful protection for
17 them.

18 OP also proposes to exempt properties subject to
19 review by HPRB or the CFA from protection of the rooftop
20 architectural elements in the Zoning Regulations. This seems
21 to us to be a misguided proposal.

22 The preservation law should not excuse compliance
23 with the Zoning Regulations, or vice-a-versa. In fact, since
24 enactment of this Preservation law in '78, the 1958 Zoning
25 Regulations have made it difficult to protect individual

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1 landmarks and neighborhood character, as the latter law
2 intended.

3 The growing anger of residents of historic, small
4 h, row house zones was finally addressed in Case 14-11, when
5 those amendments were adopted and the Commission acknowledged
6 that they might not be effected and that they could be --
7 might be revisited in the future. So it seems to us that the
8 time has come to revisit, or to review carefully what has
9 occurred under the 2015 amendments.

10 And the Preservation League or -- and some of our,
11 you know, the neighborhood historic districts I'm certain
12 would be happy to consult with OP, or any of you, if we have
13 misunderstood what has been proposed today.

14 And a number of neighborhood organizations have
15 endorsed our statement, Bloomingdale Historic District
16 Designation Coalition, Dupont Circle Conservancy, Foxhall
17 Community Citizens Association, the Foxhall Village
18 Historical Society, Historic Anacostia Block Association,
19 Historic Anacostia Preservation Society, and Historic Mount
20 Pleasant.

21 The DCPL, in turn, endorses the statement to be
22 made by the citizen -- by the Kalorama Citizens Association.
23 Thank you.

24 CHAIRMAN HOOD: Okay, thank you. Next. Mr.
25 Hargrove, you go next.

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1 MR. HARGROVE: Thank you, Chairman Hood and
2 members of the Commission. I'm Larry Hargrove, speaking for
3 the Kalorama Citizens Association.

4 I'd like to summarize seven points that are made
5 in written submission, which I believe you have before you.
6 We believe they are based on a careful analysis of both the
7 existing and the proposed regulations. First, OP's --

8 CHAIRMAN HOOD: Mr. Hargrove, just pull -- let me
9 -- just pull your microphone down a little bit, so you can
10 -- right in there. Yes, there you go.

11 (Simultaneous speaking.)

12 MR. HARGROVE: Should I repeat all those golden
13 words?

14 (Laughter.)

15 CHAIRMAN HOOD: Unless you're saying something
16 nice about me, other than that, you can go right where you
17 are.

18 (Laughter.)

19 MR. HARGROVE: I'll try to think of something.
20 The first point I'd like to make is that, OP's proposed
21 amendments would seriously erode the protection of original
22 rooftop architectural elements against removal or alteration
23 that are currently protected, and currently that protection
24 is quite strong.

25 Removal or significant alteration is flatly

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1 prohibited in these existing regulations, with only two
2 exceptions: height increase cases and conversions of two-unit
3 residential buildings to apartments.

4 In only those two cases is it possible to evade
5 the prohibition on removal or alteration. For each of these
6 two cases, for two -- for reasons that are not really clear
7 to us, the Commission adopted a separate special provision
8 allowing the BZA to waive the prohibition.

9 OP now proposes to make it possible to evade that
10 prohibition in all cases by a special exception procedure
11 that conveys a virtually unassailably-wide discretion on the
12 Board of Zoning Adjustment, rendering the protections
13 virtually ineffectual.

14 We urge a comprehensive review of these
15 regulations in which proposed revisions, provisions that
16 would have this effect are removed along with anomalies in
17 the current regulations that have the effect of limiting the
18 protection of original architectural elements in certain
19 cases.

20 Secondly, case records reveal that special
21 exceptions to allow removal of original architectural
22 elements under the regulations adopted in 2015 had been
23 recommended by OP for approval and granted by the BZA in a
24 number of cases either on the basis of a provision that is
25 not legally applicable to those cases or, in some instances,

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1 without citing any legal basis for granting the special
2 exceptions at all.

3 Specifically, in cases that did not fall within
4 either of the two exceptions that I mentioned, above, height
5 increase, or residential conversion, OP recommended approval
6 of the special exception on the basis of a waiver provision,
7 EE-5203.2 that is applicable only in height cases, or worse,
8 without any citing any legal basis, at all.

9 Just, just such a case was on the BZA's agenda
10 yesterday for hearing. We find this quite disturbing, as we
11 believe should the Commission.

12 We do not yet know how many row houses have lost
13 original architectural elements on this basis, but the number
14 appears likely to be quite substantial.

15 Third, we oppose OP's proposal that properties
16 subject to review by HPRB or CFA not be protected by the
17 existing prohibition on removal of architectural elements.

18 This would paradoxically afford those buildings
19 a significantly lesser degree of protection than that given
20 to other buildings.

21 Four. Under OP's proposal, conversions of two-unit
22 buildings to apartment houses would be required to meet,
23 quote, all applicable standards. It is important that all
24 of those standards, including height limits, be explicitly
25 enumerated in the text.

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1 Fifth, OP proposes, without explanation, to drop
2 the existing protection for chimneys. That protection should
3 be restored, in our view, unless a sufficient justification
4 for dropping it can be provided.

5 And incidentally, we would not regard the mere
6 fact that DCRA is expected to police compliance with the
7 building code as sufficient by way of an explanation.

8 Six. We regard the proposed extension of the
9 protection of solar installations, which was the first and
10 very important purposes of this case, as welcomed steps
11 forward, subject to further attention being given to two or
12 three provisions. Two of these have to do with what we
13 regard as an inappropriately-broad discretion given to the
14 Zoning Administrator.

15 Finally, we would like to raise an issue of
16 process. This case, as set down for hearing, differs so
17 greatly from the case requested for set down, as to be hardly
18 recognizable. It's a new case.

