

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

+ + + + +

THURSDAY

JANUARY 21, 2021

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IN THE MATTER OF:           :
                               :
Office of Planning -         : Case No. 14-13E
Modifications & Clarifications:
To Penthouse & Rooftop      :
Structure Regulations        :
Subtitles: A-K, U & X of    :
Title 11 DCMR                :
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The Public Hearing of Case No. 14-13E by the District of Columbia Zoning Commission convened via Videoconference, pursuant to notice at 4:00 p.m. EDT, Anthony J. Hood, Chairperson, presiding.

BOARD OF ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairman
- ROBERT MILLER, Vice-Chair
- PETER SHAPIRO, Commissioner
- PETER G. MAY, Commissioner
- MICHAEL TURNBULL, Commissioner

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OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN, Secretary
PAUL YOUNG, Zoning Data Specialist, Office of Zoning

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON
JENNIFER STEINGASSER
ANNE FOTHERGILL

The transcript constitutes the minutes from the
Public Hearing held on January 21, 2021.

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

	<u>PAGE</u>
OPENING STATEMENT:	
Anthony Hood	4
PRESENTATIONS:	
Office of Planning, Case Number, 14-13E, modfications and clarifications to penthouse and rooftop structure Regulations to subtitles A-K, U and X of Title 11 DCMR Joel Lawson	8
COMMENTS AND QUESTIONS:	
Commissioners, Mark Eckenwiler, Larry Hargrove . .	41
ADJOURN:	
Anthony Hood	100

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

(4:00 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. We are convening and broadcasting this public hearing by videoconferencing. Today's date is January 21st, 2021. Tonight's case is the Office of Planning's text amendment for the penthouse Regulations.

My name is Anthony Hood. Joining me are Vice Chair Miller, Commissioner Shapiro, Commissioner May, and Commissioner Turnbull. We're also joined by the Office of Zoning staff, Ms. Sharon Schellin, our secretary, and Mr. Paul Young, who will be handling all of our virtual operations.

We ask all others to introduce themselves at the appropriate time. Again, we have Vice Chair Miller, Commissioner May, Commissioner Turnbull, and Commissioner Shapiro. I think I got everybody.

Copies of today's virtual public hearing notice are available on the Office of Zoning's website. Please be advised that this proceeding is being recorded by a court reporter and is also webcast live and YouTube Live.

The video will be available on the Office of Zoning's website after the hearing. Accordingly, all of those listening on Webex or by phone will be muted during the hearing, and those who have signed up to participate or testify will be unmuted at the appropriate time.

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2 oral testimony on your presentation. When you are finished
3 speaking, please mute your audio so that your microphone is no
4 longer picking up sound or background noise.

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6 your telephone call-in, then please call our OZ hotline number at
7 202-727-5471 to sign up or to receive Webex login or call-in
8 instructions.

9 All persons planning to testify either in favor or in
10 opposition or undeclared, we encourage you to sign up in advance
11 and your name will be called in the order as we proceed. If you
12 wish to file written testimony or additional supporting documents
13 during the hearing, then please be prepared to describe and
14 discuss it at the time of your testimony.

15 The hearing will be conducted in accordance with
16 Provisions of 11Z DCMR Chapter 5 as follows: preliminary matters;
17 presentation, in this case it's the Office of Planning, which has
18 up to 60 minutes; reports of other government agencies; report of
19 the ANC. Testimony -- organizations will have 5 minutes and
20 individuals will have 3 minutes, respectively. And we'll hear in
21 the order of those in support, opposition or undeclared.

22 While the Commissioner reserves the right to change the
23 times limits for presentations, if necessary, it intends to adhere
24 to the time limits as strictly as possible and no time shall be
25 ceded.

1 Again, any issues, please call the OZ hotline number at
2 202-727-5471.

3 Ms. Schellin, did I skip any -- notice? Okay. Thank
4 you.

5 At this time the Commission will consider any
6 preliminary matters. Does the staff have any preliminary matters?

7 MS. SCHELLIN: Not really preliminary matters, just a
8 couple statements. One, Joel Lawson and Jennifer Steingasser are
9 here from the Office of Planning and also, Anne Fothergill, but I
10 believe Mr. Lawson will be doing the presentation.

11 And also, speaking of presentations, the Office of
12 Planning worked up until the last minute to get their PowerPoint
13 presentation to us this afternoon. And so it's less than 24 hours
14 and I'd like to know if the Commission will allow us -- although
15 they're going to show it during the hearing, if the Commission
16 would like me to put a copy of that into the record now?

17 CHAIRPERSON HOOD: Okay. Thank you, Ms. Schellin. Any
18 objections? No objections. I think that would be very helpful
19 and I'm glad that they are going to be going through that. And I
20 think -- probably go through that slowly, but I did read a few of
21 the comments, but I would like to go through that as slowly as
22 possible.

23 MS. SCHELLIN: Okay. I'll go ahead and -- I see several
24 heads nodding, so I'll go ahead and put that PowerPoint
25 presentation into the record now, so that anyone who's listening

1 can view it if they choose to do so and also get that released
2 into ZDOCS if the Commission wants to look at it, although it will
3 be on the screen for you.

4 Other than that, nothing else.

5 CHAIRPERSON HOOD: Okay. Sounds good. Can we bring Mr.
6 Lawson, Ms. Steingasser and Ms. Fothergill up? And once they get
7 up and get straight, they may begin.

8 Let me ask the commissioners this, do we need to
9 interrupt as they're going along, or would you all like for them
10 to finish it and then we ask our questions at the end? Just
11 throwing that out there.

12 COMMISSIONER MAY: I'd like to interrupt some time.

13 CHAIRPERSON HOOD: Okay. I thought this was one of
14 those interrupting cases. Okay. So we'll proceed in that
15 fashion. Thank you.

16 MR. LAWSON: Thank you, Mr. Chair. This is Joel Lawson
17 with the Office of Planning. I'll kind of forewarn you that I
18 will probably be turning off my video once the presentation
19 starts. My computer has not been very happy with me lately when
20 I've been running video on Webex. So to prevent being knocked off
21 I'll probably sign off my video, even though I did throw on a tie
22 for the first time in a year today, so I wanted to make sure that
23 everybody at least noticed that.

24 CHAIRPERSON HOOD: Well, Mr. Lawson, just stay on for a
25 second so we can all see your tie. There you go. All right. So

1 now you can turn it off, we understand --

2 MR. LAWSON: Thank you.

3 CHAIRPERSON HOOD: -- how (audio interference) is.

4 MR. LAWSON: Thank you. Mr. Young, if you could start
5 the presentation, please? And we can move to the next slide,
6 please.

7 Okay. So once again, thank you, Mr. Chair and members
8 of the Commission. OP, as you know, is recommending a series of
9 amendments to the penthouse and rooftop structure provisions. As
10 noted in our most recent report, which is at Exhibit 7, in the
11 record, the proposed text that OP is recommending is essentially
12 similar that was advertised in the public hearing notice. Any
13 changes from that we'll be highlighting in this presentation.

14 The text in the public hearing notice was also very
15 similar to what the Zoning Commission set down, which was all the
16 way back in February of 2020.

17 In this presentation I'll provide a very high-level
18 summary of the proposed changes and I will respond to some of the
19 comments that have been submitted by the public to date.

20 And to all the Commissioners, please feel free to
21 interrupt me if there's some reason. I'll try to take a breath
22 from time to time so that you'll be able to ask me to slow down or
23 just stop for a bit to answer a question. Next slide, please.

24 For -- just for the interest of the members of the
25 public who may be listening in, just a very quick summary of how

1 we got to this night. The original case, 14-13, became effective
2 in January 2016, so is now about five years old. It included
3 significant amendments to the then existing Regulations. And
4 those were mainly to add the ability to have habitable space
5 within a penthouse. The instigation for these changes, of course,
6 was the corresponding changes made to the federal Height Act to
7 allow those kinds of uses within a penthouse.

8 The Regulations, as I said, have been in place for about
9 five years and over that time some issues and concerns have been
10 noted by staff, members of the Zoning Commission, BZA and members
11 of the public. It was also really clear to OP that the
12 Regulations needed a good scrubbing to try to simplify the order
13 and clarify them, although there are substantial changes proposed
14 as well.

15 So OP brought forward this proposal almost exactly a
16 year ago in January 2020. We'd worked very closely with the
17 Zoning Administrator, the Department of Housing and Community
18 Development staff and the Office of the Attorney General to draft
19 the proposal.

20 The second report was submitted in February and that was
21 to address initial concerns raised by the Zoning Commission and in
22 February the case was set down.

23 OP filed this report on January 11th of this year. It
24 outlines the changes proposed by OP, a few amendments proposed
25 since the public hearing notice was published, and initial

1 response to public suggestions provided to OP.

2 At this point I'd really like to thank, in particular,
3 Commissioner Eckenwiler and David Avitabile of Goulston & Storrs
4 who contacted me in advance and we had the ability to discuss
5 their issues. That was really helpful to us. Hopefully, I
6 generally captured the gist of their comments, but I'm sure that
7 they'll be here tonight to provide comments of their own.

8 I also note that, of course, additional comments have
9 been filed to the record today. Due to the short notice OP,
10 unfortunately, was not able to even fully review those comments of
11 to respond to those comments in this presentation. And we
12 apologize to the Commission that they will not be reflected in the
13 presentation that we will be giving today. Next slide, please.

14 So jumping right in, the very first section was
15 definitions. For Subtitle B, OP worked very closely with DRCA to
16 update the definitions and to add a number of new definitions to
17 the Regulation.

18 We're not proposing any additional changes since what
19 was advertised in the public hearing notice. However, ANC 6C
20 recommended some revisions to the definitions of both penthouse
21 and rooftop structure.

22 I had an opportunity -- I had a chance to discuss those
23 with the Zoning Administrator and based on those discussions we're
24 not recommending that those changes be adopted. The definitions,
25 as I said, were the result of extensive discussions at the time

1 and we feel that they reflect the intent for the provisions as
2 well as current practice.

3 ANC 6C also raised a somewhat technical issue in the
4 definition of solar -- of rooftop structure, sorry, related to
5 screening for mechanical equipment. OP attempted to correct for
6 this. We agreed that that change needed to be made. And OP
7 attempted to correct for this in our report, but we agree with
8 Commissioner Eckenwiler's more recent comments that what we
9 propose really do not do the trick. And, frankly, what we propose
10 should not be adopted.

11 The intent is to assure that screening for mechanical
12 equipment does not require its own screening, which would be not
13 very logical. And so we intend to address that in the wording,
14 but we would have to request some flexibility to finalize that
15 language prior to the Zoning Commission making any kind of final
16 decision. Next slide, please.

17 COMMISSIONER MAY: Mr. Lawson, if I could interrupt for
18 one second?

19 MR. LAWSON: Yes, sir.

20 COMMISSIONER MAY: Actually -- and not to ask you a
21 question, but Ms. Schellin, if I could ask you a question.

22 So it's always helpful when we have a presentation from
23 an applicant, whether it's The Office of Planning or, you know,
24 somebody with a building project to actually have that
25 presentation in hand. And I know we just accepted it into the

1 record, but I'm wondering when it's actually going to be released
2 to us, because it would be very good to be able to look at that
3 and be able to flip back and forth and mark it up.

4 MS. SCHELLIN: I'm doing it right now.

5 COMMISSIONER MAY: Okay.

6 MS. SCHELLIN: So give me about two, three minutes.

7 COMMISSIONER MAY: Okay. And it will be in ZDOCS or
8 IZIS?

9 MS. SCHELLIN: Yes, ZDOCS and in the case record, both.

10 COMMISSIONER MAY: Okay. Thank you. All right. Thank
11 you.

12 MR. LAWSON: Thank you. Other changes related to the
13 rules of measurement for how penthouses are measured. In this
14 one, we also worked closely with the Zoning Administrator's
15 office, of course, to clarify the wording of these and we're not
16 proposing any additional changes at this point. ANC 6C suggested
17 that I might be helpful to define top of roof for the purposes of
18 measuring how a penthouse height is measured. I also discussed
19 this with DCRA, and they felt that that did not seem to be
20 required as existing and proposed provisions to them provide
21 sufficient direction for measuring (audio interference) and
22 measuring the height of a penthouse. Next slide.

23 Now we're moving into Subtitle C, which is the General
24 Regulations within the Zoning Regulations. The first one I'm
25 going to talk about is in Subtitle C, Chapter 10, that's

1 inclusionary zoning. We're not proposing any additional changes
2 of significance; however, I would note that after the set down
3 meeting but before the public hearing notice was issued, OP was
4 advised that the then proposed changes would have inadvertently
5 restricted a community care retirement community, which can be
6 housing for seniors that are not necessarily an assisted living
7 facility. We were advised that the changes we proposed would make
8 that use ineligible to the IZ provision. So it would not be
9 eligible for IZ and it would not be subject to the requirements of
10 IZ.

11 That was really not the intent, instead we were trying
12 to clarify which particular uses, which are exempt from IZ should
13 be subject to the penthouse requirement for IZ. And so before the
14 public hearing was noticed -- was issued, we provided some changes
15 -- or we did some changes to those provisions. Those are up on
16 the screen and as I noted those are also noted in the public
17 hearing notice. Next slide, please.

18 And now we're going to get to the real crux of the issue
19 and that's Subtitle C, Chapter 15, those are the penthouse
20 Regulations. And Subtitle C, 15, included a fairly comprehensive
21 reordering of the provisions. The previous provisions were
22 somewhat scattered, so we tried to reorder them and put them under
23 headings by specific use.

24 I should note that all of the slides that we're going to
25 be following deal with Subtitle C, we'll be referring to the

1 proposed new numbering and ordering rather than the numbering
2 that's in the current provision. Next slide, please.

3 The first one is uses and even with a very quick reading
4 of some of the comments filed today, this seemed to be the one
5 that generated the most response. Under the existing Regulations,
6 an enclosed penthouse on the roof of a one family dwelling or flat
7 is not permitted by right; rather, a special exception process for
8 its approval is required and is allowed only if the penthouse
9 meets the specific conditions related to maximum height of 10 feet
10 and maximum penthouse size. If it doesn't meet those provisions,
11 a variance would be required.

12 This means that an access stair to a rooftop deck on any
13 such building requires that special exception review, at least.

14 In our original proposal OP had recommended a set down
15 that the special exception review not be required for a -- sorry,
16 I lost my place -- not be required if the penthouse met those
17 criteria. So once again, we had recommended that a special
18 exception requirement not apply if the penthouse met those
19 criteria in the Zoning Regulations.

20 At the initial set down meeting the commission
21 expressed, frankly, a lack of support for that. And OP,
22 subsequently, amended the proposal prior to the second set down
23 meeting, which was held last February.

24 Under the revised proposal, which was set down, special
25 exception review would remain for any stairwell access and storage

1 penthouse if the penthouse was fully or partially above the height
2 limit for the building in the zone, which is 35 feet in the RF
3 Zone, for example.

4 This would typically mean that a penthouse on the roof
5 of an existing or proposed three-story building would require that
6 special exception review. OP further proposed that if the
7 penthouse would be entirely below that permitted height or which
8 would typically be on a two-story building, that it be allowed by
9 right.

10 So why would OP propose this? Under the current
11 Regulations rather than go through the special exception process,
12 a homeowner could instead, by right, construct a larger addition
13 so that it could be considered a story rather than a penthouse and
14 therefore not subject to the special exception review and not
15 subject to any of the setback requirements for a penthouse.

16 This did not seem to make sense to OP, so OP recommended
17 that the incentive to do this in the current Regulations, be
18 addressed and that's what we tried to do.

