

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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SPECIAL PUBLIC MEETING
CASE NO. 25-12

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TUESDAY
NOVEMBER 25, 2025

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The Special Public Meeting of the District of Columbia Zoning Commission convened via teleconference, pursuant to notice at 5:00 p.m. EST, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
ROBERT E. MILLER, Vice Chair
GWEN WRIGHT, Commissioner

OFFICE OF ZONING STAFF PRESENT:

MIKE SAKINEJAD, Zoning Data Specialist
SHARON S. SCHELLIN, Secretary
ELLA ACKERMAN, Acting Secretary

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

JACOB RITTING, ESQUIRE
BRIAN LAMPERT, ESQUIRE

ALSO PRESENT:

JOEL LAWSON, DC Office of Planning

The transcript constitutes the minutes from the Special Public Meeting held on November 25, 2025.

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

2 (5:00 p.m.)

3 CHAIRMAN HOOD: Good afternoon, ladies and gentlemen.
4 We are convening and broadcasting this special public meeting.
5 My name is Anthony Hood. Joining me are Vice Chair Miller and
6 Commissioner Wright. Also joining us are our Office of Zoning
7 staff, Ms. Sharon Schellin, and handling our virtual operations
8 tonight is Mike Sakinejad, as well as our Office of Zoning Legal
9 Division, we have Mr. Jacob Ritting and Mr. Brian Lampert. I
10 will ask others to introduce themselves at the appropriate time,
11 if needed. The only other person I suspect that we will need
12 tonight is Mr. Joel Lawson from the Office of Planning. Again,
13 as I stated, this is a special public meeting. We call this our
14 omnibus bill -- we have 24 items in front of us -- Zoning
15 Commission Case Number 25-12.

16 Copies of today's meeting agenda are available on the
17 Office of Zoning's website. Please be advised that this
18 proceeding is being recorded by a court reporter and is also
19 webcast live via Webex and YouTube Live. The video will be
20 available on the Office of Zoning's website after the meeting.
21 Accordingly, all those listening on Webex or by phone will be
22 muted during the hearing. Again, if we need someone to say
23 something, other than Mr. Lawson, we will ask for it at the
24 appropriate time. Mr. Lawson is from the Office of Planning.
25 Also, just to let the public know, we had properly noticed that

1 this -- that we had a closed meeting today -- it started at three
2 and it lasted about 45 minutes -- just to discuss procedural
3 questions and how we were going to proceed this evening, and we
4 voted on it previously. I just want to make a note and let the
5 public know again that we have done our due diligence and properly
6 noticed it.

7 Okay. So, with that, Ms. Schellin, do you have any
8 preliminary matters?

9 MS. SCHELLIN: I do not.

10 CHAIRMAN HOOD: Okay. All right. I'm going to proceed,
11 again, with Zoning Case -- Zoning Commission Case Number 25-12,
12 and I would ask my colleagues and the public to bear with me.
13 This is a small slight introduction. As we all know, 25-12,
14 which we -- better known as the omnibus bill, is kind of an
15 unusual case. As we know, it has 24 topics, which we're going
16 to call subcases, for the sake of this discussion. At the end
17 of the hearings, we stated that, as most of the subcases, whether
18 the Commission was ready to go forward with the text provided in
19 the Office of Planning hearing report, and, in some, it was clear
20 that the Commission wanted either additional information or
21 revised text from OP in a supplemental report before doing so.

22 (Brief pause.)

23 CHAIRMAN HOOD: Let the helicopter go past. In order
24 to take proposed action to approve each subcase, the Commission
25 must first -- we must first agree -- we're going to try to agree

1 on text that we'll consider approving. The process for tonight,
2 the Commission -- we will discuss each subcase, deliberate, and
3 conclude putting it into one of our four categories. We have
4 four categories.

5 And a lot of this -- if you followed us, we had six
6 hearings. If you followed us, the -- if we're ready to approve
7 the text proposed by OP in its hearing report, once we have
8 deliberated, or if we -- if we have articulated what information
9 the Commission would need from OP to move forward. We may see
10 some things that we may need. Also, if we have articulated what
11 the Commission wants the text to accomplish and on how it wants
12 the existing text to be changed. Then, last but not least, the
13 Commission will -- we will have cases -- issues where the
14 Commission -- where we cannot determine whether it is ready to
15 move forward with the text proposed by OP in its hearing report,
16 or we cannot articulate what information or revised text it needs
17 from OP; we will, in turn, send that back, and then it may be
18 some time before it comes back.