19 It seems to us this is, this is no way to run a
20 railroad, let alone administer a sprawling set of land use
21 regulations. It seems to us that cases presented for set down
22 should be reasonably near ready for prime time, which this
23 one certainly wasn't at that stage. Thank you very much.

24 CHAIRMAN HOOD: Thank you. Next.

25 MR. GAMBRELL: My name is Alan Gambrell. And

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1 thank you, Commissioners, for taking time to hear from the
2 public. I wanted to start off by thanking the Office of
3 Planning for going through the regulation proposals and
4 really giving me a lot more clarity.

5 I walked into the room and I have to admit to you,
6 when I started looking at the Regulations I was doing so very
7 rapidly, under a complicated section. My head wasn't fully
8 in it. I was relying on other people to walk me through it.

9 But I think the conclusion I want to make on that
10 is, I'm going to defer my written comments, one. But two,
11 walk away from that with a general observation that I think
12 the complexity of these recommendations is such that the
13 Zoning Commission, in my -- in my position should not make
14 changes at this point.

15 Let's let it percolate a bit more. That's --
16 that's my main suggestion. And I'll leave my written records
17 for the -- for you to review.

18 I do want to make one broad comment that the
19 rationale behind this, and this is not anything you don't
20 know, as you know, what OP wants, or intends rather, is not
21 necessarily what the Zoning Commission wants, and it
22 certainly can get lost in what the BZA decides based upon
23 what, often times, Zoning attorneys say.

24 And so it's that whole sequence of events that
25 happens, gives me some pause and concern that what gets

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1 translated into writing provides opportunities for people to
2 come into the BZA, cloud up that process and get what they
3 want based upon some lack of clarity.

4 I do want to make two substantive comments,
5 however, and one of them is a question regarding the proposal
6 to eliminate the -- the reference to historic districts and
7 historic preservation.

8 The question would be, well, if historic -- if the
9 BZA is not reviewing in relation to historic preservation
10 districts, then does that mean that the BZA does not consider
11 that whatsoever, are they automatically going to accept the
12 recommendation of the Historic Preservation Board?

13 Secondly, regarding the solar shading studies,
14 fascinating presentation you gave. You know your -- you know
15 your sun. I do want to comment, however.

16 In our neighborhood, in Lanier Heights, a few
17 years ago regarding the green area ratio, which is a fairly
18 new thing to the Zoning Regulations -- I can't remember which
19 D.C. agency, but when it was pointed out to them that a
20 planting plan that was going to achieve a GAR score was
21 impractical, based upon the fact that the plants they were
22 going to plant were too close together per national
23 recommendations and they would, simply, die.

24 But this project was able to secure a landscape
25 architect in Virginia to sign off and say they met the score.

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1 So that kind of made me think, who are we going to get to
2 authorize these shading studies? Are they going to come to
3 the table in an honest manner? Thank you.

4 CHAIRMAN HOOD: Thank you. Next. Ms. Richards.

5 MS. RICHARDS: Good evening members of the
6 Commission and staff, Chairman Hood. The Committee of 100
7 is a long-time and consistent advocate for maintaining
8 neighborhood character and we were, therefore, dismayed that
9 rulemaking 19-21 is proposing amendments to Subtitle E that
10 would roll back one of the key protections of 14-11.

11 And of course that was a very hard-fought one, and
12 our chief concern is of course the loss of protection for
13 rooftop elements. Those are the city's signature
14 architectural form.

15 If you think the national capital, you think about
16 the monumental core. If you think about Washington, D.C.,
17 the local city, you think about our row house neighborhoods.

18 That's the local profile and that is being
19 seriously eroded. And it will be more seriously eroded if
20 this rule goes through as proposed.

21 It essentially will take us back to the pre-14-11
22 days when houses were and their rooftops structures were, I
23 guess, ruined at will.

24 This, obviously there is a special exception
25 provision here, but I think that from the panel, you can

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1 easily tell that there is very little public faith in the
2 special exception procedure to really operate as some kind
3 of a check and balance on inappropriate structures.

4 We're also kind of at a loss as to the Element 3
5 of the new standard, BZA, because it says that, oh, you know,
6 it doesn't interfere with light, air, et cetera, et cetera,
7 but -- oh yes.

8 New 5206.1(a)(3), but the proposed construction
9 as viewed from the alley, street, or other public way shall
10 not substantially visually intrude upon the character, scale,
11 and pattern of houses along the subject street or alley.

12 And this is a travesty because the entire
13 rationale behind the prohibition on removing rooftop elements
14 was the recognition that, if you take out a defining element
15 of a structure, it ipso facto intrudes on the character.

16 Now, I know that when 14-11 was being promulgated
17 there was some thought that design sensitivity could
18 substitute for absolute uniformity but, you know, everybody
19 has eyes and everyone's driven through the city and we all
20 know that's not the case.

21 And I'm thinking of one turret case in particular.
22 Not the one that DCPL highlighted, which was pretty bad, but
23 one that's on First Street Northeast just south of Rhode
24 Island Avenue where they took off the turret, put on this
25 little, like, kind of balcony and then plopped the turret

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1 back down and it is absolutely an eyesore, and it's going to
2 be there for a while.

3 So -- so we don't really regard the, the special
4 exception rule with these general broad tests as any kind of
5 protection at all. Then of course there are the anomalous
6 provisions taking away the protection of chimneys and
7 external vents.

8 That's -- there's no explanation, you know, unless
9 there's some persuasive explanation we think it ought to stay
10 in the record, on -- in the rule.

11 Why? You know, you want to protect solar, which
12 you should, and then you don't want to protect chimneys and
13 you think about impeded chimneys and fires and CO poisoning,
14 but just to take it out with nothing on the record, unless
15 I missed something, is -- seems to us odd.

16 We also don't understand taking away the
17 Commission oversight, or BZA oversight of the R-4 houses in
18 the -- that are designated historic, for the reasons here,
19 I'm not going to rehearse them.