19 Following are some illustrations that show two and
20 three-story buildings in proximity to one another, a highlight
21 where the penthouse would require special exception. They also
22 indicate the setbacks for that penthouse that would be required.
23 The setbacks would not be required for a third-story addition -- a
24 third-story floor addition.

25 COMMISSIONER SHAPIRO: Excuse me, Mr. Lawson, should we

1 be on the next slide?

2 MR. LAWSON: Just getting to it right now. Feel free to
3 go to the next slide, for sure. I just want to note that these
4 illustrations are also in the record as an attachment to the OP
5 report at Exhibit 785.

6 So the first one shows a stairwell on an existing three-
7 story house. This house happens to be a corner property. The
8 stairwell would only be permitted in this instance by special
9 exception. Just so you know, the guardrail around the deck, if
10 there was one, would also be required to provide any required
11 setback. I'm sorry -- next slide, please.

12 In this example, this shows a stairwell on a third-story
13 addition on a corner lot. So it's a two-story house, we're showing
14 a third-story addition, so it's slightly back from the front and
15 then what a stairwell would like on top of that. But again, in
16 this instance, the stairwell would only be allowed by special
17 exception. It and any deck guardrail would have to provide all of
18 the required setbacks, which is why it's shown set in towards the
19 interior of the property. Next slide, please.

20 This is the same photo, but it shows a stairwell on a
21 three-story addition to an existing house on an interior lot.
22 Again, the stairwell would only be allowed by special exception on
23 this three-story house.

24 On the corner lot, we're also showing a stairwell. That
25 stairwell, because it's on a two-story house would be below the

1 permitted height for the building, would be allowed by right under
2 the OP proposal.

3 Again, I'll be getting to setback requirements in a few
4 minutes, but the stairwell and the guardrail would have to provide
5 all the required setbacks.

6 Because it's not a corner lot, the one with the third-
7 story addition is not a corner lot and because the house on the
8 corner would also be able to construct a third-story addition, OP
9 is not proposing that a side setback be required in this instance.

10 I'm going to pause here just to see if anybody has any
11 questions and, if not, I'll move on to the next slide.

12 CHAIRPERSON HOOD: Mr. Lawson, I'm possibly going to
13 bring you back to some -- through some of these photos, but I'm
14 trying to go through and make sure I'm understanding and
15 comprehending, so. I don't know if any others have any questions.
16 Believe me, I'm sure we'll speak up at the appropriate time, Mr.
17 Lawson.

18 MR. LAWSON: Great. Thank you very much, Mr. Chair.

19 In that case, we'll move on to the next slide.

20 Uses, one of the other things that we proposed -- well,
21 I'll start at the beginning, OP had, even in the original
22 proposed, recommended that a rooftop deck that is used as an
23 eating and drinking establishment be subject to special exception.
24 Under the current provision, the special exception is only
25 applicable to an enclosed, habitable penthouse space. Thus, it

1 would apply, obviously, to any deck associated with that penthouse
2 eating and drinking establishment.

3 OP proposes this change, that it apply to a deck on a
4 roof not associated with the penthouse, because we actually saw an
5 example or two of a rooftop deck being used as -- proposed to be
6 used as an eating and drinking establishment but serviced by a
7 restaurant kitchen located on the ground floor.

8 So under the current provisions, that rooftop deck would
9 not require special exception review, as anticipated by the Zoning
10 Commission.

11 So OP is not proposing this because we're opposed to
12 this use on the rooftop, rather we feel that it is a good use on
13 the rooftop. We felt that since the Zoning Commission determined
14 it was appropriate to apply the special exception process to allow
15 assessment of external impact, it made sense to apply it to an
16 open deck situation on the rooftop.

17 With this one ANC 6C is recommended that this special
18 exception process be applied to an outdoor deck area for eating
19 and drinking establishment on other levels of the building. OP
20 strongly disagreed. An eating and drinking establishment were
21 allowed to be located on the lower floors by right, whereas on the
22 roof, it is not. OP would not support additional limitations on
23 such uses where they are currently permitted by right.

24 And I think the current situation we're in now, if
25 anything, kind of reinforces the value and the importance of

1 providing open space like this associated to restaurants and other
2 eating and drinking establishments. Next slide, please.

3 COMMISSIONER SHAPIRO: Mr. Chair, can I jump in?

4 CHAIRPERSON HOOD: Sure. I was about to -- go ahead,
5 Commissioner Shapiro.

6 COMMISSIONER SHAPIRO: Yeah, just -- Mr. Lawson, if you
7 could get specific with the recommendation that ANC 6C made
8 related to this, which is their recommendations to change the
9 definition from highest roof to any roof? You may have covered
10 that in what you were saying, but I wasn't getting that specific
11 piece around it. They even gave a graphic of an example where,
12 you know, there's a partial roof and a lower roof and et cetera,
13 et cetera. Can you respond to that?

14 MR. LAWSON: Well, again, our opinion is that the intent
15 of the Commission was just to apply this to the rooftop, not to
16 other levels of the building, where the use would be permitted by
17 right. So I don't have the ANC's illustration in front of me, but
18 we're -- as I said, we're comfortable with the recommendation as
19 we proposed it.

20 COMMISSIONER SHAPIRO: What they're giving as an example
21 is where the highest roof is a partial roof. And so the lower
22 roof, one level down, is the roof where the -- whatever, the
23 eating and drinking would take place. And that's the one where
24 they would go for the special exception. That's my read on what
25 they were saying. So they're looking to change the definition

1 from highest roof to any roof.

2 MR. LAWSON: Correct. That's our understanding of the
3 recommendation as well. And OP does not support that change,
4 again, because we think that unless it's an eating and drinking
5 establishment on the highest portion of the roof, as intended by
6 the Commission, then it should continue to be allowed by right as
7 it is right now.

8 COMMISSIONER SHAPIRO: Okay. All right. Thank you.
9 Thank you, Mr. Chair.

10 CHAIRPERSON HOOD: Okay. Mr. Lawson, let me just
11 mention where I am. I hear a lot of the questions some of this
12 I'm still trying to digest. Even if I read -- even as late as
13 today, I was trying to understand some of this.

14 Let me just give you my full dissertation and it won't
15 be but a moment. I am not inclined -- and as you go through if
16 you could let me know if you're doing this or not. I'm not
17 inclined of taking any protections out as I've seen from the
18 Committee of 100 and I've seen other cases.

19 But what I do want to make sure is that the public
20 continues to have the opportunity to be able to give input or
21 weigh in. So I'm not in favor of taking away anything that's
22 going to take away the public's participation in a process,
23 whether it be a variance or special exception.

24 So here's my big dilemma, a lot of times -- and I should
25 have probably let you finish before I gave this. I'll probably

1 give it again at the end. My big dilemma is, when I get to the
2 BZA and I hear people like the Committee of 100 -- I don't know if
3 Ms. Richards is on, but I hear Ms. Richards say we're taking away
4 protections.

5 Anybody that knows Anthony Hood knows he doesn't take
6 away -- I don't believe in taking away community protections and I
7 don't think the Commission does either. Even I don't think in
8 that case it was correct, but I never want to be accused or -- not
9 necessarily accused or be in a position where I can't -- we have a
10 lot of stuff, where I can't remember if we've done something. And
11 to me, as the statements I saw -- and I know you haven't had an
12 opportunity to look at Committee of 100 and others -- but I think
13 we need to make sure, at least from my view, and we can discuss
14 this later, but I want to make sure the protections are still
15 there. As well as not taking anything away from community input.

16 And I have some issues about the stairwells and all that
17 and I can come back to that. But for me, I don't want to do
18 anything, I don't want to make anything a matter of right that's
19 not already a matter of right. And I don't want to take any
20 protections away. That's where I am. Others may have another
21 opinion, but I'll leave it at that, put that in the parking lot
22 and let you continue.

23 MR. LAWSON: Thank you, Mr. Chair, that was helpful, and
24 I'll try to address that -- try to be sure to address that as I go
25 through it.

1 Very directly on this issue -- Paul, if you could go
2 back to that last slide just for one second, so it's up. This is
3 a case where we're actually adding a protection. There is no
4 protection right now. There's a use that's allowed by right and
5 we're proposing that it be allowed by special exception. So this
6 is a case of adding a protection, rather than removing a
7 protection.

8 The ANC was suggesting that that protection be expanded
9 to -- I think, I shouldn't speak for the ANC and I assume that
10 Commissioner Eckenwiler will be here, and he speaks very
11 eloquently for himself. But I believe that he's proposing to
12 expand that to apply to currently by right a situation -- if that
13 makes sense. Thank you. Next slide, please.

14 Very quickly, we're not proposing any significant
15 changes to height permitted for a penthouse as noticed in the
16 public hearing notice. We did research penthouses on family
17 dwellings and flats. And it seemed like the vast majority of the
18 penthouses were in the 8-to-9-foot range, so we are proposing to
19 reduce the currently permitted height from 10 feet to 9 feet by
20 right. Anything above that would require review by the Board of
21 Zoning Adjustment. Next slide, please.

22 Enclosing walls -- we're not proposing a lot of
23 additional changes. I have provided this one illustration,
24 hopefully it's a little bit helpful. We have, you know, since the
25 early days of this proposal proposed that for a stairwell --

1 rooftop stairwell access that the roof of the penthouse be allowed
2 to reflect the slope of the stairs below, rather than be a more
3 boxing structure, where the height of all the walls are the same.
4 We continue to recommend this change, but we did provide this one
5 sort of illustration that shows that. Next slide, please.

6 Further for enclosing walls, the ANC -- you know,
7 Commissioner Eckenwiler, again, brought up a very interesting
8 situation where he'd been told by a constituent that equipment
9 that kind of arrives in a fully enclosed box of its own, would
10 still require additional separate screening around it. This adds
11 unnecessary expense, it adds visual bulk to the building and
12 should not be required -- we agree that it should not be required.

13 I did discuss this with DCRA, so I'm interested in
14 hearing more from Commissioner Eckenwiler. They indicated to me
15 that typically, such a self-enclosed mechanical box would not be
16 required to provide additional screening. In some instances, if
17 the enclosure is only partial -- in other words, if it's not a
18 fully enclosed box, additional screening may be required. But as
19 I said, Commissioner Eckenwiler may have additional information on
20 this and I'm happy to address this again if there are issues that
21 I haven't thought of. Next slide, please.

22 Setbacks, OP is not proposing and did not, at least in
23 advance of today, receive any comments on proposals for setbacks
24 from the front, rear or court building walls. And I'll get to
25 sidewalls in just a second.

1 OP did receive comments from both Goulston & Storrs and
2 ANC 6C questioning a requirement for a setback for guardrails on a
3 balcony or on a deck not located on the roof of a building, but
4 rather on a lower-level portion of the building.

5 OP proposed the change that we had proposed, which would
6 require a setback only if that terrace or balcony was more than 10
7 feet deep. We proposed that change to be consistent with current
8 Zoning Administrator interpretation of the existing Regulations.

9 However, following additional conversations with the
10 Zoning Administrator and staff at DCRA, we kind of all agreed that
11 this does not seem to be the intent of the current Regulations and
12 should not be required or need not be required provided the
13 Regulations are clarified to make it explicit that a setback for a
14 guardrail on those lower things and on balconies is not required.

15 So I've included on the slide a proposal recommending
16 this change. But, of course, we'd want to discuss any final
17 wording with both the DCRA and OAG and we'll see if there are
18 other comments on this proposed change as well. Next slide,
19 please.

20 The current -- so the current penthouse setbacks from
21 side lot line -- from side building lines are particularly
22 involved and difficult to administer and, in some cases, frankly,
23 even to understand.

24 Since I wrote them, I'll take the blame for that, but in
25 this case, we have attempted to simplify them and where possible,

1 standardize them a bit while acknowledging that there are
2 situations where the visual impact from the side is as great as it
3 is from the front or the rear yard.

4 As noted here, there will be a number of instances where
5 a one-to-one setback would remain to be required -- and that's
6 from a side building wall.

7 In other instances, mainly on interior lots, a setback
8 would not be required and is, frankly, not required in many
9 instances under the current Regulations.

10 And we would also propose that a current provision which
11 requires a one-half to one setback in some instances, be removed
12 from the Regulations. If it is removed, then the set back would
13 either be not required or would be required to be at a one-to-one
14 ratio.

15 Having said all that, OP in what we have submitted to
16 the Commission in our report is not proposing additional changes
17 since the set down text.

18 There is a comment in the record from Goulston & Storrs
19 requesting that where a setback from a side building wall is
20 required, in some instances the lower one-half to one setback
21 should be reviewed.

22 This is another thing that I discussed further with DCRA
23 and they agreed that if -- that we felt it made sense to eliminate
24 that requirement for standardization and simplification, but I'm
25 happy to have further discussion on that if the Commission (audio

1 interference). Next slide, please.

2 Solar panels. So at set down, the Commission questioned
3 OP's proposal to allow rooftop solar panels without providing a
4 setback from any building wall, provided the panels are less than
5 four feet in height.

6 OP did some additional research as a result of that
7 direction, to take a look at this again. It is really grateful to
8 the DCRA solar coordinator and DOEE staff in providing additional
9 direction.

10 As discussed in our report, the reasons and the policy
11 level rationale for removing the impediments for maximizing solar
12 are many. DCRA and DOEE staff provided great insight on how
13 solar, particularly on load incident residential buildings is
14 actually installed.

15 Based on their input, OP has proposed changes for the
16 by-right permissions for solar panels on one-family dwellings and
17 rowhouses, such that on the roof of a single-family dwelling or
18 flat, no setback would be required for solar panels less than two
19 feet -- less than two feet rather than four feet in height above
20 the roof or one foot above the top of the parapet wall if mounted
21 from the side parapet. As noted in our report, it's actually very
22 common on buildings such as this for installers to mount the solar
23 panels on small beams that span the side parapets.

24 We're not proposing any change to the solar panel
25 requirements for other building types, so that would remain four

1 feet in height -- under OP's proposal that would remain four feet
2 in height with no setback required for any building wall below.

3 COMMISSIONER MAY: Can I ask a question about this?

4 MR. LAWSON: I thought you might. Thank you.

5 COMMISSIONER MAY: Yeah. So why are you saying two feet
6 above a roof or one foot above the parapet if it's mounted on the
7 parapet? Why wouldn't it just be one foot above the roof?

8 MR. LAWSON: Because they're not always mounted by the
9 parapet and the parapet isn't always, you know, less than one foot
10 in height. In discussions with DOEE, they're really are two main
11 methods, I guess, for -- and some of this is detailed in our
12 report and we provided a few illustrations for how solar panels
13 are installed. And I have to admit, I am not an expert on this,
14 so I'm just basically reiterating what they said to me.

15 If they're mounted on the roof, some distance between
16 the roof and the panels is needed, but installers tend to apply
17 them quite low to the roof, that minimizes expense and weight of
18 the solar panels, because you're minimizing the structure. It
19 also minimizes the uplift from drafts of the panels if they're a
20 bit closer to the roof. So two feet should be more than
21 sufficient to make sure that those panels would be allowed without
22 having to go through a review process.

23 If they're mounted -- and to be honest, my original
24 thought was to just simply allow them two feet above the roof and
25 thinking that would probably capture most instances of where they

1 are actually mounted on the top of the parapets, but in
2 discussions with DOEE, they felt that some additional flexibility,
3 particularly since -- some additional flexibility mountings from
4 the parapet should be provided, because they did not want to
5 disincentivize, I guess, that option. And in some cases those
6 side parapets can be a little bit more than a foot or a foot and a
7 half. So we just wanted to make sure that we captured both
8 options to avoid -- to avoid the need to go to the Board of Zoning
9 Adjustment for what we feel is both a common and a reasonable
10 approach to installing solar panels.