19 Again, we will prepare a supplemental report to each
20 subcase in categories two and three. We will provide the
21 additional information that we requested; we will provide
22 amendment text, if needed; and we will state whether we are
23 dealing with OP or not and whether OP will withdraw. So we'll
24 see how this kind of goes along. We will consider the
25 supplemental report at a later date, once we get through having

1 this discussion tonight. And then, at that point in time, the
2 Commission will consider proposed action on revised text at a
3 future meeting, if we get to that point.

4 So there are a few categories which we're going to do.
5 The first one -- subcases, basically, as we saw through the
6 process, we had no opposition and we had no comments. Then we
7 had another subcase, which I'm going to call tonight, it's going
8 to "B". We had cases with opposition comments, but because of
9 the nature of the comments or discussion at the hearing, OZLD and
10 the Commission, as we were talking through it, is not likely to
11 find the comments persuasive. We will go through that. We --
12 the Commission will decide whether it's persuasive or not.

13 And then Subtitle C, the Commission may want additional
14 information from OP, as I stated. And then D subcases, we think
15 that there's a good chance that we may want to consider revised
16 text, and we will ask OP to prepare and make sure that all the
17 necessary requirements, so that we can move forward with anything
18 that we have revised. And if we don't think we can -- between
19 the three of us, if we don't think we can have a clear path to
20 move forward with some of the topics, then we will send it back
21 to OP and they will come back at a later time frame.

22 So, with that, I'm just going to cut that off. And,
23 again, the subtitles, as I've stated, I'm going to do -- the most
24 easiest ones, I'm going to call Subtitle One -- I mean, I'm going
25 to call "One", and that's going to try to help frame our

1 discussion. Ones where we ask for information, the Commission,
2 that we may need from OP to move forward, more additional
3 information, I'm going to call that "Two". And where the
4 Commission wants the text to accomplish and/or how it wants the
5 existing text to be changed, I'm going to call that "Subtitle
6 Three". And then where we can't figure out how we want to do,
7 which I'm sure we can, we will send it back and let OP decide if
8 and when they will bring it back to us. All right. So I think
9 that's enough for prerequisites. Any questions?

10 (No response.)

11 CHAIRMAN HOOD: So let me just go in the order as it
12 was noticed. The first one is Number 4, Green Area Ratio,
13 Subtitle C-601. Were there changes to the text at setdown? Yes.
14 Amended language following OP discussions with DOEE and DoB.

15 The comments on the text that were advertised in the
16 public hearing notice. We had one ANC in support. Then we had
17 another -- other discussions with DOEE that made much of the
18 current GAR review redundant. OP had discussed the status of GAR
19 with DOEE staff. We feel that it continues to have merit.
20 However, a review of regulations in the zoning may be appropriate
21 as a separate case. So we -- those are the things that we
22 discussed. We didn't really have any opposition on the Number
23 4, Green Area Ratio, Subtitle C-601. And I think, if I'm not
24 mistaken -- I'm going to my colleagues now -- I think that we all
25 were supportive of the proposed action, as requested by OP. Any

1 objections?

2 VICE CHAIR MILLER: No, Mr. Chairman. The proposal was
3 to amend the Green Area Ratio regulations to not trigger GAR for
4 a project which is solely involving internal renovations to a
5 building. And, as you stated, there is -- there was no opposition
6 to that, and we didn't have any concerns about that either. It
7 made sense.

8 CHAIRMAN HOOD: Okay. Commissioner Wright, you have
9 anything on that?

10 COMMISSIONER WRIGHT: (Shakes head negatively.)

11 CHAIRMAN HOOD: Okay. All right. Next -- and I'm kind
12 of going to do these in block -- Number 22, as advertised,
13 penthouse height limits.

14 VICE CHAIR MILLER: So I just want to -- oh, I see our
15 legal counsel. So to conclude our deliberations, did you -- we
16 just should say that we intend to approve it, as proposed --

17 MR. RITTING: Correct.

18 VICE CHAIR MILLER: -- when you get -- when we get
19 around to that. Is that what you were going to say?

20 MR. RITTING: Exactly. From the -- from the course of
21 the discussion, it seemed implicit, but we should make explicit
22 that the Commission's decision is to put this one in Category
23 One, which is subcases where the Commission is ready to approve
24 the text proposed by OP in its hearing report.