20 But these are not overlapping regulatory
21 structures, they -- they march side by side and they each
22 have to be kind of complied with, in our view.

23 Then there's the notice issue. There's consensus
24 view that the greatly expanded scope of this rulemaking does
25 not -- between the set down and the hearing notice amounts

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1 to lack of fair notice as to what's being proposed here.

2 And as you know C100 has consistently advocated
3 for meaningful, substantive notice. And I would recall our
4 comments in ZC 15-18 protesting last minute changes to the
5 2016 Code without proper notice, and we were successful.

6 You happily were persuaded to re-notice some of
7 those. And it's happening again here, it's just a smaller
8 case. But this is a big case for the look of the city.

9 So we ask the Commission to move forward with the
10 properly noticed provisions of 19-21 that address solar
11 protections for subtitles D and E, but all other provisions
12 be heard at another time after the ground work has been laid.

13 But we do have a couple of comments on solar
14 installations. I need one more minute, if I could, to sum?
15 Okay. We don't want -- the idea that we're switching from
16 five percent reduction in shading, you know, that's what
17 we're switching to, from five percent reduction in energy
18 reduction. That's the test.

19 However, just a cursory look indicates that
20 there's not a really one-to-one correlation between energy
21 production and degree of shading, subject to your correction,
22 it's exponential.

23 One solar guide says that just ten percent shading
24 of a solar PV panel can result in a 50 percent decline in
25 efficiency. So if you're going to take away five percent of

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1 shading, you're going to lose more than five percent of the
2 efficiency, and you can sort of tell them how much, if you
3 haven't already.

4 So unless there's -- we need a record, we need a
5 better record. We need some more expertise brought in. And
6 I think DCPL proposed that we go to the Green Building Unit
7 of DCRA and of course there's always our good friends at
8 DOEE.

9 And we don't believe that the ZA should have the
10 final discretion to set up an alternative means of -- of
11 shading, for the sufficiency of a shading study.

12 Because the ZA develops internal unpublished
13 standards and then they become kind of this internal secret
14 law. And I have quoted extensively from another case, toward
15 the end.

16 And I think if you read the quote from one of the
17 BZA cases in that instance, you will understand why we think
18 it's very important that we have a rule on the record here,
19 a standard's got to be on the record.

20 And I think those are my key points. Thanks.
21 Because I've run out of time. If they weren't, they are now.
22 Thank you.

23 CHAIRMAN HOOD: All right, thank you. Next.

24 MR. ECKENWILLER: Thank you, Mr. Chairman. Mark
25 Eckenwiler, Vice Chair, ANC 6C, presenting the official views

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1 of ANC 6C. If there is time at the end, I do have some
2 thoughts in my individual capacity. I'll come to those if
3 there's time and the Chair will allow.

4 Our view -- and I don't want to go through the
5 entire letter that we put into the record. Our view is that,
6 by and large, OP's proposal is in fact a substantial
7 improvement.

8 We've summarized, previously in ZC 19-14 and then
9 again in our submission here, why there really is a problem.
10 I have to say, I profoundly part ways with most of my fellow
11 witnesses here.

12 I think it's perfectly clear under E 206.2 that
13 there is and always has been special exception relief from
14 the protections for rooftop architectural elements.

15 And those of you who have seen me, you know,
16 before the BZA know that I'm as zealous a defender of those
17 architectural elements as anybody, but we think the Regs are
18 abundantly clear that relief is available.

19 The problem is that under current E 5203, it's
20 just a mess. Nobody really knows what that means and OP's
21 clarification of that is, in fact, a substantial improvement.

22 They've -- part of the problem was in 14-11 those
23 were bolted onto the height, you know, the going up from 35
24 to 40 feet special exception. And really, the rooftop
25 architectural elements always deserved to be in their own

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1 section.

2 And because this is now being moved to new
3 proposed 5207 that's bringing greater clarity to what the
4 criteria are, whether or not there's a waiver of two elements
5 available. So we think that part is a significant
6 improvement over the current law.

7 And just to be practical about this, that's
8 exactly how those of you who have, you know, have seen one
9 of these cases before BZA know that's how BZA applies the
10 rules, you know, you don't have to have a conversion.

11 You don't have to have somebody going up to, you
12 know, beyond 35 feet, it's just a straight up special
13 exception under whatever we think the rules are under 5203.3.

14 So where we would suggest some changes -- and Ms.
15 Steingasser I think gave a pretty fair summary of, you know,
16 the -- the places where we would like to see some additional
17 changes -- is one, because E 5207's standards are just the
18 conventional sort of aesthetic, you know, air, light, and
19 privacy, you know, character, scale and pattern of the street
20 front.

21 Those really are not a very good fit for solar and
22 it sounds like OP agrees with that proposition, so I won't
23 belabor the point in our letter on that.

24 Protection for vents and chimneys, I actually
25 agree with everything everyone else has said. We think

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1 that's significant, there -- it really doesn't, you know,
2 produce any redundancy.

3 If anything, we've seen that building code
4 reviewers fall down on that and having an ability to appeal
5 to BZA on that, I think, is a significant recourse. Given
6 that appeals to OAH have to be filed within ten days, there's
7 really not meaningful recourse, just under the -- the
8 building code for next-door neighbors, and so we would urge,
9 as many of the other witnesses have, that those provisions
10 be retained throughout.

11 The third point was just sort of a language
12 lawyering issue and that was on how you frame the language
13 for replacement in kind of rooftop architectural elements,
14 but it sounds like, again, OP was receptive to that.

15 So those are the official views of ANC 6C. I do
16 have some additional thoughts, and since I have some
17 additional time I'd just like to go into that.

18 To be clear, what I'm about to say, this is not
19 something that ANC ever considered and rejected, and so I'm
20 just here kind of whining about how I didn't get my own way.