11 COMMISSIONER MAY: Okay. So I don't think I was very
12 clear in my question. I don't -- you know, I totally understand
13 why it should be a foot above the parapets and, frankly, mounting
14 it to the parapet is a preferred method because it's less likely
15 to damage the roof membrane, right. So I completely understand
16 why that --

17 MR. LAWSON: Right. Right.

18 COMMISSIONER MAY: -- is preferred when you have that
19 option. But when you don't have that option and you're putting it
20 directly on the surface of the roof or maybe if you have parapets
21 and you want to put it on the surface of the roof anyway, because
22 that might be cheaper in that particular circumstance or whatever.
23 I don't understand why two feet is needed in that circumstance.
24 If you can do it within one foot of the top of the parapet wall,
25 why can't you do it within one foot of the top of the roof?

1 MR. LAWSON: You know, and again, thank you. Not being
2 an expert on this I can kind of tell you what he advised me. But
3 there can be some additional structure associated with ones
4 mounted to the roof. It's not the same kind of installation.
5 Again, we don't think the two feet is excessive. We think that
6 that would be minimally, if at all, visible from down below and it
7 would ensure that the flexibility exists to meet all instances
8 where solar panels are being provided.

9 I think you're correct, Commissioner May, that they
10 probably would be less than two feet, but to be honest, DOEE was
11 actually pushing me to continue to recommend four feet just to
12 provide as much flexibility as possible. But we, in the end
13 decided that two feet would probably be a reasonable compromise
14 for solar panels that should have minimal, if any, visual impact,
15 but providing sufficient flexibility for installers and for
16 homeowners.

17 COMMISSIONER MAY: Yeah, I'm not totally persuaded by
18 that. You know. As you probably know, I have solar panels on my
19 roof, and they're mounted directly on the roof. I do not have
20 parapets. I have a flat roof that goes all the way to all of the
21 edges of the roof, so there's no -- there isn't even a front
22 parapet or anything like that. The mounting system is, basically,
23 a one-inch board upon which the aluminum struts are installed and
24 then the panels, you know, there are struts that basically serve
25 the same function as the parapet would and then there are cross

1 struts that go across the building.

2 I can see why that could be a little bit more than a
3 foot, but it's -- it's hard for me to imagine that it would be
4 necessary to have two feet for that structure. I think that it
5 does make it easier to do things like tilting the panels, which is
6 done in some installations, so you get slightly better angle
7 toward the sun.

8 Unfortunately, what I've seen is a number of
9 circumstances where these panels are installed right up to the
10 front edge of the house and so right above the cornice you see a
11 large solar panel display. I mean, you had some photographs -- I
12 mean, even the one that's on the screen right now is a little bit
13 of that. I don't love that, but I've seen ones that are a lot
14 worse than that, and it's the worse than that that I'm mostly
15 concerned about.

16 Did you consider requiring that there be some sort of
17 screening? Because I know that, you know, where I live on Capitol
18 Hill, which is the Historic District, typically, the Historic
19 Preservation Office will require that there be some sort of
20 flashing so that the panels are not visible from any kind of side
21 walls or things like that.

22 MR. LAWSON: Thank you, Commissioner May. I'd be happy
23 to address this further with DOEE --

24 COMMISSIONER MAY: Yeah.

25 MR. LAWSON: -- and with the solar coordinator.

1 Obviously, rather than -- and I'm not proposing a solution right
2 now.

3 COMMISSIONER MAY: Right.

4 MR. LAWSON: But from my conversations with them -- to
5 be honest, if the concern is from the front, it's possible that
6 they would actually prefer some setback with some kind of a
7 screening. The screening could, potentially, have a more negative
8 impact on the solar panels than a small setback would. So I'm
9 happy to discuss that with them.

10 It's interesting, you noted the tilting of the panels
11 and I certainly went into my conversations with them expecting
12 that that was going to be a big issue.

13 COMMISSIONER MAY: Yeah.

14 MR. LAWSON: According to both DCRA and DOEE, typically,
15 on rooftops like this there really isn't much sloping to the solar
16 panels. Even though that reduces the efficiency a little bit,
17 sloping results in shading of other panels which can be more of an
18 impact than some (audio interference), they tend to be relatively
19 flat. Although DCRA very much noted that a little bit slope was
20 also really important and that's really more to allow rainwater to
21 continually wash the panels --

22 COMMISSIONER MAY: Right. Right.

23 MR. LAWSON: -- and make sure the dust and dirt doesn't
24 accumulate.

25 COMMISSIONER MAY: Right.

1 MR. LAWSON: So I'd be happy to take this back to the
2 DOEE and see kind of what a preferred solution might be. There
3 might be more conversation about this as we get into public
4 comments. Like I said, I think we were pretty comfortable with
5 this proposal, but I understand your point.

6 COMMISSIONER MAY: Yeah. I will say that the -- most of
7 the installations that I've seen, and I've seen a fair number of
8 them, either from the street or even from my rooftop and, you're
9 right, most often they are just installed with the slope of the
10 existing roof. However, when the slope of the existing roof is
11 actually sloping away from the sun, so you've got -- say you've
12 got a south facing home with a roof that slopes toward the north,
13 I've seen quite a number of installations where it tilts up.

14 That I'm not so much worried about, it's the ones that
15 are on an east-west installation where somebody tries to give it a
16 slant across so that you actually have -- so that it does slope
17 towards the south face of that east-west house. And those are the
18 ones that look really bad from the front. Those are the ones that
19 I'm most concerned about. The two-foot limitation would make more
20 sense from my perspective and, you know, either screening it or if
21 they -- you know, if it's preferable from DOEEs' perspective, that
22 it be set back, you know, I'd be okay with that with two feet,
23 that would make sense.

24 You know, setting it back two feet plus -- you know, the
25 limitation of two feet, you know, is a way to sort of thread the

1 needle on this.

2 I just -- you know, unfortunately, I notice the really
3 bad installations and I've seen quite a few of them.

4 MR. LAWSON: And certainly when we did our site visits -
5 - I did a number of site visits through a number of neighborhoods,
6 which is where the photographs are from, some of the photographs
7 were from other staff who were doing the same in their
8 neighborhoods.

9 COMMISSIONER MAY: Yeah.

10 MR. LAWSON: There certainly were some examples that
11 were really unfortunate --

12 COMMISSIONER MAY: Yeah.

13 MR. LAWSON: I don't want to say unfortunate -- like, we
14 really appreciate people doing the solar, but it could have been
15 done much better.

16 COMMISSIONER MAY: Right.

17 MR. LAWSON: I think, or I hope, at least the ones that
18 -- it was interesting actually, most of the solar panels that I
19 found on Google Maps looking down from above, I was not able to
20 see from any vantage point at all.

21 COMMISSIONER MAY: Right.

22 MR. LAWSON: So I think they tend to be installed, you
23 know, properly and, you know, responsibly. It is those few
24 examples that are unfortunate. I do think that our proposal would
25 capture the worst of those examples. As I said, I'm happy to take

1 | your comments back and see what might make more sense.

2 | COMMISSIONER MAY: Okay. I do appreciate that. I think
3 | you're right, most of them are not visible. I also think that the
4 | technology that goes into these installations is evolving. You
5 | know, when it was first starting to happen, they were -- you know,
6 | these were going up on wooden structures that were spanning
7 | parapets and were being mounted directly onto roofs. That's all
8 | been changed to be aluminum struts and that makes -- you know,
9 | that gives you a much shallower profile, which is a good thing and
10 | greater stability.

11 | But the most recent one that I saw in my neighborhood
12 | was one where it was a basically a direct -- glued down mounts.
13 | So they not only could keep them very close to the surface, they
14 | were able to pack in a lot more panels as a result. And so maybe
15 | the technology is helping us in this way, because, you know, when
16 | you can glue it down directly -- I mean, there's a little bit of a
17 | structure to it, but they're like maybe eight inches off the
18 | surface and you don't have to worry about the roof penetrations.
19 | So it could be of help.

20 | MR. LAWSON: And, you know, I agree and certainly by
21 | putting something in the Zoning Regulations we're not requiring,
22 | of course, that they, you know, be installed in a particular way -
23 | -

24 | COMMISSIONER MAY: Right.

25 | MR. LAWSON: -- we're simply trying to accommodate how

1 they could be.

2 COMMISSIONER MAY: Right. Absolutely. Thank you.

3 MR. LAWSON: Thank you. If there are no other comments,
4 next slide please.

5 In terms of enclosed area, OP had not proposed any
6 additional changes to this section. In this -- as it says, the
7 amount of enclosed area of the penthouse it would be permitted.

8 The OP original recommendation included the elimination
9 of an old provision that limited penthouse size to one-third of
10 the group area in zones with a number of stories limit, such as
11 the R, RF and more importantly the RA on PDR-5 and the 3 zones.
12 There are a number of zones where the story limit applies.

13 Typically, setback requirements in most zones and the
14 limitations on penthouses on one-family dwelling lots and under
15 the new proposal conversions, would provide sufficient
16 limitations. We didn't feel that this was necessary and, frankly,
17 was a little bit redundant. However, ANC 6C has raised a concern
18 about the proposed elimination of this provision, in that it could
19 ostensibly be used to allow a much larger mechanical equipment
20 enclosure on -- particularly on one-family dwellings and flats.

21 I have to admit that I -- and I'll apologize in advance
22 to Commissioner Eckenwiler, I didn't really focus on this issue,
23 even during our discussions, because I didn't quite get the issue.
24 But I think I'm starting to understand it now. So let's just say
25 I've taken another look at this and I am -- I'm thinking I

1 understand the issue. It may be clarified more when Commissioner
2 Eckenwiler speaks, so I'm looking forward to that discussion. But
3 I have shown one possible solution; it will be interesting to know
4 if he thinks this addresses his concern or not.

5 Under the current Regulations on single-family dwellings
6 and flats, the limitation on a penthouse relates to habitable
7 space only. And in theory that could allow a separate mechanical
8 room. I don't think I've ever seen that on a single-family
9 dwelling or flat, but I'm sure other people will tell me
10 otherwise. But it may be that simply changing that provision to
11 apply to any penthouse space on the roof would address at least
12 some of the concerns raised by the Commissioner.

13 So this one's a little bit open in my mind, given his
14 comments, but I'm happy to discuss this one further. Next slide,
15 please.

16 CHAIRPERSON HOOD: Mr. Lawson, before we leave, I'd like
17 to go back to the next slide and actually that slide too helps me.

18 And I know you just gave an explanation of your
19 discussions with ANC 6C, particularly Mr. Eckenwiler and others,
20 I'm trying to understand the point.

21 I think -- this is exactly what I was alluding to. When
22 I read this, the response and intent to remove an essential
23 redundant Regulation, that's not actually the case, the way I
24 understand what you just said.

25 So these are the kind of fundamental issues that I'm

1 seeing, that become a probable when I sit on BZA. For example, if
2 we can go to the next slide -- and I hate to take over your
3 presentation. Where it says remove duplicate requirements and on
4 the previous slide it said Office of Planning's response, an
5 attempt to remove an essential redundant Regulation. We have
6 councils that come down and misrepresent -- and I'm on this right
7 now, misrepresent what this Commission has done.

8 Sometimes we're doing stuff like you have in this slide,
9 remove duplicate requirements. It does not mean we removed it
10 totally. They'll come down and represent to the Board that they
11 removed it totally. And I think to me -- for me, that's an issue,
12 but I know that issue that you just discussed about understanding,
13 I look forward to hearing what kind of recommendations are made to
14 the Commission after you have further discussions.

15 But I think to me -- I'm not sure where everybody is,
16 they say, oh, well, they just took out these protections. It says
17 remove duplicate requirements, so they removed it. Then the
18 council will come around and say the Commission has removed
19 something and that's not actually fundamentally the case.

20 In this case, the way I read your presentation and the
21 way I read it, it's just moved -- it's somewhere else for it to be
22 applied, it's just that it repeats itself. Is that a fair
23 assessment? A fair analysis of the way I perceived it?

24 MR. LAWSON: Well, you know, OP, obviously, can't
25 account for who misreads the Regulations, but yes, in a case like

1 | this one, the one that's on the screen now, the Regulations are
2 | literally duplicated in more than one place. So our proposal is
3 | not to lessen the requirement, not to remove the requirement, not
4 | to make something subject to a provision no longer subject to a
5 | provision, it's simply to streamline the Regulation so that, you
6 | know, to reduce redundancy.

7 | It's not -- in our minds -- and it will be interesting
8 | if somebody is reading them otherwise, maybe they're capturing
9 | something that I'm not capturing, but in our minds, this truly was
10 | just removing things that are already in the Regulations
11 | elsewhere, not removing a requirement, just removing wording
12 | that's repeated.

13 | CHAIRPERSON HOOD: Okay. Thank you, Mr. Lawson. The
14 | reason why I -- and I really would encourage those who really
15 | follow zoning not to mislead our other residents in the city,
16 | because I too live here and I hear a lot of comments. "Oh, the
17 | Zoning Commission took this out or we took that out," and that's
18 | not actually true. So I would encourage those who take those
19 | messages, let's start taking the positive too. And that's on my
20 | soapbox, but let's get back to your presentation, Mr. Lawson.
21 | Thank you.

22 | MR. LAWSON: Thank you, Mr. Hood. And just to be
23 | totally fair, it is entirely possible that I proposed something
24 | that I think is a redundant provision. The last one is a good
25 | example. I thought it was a completely redundant provision.

1 Commissioner Eckenwiler raised some concerns about it, and I
2 understand what those concerns are.

3 So if members of the public feel that it's not a
4 redundant provision, I'm looking forward to hearing that testimony
5 tonight so that we can resolve that issue now.

6 And I somewhat lost my place, but I think -- I think we
7 were talking about special exception relief. As I said, in this
8 case we weren't proposing -- in our minds we were not proposing a
9 lot of substantive changes. Go to the next slide, please.

10 And same actually with the affordable housing
11 requirement. You know, this is honestly one where we made
12 probably the most extensive changes in the entire penthouse
13 chapter. Most of them were to clarify requirements for the
14 Housing Production Trust Fund contribution. That contribution, as
15 we noted in our last report, has been quite successful. I believe
16 the last update I got from the HCD (phonetic) is that there are
17 over 20 million -- \$21 million of contributions resulting from
18 this provision so far.

19 So we actually did propose some significant changes, but
20 we did not get a lot of comments from the public on this one. So
21 that was actually kind of good. And next and final slide, please.
22 Almost final slide.

23 There are also some relatively minor changes scattered
24 throughout the rest of the Regulations, but we didn't propose any
25 additional changes to those. They're mostly for -- the one that's

1 | noted on the screen here to add the term, rooftop structure, now
2 | that we've reintroduced that term.

3 | Of course, we do note that we will have to do some
4 | additional coordination if the Zoning Commission elects to approve
5 | any of these recommended changes to the Regulations. We will have
6 | to do some coordination with other text amendments currently in
7 | process. Next and last slide, please.

8 | And that's it for me. Again, my apologies for the
9 | length of the presentation, but I felt that it might be helpful
10 | and expedient to the Commission to have both the summary of our
11 | proposal as well as an initial reaction to some of the comments
12 | that have been provided to the record.

13 | And again, I do understand there are additional comments
14 | now on the record and I apologize for not having had a chance to
15 | review or digest those. And that's it. Thank you for listening.
16 | We're available for questions from the Commission now and are
17 | looking forward to the rest of the discussion. Thank you.

18 | CHAIRPERSON HOOD: Okay. Thank you, Mr. Lawson. I
19 | think, Commissioners, the path forward for us to ask questions and
20 | I'd like to hear from the public and then I would like for us to
21 | do some follow-up questions. We may have some as a result of what
22 | Mr. Lawson just presented from what we may hear from others.