25 CHAIRMAN HOOD: Okay. All right. So I'm going to move

1 them in block. That's what was going to do, as I stated
2 previously. I was going to do -- I'm going to do this in block.
3 So both -- any -- that's what I'm saying, any discussion on this
4 one, Green Area Ratio, Subtitle C-601?

5 (No response.)

6 CHAIRMAN HOOD: Next -- and I assume this -- I'm going
7 to put this in the same category as the previous one, Subtitle --
8 I mean, Number 22, penthouse height limit in MU/CAP zones. Were
9 there changes to the text at setdown? I don't believe there was
10 none. The comments -- the text advertised in the public hearing
11 notice. The Commission received a few comments in support and
12 no opposition comments. There was a firm that had an addition
13 to the revision that amends the penthouse height limit to MC/CAP
14 zones. The other zones should be amended to increase the
15 penthouse height in those zones.

16 Committee of 100 was -- also responded. They took no
17 opposition -- took no position. There was a number of support;
18 Exhibit 10 in our files, ANC 5F; the zoning regulations should
19 not discourage solar panels, and they went on to explain their
20 issue. And then Goulston and Storrs, Exhibit 13, supported the
21 proposed amendment and recommends further changes, and they went
22 on to explain that. That's in the exhibit.

23 And we had Exhibit 62 from one -- Cozen O'Connor. They
24 had no comments. Greater Greater Washington agreed with 5F, and
25 they had no position. Also, the Committee of 100 advocated for

1 the ten-foot height limit, when residential penthouses were
2 authorized, but they took no position as well. And I believe
3 the Commission -- we actually didn't hear any opposition at the
4 hearing, and we took the -- take up the additional revisions
5 suggested by Goulston and Storrs at a later date. We spoke about
6 that. This is -- I think this is right by our decision, so let
7 me just go back. I believe Case 22, penthouse height limit in
8 MU/CAP zones and the Green Area Ratio, Subtitle C-601, I will put
9 that in our Category One -- any objections -- which means we move
10 forward, as advertised.

11 VICE CHAIR MILLER: No, I agree, Mr. Chairman, that
12 this proposal by the Office of Planning to amend the penthouse
13 limit for these Mixed-Use/Capitol Hill zones should be consistent
14 with other 40-foot height limited low-density -- low/moderate-
15 density mixed-use zones makes sense, so that -- the penthouse
16 really doesn't work at a 10-foot level. It needs to be higher
17 for elevator override and just for usable space, so it makes
18 sense to make it consistent with other low/moderate-density
19 mixed-use 40-foot height zones. So agree with you that there was
20 no opposition, and we generally supported it going forward.

21 CHAIRMAN HOOD: All right. So --

22 COMMISSIONER WRIGHT: Yes, I agree also, and I also
23 specifically want to say that if there would be discussion about
24 the expansion that Goulston and Storrs brought up, I think that
25 would have to be a separate text amendment, and we'd have to

1 consider that separately, but this is just for the two zones, MU
2 and CAP.

3 CHAIRMAN HOOD: Okay. Anything else? So we will put
4 that in as we call our Category One, which is pretty
5 straightforward, as advertised with our comments. We don't need
6 to -- I think we can -- we can just approve them at the end.

7 Now, I would like to go to something that is a little
8 more intense, redundant building form language, Subtitle U-201.
9 There were no changes at setdown. The opposition; the ANC
10 comments on the text advertised in the public hearing notice.
11 The Committee of 100 believed there is no redundancy and there
12 is a further purpose to eliminate other rules in the future,
13 which they discussed.

14 The Office of Planning had a response; these
15 regulations are in the wrong place and redundant. The Committee
16 of 100 response to the -- response to the Committee of 100 is
17 simply clean up and redundant regulations. We did not express
18 any concern at the -- with this amendment, and I think this
19 appears ready to move forward with the text proposed by OP and
20 the hearing decision. Any additional comments? Are we ready to
21 move forward or do we -- or are we persuasive of what the
22 Committee of 100 and others believe?

23 COMMISSIONER WRIGHT: No, I think we're ready to move
24 forward on this.

25 CHAIRMAN HOOD: Okay.

1 VICE CHAIR MILLER: I agree. It -- the building form
2 is in the regulations, and this is just trying not to repeat or
3 have redundancy in the regulations. That was part of the effort
4 of ZR-16, to just categorize things in their proper place, state
5 them once, and not repeat them over and over, so I think I agree
6 with everybody -- what everybody said and ready to move forward
7 as well.