21 Some of these are prompted by the prehearing
22 report from OP, which we didn't really have notice of and
23 therefore did not consider.

24 Some of them are in response to comments made
25 tonight. So let me just go sort of in the reverse order.

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1 An issue that Commissioner May raised about, well, so suppose
2 you're, you know, making a change, you've got a building, say
3 it's not a historic building, it's in a historic district,
4 and someone might like to do something that's a little more
5 historically sympathetic, as opposed to a replacement in
6 kind.

7 There's actually a dizzying array of scenarios
8 here. So let me give you one that we didn't even address in
9 our comments and that is this.

10 Suppose you have a property, let's say this is
11 outside of the historic district, so this is a BZA matter.
12 You have a historic building, but that was degraded at some
13 point.

14 So somebody took off the nice wood columns. Every
15 other house on the block has wood columns, but they've now
16 got some sort of cheapo iron column or, you know, they've --
17 they've done something else.

18 It would be perverse to have a rule where they
19 could, by right, just replace that. Let's say that that's
20 now, you know, the wood is rotted.

21 That they could replace that, exactly the same
22 profile, but they need a special exception to do something
23 to put the building back the way it was in say, 1920 or 1915.

24 So they're -- that's actually a fairly complicated
25 question, I think and that, as I say, that goes well beyond

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1 what ANC 6C recommended.

2 Second, I do want to comment on something that no
3 one has touched on here, and this goes back to some original
4 issues in 14-11. So if you look at Page 10 of the OP
5 proposal, this is Sections 301.3, 4, and 5. So bear with me,
6 let me just tee it up a little bit.

7 All of these provisions have to do with if you've
8 got a building that is, today, an apartment building. So it
9 was at some point converted, or, you know, it -- but at some
10 point in the past, it became an apartment building.

11 There is, if you look at 301.3 versus 301.4 -- and
12 I think, frankly, this kind of replicates the current state
13 of the Regs, but just worded a little differently.

14 Under 301.3, if it is -- if it was a building that
15 was previously converted from non-residential, that points
16 you off to U 320.4 and that does not require 900 square feet
17 of land per unit.

18 Conversely, for an existing, also existing
19 apartment building that was converted, let's say, from
20 smaller residential, a flat, 301.4 refers you to 320.2, and
21 for that you have to 900 square feet of land per unit.

22 So if we go back to the original purposes, and
23 obviously many of you were on the Commission, but my
24 understanding of the distinction in 14-11 for the initial
25 conversions that the Commission wanted to encourage the

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1 creation of more housing.

2 And for buildings that were not already in
3 residential use, you wanted to make it easier to have those
4 become residential. And so for those kinds of conversions,
5 you don't need all that extra lot area in order to turn it
6 into residential.

7 But it's hard for me to understand, once we're now
8 dealing with existing apartment buildings, what the rationale
9 would be today. They've already been incentivized, they
10 already turned it into an apartment building.

11 And you have two apartment buildings, potentially,
12 side by side, one was converted from non-residential, one was
13 expanded from smaller residential, why the rules would be
14 different for those if they want to expand to add an
15 additional unit?

16 Because under the current Regs as I understand
17 them, at least as far as Title U is concerned, and under OP's
18 proposal, you would maintain that distinction. I'm not sure
19 that's necessarily a rational distinction, at least I -- I
20 think it -- it's something that should be revisited.

21 And then the last point, if I may, Mr. Chair, was
22 on the issue of what the criteria should be for impairment
23 of an adjacent solar system. A couple of thoughts on this.

24 One, Mr. Winston said that, you know, they're
25 trying to eliminate subjectivity, I think they're introducing

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1 enormous subjectivity into this, the way that OP has revised
2 this in their prehearing submission.

3 One thing I think that's gotten a little lost in
4 the conversation here is this is not simply a case of, either
5 somebody is going to have, in good faith, a, you know, a
6 building proposal where they're not going to impair the
7 neighbor very much, or they're going to recognize that
8 they're over the five percent and so they'll just come, you
9 know, to BZA. You're going to have disagreements.

10 And I think what's not being recognized here is,
11 you know, one, the potential of an appeal. The neighbor can
12 appeal. And when that comes to BZA, what's the standard that
13 you're going to apply?

14 How are you going to assess that if the Regs
15 simply say, well whatever is satisfactory to the Zoning
16 Administrator. I'm not sure that's going to be a
17 particularly helpful standard.

18 That's -- I mean, I guess the other thing I would
19 say, here, is -- and I, I want to choose my words carefully
20 here. My view, and frankly that of ANC 6C, historically, has
21 been that the greater the discretion afforded to the Zoning
22 Administrator in the Regs, the greater the potential for
23 mischief.

24 And so I would say that is a broader proposition
25 under which I would oppose the last-minute changes that OP

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1 has suggested to that provision.

2 So I'll pause there. Happy to answer any
3 questions.

4 CHAIRMAN HOOD: Okay. I want to thank you all for
5 coming down to opine and give us your thoughts on what's
6 being proposed and what we're going to deal with, but let me
7 open it up, any questions or comments, Commissioners, of this
8 panel? This is the only panel we have. Commissioner May?

9 COMMISSIONER MAY: I just have one for
10 Commissioner Eckenwiler. So on the porch modification, I
11 mean, it's an interesting scenario.

12 But I'm not sure that that would ever play out,
13 because the porch cases that I've been involved in at BZA,
14 it's the roof itself, it's not the columns that become the
15 topic of discussion and so changes to the columns have not
16 come up.

17 And I don't -- I mean, maybe that's something that
18 I need to check with the OP staff about, but it's -- I
19 thought we did kind of discuss that earlier.

20 And certainly if there's, you know, if it's being
21 reviewed there are, I think -- it's arguable that you could
22 say well look, you know, these are terrible columns, you can
23 do something better.