23 | Also, we want to make sure that Mr. Lawson has enough
24 | time to be able to comment on some things that I think got into
25 | the record, later on this afternoon.

1 So with that, let's see if we want to start off now or -
2 - I think there's going to be two phases, so Mr. Lawson, we may
3 bring you back -- I'm sure we're going to bring you back after we
4 hear from the public, but we'll ask questions of you now and then
5 at the end of the public presentation.

6 So, Commissioner May, would you like to start off?

7 COMMISSIONER MAY: Yeah, I just have one small question,
8 just a clarification. On Page 22 of your presentation it refers
9 to penthouse or roof structure, but I think elsewhere in the
10 Regulation changes you talk about rooftop structure and you talked
11 about rooftop structures in the presentation. I mean, is that
12 just a typo on page 22?

13 MR. LAWSON: I suspect it is. I'm just pulling up my
14 own presentation now, because I was watching it on --

15 COMMISSIONER MAY: Right.

16 MR. LAWSON: I'm sorry, which slide did you say?

17 COMMISSIONER MAY: 22, second from the last.

18 MR. LAWSON: Sorry. Right. Yeah. Yes, I'm sorry, that
19 should be rooftop structure.

20 COMMISSIONER MAY: Right.

21 MR. LAWSON: It should be consistent throughout the
22 Regulations and --

23 COMMISSIONER MAY: Right. We're not introducing two new
24 terms, just reintroducing the old rooftop structure term. Okay.

25 MR. LAWSON: Correct.

1 COMMISSIONER LAWSON: All right. That's all from me.
2 Thank you.

3 CHAIRPERSON HOOD: Okay. Commissioner Turnbull?

4 COMMISSIONER TURNBULL: Mr. Chair, I -- at this point --
5 for me, I think it would be more beneficial to hear from those
6 people who have really gone through ANC C6 and some of the others
7 to hear their comments, I think as Mr. Lawson was referring to.
8 I think it would be good just to hear that dialogue first before -
9 - I mean, we can then go back and ask Mr. Lawson some more things
10 ourselves. But I would really like to hear from those who have
11 sent in comments.

12 CHAIRPERSON HOOD: Thank you, Mr. Turnbull. I actually
13 -- I like that. That's not the way I wanted to go, but I wanted
14 to give us -- just in case somebody had a burning question, I
15 wanted to give us an opportunity. Let me check with our other two
16 Commissioners and then we'll go right to what you said, because I
17 like that path forward.

18 Commissioner Shapiro is fine. Vice chair, do you have
19 anything right off that you want -- okay. Okay. Great. All
20 right. Ms. Schellin, do we have anybody from any of the ANC's?

21 MS. SCHELLIN: No. We have three people. One in
22 support, one in opposition, and one undeclared.

23 CHAIRPERSON HOOD: Okay. Let's bring all three of them
24 up. That's all we have is three people?

25 MS. SCHELLIN: Right. Dave Avitabile would be in

1 support, Larry Hargrove in opposition, and Mark Eckenwiler,
2 undeclared.

3 CHAIRPERSON HOOD: Okay. Let's bring everyone up and
4 we'll start off with Dave Avitabile, then we will go to -- who was
5 the second person? You named three people, Dave Avitabile was
6 first -- Mr. Hargrove is second and then we'll end up with Mr.
7 Eckenwiler, even though he's (audio interference). So we should
8 really start with him, but we may be a little longer with him, so
9 let's take him last.

10 Okay, Mr. Avitabile, you may begin.

11 MR. AVITABILE: Thank you so much Commissioners. Good
12 to see you all. I apologize, unlike Mr. Lawson, I did not put on
13 a tie, so I apologize.

14 I just wanted to cover three points that we raised in
15 our comments and before that I wanted to extend my appreciation to
16 OP for their time. Our original list of sort of comments was
17 closer to ten, but through talking with OP, they reassured us on
18 many of those items and we worked them out and so I think on these
19 we just wanted to present a couple of additional items for further
20 consideration.

21 The first one I'll talk about is the issue of guardrails
22 on lower terraces, which OP addressed, and it sounds like they are
23 now proposing to eliminate the requirement for guardrails on lower
24 terraces to setback -- to be setback. We support that change. We
25 think it will allow for greater usable, occupiable space on these

1 lower terraces.

2 We think this has become increasingly important, not
3 just now but from what we hear from our clients going forward,
4 through our office for residential development to have these sort
5 of outdoor spaces is really important.

6 We also think that it creates an opportunity for sort of
7 greater -- greater planting and sort of greater visual connection
8 at the end of terraces going down to the street and sort of
9 increasing the connection to the street. So we're supportive of
10 that change to the extent the Commission should choose to
11 integrate it.

12 The second comment was regarding the issue of setbacks
13 of penthouses alongside lot lines. You know, as OP spelled out,
14 one of the changes adopted four or five years ago was to reduce
15 the setback requirement when you have a building that's along a
16 side lot -- that faces a side lot line but isn't immediately
17 alongside it to allow it to be set back only one-half to one
18 instead of one-to-one. Sort of recognizing along these side
19 conditions, the penthouses are generally not visible anyway.

20 This has been something that we've heard from a lot of
21 architects. In particular, it provides them with some greater
22 flexibility in terms of how they can arrange for the penthouses to
23 be set up. It frankly allows for larger penthouses in some
24 situations in terms of area, which is a good thing because it
25 leads directly to more either affordable housing or affordable

1 housing contributions.

2 And I think it avoids the types of flexibility we
3 typically used to have to do in those situations where you might,
4 you know, try to lower the portion of the penthouse that was
5 closest to the back so it would fall into the one-to-one setback,
6 but then have to go to the BZA for relief for that. So we thought
7 the one-half to one setback provision was a good provision. It
8 was useful. It eliminated the need for some flexibility. It
9 created some greater flexibility in terms of building design. You
10 know, with that said, I certainly do understand the desire for
11 clarity. It is a hard provision to interpret. I think to the
12 extent that there were other provisions that continue to be in the
13 penthouse Regulations allowing for multiple heights, allowing for
14 sloped walls, I think you can, you know, you're allowed to --
15 you're able to get at those issues in a different way. So those
16 are my thoughts on that.

17 And then the last item I wanted to talk about briefly is
18 vesting, which is always the hot topic we like to bring up and
19 everyone hates, but it is important for projects that are in
20 design.

21 You know, as the Commission knows, typically the way
22 vesting language works is, when there's a proposed change to the
23 text of the Regulations, you're only protected once you pull a
24 building permit. If you don't actually get your building permit
25 before that change to the Regulations is adopted, you're going to

1 be subject to the new Regulations.

2 So if you're in for permit and the Regulations change
3 out from underneath you, you've got to go back and revise the
4 design of your building. If you've been designing your building
5 for 6, 12, 24 months and the Regulations change on you, you've got
6 to go back and redesign your building. And so that's why it's
7 been not uncommon for the Commission to integrate vesting language
8 when it adopts changes that impact building massing and design,
9 because it sort of acknowledges that buildings are often in design
10 and in process for anywhere from 6 months to upwards of sometimes
11 2 years that they've had to go through extended reviews with HPRD
12 or large tract review or otherwise.

13 So the concept we proposed was, essentially, let's
14 recognize that if a building has been filed for building permit by
15 a date certain, it will be protected and allowed to proceed with
16 its current design.

17 We proposed the date of June 30th, just to put a date
18 out there, a date certain. You know, certainly, an earlier date
19 could work. You could also say, look, anything that hasn't filed
20 a building permit by the date that the Regulations become final is
21 subject to the new Regulations. I mean, that would at least give
22 people some comfort that look, as long as I file my building
23 permit before the date that these Regulations take effect, I'll be
24 -- I know I can proceed with that design.

25 You know, we certainly recognize these Regulations have

1 | been out there before -- sort of in public. As Joel noted, they
2 | were filed, you know, initially a year ago, but they did sort of
3 | sit on hold while, admittedly, we were all dealing with far more
4 | important things than the intricacies of penthouse Regulations,
5 | but that did leave designers in a bit of a limbo and I think, you
6 | know, they're not sort of hurrying to catch up, so the vesting
7 | language can be important. But I'll stop there.

8 | I thank everyone again for their time and I'm happy to
9 | answer any questions.

10 | CHAIRPERSON HOOD: Okay. Commissioners, keeping in the
11 | spirit with what Commissioner Turnbull mentioned, let's -- since
12 | we only have three people, let's do any follow-up questions or
13 | comments with Mr. Avitabile first. Any questions or comments?

14 | If they don't have any, Mr. Avitabile, let me -- the
15 | side yard -- the half of one -- half the one side yard. Help me
16 | understand. I'm just curious, in your experience, how does that
17 | help with affordable housing? I'm just curious. I mean, it
18 | sounds good, but I'm just curious. How do we actually achieve it?

19 | MR. AVITABILE: So let me give you an example. I have
20 | clients who are designing a building right now. It's a non-
21 | residential building. They happen to be designing this building
22 | where it's (audio interference) -- it's downtown. And I should
23 | note, on this issue, I'm not suggesting this change for situations
24 | where you're across the street from -- or across an alley or
25 | across a side lot line from property that's in a lower zone. This

1 is only sort of in a context where all the properties around you
2 can go to the same permitted height.

3 So in this situation, you know, it's around a bunch of
4 other, you know, office like buildings and they -- they're on the
5 backside and they have to be set back -- actually, I think they're
6 along an alley. So they're along an alley, so they're separated
7 from the building across the alley, but under the current regs
8 they could only set back one-half to one. That gives them about 8
9 to 10 feet of depth running along the entire length of the
10 penthouse. That's, you know, that's the equivalent of a room. It
11 gives them that much more flexibility and that additional space,
12 if they choose to build it and they want to build it, then leads,
13 you know, they have to pay more in terms of their housing
14 contribution, their Housing Production Trust Fund.

15 I think, in a residential context this sort of
16 flexibility would mean that you'd build more residential and that
17 would lead to a greater affordable housing set-aside requirement.
18 It's going to be, you know, scaled the way these requirements are,
19 so it's going to be 8 percent of that space if it's residential or
20 whatever the linkage payment is for that space if it's non-
21 residential. But it's more space that leads to the production of
22 more affordable housing.

23 CHAIRPERSON HOOD: Okay. Thank you, Mr. Avitabile. Let
24 me also ask the vesting rule -- just -- and maybe Mr. Lawson
25 mentioned in his presentation, but I don't recall hearing that.

1 | What was the comments you received from the Office of Planning
2 | when you talked about the vesting rule?

3 | MR. AVITABILE: I believe in OPs report, they indicated
4 | that they had talked to a (audio interference), perhaps OAG about
5 | it, and they sort of determined they didn't think it was necessary
6 | since the Regulations had been out there -- the proposed change
7 | had been out there sort of on the public record for some time.
8 | And we certainly understand that. I mean, we've been tracking
9 | this for a year.

10 | But I also think because it sort of got set down and
11 | then nothing happened with it for an extended period of time,
12 | certainly some architects weren't necessarily paying attention to
13 | it and so they're now playing catch up.

14 | CHAIRPERSON HOOD: Okay. All right. Thank you, Mr.
15 | Avitabile. Let me see if anybody has any other follow-up
16 | questions or comments. Not seeing anyone, thank you very much.
17 | We appreciate your submission, Mr. Avitabile.

18 | MR. AVITABILE: Thank you all.

19 | CHAIRPERSON HOOD: Don't worry about the time. We don't
20 | have them on either, so don't worry. All right. So let's go to
21 | Mr. Hargrove. Are you there? Mr. Hargrove? There you go.

22 | MR. HARGROVE: Have I been unmuted now?

23 | CHAIRPERSON HOOD: Yes, you have. You may begin.

24 | MR. HARGROVE: Yes, I'm Larry Hargrove speaking for
25 | Kalorama Citizens Association. Thank you, Mr. Chairman and

1 members of the Commission.

2 Our comments today concerned only one element of this
3 case, the Office of Planning's proposed changes to rules providing
4 special protections regarding rowhouses -- or penthouses of low-
5 density residential forms of development.

6 Just to review. The Commission authorized penthouses
7 for human occupancy in 2015. It made an exception for rowhouses
8 and detached or semi-detached buildings and dwellings and flats,
9 which consist of probably the vast majority of buildings in the
10 RRF and RA districts.

11 It was understood that these types of structures,
12 because of their physical configuration and their relatively small
13 size were especially vulnerable to the visual blight of a bulky
14 oversized rooftop addition of any sort.

15 Consequently, the Commission barred having a penthouse
16 on these types of buildings as a matter-of-right. At the same
17 time the Commission recognized that many homeowners, and
18 especially rowhouse owners, were interested in having a readily
19 accessible roof deck. So to accommodate this legitimate interest
20 the Commission provided that owners of rowhouses and detached or
21 semi-detached dwellings and flats could apply for a special
22 exception to be allowed a modestly sized penthouse, 10 feet high
23 or less with up to 30 feet of storage space just to provide a
24 stair or elevator access to a roof deck. To further limit visual
25 impacts, the rules on setback from exterior walls would, of

1 course, apply.

2 OPs proposals would seriously degrade these protections.
3 First, the existing special protection for rowhouses, detached or
4 semi-detached dwellings, the structures most in need of protection
5 and with its ban on matter-of-right penthouses, would be simply
6 eliminated by deleting Section C 1500.4.

7 In its place roof deck access penthouses of limited
8 dimensions, not exceeding the height limit, the zoning height
9 limit, would be authorized as a matter-of-right. But on a smaller
10 class of buildings now identified solely on the basis of their use
11 -- which incidentally doesn't make a whole lot of sense -- those
12 buildings are described as single household dwellings, flats or
13 accessory buildings and flats converted to apartments in the RF
14 zones.

15 But now, critically, all of these limitations, whether
16 on height, setback or use could be evaded by a special exception
17 under Subtitle X, Chapter 9, leaving these matters up to the --
18 vagaries of BZA deliberations.

19 Moreover, unless a rowhouse, a detached or semi-detached
20 building could qualify as a single household dwelling or flat
21 under the new criteria proposed by the OP, which a very large and
22 growing number of them could not, such a building would be allowed
23 to have a penthouse with no special limitation as a matter-of-
24 right.

25 RA districts, for example, are replete with these

1 converted rowhouses or semi-detached buildings with three or more
2 units. And they also have detached dwellings that similarly
3 converted to multi-family use. These buildings would be eligible
4 for penthouses with heights ranging from 12 to 20 feet to be
5 occupied by any use that is permitted in the particular zone.

6 The bottom line is that these proposed changes by OP
7 would continue some measure of special protection, although in a
8 very substantially weakened form, for a smaller number of
9 dwellings principally in the R and RF zones and accessory
10 buildings in any zone. But they would eliminate any such
11 protections for the large number of rowhouses, detached or semi-
12 detached buildings in the RA and other zones that do not happen to
13 be used, presumably at the very moment a penthouse permit is
14 applied for, as a single or two household dwelling.

15 Now, Mr. Chairman, we could find no policy justification
16 for these changes and to the best of my recollection, OP offers
17 none.

18 The arrangement devised in 2015 by the Commission was
19 and remains a reasonable compromise between homeowners
20 understandable as having their own private roof deck, a legitimate
21 interest, and the evident need for the Commission to mitigate the
22 obvious potential adverse aesthetic effects of allowing them to do
23 so.

24 And according to OPs figures, this arrangement is
25 working remarkably well; apparently something closely approaching

1 100 percent of those who have sought special exceptions for
2 penthouses to access a roof deck under the 2015 Regulations, have
3 been granted and the requests have generated no ANC opposition.