8 CHAIRMAN HOOD: Okay. All right. Again, we will put
9 that in -- since we were not persuaded by the comments, we will
10 also put that in Number One as well, which means that when we
11 get to the end of this, we will -- we will vote on Number One.
12 Everybody's calling me. All right. Let me go to Number 9, pre-
13 ZR-16 approved vehicle parking requirements, Subtitle C-701.
14 Changes to the text at setdown; there were none. We had
15 opposition/ANC comments on the text advertised in the public
16 hearing notice. We did have the Committee of 100, who's opposed
17 because of racial equity concern; thinks less parking will mean
18 less access to jobs for those living in Wards 7 and 8. The Office
19 of Planning did give us a response that paying for parking is an
20 expense that could be eliminated. The current requirement
21 negatively impacts ability to update or convert buildings.
22 Existing parking requirements would stay the same, if not within
23 a quarter of a mile to a bus corridor.

24 Again, some of our comments, we captured -- we
25 expressed our support for the amendment, but we're not -- at the

1 time of the hearing, we were not convinced by the Committee of
2 100's opposition about racial equity, meaning less jobs for Wards
3 7 and 8. You know, I don't think they -- there was no data there,
4 but, again, I believe this is ready to move forward, but let me
5 hear from others. Anyone -- was anyone persuaded by the argument
6 of less jobs?

7 COMMISSIONER WRIGHT: I think the argument was that
8 people in Wards 7 and 8 need cars and drive more, because their
9 jobs may be jobs that require them to drive a long distance, and
10 so they are more likely to have a car and more likely to need
11 parking, I think that, you know, as a city, we have a strong
12 parking policy, and we've worked hard, as a city, to reduce
13 parking requirements in every possible location, especially near
14 transit, and this includes reducing the parking requirements
15 within a quarter-mile of a bus corridor. If it's not within a
16 quarter-mile of a bus corridor, the parking requirements would
17 stay the same. So I think we need to be continuing this very
18 progressive parking policy in the District, and I support this
19 particular amendment.

20 CHAIRMAN HOOD: Okay. Vice Chair Miller.

21 VICE CHAIR MILLER: Thank you. And I share the views
22 of my colleagues that -- you know, this proposal by the Office
23 of Planning removes a provision that vehicle parking spaces
24 required for buildings constructed under the 1958 zoning
25 regulations be retained for the life of the building, despite the

1 fact that in ZR-16 we did update those parking regulations to
2 take into account, as Commissioner Wright and you have said, Mr.
3 Chairman, the Metro transit proximity. So this would -- this
4 proposal provides clarity and certainty, removes a potential
5 barrier to adaptive reuse of buildings and inequity in the
6 regulations based on building age, rather than the current zoning
7 policy and standards. So I support us moving forward with this
8 proposal.

9 CHAIRMAN HOOD: Okay. Thank you. I will just put the
10 pre-ZR-16 approved vehicle parking requirements, after our
11 deliberations, under Subtitle C-701, in the One Category as well.
12 Give me one moment. Okay. Yeah, in the One Category.

13 All right. Number 11 -- help me. I think I'm on Number
14 11. Number 11, garage door height and setback, Subtitle C-711.
15 Again, were there changes to the text at setdown? No. The
16 opposition and ANC comments to the text advertised in the
17 prehearing notice. The Committee of 100; if center-line minimum
18 is reduced to 7.5 feet for single-family or flat, assumes
19 residents will put trash cans in the alley and questions whether
20 there will be room for movement in the alleys. The Office of
21 Planning's response: These garage requirements were inadvertently
22 included in all regulations for garages; only intended to high-
23 density garages; setback from middle of alley is the same as what
24 exists today, so no effect on trashcans or alley movement. And
25 then let me hear from others. I know, Commissioner Wright, you

1 had some comments on that, but let me hear from you, and then
2 Vice Chair Miller, but I think this may seem to be ready to go
3 in the One Category, but let me -- let me just see. Any
4 additional comments or concerns?

5 COMMISSIONER WRIGHT: This makes total sense. It is
6 not going to affect the center-line minimum where people can put
7 their trash cans in their single-family houses. It is -- the
8 setback from the midline is the same as what exists today. It
9 just had included garage requirements that were really for
10 multifamily and commercial buildings and didn't exclude that for
11 single-family houses or rowhouses. So this is just a common
12 sense correction.