24 And in fact, I mean, I'm -- I know from my own
25 personal experience in dealing with my own incredibly ugly

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1 and inappropriate porch that there is flexibility even in the
2 HPO staff, because I'm in a historic district. So I'm --
3 maybe I should just go ahead and ask the Office of Planning
4 to talk to that.

5 MS. STEINGASSER: The columns are not subject to
6 the review, it really is just the roof.

7 COMMISSIONER MAY: Right. Yes.

8 MR. ECKENWILLER: So let me ask the question then,
9 though. I was really just using the columns as a, you know,
10 an illustrative example.

11 Suppose the roof itself has changed substantially
12 in profile, and on this historic row house the roof of the
13 porch is now really ugly and modern and not in appropriate
14 materials, not an appropriate profile. Again, let's say we
15 know what that really did look like, because we can see all
16 the other houses on the block.

17 And I guess the question again is, depending on
18 how you write the regulation for replacement in kind, you
19 might have this sort of perverse incentive just to, well I'm
20 just going to replace it in the same ugly stuff, because
21 that's matter of right, as opposed to changing it. If I
22 change the profile, then I got to go to BZA to do that, which
23 seems perverse.

24 COMMISSIONER MAY: Well it's interesting, because
25 I -- now I'm curious about how my porch replacement is going

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1 to play out, because it's turning --

2 MR. ECKENWILLER: Get it done quickly.

3 COMMISSIONER MAY: No, no, no, I think it actually
4 will be better, because I'm in an historic district, it would
5 be exempt after these regulations are done, which would be
6 a good thing because believe me, my porch roof is ugly.

7 It's a 1950's aluminum awning with a, you know,
8 curlicue kind of trellis thing supporting it. I mean, it's
9 just, it's horrible. If I get kicked out in my permit review
10 to have to go to Zoning or to go to BZA that would be really
11 interesting.

12 MR. ECKENWILLER: So let me, let me be very clear,
13 I'm not saying anything about what should happen in historic
14 districts, we -- we are in fact as an ANC are not --

15 COMMISSIONER MAY: No, no, I --

16 MR. ECKENWILLER: -- objecting.

17 COMMISSIONER MAY: -- I mean, I understand that,
18 but I mean, the rules that I'd be operating under would still
19 apply in non-historic districts, right? So.

20 MR. ECKENWILLER: Well, it wouldn't be HPRB
21 review, it would be whatever the Regs say and I'm saying that
22 --

23 COMMISSIONER MAY: Yes.

24 MR. ECKENWILLER: -- how you frame the Regs may
25 incentivize the wrong behavior, or --

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1 COMMISSIONER MAY: Yes.

2 MR. ECKENWILLER: -- or the less desirable --

3 COMMISSIONER MAY: Well, I mean, we'll --

4 MR. ECKENWILLER: -- behavior.

5 COMMISSIONER MAY: -- we'll see how, what, what
6 happens. I mean, we won't take a final -- hopefully I'll
7 have my permit before this comes up for a final
8 consideration.

9 But it'll be interesting to see, because I'm going
10 to change the roof of my porch and replace it with something
11 that's historically appropriate.

12 And if that, under current Regs, in your scenario,
13 theoretically, it could -- could get -- I could get kicked
14 up to the BZA, so I'll let you know how it goes.

15 CHAIRMAN HOOD: All right, any other questions,
16 or comments? I just have a few. For those who may have come
17 in late, to catch you -- I know there are a lot of moving
18 parts here in understanding issues going back and forth.

19 For those who may have come in late, I would
20 suggest that you look at the first part of my questions and
21 Ms. Steingasser's response and especially her presentation.

22 But I do kind of want to put myself in line with
23 Ms. Green's comments about the renderings. This is not the
24 first time that has come up on this Commission.

25 I think, I think that's very important for the

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1 person who does it to do it so we can visually see some
2 impact. I don't know how we get there. I know we were doing
3 that I think with the Zoning Handbook and some other things.

4 But I, I think that that's important. I don't
5 know how hard it would be, Ms. Steingasser, for some of
6 these, if it's a major issue, but I -- I don't know how we
7 get there.

8 I don't know what the staffing is. I don't know
9 what the graphics capabilities are, but I would ask that we
10 look at that. I'm not sure if -- where my colleagues are.

11 I know I'm not necessarily prepared to move any
12 further tonight, so I can kind of grapple and understand some
13 of the comments, but I still think that this is, as I think
14 the -- Commissioner Eckenwiler and the -- that ANC 6C has
15 mentioned, I think this is some clarifying language, even
16 though, you know, as far as people thinking that things are
17 being taken away.

18 And I -- I'll say it again for those who came in
19 later, I started off my comments, if anybody thinks I'm going
20 to sit down here and take away that ten-foot setback, they're
21 in the wrong place.

22 So as, as much -- I would actually like to see it
23 even -- but, you know, we are what are, so you know, I have
24 to deal with what I have in front of me. So that's kind of
25 where I am. I just want to make sure that we -- we all

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1 understand it.

2 But -- but let me ask this. I will -- I will say
3 this to you, Mr. Gambrell, let me ask you this. I -- I kind
4 of like -- I want to adopt that.

5 Office of Planning proposes is not necessarily
6 what the Zoning Commission -- and then, you know, I liked the
7 way you said that, so if you could write that down and send
8 it to me, or put it in the record, I -- I'd like to have that
9 for myself.

10 MR. GAMBRELL: Actually I liked it, too. I wrote
11 it --

12 CHAIRMAN HOOD: You did?

13 MR. GAMBRELL: -- right back there, and --

14 CHAIRMAN HOOD: Oh, you have it?

15 MR. GAMBRELL: -- but I kind of misspoke it a
16 little bit, but I'll -- I'll get it to you.

17 CHAIRMAN HOOD: Okay. I, I need that, because
18 sometimes, that's often how I feel, sitting here. So I mean,
19 and I'm not saying that -- I'm not trying to pick up any
20 points, I don't need any, but I actually like that, because
21 often times that's how I feel.