4 This is a compelling reason for retaining the present
5 arrangement, not as OP seems to suggest for scrapping it and
6 replacing it with a substantially narrower and more (audio
7 interference).

8 In our written submissions we've suggested some
9 amendments to the proposed text that would remedy these problems
10 and also address a couple of additional ones that at times does
11 not permit us to address in this statement. Thanks for your
12 attention and thanks, especially, to Mr. Lawson for his very
13 competent and comprehensive presentation.

14 CHAIRPERSON HOOD: Okay. Thank you, Mr. Hargrove. We
15 appreciate all the thought that you all have put in your
16 presentation. Let me ask you, when did your submission come in?
17 Did it come in today?

18 MR. HARGROVE: It came in yesterday. And I'm sorry that
19 it wasn't in here earlier.

20 CHAIRPERSON HOOD: Okay. All right. and I don't
21 believe Mr. Lawson had a -- I'm going to ask Mr. Lawson to look at
22 some of the recommendations that you have. I'm not sure if he's
23 had a chance. Because I didn't -- it didn't load on my system, so
24 I'm just seeing this since we started this hearing.

25 MS. SCHELLIN: Chairman Hood, if I may?

1 CHAIRPERSON HOOD: Yes.

2 MS. SCHELLIN: Because yesterday was a holiday --

3 CHAIRPERSON HOOD: Oh --

4 MS. SCHELLIN: -- staff didn't actually upload it until
5 today. So --

6 CHAIRPERSON HOOD: Okay.

7 MS. SCHELLIN: -- technically, it came in yesterday, so
8 it was timely, but we could not upload it until today. So that
9 would be the issue.

10 CHAIRPERSON HOOD: Okay.

11 MR. HARGROVE: The Commission allows a mere thing like a
12 presidential inauguration to interfere with the normal operation
13 of the office.

14 CHAIRPERSON HOOD: Okay. I didn't really hear what you
15 said Mr. Hargrove. Maybe I should or should not, I'm not sure
16 what you said, but bear with me, I'll make sure that -- try to get
17 Mr. Lawson to respond to -- recommendations. Because I don't know
18 if he's had the opportunity as well.

19 Let me see if others have any questions for Mr.
20 Hargrove. If you would like to chair the BZA, if you do, please -
21 - okay. I don't see anybody raising their hand. Thank you very
22 much, Mr. Hargrove. We appreciate your submission and taking the
23 time to do this.

24 MR. HARGROVE: You're very welcome.

25 CHAIRPERSON HOOD: Okay. Let's go to Mr. -- the last

1 person we have is Mr. Eckenwiler, correct, Ms. Schellin?

2 MS. SCHELLIN: That's correct.

3 CHAIRPERSON HOOD: Okay. All right. Let's go to Mr.
4 Eckenwiler.

5 MR. ECKENWILER: All right. Thank you, Chairman Hood.
6 I assume you can hear me okay.

7 Members of the Commission, I'm Mark Eckenwiler, Vice
8 Chair, ANC 6C, on behalf of the Commission.

9 I want to cover six separate areas. These are all areas
10 that Mr. Lawson talked about. And at the outset I should say it
11 has been, I think, very productive, you know, the ongoing
12 engagement with Mr. Lawson on a lot of these issues. It certainly
13 refined our thinking about it. I can't say that we're in
14 agreement yet, but I do think what you have before you is a better
15 product.

16 So let me just go directly -- and I promise I'm not
17 going to read you the entire letter, that would, obviously,
18 consume too much of the Commission's time. So let me just hit the
19 first area, that's definitions. We have a number of
20 recommendations here, starting with the definition of penthouse.
21 One of our concerns, the first one is that the proposed new
22 definition includes the phrase "is partly to fully enclosed on all
23 sides." And the problem with this in our view is that that's not
24 going to include a structure that has simple vertical supports,
25 you know, three, four maybe more poles holding it up that has a

1 roof on top of it.

2 And I think the inconsistency is most pointed here when
3 we consider that if you look to the new definition of rooftop
4 structure it includes trellises with beams that are spaced more
5 than 24 inches. If a trellis with beams less than 24 -- 24 or
6 less inches apart -- and I think that's not partly to fully
7 enclosed, if that's not within the meaning of penthouse, then I
8 really don't understand what they're trying to do here.

9 And really, the broader point is, if a building's got a
10 roof structure -- excuse me, a structure has a roof on top of it,
11 then all of the issues that these Regulations are trying to deal
12 with, primarily, you know, visual bulk, appearance, aesthetics,
13 those are essentially the same, perhaps mitigated a little bit,
14 but it doesn't seem to me that there's really any reason to
15 exclude things that might simply have vertical supports but not be
16 enclosed at all on any side. So that's the first point.

17 The second point, looking now to the definition of
18 rooftop structure is that it says it applies only to an unenclosed
19 or partly enclosed structure. Here too, we think that this is too
20 narrow. We see no reason why this wouldn't also encompass
21 something that is fully enclosed, that is, it's got four walls
22 that all join up, but it's got no roof. And so that's the
23 companion to a penthouse; unclear why you would exclude something
24 that is fully enclosed here.

25 We did have a third point here; I think Mr. Lawson has

1 | already adequately addressed that about -- there's a certain
2 | circularity in the hearing reports proposed additional change. I
3 | understand -- and he's now receded from that and so I don't think
4 | I need to say anything more on that.

5 | I did also see that in his presentation -- moving to the
6 | next point, Mr. Lawson did say he consulted with DCRA and there
7 | was a reference to a provision, I think it might have been C 204,
8 | having to do with temporary structures. I have not had an
9 | opportunity to look at that and so I don't really have a view on
10 | it.

11 | And, you know, the ANC did not have a specific
12 | recommendation on this point, it was more to flag the issue, it
13 | was -- obviously, it's illustrated on page 2 of our letter. I
14 | don't intend to say anything more on that.

15 | The third point is measuring point for roofs. Mr.
16 | Lawson said that the view was there was no need for some
17 | clarification on this. The concern that we had here is that one,
18 | the existing Regulations don't tell us what the top of the roof
19 | is. Is that the decking? Is that the top of the membrane on top
20 | of it? Which in a traditional roof might not be all that
21 | different.

22 | The key point here is that roof assemblies are changing
23 | pretty drastically, and it is now not uncommon for the insulation
24 | layer to sit above the decking, so between the decking and the
25 | membrane. And it's not clear in those scenarios what your datum -

1 - what your measuring point is when you start to measure things to
2 the top of a roof. And, frankly, I don't think this is limited to
3 measuring penthouse height, I think this cuts across a number of
4 areas within the Zoning Regulations.

5 So our recommendation is that this does need some
6 clarification just to specify when we talk about the top of the
7 roof, where is that point? Because there is some uncertainty.

8 The third (sic) issue, and this is discussed starting on
9 page 3 of our report, has to do with uses. And this, specifically
10 is the new provision C 1501.1(c) where OP is proposing a rule that
11 requires special exception relief for -- and I'm going to call it,
12 you know, a bar or restaurant, they have a longer phrase there.
13 If you're going to have that on a rooftop deck you will need
14 special exception relief, but the way they worded it is, that this
15 would apply only to such a deck, "on the highest roof of the
16 building."

17 Mr. Lawson said that they sharply disagree with this and
18 I think our view is reciprocal on this. If you look at the
19 diagram -- this is a section drawing taken from a building that is
20 in our ANC. We have buildings like this. This fronts on H
21 Street. So it is, essentially, a one-story building that has a
22 partial structure -- so a partial story on the second story and
23 then a partial third floor as well.

24 Under the OP proposal, special exception relief would
25 only be required if that little stub at the front, so the part

1 closest to the commercial quarter, H Street, were to have a
2 rooftop deck for a bar or restaurant on it. Their proposal would
3 exclude this much bigger area at the rear, what you see to the
4 right half of the drawing. And just to give you an example of why
5 I think this -- well, why the ANC thinks this is really profoundly
6 irrational. Sort of think about this building in a couple
7 different ways. Imagine that this is just a one-story building,
8 there's no partial floors above that one-story. If a proprietor
9 wanted to have a bar or restaurant roof deck on top of that one-
10 story, under OPs proposal they would need to get a special
11 exception. But in this case here -- so the drawing that we have
12 included in our letter, you would not need a special exception
13 even though here, this configuration -- there's actually a sound
14 reflector, that partial story where the second and third floor is
15 actually going to be pushing more of that sound from patrons back
16 into the neighborhood.

17 And, you know, I mean, there's just a lot of -- a lot of
18 different ways that we can look at this in terms of what the
19 incentives are for a property owner. In our view, it makes
20 absolutely no sense to exclude this scenario from the special
21 exception requirement and to apply that only to that small partial
22 floor.

23 Let me just give you another example here. So again,
24 imagine this is a one-story building -- actually, you know what,
25 let's just skip that. There's no reason to keep going. I think

1 the point is adequately made and I'm happy to answer further
2 questions on this.

3 But I do want to also suggest that it's unclear what OPs
4 justification here is. Mr. Lawson, said well, you know, it's a
5 matter-of-right, you can have a bar or restaurant on the second
6 floor. Of course, that rule is for indoors and we're not talking
7 about indoors here, we're talking about an outdoor space. So I
8 don't really see what the current matter-of-right, you know,
9 within an enclosed, you know, story, partial story, full story --
10 what that has to do with what the rule should be for outdoor
11 decks.

12 Also, the other suggestion in OPs hearing report is,
13 well, we've got this current Zoning Administrator interpretation,
14 ZA-009 and so we think we should just repose with that adoptive
15 view within DCRA. And as our letter points out -- first of all,
16 it's arguably wrong under the regs, we don't really need to get
17 into that because you're going to amend the regs, so let's just
18 figure out what the right regs should be.

19 This is an extraordinarily recent interpretation, the ZA
20 issued this in October of 2019. As shown in our attachment, he
21 was taking exactly the opposite, a 180-degree view in
22 correspondence with us, with me personally, in fact, about this
23 same building. This is why I'm so intimately familiar with this
24 rule, because I asked him about this in March of 2019 and he said,
25 yes, if they want to extend -- you know, if they want to build a

1 new deck there and have a bar and restaurant use, they'll need
2 special exception ruling.

3 So this is not some venerable view that's, you know,
4 been applied for years and years, for decades by DCRA. This has
5 been inconsistently applied, you know, the current interpretation
6 is of extremely new vintage and so there's really no institutional
7 interest in keeping it, because it's of such longstanding. It is
8 not. And therefore our proposal on this would be, strike the
9 phrase "the highest" and insert the word "any," so that this
10 special exception requirement would apply to any roof deck
11 proposed to be used for a bar or restaurant.

12 I -- and maybe I should pause here, I don't know if you
13 want to ask questions as I'm going through, because I am covering
14 a lot, otherwise I'll simply keep going.

15 The next issue is on enclosing walls and this was -- the
16 first point here was the one about what if you want to put a
17 single mechanical unit on top of a roof? And Mr. Lawson
18 represented that DCRA's view is, well no, they don't require
19 screening in that circumstance. That's just false. And I don't
20 fault Mr. Lawson for saying that. I'm sure that's what DCRA told
21 him, but that's simply not true. And the reason we know this is
22 true is, one of my fellow commissioners on ANC 6C is also an
23 architect and developer and he got stuck with the precise rule
24 where DCRA was insisting that even though he had a simple metal
25 box that was going to go on top of this building, that he had to

1 build screening for it.

2 So I would respectfully suggest to the Commission that
3 this is not something where there is a clear answer and consistent
4 application from DCRA, that is very much not the case and
5 therefore, if the Commission believes that screening is not
6 necessary in some very limited set of cases, single unit, you
7 know, symmetrical, you know, it's not a bunch of ducts and pipes
8 and everything else going every which way. But if it's just a,
9 you know, a very simple modest unit, it should be made explicit in
10 the Regulations that no screening is required for that. And you
11 can see, we suggested some potential language or at least what the
12 criteria might be for that on, I believe, that's page 4 of our
13 letter in the bulleted recommendation.

14 COMMISSIONER SHAPIRO: Mr. Chair, may I ask Mr.
15 Eckenwiler a question on this one?

16 CHAIRPERSON HOOD: Sure.

17 COMMISSIONER SHAPIRO: Commissioner Eckenwiler, I'm
18 curious if you could sort of think through what the -- if any,
19 what the unintended consequences would be of what your
20 recommendation is? Because I'm holding in my head that if OP had
21 come at this the other way and made your recommendation -- and not
22 to be flip about it, but might you have a reaction to that?

23 MR. ECKENWILER: Commissioner Shapiro, just -- I want to
24 be clear, we're talking here -- we've moved on from the outdoor
25 deck issue and we're just talking about this mechanical unit, the

1 single mechanical unit, right?

2 COMMISSIONER SHAPIRO: I'm talking about the screening
3 walls, right. That's exactly what I'm talking about.

4 MR. ECKENWILER: Yes. Okay. Right. Well, I know -- I
5 had some earlier conversations with Mr. Lawson about this. I
6 think I understand the question. I think some effort would have
7 to be put into framing exactly what that exception would look
8 like. We've tried to suggest the boundaries of that, and I don't
9 mean to be like -- you know, just as Potter Stewart once famously
10 said in a Supreme Court obscenity case, that you know it when you
11 see it. And maybe this is one of those cases where you know it
12 when you see it, but it would be too hard to describe. I don't
13 think that's the case. ANC 6C doesn't think that's the case. But
14 I think you also suggested unintended consequences. If it really
15 is just a single unit, right, we're not talking two, three, five
16 different, you know, mechanical units, there -- you know, we're
17 not suggesting a lack of screening, but when you've got something
18 that is itself its own box, then there's really no reason to add
19 the bulk on top of the roof. And if you're worried about, you
20 know, ancillary features, things like, you know, conduit and duct
21 work, you could, you know, simply require a height cap on those
22 above the base of the mechanical unit.

23 So that was, I guess, kind of a long answer. If we were
24 to distill it down, I think I would say, no, we think this is a
25 good idea and we would encourage the Commission and OP to consider

1 | it further.

2 | COMMISSIONER SHAPIRO: Thank you, Commissioner. Thank
3 | you, Mr. Chair.

4 | COMMISSIONER MAY: Mr. Chairman, can I follow?

5 | CHAIRPERSON HOOD: Sure.

6 | COMMISSIONER MAY: Mr. ECKENWILER, can you tell me what
7 | this piece of equipment was that your fellow commissioner had an
8 | issue with? Because it's hard for me to picture something in a
9 | more residential setting that would be above four feet and would
10 | be a single enclosed unit.

11 | MR. ECKENWILER: This was not -- if I'm recalling
12 | correctly, and I have to admit I don't have command of all the
13 | details. I believe this was in a commercial zone --

14 | COMMISSIONER MAY: Oh, okay.

15 | MR. ECKENWILER: -- but yes, the unit was above four
16 | feet and therefore subject to, you know, the various other
17 | restrictions under Chapter 15. And I think just to go further, it
18 | was, basically, a box, a metal box. It was an HVAC unit, I'm not
19 | sure if it was a heat pump, but, you know, you can picture sort of
20 | a rectangular box, metal enclosure with built in louvers, that's
21 | pretty typical.

22 | COMMISSIONER MAY: Okay. Yeah, I'm not sold on that,
23 | because it's hard for me to understand what piece of prefab
24 | mechanical equipment would be so acceptable that it wouldn't need
25 | to be screened. And I don't know, have you ever -- have you seen

1 the top of the new Frager's development?