13 CHAIRMAN HOOD: Okay. Vice Chair Miller.

14 VICE CHAIR MILLER: Yeah, I agree. This is really --
15 as others have stated, it's a clarification removing, really, an
16 inadvertent, unnecessary, inappropriate restriction and
17 regulatory burden on homeowners' garages. It was -- it was not
18 meant to apply to homeowners. It was the multifamily garage
19 access with multiple vehicles entering and access and all that.
20 So it's really a clarification.

21 CHAIRMAN HOOD: Okay. I, too, unless I hear any
22 objections, will put that in the Number One Category. And Number
23 One simply means we will be moving -- again, just a reminder for
24 the public, Number One simply means that we will be accepting
25 what was -- what was written in the OP report and what was

1 recommended and changes that have been constant over a period of
2 time, and we don't have any concerns or any hesitation to move
3 forward with that, and we will move forward with that and vote
4 in the affirmative.

5 Okay. 12, surface parking screening along alleys,
6 Subtitle C-714. There were no changes during setdown to the
7 text. And the opposition and ANC comments were -- there was a
8 question; we asked OP whether the proposal has any -- the
9 Committee of 100 asked OP whether the proposal has any bearing
10 on compliance with the rear-yard requirements. OP's response
11 simply was, no impacts on rear yards. And we, at the
12 recordings -- the record reflects that the Commission -- we had
13 very little discussion or hesitation about this amendment, and
14 we seemed -- we seemed, at that time, to move forward, but let
15 me hear again for confirmation. Commissioner Wright.

16 COMMISSIONER WRIGHT: Again, I think this is a very
17 appropriate and simply necessary correction. It -- and I support
18 it.

19 CHAIRMAN HOOD: And Vice Chair Miller.

20 VICE CHAIR MILLER: Yeah, I agree. This proposal to
21 clarify that screening from an alley is not required for a parking
22 space for a homeowner directly accessed from the alley. It's a
23 clarification. It removes another unnecessary, unintended
24 restriction and regulatory burden on homeowners, so I think we're
25 ready to move forward.

1 CHAIRMAN HOOD: Okay. Again, I will put that one as
2 well in the Number One Category.

3 Okay. 21, align zone descriptions. Changes to the
4 text, none. Comments on the text advertised in the public hearing
5 notice. There was support from ANC 5F; the proposed amendment
6 insures consistency with the Comp Plan, lessens procedural
7 burdens, and improves quality of life. Exhibit 62, Cozen
8 O'Connor; I don't believe they had any comments. And then ANC
9 5E; proposed amendment clarifies the regulations and insures
10 consistency with the Comp Plan. Greater Greater Washington
11 agrees with 5F, and 5F says proposed amendment insures
12 consistency with the Comp Plan as well.

13 Opposed was Committee of 100, and they say that changes
14 to the Comp Plan would likely make these changes complete, so
15 there's no reason to make the changes now; there's no -- okay,
16 change to the Comp Plan would likely make these changes complete;
17 there's -- so there's no reason to change -- to make the changes
18 now; there's no reason to change the MU-4 zone from moderate
19 density to low-to-moderate density, because the MU-B zone exists.
20 OP's response: Zoning follows the Comp Plan, not the other way
21 around, and zoning should be consistent with the current Comp
22 Plan, and these amendments are more consistent. And I think what
23 the Committee was saying, that the city is in -- taking up the
24 Comp Plan now, and they were saying that -- wait, and if we do
25 anything, we do it after the new Comp Plan, but I think OP's

1 response -- and I'm trying to specify a little more -- OP's
2 response, as they said, zoning follows the Comp Plan, not the
3 other way around, so the zoning follows the Comp Plan; the Comp
4 Plan doesn't follow zoning; zoning should be consistent with the
5 current Comp Plan, and these amendments are more consistent. I
6 know there were some comments made by my colleagues, and I will
7 go to Commissioner Wright and Commissioner -- and then Vice Chair
8 Miller, if you have any additional comments.

9 COMMISSIONER WRIGHT: Again, this just seems like a
10 common sense change. You want your zoning descriptions to be
11 consistent with the Comp Plan, and this is an effort to insure
12 that consistency. So, again, I think this is just a common sense
13 amendment.