22 There was something else you said, but I have --
23 I'm going to have to come back to that. I'm going to see if
24 anybody else have anything else while I'm up here -- while
25 I'm up here speaking? Okay. So -- so -- okay. So that's kind

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1 of where I am, Office of Planning. I don't know, you know,
2 I'm not asking you to give me an answer tonight.

3 I'm not sure where my colleagues are, I know I'm
4 not ready to move forward with any voting tonight, I think
5 there's still some moving parts, some other things that I
6 think that we may have asked and we may be asking for.

7 But I, I will go back to my initial statement, is
8 that I think we have simplified or -- well, I'm not going to
9 say simplified. I think we have tried to bring some of this
10 together, some of the confusion.

11 And I think our opening remarks, and that's why
12 I said look at Ms. Steingasser's opening remarks, because I
13 think that some of the things that people thought we were
14 doing were actually not happening, so that causes a lot of
15 confusion.

16 It causes a lot of confusion and the confusion
17 seems to get out better than the right information for some
18 reason, so we need to all work together to make sure we try
19 to understand the right information, so we can get the right
20 information out. Let me go to the Vice Chair.

21 VICE CHAIR MILLER: Thank you, Mr. Chairman. Yes,
22 just following up on that comment. I think that it would be
23 helpful, if the, if the Office of Planning would memorialize
24 in writing what opening comments were by Ms. Steingasser.

25 I hate to give you any more work than you already

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1 have. But I think it was -- I think it was a useful
2 clarification of what's being proposed and what isn't being
3 proposed and what's being carried forward from the existing
4 14-11 protections, and also it could be responsive to some
5 of the concerns -- give a response to the concerns we heard
6 tonight that we would have in the record, I think it would
7 be helpful when we move forward with the proposed action.

8 MS. STEINGASSER: Well, we'll be --

9 VICE CHAIR MILLER: We have some comments from
10 OAG, but they're attorney/client and I think that those type
11 of point-by-point responses, I think, would be helpful to
12 have from Office of Planning.

13 (Simultaneous speaking.)

14 MS. STEINGASSER: Okay. And we'll be happy to do
15 that, but I do want to be clear on one thing that made -- as
16 part of this case, we are not looking at any of the rear yard
17 issues.

18 That doesn't -- the, the Commission has asked us
19 to look at that rear yard issue as part of a separate case
20 and we will be looking at that in the future, but it is
21 certainly nothing as part of this case. Those, those
22 protections --

23 VICE CHAIR MILLER: And I --

24 MS. STEINGASSER: -- still exist.

25 VICE CHAIR MILLER: -- understand that, but I

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1 think it would be helpful for you to have that in a statement
2 --

3 MS. STEINGASSER: But I'll --

4 VICE CHAIR MILLER: -- in the record on this case
5 that isn't part of this case.

6 MS. STEINGASSER: And, and I'll be happy to do
7 that in the -- especially in the context of the comments that
8 have come in, to help clarify where we are. And we'll --

9 VICE CHAIR MILLER: Okay. But, thank you.

10 MS. STEINGASSER: We'll also try to -- we do have
11 some design staff and some graphic -- graphic staff and we'll
12 see -- we'll give them this and see what they can make out
13 of it --

14 CHAIRMAN HOOD: And --

15 MS. STEINGASSER: -- so they --

16 CHAIRMAN HOOD: -- and it can be stick. I mean,
17 you know, stick design, I understand that, but I think
18 anything is -- is better than nothing.

19 And the reason why I say stick design, because I
20 know how much it costs for a graphics designer to do the work
21 and I don't know how anybody's budget sometimes can handle
22 it, because I do it for the federal government.

23 But I can tell you, you know, something to kind
24 of just show us a representation on what's actually
25 happening. Let me go to Commissioner Shapiro.

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1 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. Yes,
2 one point I have is on that last discussion about the graphic
3 representation. It's not clear to me exactly what is the
4 scope of things that you're -- you even hold in your head as
5 what needs to be graphically represented.

6 Are we talking about the, the amount of potential
7 shading, is that how you're taking this in? Of a solar
8 array, or what other pieces --

9 MS. STEINGASSER: Well that --

10 COMMISSIONER SHAPIRO: -- would you imagine would
11 be --

12 MS. STEINGASSER: I, I don't -- I can't imagine
13 how most of this would be represented graphically, but that's
14 why I would give it to our graphics staff and see if there's
15 something they can glean, because I don't know how we would
16 --

17 COMMISSIONER SHAPIRO: All right, but I think
18 that's --

19 MS. STEINGASSER: -- depict five percent versus
20 ten --

21 COMMISSIONER SHAPIRO: Right.

22 MS. STEINGASSER: -- percent, or --

23 COMMISSIONER SHAPIRO: I mean, that's -- that's
24 where I think, Mr. Chair, it might be helpful for us to be
25 a little bit clearer with what --

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1 CHAIRMAN HOOD: So --

2 COMMISSIONER SHAPIRO: -- the direction --

3 CHAIRMAN HOOD: So --

4 COMMISSIONER SHAPIRO: -- that we're asking for
5 is in this regard.

6 (Simultaneous speaking.)

7 CHAIRMAN HOOD: So let me just -- it's just like,
8 let me bring it to these terms, because I'm a printer and I
9 deal with graphics.

10 You know, people come in and tell me what they
11 want and I'm able to achieve that. If you're able to tell
12 a graphics person verbally, they can look -- they can take
13 what we're reading and basically turn it into some type of
14 representational, a pictorial representation.