2 MR. ECKENWILER: I can't say that I have.

3 COMMISSIONER MAY: Yeah, well you should down 11th
4 Street sometime and take a look at the equipment that's on top of
5 that. And all of that is probably at four feet or less and it
6 looks like -- well, let me just say, it does not look good. And I
7 just think that -- you know, I understand the desire to sort of,
8 you know, keep it relatively simple, but at the same time it's
9 hard for me to imagine, you know, a piece of mechanical equipment
10 on a rooftop that is sort of self-screening, if you know what I
11 mean. I just don't -- I don't -- I mean, they all -- they always
12 have stuff sticking out of them, they always have vents -- the
13 vents are on some sides, not on all. You know, it's -- it's any
14 number of issues with that. And, you know, maybe I'm thinking of
15 the wrong example with the Frager's rooftop, but it really looks
16 bad with all the equipment that's up there and it's not screened
17 at all and it ruins what is otherwise, you know, a reasonably
18 attractive building.

19 MR. ECKENWILER: I think I understand from what you're
20 saying, Commissioner May, that's multiple pieces of equipment.

21 COMMISSIONER MAY: Even if it was one, it wouldn't be
22 great.

23 MR. ECKENWILER: Okay. Well, I'm reading the room here
24 and you have our recommendation before you. I don't feel like I
25 need to beat this horse anymore.

1 COMMISSIONER MAY: I mean, I guess my only point is that
2 if you could, you know, if we knew what it was you were talking
3 about, I might understand it better, but it's hard for me to
4 understand what a self-screening piece of mechanical equipment
5 would look like. And maybe your fellow commissioner could provide
6 that and that would be helpful.

7 MR. ECKENWILER: Okay. If you want, I could certainly
8 try and get that, and we could provide that to the Commission by
9 tomorrow.

10 COMMISSIONER MAY: Yeah. Well, I don't think we'll be
11 acting on it over the weekend, so I'm not too worried about
12 tomorrow.

13 MR. ECKENWILE: Okay. Well, as you wish.

14 COMMISSIONER MAY: Thank you. I appreciate it. I'm
15 just trying to understand, you know, what this particular
16 circumstance is.

17 MR. ECKENWILER: Okay. I just want to pause -- before
18 we move on, I just want to make sure there were no other questions
19 on that particular point. If not, let's see here, moving on to --
20 bear with me one moment.

21 Yeah, we had just sort of a technical comment on C
22 1503.4, I think the letter speaks for itself, I don't really feel
23 the need to dwell on that.

24 The other area where I think we are probably in greatest
25 disagreement with OP is as to the setback exceptions. So our

1 first point had to do with new proposed C 1504.2(f), and that's on
2 page 14 of case exhibit 7A3, that lists basically all the
3 exceptions where you would not have to have a setback. And that
4 particular provision -- so .2 Sub F. In the hearing report, it had
5 two parts to it. The first part had to do with balconies. Our
6 first comment was, why are you doing with balconies, because
7 balconies aren't really rooftop things -- I mean, they're not on
8 roofs even. And I understood, I think, from Mr. Lawson's
9 presentation that they're now agreeing with that recommendation.
10 So I don't propose to spend any more time on that one.

11 But secondarily we had a much broader point here about
12 1504.2(c-f) and with respect, I think, Mr. Lawson misstated our
13 position. He, as I read his slide, indicated that we were not in
14 opposition to the exception for guardrails. Basically, if you've
15 got a rooftop deck -- so imagine a rowhouse, two-story rowhouse,
16 someone has added a partial third-story and let's say that's set
17 back 9 feet from the façade and they're proposed exception would
18 allow a railing -- a guardrail, because that doesn't extend more
19 than 10 feet back from the building line -- it would allow the
20 guardrail to go all the way out to the building edge on all three
21 sides of that front deck.

22 And I think Mr. Lawson intimated that we had no problem
23 with that. That is completely incorrect. We oppose that and the
24 reason that we expressed concerns about C-F generally here, as
25 noted in our report, is this seems to be very much in conflict --

1 not near tension, but, I think, in direct conflict with the
2 purposes of Section E 206, which you're all undoubtedly familiar,
3 protecting the original rooftop architectural elements.

4 So you know, you can't -- you can knock down a historic
5 rowhouse and thereby destroy the cornice, but if you only want to
6 add a top story, you can go straight up from the cornice. The
7 Zoning Administrator has an interpretation there; you need to
8 setback at least three feet.

9 This would allow I think equally visually intrusive
10 structures like guardrails to rise directly above things like
11 cornices and mansards, and therefore, our recommendation was to
12 disallow these proposed setbacks in the RF zones.

13 And one of the points that we made in our letter, I --
14 you know, Mr. Lawson said today, and I think said in the hearing
15 report that, you know, on flat roof rowhouses, you know, you can
16 do these solar installations pretty low. If you can do them low,
17 then doing a setback really isn't going to be all that burdensome.
18 So I -- we don't see what the justification is for that exception.

19 And I understand that his point today was, they've tried
20 to scale that back a little bit. Our position is what it is, that
21 that should just not apply in the RF zones where E 206 applies.

22 And I should, I guess, add as a footnote, this is not
23 something that the 6C itself voted on, but if you, in fact, adopt
24 that, then you'll also want to do that in R zones because you
25 extended those similar protections to the R zones in ZC 19-21. We

1 just don't have any R zones in ANC 6C.

2 And then the last point -- let me just -- bear with me
3 one moment here. Okay. There were some technical things having
4 to do with enclosed area -- I'll skip over those because I think
5 those are either minor or already addressed by Mr. Lawson to our
6 satisfaction.

7 This is on the issue where -- right now under the
8 Regulations for zones where the height is capped at three stories
9 or fewer, the penthouses and, of course, the word penthouse today
10 covers lots of things that the word penthouse would not cover
11 under the new proposal, so we're talking about the broader
12 definition, but that's capped at one-third of the roof's surface
13 area. And our comment on this is even though if we look to
14 propose C 1501.1(a) and that's the one about, you know, you can
15 have this stair enclosure and, you know, basically, a 30-foot
16 closet. But that's addressing habitable space. And if you
17 eliminate this one-third roof area cap overall, what that does is
18 introduce an opportunity for really big mechanical space that
19 might not, in fact, really be mechanical space, because we know
20 how people operate.

21 And so -- also it's unclear to -- it's certainly unclear
22 to me, it's unclear to my colleagues, what problem we're solving
23 here by simply obliterating the one-third roof area cap in these
24 kinds of zones such as the RF zone. I didn't really see -- and
25 perhaps I overlooked it, but I didn't see a compelling discussion

1 for why you need to get rid of that. And I think, Chairman Hood,
2 you may have touched on this. This is not a -- it is not a
3 redundant provision, this is not something that -- you know, it's
4 backstopped elsewhere in the Regulations. This really would open
5 things up substantially. And therefore, our recommendation is to
6 retain that one-third cap on the roof area for, you know, overall
7 penthouses and roof structures.

8 And if that creates a problem and if you can identify a
9 specific problem that that's creating, then maybe the solution
10 will be to relax that cap from 30 percent to some higher number,
11 it doesn't make sense to us just to abolish that cap all together.

12 And so that concludes my presentation. I'm happy to
13 answer any questions or anything I discussed or indeed any of the
14 other things in our letter that I didn't cover.

15 CHAIRPERSON HOOD: Thank you, Commissioner Eckenwiler.
16 I really appreciate, and I'm sure my colleagues do, all the time
17 and effort that you and your colleagues put into this.

18 I will say this that I want Mr. Lawson to go back, I'm
19 going to show you where we are on the measuring point. I do align
20 myself with ANC 6C. I appreciate Commissioner May asking for the
21 enclosing of the walls, I would like to see that, Mr. Eckenwiler,
22 from your colleague.

23 And again, I'm just going to reiterate my last point. I
24 am not in favor of taking away any protections in any Regulations
25 unless there's a really good case made for it. I'm going to ask

1 Mr. Lawson and we're going to go back to Mr. Lawson. I'm going to
2 ask Mr. Lawson to relook at a number of things as well, I'm sure
3 my colleagues will as well.

4 But I don't necessarily have any questions, but I
5 appreciate all the work that you and ANC 6C, Mr. Eckenwiler, put
6 in. It's very thoughtful in helping us craft and develop these
7 regulation as we move forward.

8 Let me see if we have any other questions or comments.
9 Commissioner May?

10 COMMISSIONER MAY: Yeah, I just had one -- I think just
11 one. Going back to the expanding the requirement for special
12 exception on a restaurant deck from just the highest roof to any
13 roof -- and I'm familiar with this because of a couple of BZA
14 cases where this issue has come up.

15 Are there any other -- I mean, is -- when something like
16 that is established, is there any other control on it? Is it
17 something that's subject to ABC review, for example, specifically,
18 or is it the sort of thing where, they already have a license to
19 operate and expanding it onto the roof doesn't actually fall under
20 a special ABC review?

21 MR. ECKENWILER: So -- thank you for the question, Mr.
22 May. To answer that, yes. If an establishment does not have a
23 liquor license or if they wanted to expand liquor service to an
24 outdoor area, like a roof deck, they would have to obtain what's
25 called a summer garden endorsement. And that's true --

1 COMMISSIONER MAY: Okay.

2 MR. ECKENWILER: -- I should be clear, that's for any
3 outdoor area on the property. So that doesn't just -- that's not
4 limited to things that are on top of structures. If they wanted
5 to have a beer garden in the rear yard of the bar or restaurant,
6 beer hall, whatever it is, that requires a summer garden
7 endorsement as well.

8 COMMISSIONER MAY: Okay. And so, is that not sufficient
9 protection for the concerns that you might have from the noise? I
10 mean, the reason is, we don't really want to be redundant from
11 other regulatory processes. Rooftops are special since we -- the
12 tops of buildings, put it that way, is special because of the fact
13 that we're, you know, we just made new Regulations a few years ago
14 to adopt -- to adapt to the changes in the Height Act that made
15 these things possible.

16 But I wonder, you know, what's the reason why we need to
17 be so concerned about it versus it just being an ABC thing?

18 MR. ECKENWILER: So I think the answer is, if you're
19 going to have this requirement for the top part of the roof or at
20 a loss to understand how that would be different -- and again,
21 I'll go back to that drawing that, I think, is on page 3 of our
22 letter. You can put a deck on top of that partial third story
23 there and that would be pretty far removed from the neighborhood,
24 it would be extraordinarily small and yet under OP's proposal, you
25 would have to get a special exception in order to have that be

1 available for dining or drinking.

2 If you got something that's much closer to the
3 neighborhood, it's got this big wall next to it that actually will
4 reflects sound back into the neighborhood, as in the case here of
5 707 H Street Northeast, you would not need it. So you're already
6 going to be in the business of regulating some of these outdoor
7 spaces at BZA, even under OP's proposal and the point here is,
8 there's a profound inconsistency there if you're only going to do
9 it for that topmost structure.

10 COMMISSIONER MAY: Uh-huh. So, I mean, you're sort of
11 making the argument that we shouldn't even have it on the topmost
12 roof. Yes, I'm channeling the Vice Chairman here, who has always
13 thought that we should not be in this -- in the realm of
14 regulating the rooftop uses.

15 MR. ECKENWILER: I didn't hear a question there, so --

16 COMMISSIONER MAY: It was more of a comment. I'm just
17 anticipating the discussion that we're going to have when we
18 actually talk about it. And I'm -- you know, I've always been in
19 favor of having this measure of protection and I don't think it's
20 a particularly onerous requirement, but we've typically seen it in
21 the context of large office buildings or large apartment buildings
22 where it's going up on the 11th floor or something like that.
23 It's not a usual thing for us to see it on the third floor of a
24 building.

25 But we do wind up seeing cases come before the BZA where

1 | there's a -- you know, a roof deck on a second floor that's been
2 | there for some other reason. And so that's -- I mean, you know,
3 | we're hearing a lot of testimony about that in one particular case
4 | where the placement of that roof deck on the second floor of a
5 | three-floor building was not actually the topic for relief, it was
6 | something else, but they had to be there for that reason. They
7 | had to be in front of the BZA for that other purpose. And
8 | everybody was there to complain about the presence of the -- not
9 | everybody, but there were a lot of people there were complaining
10 | about the presence of that second-floor deck.

11 | So I'm sympathetic to the concern, I just don't know
12 | what the right way is to protect against it, so. I think that was
13 | it for my questions. Thank you.

14 | CHAIRPERSON HOOD: Okay. Thank you. Commissioner
15 | Shapiro, do you have any questions or comments? Okay.
16 | Commissioner Turnbull?

17 | COMMISSIONER TURNBULL: Thanks, Mr. Chair. Commissioner
18 | Eckenwiler, the example you're showing of the bar or restaurant up
19 | there on the roof there, that had to go first, but that was part
20 | of a special exception; am I correct?

21 | MR. ECKENWILER: It has never gone for a special
22 | exception. And, in fact, this drawing -- I'm working with what's
23 | available. This was taken from a permit application set filed a
24 | number of years ago. So far as I know, this deck doesn't exist
25 | today. And it's -- I've actually been up on top of that -- I was

1 up on top of that building, I want to say, a little over two years
2 ago and it was just bare roof, so there was no already established
3 use. I'm not sure if that fully answers your question.

4 COMMISSIONER TURNBULL: No, I was just curious. It
5 seems -- it's very similar -- it reminds me of something very
6 similar that I sat on a BZA case I'm sure, something very similar
7 to this and maybe it was up on H Street too, I'm not sure.

8 MR. ECKENWILER: Well, I can tell you, Commissioner
9 Turnbull, this is in our ANC. It certainly would have come to us
10 if they had sought BZA relief for this.

11 COMMISSIONER TURNBULL: Yeah.

12 MR. ECKENWILER: For any purpose. This -- without going
13 into it, there are a lot of issues today with this property, which
14 is under new management.

15 COMMISSIONER TURNBULL: Yeah.

16 MR. ECKENWILER: But it has never come to us in any form
17 for BZA relief.

18 COMMISSIONER TURNBULL: Well, I guess what I'm getting
19 at is that if under the -- without any changes being made,
20 something like this would have to go for special exception and it
21 would obviously be coming before the BZA, but it would be also
22 reviewed by the ANC, your ANC. And what I'm hearing is that your
23 fears are, this could be done as a matter-of-right, in which case
24 the -- only ABC Board would weigh in and the ANC would kind of be,
25 no comments could be made to talk about the impact, that it could

1 just be done. Is that what I'm sort of hearing?

2 MR. ECKENWILER: So I think I would disagree with the
3 initial proposition there. The Zoning Administrator's view on
4 this as expressed in interpretation ZA-009 is that no relief --
5 that the current Regulation would not apply to this configuration.
6 If you read that, he's got sort of a curious rationale having to
7 do with this being under the maximum height limit, which doesn't
8 make any sense to me, but that's how it's couched.

9 No, this would not come to us for zoning relief. A
10 permit would be issued and then we'd have to take an appeal if we
11 felt really strongly about it.

12 COMMISSIONER TURNBULL: So if I'm hearing you right,
13 your basic point is to change highest to any --

14 MR. ECKENWILER: Correct.

15 COMMISSIONER TURNBULL: -- in what you have proposed.
16 Okay. Thank you.

17 CHAIRPERSON HOOD: Okay. Thank you. Vice Chair, do you
18 have any questions or comments? Okay. So with that, thank you
19 again, Mr. Eckenwiler and the promise I mentioned previously still
20 stands, so I don't think we have any other questions or comments
21 of you. We will follow-up with some questions, I believe, for the
22 Office of Planning, so thank you, Commissioner Eckenwiler.

23 MR. ECKENWILER: Mr. Chairman, can I -- just before you
24 send me back to the shadows. You had asked for some materials,
25 was there a deadline by which you wanted those submitted?