14 CHAIRMAN HOOD: Vice Chair Miller.

15 VICE CHAIR MILLER: And I would -- I would agree with
16 both of you that this is -- our zoning regulations for those
17 particular zones, MU-4, MU-5, and MU-7, catching up with what the
18 Council and Mayor did in describing these -- those low and
19 moderate-density zones in the Comprehensive Plan, and the Home
20 Rule Charter requires zoning to be consistent with the existing
21 Comprehensive Plan, not some future Comprehensive Plan. And for
22 four years there's been kind of a disconnect, and it's caused
23 some confusion in cases that have come before us, but the Comp
24 Plan controls and we need to make our zoning -- it's really a
25 clarification.

1 CHAIRMAN HOOD: Okay. Thank you both. And I really
2 appreciate the statement from the Office of Planning; zoning
3 follows the Comp Plan, not the other way around. And who knows
4 what may happen in the Comp Plan -- in the previous Comp Plan,
5 so we can't -- we can't predict what may be coming down then. We
6 need to align what we have, because this -- as the Vice Chair
7 and Commissioner Wright have said, this aligns with what we have
8 in front of us. We're working with the deck that we have in
9 front of us. So, I, too, unless I hear any objections, will
10 align this with One as approval, and we didn't find the argument
11 from the Committee of 100 persuasive.

12 All right. Number 13, penthouse habitable space
13 affordable housing contribution, Subtitle C-1507. There were
14 changes at the setdown, and the rationale -- the Office of
15 Planning's explanation and reason; minor, nonsubstantive wording
16 clarifications. The opposition and the ANC comments from the
17 text advertised in the prehearing notice, a lot of it was support,
18 but they recommended changes. One of the changes by Goulston and
19 Storrs; stairways and elevator penthouse should be excluded from
20 all residential and nonresidential buildings, because they are
21 nonrevenue-generated building core; service spaces, such as
22 hallways, vestibules, and washrooms are also nonrevenue-generated
23 building core spaces, so these spaces should be excluded from the
24 definition of penthouse habitable space, along with the communal
25 recreation space on residential buildings, and mechanical space.

1 And that came from Goulston and Storrs. And then that was
2 support, but recommended changes, so they had the support with
3 conditions.

4 And then opposes -- the Committee of 100 opposed.
5 Exempting service space from IZ calculations and habitable
6 penthouse space lowers the amount of square footage that can be
7 used to calculate the affordable housing requirement. It -- this
8 incentivizes luxury amenities at the expense of affordable
9 housing. And that's coming from the Committee of 100. And I
10 know my colleagues have comments and questions, so I will turn
11 it over to Commissioner Wright.

12 COMMISSIONER WRIGHT: So I might ask for Mr. Lawson to
13 join us for this one, because I want to make very, very sure of
14 what we're voting on. So today amenity space is not counted in
15 the calculation for IZ calculations that is -- that exists today.
16 And I know Vice Chair Miller said that might be something we'd
17 want to think about and reconsider, but that is the situation
18 today. What this amendment is doing is adding in service space
19 to not be counted towards the IZ calculation.

20 I want to clarify. There was this proposal to say
21 stairways and elevator penthouses should also not be included.
22 So when we talk about service space not being included, are we
23 talking about stairways and elevator penthouses, and then that
24 leads us down the path of hallways, vestibules, et cetera, et
25 cetera. Could you just clarify, Mr. Lawson, for us, in this

1 amendment, exactly what is being excluded for IZ calculations?
2 And I understand the amenity space is already excluded, and we
3 aren't changing that. What additional things would be excluded?

4 MR. LAWSON: There we go. Sorry. I've been fighting
5 to get my camera to turn on. Hope you can hear me okay.

6 I think that, first of all, I should note that we're
7 really not changing many of the regulations, where most of them
8 are -- would remain what they are now. The changes really were
9 for -- relate more to non-residential buildings than residential
10 buildings. And our report provided a little table, just to make
11 sure that people could understand that, that kind of showed what
12 would and would not count. And, again, most of that would not
13 change. As you pointed out, you know, the decision was made to
14 not count amenity space in residential buildings. Amenity space
15 in a nonresidential building would count towards that
16 requirement. So, like I said, basically, the change is for
17 nonresidential buildings, and it is to do with these service
18 spaces, because there wasn't a clear direction in the regulations
19 of whether they should count or how they should count. So it's,
20 actually, a pretty limited kind of a change and limited to
21 nonresidential buildings.