15 I can't sit here, I'm not a graphic artist, I just
16 work with them. Just like I go to an architect, I can go to
17 Commissioner Turnbull or Commissioner May and tell them that
18 I want a back porch and I want all the zoning rules to apply,
19 and they will be able to help me with that.

20 So that's kind of in line with what I'm -- what
21 I, what I hope for, but that's kind of in line of what I'm
22 saying. I will leave that up to Ms. Steingasser and the --
23 whoever her graphics folks are, and let's see what they come
24 back with. Okay. Let me -- let me go to the author of the
25 idea because she's been raising -- but let me, let me finish

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1 the discussion here, Ms. Green.

2 MS. GREEN: Yes, sir.

3 CHAIRMAN HOOD: Mr. Winston, you wanted to chime
4 -- chime in?

5 MR. WINSTON: With some caution. I want to say
6 there is sort of two issues that I'm hearing a little bit
7 merged. One is this question of moving from -- from a
8 performance to the shading in the study approach.

9 And we really have to go into weeds to explain why
10 that's a good idea. I want to assure you that it is not with
11 the intent of making a less accurate study, it is with the
12 intent of making a simpler and more reliably repeatable
13 study, but the weeds get deep there so it would be an offline
14 discussion, I think.

15 The second point is the -- that is sort of just
16 underneath the surface here is the question of printing the
17 -- or putting the study parameters or the study approach
18 directly in the Zoning Regulations versus giving it to the
19 Zoning Administrator.

20 But I think what is just beneath the surface areas
21 is the question of how well it is or whether it is thoroughly
22 published and represented and reliably disseminated to
23 everyone.

24 And I can say with confidence that the Zoning
25 Administrator is completely behind that. I, personally, as

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1 the person he goes to to try to have confidence in the -- in
2 the resulting assessment of these solar shading studies, am
3 completely behind the idea of both publishing the shading
4 study guideline, right, and so this about 90 percent done at
5 this point, and one or more example shading studies, which
6 include graphics as one element included -- and, and other
7 aspects of the assessment.

8 So the idea, certainly, is that we want to give
9 people as much as we possibly can to let them and help them
10 and support them produce reliable, repeatable, accurate
11 shading studies and that's -- that is the sole intent of
12 that, that language change.

13 CHAIRMAN HOOD: Going to Ms. Green and then let
14 me -- and then I'll come back to you, Mr. Shapiro.

15 MS. GREEN: I guess I was very impressed this
16 afternoon when I went on the solar site, I guess it's the DOE
17 has. And I -- it's a big map of the city. It's interactive.

18 I punched in my street address and up came a roof,
19 my house, you know, seated as I saw in the street, it had my
20 roof on it and it told me, it had shades where I should put
21 my panels.

22 It said if you want to -- this is where you want
23 to put -- and then it went -- I was astounded. On the right
24 -- the left side of the page, it talked about how much money
25 it would cost and it gave me a lot of technical information

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1 about how much money I would save and what the payback,
2 number of years, if I spent x-amount of money, it would --
3 it's three and a half years and I would pay this off.

4 I was -- I was flabbergasted. I was so impressed
5 that I could use that in my decision making. Okay. If you
6 can do that for my house, and you can do that in an
7 interactive way and show the shading of the panels on my
8 roof, then you can do it as -- for the city as an exhibit for
9 this zoning case, for this proposal.

10 And you can say okay, five percent of a certain
11 sort of situation, you can give us a couple of different
12 examples of what five percent looks like, what ten percent
13 looks like, whatever, and you can make me understand the
14 value of this proposal.

15 If I have a neighbor, if somebody -- you can take
16 a row -- I don't live in a row house but you can take the
17 typical, you know, the row house scenarios in different kinds
18 of -- there -- we really have some very uniform row house
19 situations in this city.

20 It's very predictable and you can show that in a
21 couple of different scenarios, and that's what I'm asking you
22 to do. You can do it online, you can do it digitally, I
23 think you can do it in more than line drawings.

24 And I know the city can do it. If you can come
25 up with this thing that I saw this afternoon, which was about

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1 as impressive a -- a site, a city website as I've seen in a
2 long time.

3 CHAIRMAN HOOD: Okay. At the end of the day, Ms.
4 Green, I'm -- my ask was just to try -- because I don't know
5 what any budgets are and when I leave out of here in about
6 15 minutes, I'm a resident just like everybody else.

7 So I live here just like everybody else, so my ask
8 was, was to kind of keep it simple, but that modern
9 technology ask is -- far supersedes me asking, so I was just
10 trying to accommodate what your request was.

11 Now, if they're able to come back with all that,
12 great. They may need you to come down and ask for some more
13 money, the Office of Planning's oversight, I don't know, but
14 I don't know, I'm just going to leave that to, to the Office
15 of Planning.

16 What you're talking about is something totally
17 elaborate and different from what I was asking. But if
18 they're able to come back, or eventually come back with
19 something, then I think it's a great idea. I just don't know
20 what the budgets are. Okay. All right, anything else up
21 here? Mr. Shapiro.

22 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. Just
23 a point on this issue around protection for vents and
24 chimneys and I just want to make sure that we can get more
25 clarification around that.

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1 I heard a bunch of different issues floating
2 around on that, some of which was just about flat out
3 mistrust, which we can't do a whole lot to address, in that
4 regard.

5 But there were some issues that I felt like were
6 conflicting that I'd like to hear OP's take on this.
7 There's, you know, there's conflicting relief requirements,
8 there's conflicting potential appeals processes that could
9 be in place.

10 And then you counter that with the -- your desire
11 for the -- more efficiency and less redundancy and time and
12 money savings. I mean, there are all these different pieces
13 of this that seem to come into play that we'll need to weigh
14 out when we consider this, so if you could dive in a bit
15 deeper on that?