1 CHAIRPERSON HOOD: If you stick around, because I want
2 to hear the comments. Hopefully, everybody -- Mr. Hargrove and
3 all Mr. Avitabile are still there, I want you to hear some of the
4 comments as we conclude. I don't know if we have a whole lot for
5 OP, but some of the direction -- I think Ms. Schellin will give us
6 a schedule.

7 MR. ECKENWILER: Okay. Very good.

8 CHAIRPERSON HOOD: Yeah. And if you could stick around
9 for a few more minutes. We've already taken up a lot of your
10 time, but if you could stay for a few more minutes we'll come up
11 with a schedule.

12 MR. ECKENWILER: Standing by.

13 CHAIRPERSON HOOD: Okay. Thank you. Let's bring Mr.
14 Lawson. Mr. Lawson, if you want to keep your camera off, that's
15 fine. We know you have a tie, looking sharp, so if you want to
16 keep your camera off, that's fine.

17 But Commissioners any follow up questions or comments to
18 Mr. Lawson? Commissioner Shapiro?

19 COMMISSIONER SHAPIRO: Yeah. Thank you, Mr. Chair. I
20 do actually have a few questions based on hearing from the folks
21 who testified.

22 I mean, one thing -- this is related to Mr. Hargrove's.
23 Mr. Hargrove made a number of points -- and this goes back to Mr.
24 Chair, what you were saying about what is actually making things
25 more permissive versus less permissive. And I was a bit lost in

1 the specifics of Mr. Hargrove's points, but I don't know if Mr.
2 Lawson, to your point again, Mr. Chair, I don't know if Mr. Lawson
3 had a chance to see the testimony and if there's a way for him to
4 now -- or perhaps it's later, just to respond to those to make
5 sure there's nothing that's creating some -- you know, instead of
6 a more radical change that Mr. Hargrove was intimating.

7 I guess I'm looking for a bit of direction from you, Mr.
8 Chair, whether we put this to Mr. Lawson now or, you know --

9 CHAIRPERSON HOOD: So Commissioner Shapiro, thank you
10 for the question. I feel like I'm testifying, but anyway, I think
11 that -- I think it would be good --

12 COMMISSIONER SHAPIRO: Except for you're not wearing a
13 tie, so it's concerning.

14 CHAIRPERSON HOOD: Yeah, I'm not wearing a tie. So I
15 think it would be good if -- I don't think Mr. Lawson had a chance
16 to look at Mr. Hargrove's testimony or the Committee of 100, so I
17 would like for him to let's digest -- as he mentions, digest some
18 of that. And also some of the things that he was reconsidering
19 with what Mr. Eckenwiler had mentioned. I think that would be
20 very advantageous.

21 So let me let Mr. Lawson speak for himself and then
22 we'll come back to our discussion. Mr. Lawson?

23 MR. LAWSON: Thank you, Mr. Chair. Thank you and I'm
24 certainly happy to take any questions. I did not have a chance to
25 review Mr. Hargrove's submission, I'd be happy to do that. I did

1 want to -- and maybe I misunderstood Mr. Hargrove, but I got the
2 same impression as you did, Commissioner Shapiro, that Mr.
3 Hargrove is implying that we were making the regulation less
4 broadly applicable than it is now.

5 And, in fact, the opposite is true. If you read the
6 current Regulations, the limitation on a penthouse applies to a
7 detached dwelling, a semi-detached dwelling, a rowhouse or a flat
8 in any zone. That's exactly what we're proposing under the new
9 Regulations, except we're proposing now to apply it also to the
10 conversion of a flat to an apartment building in the RF zone.

11 So there's -- unless I was misunderstanding Mr.
12 Hargrove, which is possible, for sure, then I think that the
13 provision about not allowing a penthouse on a -- the roof of those
14 classes of buildings is actually, in some respects, expanding
15 rather than contracting.

16 The change that we're proposing is that we've suggested
17 -- and if the Commission is not comfortable with this, we can
18 certainly go back and, you know, remove that provision. We did
19 not feel that it made sense to require the homeowner of a two-
20 story building -- a two-story house, flat or rowhouse or a semi-
21 detached dwelling who wanted to do a roof deck to have to go to
22 the BZA to get permission to do a stairwell access when they could
23 instead do a much larger and, in fact, would be incentivized to do
24 a larger third-story addition, which would not be subject to
25 setback requirements that a penthouse would be, just to get that

1 access to the roof deck. You know, maybe they add a small room or
2 something up there that they weren't anticipating doing. You
3 know, the BZA process is long and expensive enough that it might
4 actually seem worthwhile to people to do that.

5 But again, it's not -- you know, it's -- we felt that it
6 was something that was worth addressing in the Regulations. If
7 it's -- the Commission is not comfortable with that then we can
8 certainly go back to the old regulation where on a two-story
9 dwelling, but you wanted to do a penthouse stairwell addition, you
10 would have to get permission to do that from the Board of Zoning
11 Adjustment, that's the current provision.

12 COMMISSIONER SHAPIRO: That's very helpful, Mr. Lawson.
13 And Mr. Chair, that answers most of my questions. I want to be
14 respectful of Mr. Hargrove's and the Kalorama Citizens
15 Association's work and perhaps it might be helpful to get some of
16 this from Mr. Lawson in more detail.

17 In fact, if I can, I just have a few more quick
18 questions. Mr. Chair, you noted that you felt that some
19 clarification around defining what -- you know, where the -- this
20 is related to the measuring height, you know, the sort of
21 definition of top of roof, and I had the same reaction that you
22 did, so I'd like to hear Mr. Lawson's response to that as well, if
23 there's some reason why wouldn't want to get more clarification.

24 And then the other one is something else that
25 Commissioner Eckenwiler said around the -- the way I had it in my

1 head is that he's looking at a more clear definition of the
2 rooftop on the rooftop. This is sort of the penthouse definition
3 and a rooftop enclosure definition and it felt like there were a
4 little bit of holes in both. My reaction was, his recommendation
5 seemed sound. I didn't get any unintended consequences from his
6 recommendation, so I'd like to see if there's a reason why Mr.
7 Lawson would object to that. I think I'll -- I think that's it
8 for now. I'll just hold off on that.

9 MR. LAWSON: With regards -- sorry, if I -- wish me to
10 respond. With regards to measuring building height, when I talked
11 to the Zoning Administrator, what they use now is the point where
12 they measure building height too. So they already have to
13 establishment a top of roof for the purpose of measuring building
14 height.

15 So their thought was it is both logical and
16 administratively preferable to simply use that same point for
17 measuring the height for the penthouse on top of the roof and we
18 agree. We think that makes sense. It makes sense not to make
19 people go through two separate and different calculations.

20 We did clarify in the Regulations or are proposing to
21 clarify in the Regulations, specifically, that certain things on
22 the roof such as a roof membrane and a green roof would not count
23 towards building height, so you would not measure to the top of
24 those things.

25 But again, this is just an effort not to, you know,

1 duplicate effort for applicants and for administration of that
2 purview. Sorry, I'm not sure that answers your question.

3 COMMISSIONER TURNBULL: The definition of penthouse
4 rooftop structure that, you know, the 24-inch space between the
5 beams, he felt that -- Commissioner Eckenwiler felt that there was
6 -- that were just holes in the definition that he was looking to
7 address for both rooftop structure and penthouse.

8 MR. LAWSON: Right.

9 COMMISSIONER SHAPIRO: Like you could build a rooftop on
10 a rooftop and, you know, how do you define that?

11 MR. LAWSON: Well, I think -- I don't think that would
12 be possible. The Regulation is very clear on what you can do and
13 how much height you're permitted, how many stories you're
14 permitted. But there may be something in what the Commissioner
15 was talking about. I'm happy to take another look at that.

16 The Zoning Administrator who essentially helped me craft
17 that language did want to make sure that there was a clear
18 separation between what's a roof structure and what's a penthouse.
19 They think it's important that that be very clear so they're not
20 in constant arguments with architects and developers trying to
21 make a penthouse look like a roof structure and vice versa.

22 So I think it's important to make sure that that clarity
23 remains, but I'm happy to take another look at that. The issue of
24 trellis is an interesting one, and I have to admit that Mr.
25 Eckenwiler alluded to a trellis with a solid roof. That would be

1 | an example of something that has a solid roof but no walls. And I
2 | hadn't thought of that example because we don't see a lot of
3 | trellises with a solid roof.

4 | Typically -- and that's because -- well, for all kinds
5 | of reasons, but I'm happy to -- if that's his concern, and he's
6 | welcome to contact me again to -- you know, I'm just being a
7 | little bit thick on this issue and I'm not quite getting it. So
8 | I'm happy to have him contact me again and try to explain it to
9 | me, but I'm also happy to discuss it -- in his office to see what
10 | broader implications this might have. And I know it's been talked
11 | about once or twice before in other situations, but it is
12 | important to consider what the intended consequences of the
13 | Regulations might be.

14 | Whatever we put forward, immediately some people are
15 | going to look at ways to get around it, and so we continue to
16 | think that it's important to make sure that the Regulations are as
17 | clear and as understood administratively as possible.

18 | COMMISSIONER SHAPIRO: I appreciate that. That's all I
19 | have, Mr. Chair.

20 | MR. LAWSON: Thank you.

21 | CHAIRPERSON HOOD: Thank you, Commissioner Shapiro.
22 | Commissioner May?

23 | COMMISSIONER MAY: Yeah, I just wanted to follow-up on
24 | one point. Mr. Lawson, Commissioner Eckenwiler specifically
25 | mentioned the circumstance where you could have a roof deck and

1 | then insulation and then a membrane on top of that, and I got a
2 | little bit confused by what you said in response to Commissioner
3 | Shapiro's question about the membrane not being counted when
4 | trying to measure the rooftop -- you know, the height of the roof.

5 | So I'm confused by that. I always thought that the
6 | membrane itself, the part that sheds water, would be the line and
7 | that would be the top of the roof, not the concrete structure, not
8 | the insulation, whether it's above or below the membrane or, you
9 | know, anything.

10 | And I agree with clarifying that a green roof should not
11 | be part of that measuring point because it is -- it's too hard to
12 | measure things that way for one, but it's also I -- we wouldn't
13 | want to do anything disincentivizes green roofs. So how -- I
14 | mean, what does the definition say now, or the measuring rules say
15 | right now? Is it the membrane? Is it the concrete deck? Or the
16 | plywood deck, whatever it is? You're muted if you're talking.

17 | MR. LAWSON: Oh, I'm sorry, I was. I'm going to try
18 | turning on my video, hopefully it won't crash.

19 | COMMISSIONER MAY: Okay.

20 | MR. LAWSON: So I was just trying to find it in the
21 | Regulations right now and it's just not coming up quickly, but I
22 | believe that the Regulations for the measuring the height of a
23 | building simply say to the top of the roof. So it is the Zoning
24 | Administrator's rule to interpret what is the top of the roof.

25 | COMMISSIONER MAY: Okay.

1 MR. LAWSON: And that's one of the reasons why we
2 proposed that a green roof not count towards that, what is the top
3 of the roof kind of thing. Honestly, I would have to get more
4 information from the Zoning Administrator on exactly where that
5 point is measured. I think you bring up a really good point, the
6 technologies change and change frequently, and so I think that's
7 probably the reason why that exact point is not defined in the
8 Zoning Regulations.

9 COMMISSIONER MAY: Right.

10 MR. LAWSON: Because it's something we would have to
11 amend literally on an ongoing basis.

12 COMMISSIONER MAY: Right. Yeah.

13 MR. LAWSON: And it may also be that it's something that
14 is addressed more directly, I guess, in the building code.

15 COMMISSIONER MAY: Right.

16 MR. LAWSON: In which case, it would make sense not to
17 have it in the zoning regs. But honestly, I'd have to get more
18 information from the Zoning Administrator if you want that
19 clarification of exactly where that point would be in every --
20 kind of different situation.

21 COMMISSIONER MAY: Yeah, I mean, I think it might be
22 helpful to be able to understand and address Commissioner
23 Eckenwiler's concerns. But, again, I think having clarity that
24 green roofs are not included, I think, is the essential thing that
25 we have to do. And then otherwise, it's a matter of understanding

1 | how that roof sandwich works at the very top. Because we
2 | certainly wouldn't want to have it be defined as the membrane and
3 | then find that the membrane gets six inches of foam insulation on
4 | top of it and then the -- you know, and that drives up the heights
5 | of buildings, so --

6 | MR. LAWSON: I understand.

7 | COMMISSIONER MAY: Yeah. I don't think I have any other
8 | questions. I mean, I do think that everything that we received
9 | most recently and everything that we heard today does require some
10 | further consideration and it would be helpful to have the Office
11 | of Planning respond to some of those comments that were raised
12 | today before we take up the matter for any kind of decision-
13 | making.

14 | MR. LAWSON: I'd be happy to.

15 | CHAIRPERSON HOOD: Okay. Thank you, Commissioner May.
16 | Commissioner Turnbull, did you have any follow-up questions or
17 | comments?

18 | COMMISSIONER TURNBULL: Yeah, well you started talking
19 | about the roof -- top of the roof structure, which I think -- I
20 | think we've struggled with that before many times trying to figure
21 | out what's the top of anything. I mean, the top of the roof is a
22 | difficult term to define. I mean, whether you -- I was just
23 | thinking of it now, when you say the top exposed wearing surface
24 | of the roof structure, but then does that cover you? I'm not
25 | sure. Because then you don't want to get into the seat of roof

1 | issue, so it's like the top wearing, weathering -- there must be
2 | some way of defining this in simple terms without getting into the
3 | actual manufacturing of items that would go into it, but -- so --
4 | but Mr. Lawson, I'm sure you can play with that.

5 | The only -- I would ask you and I think you said you
6 | hadn't had a chance to go through Mr. Hargrove's Exhibit No. 12,
7 | so if you could just go through that and maybe reflect on that. I
8 | don't know if you had the Committee of 100's -- if you'd gone
9 | through theirs either?

10 | MR. LAWSON: I'm sorry, both of those were available on
11 | the record today and I did not have a chance to review them.

12 | COMMISSIONER TURNBULL: Yeah. There was another one
13 | too. But -- so if you could go through those and maybe make a
14 | comment or two, I think -- there's, obviously, as you've heard,
15 | concerns about people relinquishing protection over the areas and
16 | as you've said that you don't think that's happening, but if you
17 | could just clarify in your own inimitable way how you think that
18 | the -- what you're proposing does give even more protection, that
19 | would be good. But I want to thank you again for all the input
20 | and all the hard work you've done on this and look to hearing your
21 | replies. Thank you.

22 | MR. LAWSON: Thank you. I will note that one issue that
23 | was raised by Commissioner Eckenwiler that I think was clarified,
24 | at least for me, in his verbal, was the proposal to eliminate --
25 | our proposal to eliminate that one-third limit on the low-density

1 residence. I think I'm understanding his point now. I would say
2 we, basically, proposed to eliminate it because we didn't feel it
3 had any impact. We found practically no examples of buildings
4 that even came close to achieving that one-third -- covering one-
5 third of the roof.

6 But I think the -- so we felt that it just wasn't
7 serving any purpose. And one of the things we were trying to do
8 is provide some clarity in the Regulations by eliminating things
9 that served no purpose.

10 I'm kind of getting the sense that maybe there is a
11 purpose that we haven't thought about and it may, frankly, make
12 some sense just to keep that provision in the Regulations. If
13 it's -- if it's kind of useless then it's innocuous, but if it is
14 serving a purpose that we just weren't anticipating then it
15 probably makes more sense just to keep it in the Regulations. And
16 I'm happy to provide kind of more thoughts on that in writing in a
17 supplemental filing.