22 COMMISSIONER WRIGHT: So just repeating it back to make
23 sure I understand, this change is really focused on
24 nonresidential buildings, and, in addition to the amenity space,
25 it then also includes the service areas. In the testimony that

1 we received, it said stairways and elevator penthouses should be
2 excluded for all residential and nonresidential buildings,
3 because they are nonrevenue-generated. Service spaces, such as
4 hallways, vestibules, and washrooms are also nonrevenue-
5 generated. That does -- that -- this amendment does not do that;
6 is that correct?

7 MR. LAWSON: I'm not -- I'm not sure which document you
8 were referring to that was saying that, but no, no. What --

9 COMMISSIONER WRIGHT: The request by Goulston and
10 Storrs.

11 MR. LAWSON: I see, yes. Goulston was recommending a
12 broader exemption from the provisions. With most of them, like
13 I said, I think we've been pretty clear and pretty consistent in
14 where they're included and where they're not. There just was
15 this situation, and nonresidential buildings are a little bit
16 different, in terms of how the IZ is calculated and how the IZ
17 requirement is met. But, in this case, because in a non-
18 residential building it is non-revenue-generating space, that it
19 was appropriate to not include that.

20 It's a relatively -- obviously, a relatively small
21 amount of space in pretty much any building, so it won't have a
22 massive impact, but we felt that it was kind of more consistently
23 applied that way. So you're correct, compared to the Goulston
24 and Storrs proposal, this has more space overall counting towards
25 the penthouse requirement, particularly in residential buildings,

1 where the IZ requirement results in a unit within the building,
2 you know, as opposed to a nonresidential building, where it tends
3 to be a contribution to the Housing Production Trust Fund.

4 COMMISSIONER WRIGHT: Again, so with the understanding,
5 as Mr. Lawson just explained, this is a very limited sort of
6 clarification, and it primarily affects nonresidential buildings,
7 but I'll let Vice Chair Miller chime in, but with that
8 understanding, which is what I understood, but I wanted to make
9 sure, I'm perfectly ready to support this.

10 CHAIRMAN HOOD: Okay. Vice Chair Miller.

11 VICE CHAIR MILLER: Thank you. Yeah, I appreciate all
12 the comments. Yeah, it is a -- I support this clarification
13 going forward, that the -- those -- the elevator and stairwells
14 in the non-residential buildings would be -- I support the
15 proposal going forward.

16 I would like to reconsider -- I think it's just a
17 clarification and a small clarification at that, affecting
18 nonresidential buildings, but it's important for the
19 administrative interpretation. But I would -- as I said at the
20 hearing, I would like to reconsider in some future case, not this
21 case, the decision that I guess we made in ZR-16 to not count
22 amenity space in residential buildings toward the
23 calculation -- the trigger for affordable housing. I think,
24 at that time, it might have made sense, but I think, you know,
25 ten years later, nine years later, it -- we probably -- we need

1 to just relook at -- reconsider that in a future case. This is
2 just a clarification of the nonresidential building service
3 areas, which I agree should not be part of the calculation for
4 affordable housing.

5 CHAIRMAN HOOD: Okay. So, with that -- with the
6 discussion and with the -- what our comments were, we will also
7 place that in the Category Number One.

8 All right. Let's move on. Relief from front setback
9 requirements, Subtitles D-5201 and E-5201. The changes -- the
10 changes to the text at setdown; there was an alternate language
11 that was discussed, and let me go through what this kind of
12 discussion and phrase -- let me kind of phrase what the discussion
13 was.

14 Opposition and ANC comments on the text advertised in
15 the prehearing notice. The Committee of 100 states, Office of
16 Planning vigorously argued for a variance requirement in earlier
17 cases, citing examples of intrusion -- intrusive new construction
18 destroying a block-faced pattern. Variance is a higher standard
19 than special exception. Things shouldn't be easier. That comes
20 from the Committee.

21 And then from Claudia Russell, who we heard from,
22 variance is harder than special exception and things shouldn't
23 be easier. Change will dramatically change neighborhoods and
24 will, over time, lead to a front setback creep. Change will
25 block light and air and destroy neighbors' relationship.

1 Irregular streets are ugly. And that's from Ms. Claudia Russell.
2 ANC 3/4G filed testimony after the hearing, Exhibit
3 134, and they said a special exception is less stringent and
4 change would allow front setback creep.