16 MS. STEINGASSER: Yes. Yes, sir.

17 CHAIRMAN HOOD: And let me just ask Ms. Schellin,
18 isn't there another form where this goes back out for
19 advertisement? Because I heard that what was advertised was
20 totally different from what -- I think what we came up with,
21 or something --

22 SECRETARY SCHELLIN: I'm not sure --

23 CHAIRMAN HOOD: -- of that nature --

24 SECRETARY SCHELLIN: -- what --

25 CHAIRMAN HOOD: It's proposed, so it doesn't go

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1 back out again?

2 SECRETARY SCHELLIN: Yes, if the Commission takes
3 proposed action there will be a proposed rulemaking and --
4 and the record will reopen --

5 CHAIRMAN HOOD: Okay.

6 SECRETARY SCHELLIN: -- for a 30-day comment
7 period.

8 CHAIRMAN HOOD: I just wanted to make sure I --
9 that that issue was addressed at the appropriate time,
10 because I don't -- I don't believe we'll be taking on a
11 proposed action this evening.

12 All right, so the path going forward. I really
13 want to thank everyone for their input, pro or con, Mr.
14 Hargrove and all, everybody.

15 I think -- I think with -- even though you might
16 not get what you -- what you have envisioned or what you said
17 to us a hundred percent, I think even whatever you said helps
18 us to make a better rule, so we really appreciate it.

19 Let me see. Commissioners, anything going -- that
20 we would ask for other than the things that we've talked
21 about? Do we need to put this on type -- some type of
22 schedule, or do we need to -- what do we -- what do we -- I'm
23 talking to the Commissioners now, what do we need to do? Let
24 me see, Ms. Steingasser?

25 MS. STEINGASSER: Oh, just -- could OP and the

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1 Office of Attorney General be authorized to revise -- make
2 some revisions to the Regulations based on what we've heard
3 here tonight?

4 CHAIRMAN HOOD: I think --

5 MS. STEINGASSER: Because --

6 CHAIRMAN HOOD: -- that will be very --

7 MS. STEINGASSER: Okay.

8 CHAIRMAN HOOD: -- helpful, yes. And I think it
9 would be most appreciative --

10 MS. STEINGASSER: Yes.

11 CHAIRMAN HOOD: -- for those who came down,
12 especially. All right, Mr. Gambrell, don't forget to make
13 sure I get that, please. Okay, thank you. All right, anything
14 else? Ms. Schellin, you want to --

15 SECRETARY SCHELLIN: Yes.

16 COMMISSIONER SHAPIRO: Oh, if we --

17 SECRETARY SCHELLIN: So how much --

18 CHAIRMAN HOOD: Hold on a second.

19 COMMISSIONER SHAPIRO: If we can have him put that
20 in the record, actually, because I think --

21 SECRETARY SCHELLIN: Yes, if he can --

22 CHAIRMAN HOOD: Oh yes, put it in --

23 SECRETARY SCHELLIN: If he hands it in this evening
24 I'll take it --

25 CHAIRMAN HOOD: Put in the record.

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1 SECRETARY SCHELLIN: Yes.

2 CHAIRMAN HOOD: Put it in the record, is -- so --
3 yes, so --

4 SECRETARY SCHELLIN: And other than that the
5 record will be closed except for the revised information.
6 So I -- I need to know how much time OP thinks that they
7 need, so we can schedule this?

8 MS. STEINGASSER: I think we're going to probably
9 need at least three to four weeks.

10 SECRETARY SCHELLIN: Okay, so --

11 MS. STEINGASSER: Can we come back to the
12 Commission in May, is there a second meeting in May?

13 SECRETARY SCHELLIN: Oh, you want that much time
14 then? That's --

15 MS. STEINGASSER: Well --

16 CHAIRMAN HOOD: No that's --

17 SECRETARY SCHELLIN: That's more?

18 MS. STEINGASSER: Oh that's too -- I'm -- okay.
19 I'm jumping ahead, I'm desperate for spring. In April?

20 SECRETARY SCHELLIN: I was going to say the second
21 meeting in March is the 30th, so if you get --

22 MS. STEINGASSER: Okay that --

23 SECRETARY SCHELLIN: -- three or four weeks that
24 would put it, like, the 19th it would be due.

25 MS. STEINGASSER: Then we could -- that could --

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1 then we could file it ten days ahead on the 20th?

2 SECRETARY SCHELLIN: Well, you don't have to file
3 it ten days ahead if it's -- if it's just the document that
4 we're asking for it doesn't have to be --

5 MS. STEINGASSER: Okay.

6 SECRETARY SCHELLIN: -- ten days ahead.

7 MS. STEINGASSER: All right.

8 SECRETARY SCHELLIN: It's just whatever date we set
9 it because there's no responses to it.

10 MS. STEINGASSER: Okay. Yes we can, we can
11 definitely --

12 SECRETARY SCHELLIN: So -- so to give you as much
13 time as you need then, in that case, one, two, three, four,
14 five, how about five weeks and make it the 19th of March and
15 then we can put it on for proposed action for March 30th.

16 MS. STEINGASSER: Okay.

17 SECRETARY SCHELLIN: Does that work?

18 MS. STEINGASSER: That'll work.

19 SECRETARY SCHELLIN: Okay. So 3:00 p.m., March
20 19th.

21 MS. STEINGASSER: Nineteenth.

22 SECRETARY SCHELLIN: And then we'll put it on for
23 proposed action consideration on March 30th. And other than
24 Mr. Gambrell handing me that this evening the record is
25 closed until the Commission -- yes, it's in the record.

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1 We'll close the record until proposed action, if
2 taken, the record will reopen when the proposed rulemaking
3 is published. That's it.

4 CHAIRMAN HOOD: Okay, we all on the same page? All
5 right, I want to thank everyone for their participation
6 tonight, and this hearing is adjourned.

7 (Whereupon, the above-entitled matter went off the
8 record at 8:14 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCZC

Date: 02-13-20

Place: Washington, DC

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