18 COMMISSIONER MAY: Thank you. Good to hear. The other
19 thing which came up as you mentioned, the whole concept of
20 trellises. And we see a lot of trellises now and have no issues
21 with putting up trellises, I guess the only question is, how far
22 can you go with a trellis? If it covers over half of the roof,
23 does it become something innocuous that we don't want?

24 I mean, I think you could take another look at that
25 whole concept of trellises and how it impacts the roof itself and

1 the top of a building. I mean, we're limiting penthouse (audio
2 interference), but how much of a trellis can you put up? I mean,
3 I think they all serve a -- they're well intentioned, we've seen a
4 lot of swimming pools up on roofs and little bar areas, which I
5 think are very useful for people.

6 But again, can that be taken to an extreme where maybe
7 it's -- I mean, the consequences we haven't really foreseen, so if
8 you could just think about that again, I'd appreciate it. Thank
9 you.

10 MR. LAWSON: I'd be happy to. Thank you.

11 CHAIRPERSON HOOD: Okay. Thank you, Commissioner
12 Turnbull. I think Vice Chair, you're the only one, you have any
13 questions or follow-up comments?

14 VICE CHAIR MILLER: Thank you, Mr. Chairman. I don't
15 know if you can see me anymore. I think I need to move to a
16 different area in the future, for lighting purposes, but I think
17 you can hear me.

18 So I appreciate all of the work that everybody -- that
19 Mr. Lawson has put into this proposed -- Office of Planning has
20 put into this proposed text amendment. And I'm generally in
21 support of -- generally supportive of all the changes, although I
22 will look forward to the comments, the supplemental filing by Mr.
23 Lawson, providing OP's comments in response to the comments that
24 have just been received today or in the last day or so from Mr.
25 Eckenwiler, the Committee of 100 and anyone else.

1 I did have question, I guess, about Mr. Avitabile's
2 suggestion that the one-half to one setback for side walls that
3 are not set on the property line and that only face side yards or
4 alleys, that that one-half to one setback requirement be retained
5 rather than increasing it to one-to-one because of the flexibility
6 that would take away from narrower lots and, I guess, higher
7 density zones to put habitable space up there. That isn't really
8 visually impacting anybody except another matter-of-right building
9 next door and if that's at the same matter-of-right height.

10 I guess, I don't know, I see what Mr. Lawson has said, I
11 see what Mr. Avitabile has said. I don't know if Mr. Lawson wants
12 to comment further about retaining the one-half to one foot
13 setback rather than increasing it to one-to-one for those
14 situations -- for those side wall situations where there's not --
15 doesn't seem to be a visual impact and you might be gaining some
16 habitable space or an increased linkage requirement.

17 I guess I would like you to look at that again and maybe
18 -- I think I've seen what you -- I think I understand the points
19 that were made on both sides. I don't see the -- I don't know if
20 the necessity for simplicity is needed in those very limited
21 number of cases where it might be useful and we don't want to be
22 requiring -- I don't know, would it end up requiring a variance or
23 -- if they wanted to have a lesser setback or it would require a
24 variance?

25 MR. LAWSON: No, it would -- typically, a penthouse

1 relief is by special exception rather than a variance. There are
2 some exceptions, things like height would require a variance, but
3 setback would be a special exception.

4 I totally understand your point and I appreciated Mr.
5 Avitabile's comments. We feel that in the instances where there
6 is limited or no potential for visual impact, there is no setback
7 requirement, you can go right to the edge of the building. And
8 that's the case under the current Regulations, that's the case
9 under the proposed Regulations. So we felt that this was kind of
10 an appropriate change to make, but I'm happy to take another look
11 at that and include that in whatever else I provide to the Zoning
12 Commission later.

13 VICE CHAIR MILLER: I appreciate that, because I'm not
14 sure I see the downside of retaining it -- retaining that
15 flexibility if it isn't -- if it doesn't go all the way to the
16 property line, so, yeah, if you could look at that again.

17 And I guess the other point on the applicability -- Mr.
18 Avitabile pointed out, delaying the applicability of these new
19 Regulations, even though they've been proposed for almost a year
20 now, until a date certain, allowing building permits to be filed
21 by a date certain that meet the existing Regulations. Do you have
22 an objection to -- or a suggestion on a particular date? He
23 suggested June '21, June of this year. Did you -- I think you
24 were -- your comments said that you didn't generally think a
25 change was necessary, but that a delay then -- I didn't think you

1 necessarily were objecting to it, a date certain for building
2 permits to be filed that may meet the existing Regulations -- to
3 try to meet the concern that things might have been IN design and
4 gone through other reviews.

5 MR. LAWSON: Right. Kind of part way in the middle.
6 First of all, I think that any date would probably have to be
7 established as we get closer to the Zoning Commission taking a
8 final action. I'm not sure how long that's going to take at this
9 point, so I don't think we'd want to establish something at this
10 point.

11 But I did discuss this with OAG and also discussed it
12 with the Zoning Administrator. We all felt pretty strongly that a
13 nesting provision is not recommended. And instead, if the
14 Commission wishes to grant some additional leeway -- and I think
15 this would suit the purposes that Mr. Avitabile was bringing up.
16 Instead, simply establish a date when the new Regulations become
17 effective. Vesting would, essentially, allow the old Regulations
18 and the new Regulations to exist at the same time. And that can
19 cause confusion out there in the real world and also cause
20 confusion administratively.

21 So it really makes more sense for the Commission, if you
22 wish to do this, to -- instead of adopting the Regulations and
23 vesting and adopting a vesting provision, instead to think about
24 establishing a date and whatever date is that you're comfortable
25 with when the new Regulations come into effect, which may be

1 | sometime after you actually take final action. It's kind of
2 | semantics, but it's kind of an important one.

3 | So we understand his point and we agree with his point.
4 | We're not trying to catch people up or make people go through
5 | expensive redesigns or anything. It's just a different way of
6 | doing it that would be more efficient.

7 | VICE CHAIR MILLER: Okay. Well, maybe let's just keep
8 | that, as the Chairman would say, "in the parking lot" for when we
9 | -- although none of my other colleagues might agree with me, but
10 | when we get to the point of where we -- where we're making final
11 | action, why don't we think about that. Because I think we did do
12 | something similar when we changed the penthouse Regulations a few
13 | years ago -- well, it's now over five years -- it's six years ago,
14 | I guess, at this point -- that we somehow had a delayed effective
15 | date of some sort, for that very reason.

16 | So, if we can just maybe look at that precedent at the
17 | time and -- when we get to that point of a final action. Thank
18 | you. Thank you, Mr. Chairman.

19 | MR. LAWSON: Thank you.

20 | CHAIRPERSON HOOD: Okay. Mr. Lawson, for full
21 | disclosure, I have no answers, but I have plenty of questions. So
22 | I'll leave that up to the experts, the Office of Planning, the
23 | public. I will tell you the discussion we had this evening I
24 | thought was very helpful. I've even thought about, well maybe Mr.
25 | Lawson wants to have -- what we did when we were doing the ZR,

1 maybe you want to meet with Mr. Eckenwiler and Mr. Hargrove, Ms.
2 Laura Richards and others at one time, so we can kind of decipher
3 this since they took an interest. And I appreciate all those who
4 took the interest; if I left your name out, forgive me.

5 But one of the things that I see through this, is we
6 want to make sure it's predictable, I think that's what we're
7 trying to achieve. We want to make sure it's easy, because
8 everybody doesn't do zoning every day. Now some of us -- and even
9 I do it and by this conversation, some of us may not interpret or
10 understand what somebody else is saying and -- so for me, I'm
11 trying to get to where it's easy for the public, for the general
12 public who doesn't do this every day, as close as we can get to
13 that.

14 And also, I want to get to a point that when we start
15 crafting these Regulations, when I get to the BZA, I'm not sitting
16 there second-guessing myself. So, you know, and again, like I
17 prefaced it before I started, I got a lot of questions, a lot of
18 uncertainty, but I have no answers, at least not yet. I know
19 where I want to be, but it's going to take -- incumbent upon all
20 of us to get there.

21 The other thing is, when the Zoning Administrator does
22 these bulletins -- I call them bulletins, he may call them notices
23 or whatever they are, what assurances do we have that I go in
24 there on Monday and I get one ruling on the measuring point and
25 someone else go in on Thursday and they get another ruling. So I

1 | just want to make sure and you can pass that on to him, I want to
2 | make sure that he's consistent and I believe he -- I hope he is.
3 | I'm not going to say he is, I hope he is assisting in these
4 | interpretations, because if not, we need to make sure that it's
5 | predictable in our Regulations for him to go by and not him
6 | rewriting our Regulations, which I hope is not the case.

7 | What else? So, again, Mr. Lawson, I appreciate -- I
8 | know you put -- you and the Office of Planning, you all put a lot
9 | of work into this, but we also have -- we want to try to get it
10 | right. We knew going into a lot of this that this would -- when
11 | we did the ZR16, we knew that we would have to -- it would have to
12 | run its course and we would have to come back and make changes and
13 | that's -- you know, when I think about, well why are we having
14 | this problem? And I get on BZA and the Board members look and
15 | say, we got a Zoning Commissioner here, we need to go back and
16 | look at that. I want to try as soon as possible to start getting
17 | away from that, even though I know it's got to run its course.

18 | So, again, Mr. Lawson, I say a whole lot. I had nothing
19 | to add to it, nothing to offer. I think the witnesses this
20 | evening and my colleagues have -- and we have put things in place
21 | for you to go back and look at and some of the comments. And just
22 | like a crosswalk like you had in your report, it would be very
23 | helpful I think, at least for me and easier for me, of what was
24 | recommended, what your position is and where we are with the
25 | outcome, whether we agree with Mr. Eckenwiler, whether we agree

1 with Ms. Richards and the Committee of 100, whether we agree with
2 Mr. Hargrove or whomever. So that's kind of where I am.

3 I don't know if you have anything you want to answer to
4 that. I think that was more of a statement as opposed to a
5 question.

6 All right. Any follow-up questions or comments? I'm
7 not seeing any. Mr. Lawson, we really appreciate all the time and
8 effort and work that you put into today. Believe me, it does not
9 go unnoticed.

10 MS. Schellin, can we come up with some dates? I know we
11 have Mr. Eckenwiler still listening. I mean hopefully they --

12 MS. SCHELLIN: I think since -- it sounds like Mr. --
13 the document that Mr. Eckenwiler was referring to is already
14 something that's out there, so I think that if we could get back
15 by 3:00 p.m. on Tuesday, January 26th, that's five days from now.
16 I think that should be sufficient time to get that.

17 CHAIRPERSON HOOD: Ms. Schellin, let me interrupt for a
18 second. I think we need to start with Mr. Lawson. Let me just
19 say this, there's a lot of going back -- do you think you can do
20 that in a quicker time frame or a longer time frame? I'm just
21 kind of figuring that and then we can work from that point.

22 MS. SCHELLIN: Well, I was thinking that he would need
23 to see that document first. That's -- yeah --

24 CHAIRPERSON HOOD: Okay. I thought you were closing
25 dates out. Okay.

1 MS. SCHELLIN: No. I was going to go to him, I wanted
2 to get that document in the record so Mr. Lawson could see that.

3 CHAIRPERSON HOOD: What documents are we asking for that
4 Mr. Lawson needs to see?

5 MS. SCHELLIN: Remember there was something that the
6 architect --

7 CHAIRPERSON HOOD: Oh. Okay. Okay.

8 MS. SCHELLIN: -- Commissioner May had asked for --
9 right. So I wanted to make sure that that got in the record so
10 that OP would have that too.

11 CHAIRPERSON HOOD: Enclosing the walls. Okay. Okay.

12 MS. SCHELLIN: Right. And then other than that, there
13 was nothing else, the record would be closed to the public. And
14 so now moving to OP, Mr. Lawson, how much time do you think you
15 might need? Because I'm thinking that it's probably going to go
16 at a minimum to the second meeting in February; is that your
17 thinking that you would need that much time?

18 MR. LAWSON: Thank you, Ms. Schellin. That actually
19 might be helpful. I was thinking, potentially, the first meeting,
20 but honestly that might be a bit ambitious just given the rest of
21 the workload. I know that there's a lot of people who are anxious
22 to get these changes, you know, considered and finalized, but I
23 think I would appreciate the second meeting in February.

24 MS. SCHELLIN: Okay. So going with that, I don't think
25 we have to abide by the 10 days before the meeting because we're

1 not looking for any submissions from the public, so if you could
2 make your submission by say the 18th of February, then we could
3 put it on the February 25th agenda, that would be a week before
4 the meeting. Does that work?

5 MR. LAWSON: I was on mute. Yes, that's fine. And
6 we'll try to enter it a little bit earlier than that, to give the
7 Commission a bit more time, but that's a good deadline. Thank
8 you.

9 MS. SCHELLIN: Okay. And then other than that, the
10 record is closed, correct, Chairman, until you guys take proposed
11 action, then it will reopen for the public again.

12 CHAIRPERSON HOOD: That's correct. And thank you, Ms.
13 Schellin for the schedule.

14 But I do want to add another comment, Mr. Lawson. I did
15 like the direct -- I forgot who the exchange was with, maybe it
16 was with Commissioner Shapiro, when you were adding something for
17 another protection. I forgot exactly how you worded it, but
18 that's kind of in line of where I like to be. Not that I'm trying
19 to add more stuff to it. What I'm trying to do is make sure that
20 the community and the residents and the people that have to endure
21 whatever decisions are made here, have those protections.

22 So I can't exactly remember, but I liked the way you
23 phrased it. And that's the disadvantage of going last, if I don't
24 write it down, I'm getting a little older, I don't remember. But
25 I do like the way that one -- the direction in which that was

1 going.

2 Okay. So are we all good on dates?

3 VICE CHAIR MILLER: Mr. Chairman?

4 CHAIRPERSON HOOD: I just want to make a quick comment I
5 meant to make when I commented, specifically about a couple
6 things. I wanted to just generally comment about the rooftop and
7 Penthouse Regulations, that you know they were originally adopted
8 in response to the Height Act habitability changes that were made
9 and, you know, in general, I think that they have worked well to
10 activate and remove the -- activate that rooftop space that --
11 especially with habitable space that's usable for residents who
12 are either in the building or link it with production of housing.
13 I was happy to hear that the \$21 million that's been generated
14 from just the penthouse habitable space requirements of this
15 Regulation in the last few years, so -- that's been generated for
16 the city for affordable housing.

17 That -- you know, it's a balancing -- and we've seen how
18 they work, and this is trying to clarify and maybe deal with some
19 of the unintended consequences or adverse impacts and that's part
20 of the whole evolution of zoning and amendments to zoning.

21 So I think it's working, basically, as intended, but I
22 think in general it's a good thing to activate that rooftop and
23 penthouse space and as we did with our initial Regulation. And I
24 think these amendments try to achieve that balance that we're
25 always trying to achieve by minimizing unintended consequences or

1 adverse effects upon neighbors.

2 So I just wanted to make that general comment about what
3 we're doing. Mr. Chairman, thank you.

4 CHAIRPERSON HOOD: Okay. Thank you, Vice Chair, good
5 point. That's a good point. All right. Anybody else, any
6 closing comments or questions?

7 Again, I want to thank Mr. Lawson, all the participants
8 that participated tonight, they helped us with this discussion and
9 this hearing.

10 The Zoning Commission will have its meeting -- Ms.
11 Schellin, make sure I get the right dates out, on the -- at 4 p.m.
12 on January the 28th, this is one week from today, that's our next
13 meeting. It's a meeting. Okay, I got that right.

14 All right. So with that, I want to thank everyone again
15 for their participation tonight and this hearing is adjourned.
16 Good night.

17 (Whereupon, the above-entitled matter went off the
18 record at 6:36 p.m.)

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: 01-21-21

Place: Teleconference

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