5 The Office of Planning's response is quite a bit, and
6 the Office of Planning acknowledged conversion about the
7 proposal. Earlier iterations of this same rule permitted special
8 exception relief; believes this was the intent all along. And
9 the response to the creep issue, OP stated it believes that south
10 (sic) -- SE is -- okay -- is the right form of relief, because
11 it addresses things like light, air -- well, "SE" is special
12 exception -- I'm used to reading it out, but anyway -- relief,
13 because it addresses things like light, air, character of the
14 neighborhood, and things people are expressing -- that people are
15 expressing concerns about.

16 It disagrees that it was OP's intent to require a
17 variance. Note that a reason for a variance requirement was a
18 ZA or BZA is unclear interpretation, not OP. Says it is willing
19 to relook at this provision if the Zoning Commission shares
20 concern about creep. Developers do everything they can to --
21 sometimes to avoid the process. And that's actually true. So
22 to avoid a special exception or a variance, they're not going to
23 build right up to the street for some reason. This isn't a
24 developer issue. This issue is the existing rule -- is an
25 impudent to a homeowner who wants to make a reasonable addition.

1 And then the alternative text was proposed or suggested at the
2 hearing, and I'll let Vice Chair Miller mention that. And then
3 Commissioner Wright has some comments, and then we'll go from
4 there. Let me see where everybody is. But let me just say this
5 on that, and I think this came up at the hearing. The special
6 exception -- and I get it. There are some cases where a variance
7 is just a nonstarter. And I do know -- and I mentioned this in
8 the hearing -- there was a case where somebody wanted to build
9 out in the front, and we scrutinized that so much under the
10 special exception that it actually was -- it actually got denied.
11 So I think that the special exception -- and I think one of my
12 colleagues may have mentioned this at the hearing. I believe the
13 special exception gives more of a -- more of an interrogation,
14 if you will, to a process. So, anyway, let me -- let me go to
15 Vice Chair Miller first this time, and then I'll come to
16 Commissioner Wright.

17 VICE CHAIR MILLER: Thank you. Thank you, Mr. Chairman.
18 Yeah, the front setback requirement, due to an interpretation
19 following the ZR-16 regulations -- some years following -- some
20 time -- some period of time following the ZR -- became subject
21 to a variance, as opposed to a special exception, which I think
22 had been the intent, but it wasn't specifically listed as one of
23 the special exception things that you could apply for, so it then
24 became subject to a variance.

25 I think the special exception criteria will allow

1 for -- will continue to allow for BZA review, ANC review,
2 community review of any of these requests for front setback relief
3 and can take into account the existing pattern and traditional
4 pattern and character and scale of houses in the neighborhood.
5 So I think the special exception process provides for that
6 community and neighborhood input and will -- is a sufficient
7 protection. A variance is such a high bar. I don't think that
8 was really what was intended when we passed the ZR-16, but whether
9 it was intended or not, it's now being applied and it's causing
10 some issues. So I think the special exception process for front
11 setback relief requirements will provide the adequate protections
12 for neighbors, the ANC, and communities, so I'm prepared to move
13 forward with this proposal.

14 CHAIRMAN HOOD: Thank you. Commissioner Wright.

15 COMMISSIONER WRIGHT: I agree. I think that the special
16 exception process is the right process. As I said, when we
17 discussed this before, I think that a variance test is a mismatch,
18 because a variance is a test for sort of a unique, odd situation,
19 and these are not unique, odd situations. I think they're more
20 appropriate to be handled through a special exception. And one
21 question I had was, Vice Chair Miller, you mentioned the
22 possibility of specific special exception criteria that would
23 mention the historic or traditional character of a neighborhood
24 needs to be taken into account. I'm not so worried about the
25 historic, because the HPRB will address the issue in designated

1 historic districts, but did you think that there should be one
2 additional piece of text added to this particular subcase that
3 would say there is a special exception criteria that you need to
4 account for the traditional character of the neighborhood?

5 VICE CHAIR MILLER: Well, I did raise -- thank you,
6 Commissioner Wright, for that question, and maybe Mr. Lawson can
7 help me out here. Yes, I did raise that maybe, to address the
8 concerns of front setback creep that we heard from some of those
9 who were concerned about this proposal, that -- and we thought
10 the special exception criteria would cover that. And I was
11 thinking of the language that is in some of our specific special
12 exception criteria for certain things, like the ten-foot rear-
13 yard -- ten-foot addition situation or other additions, but I
14 don't -- I think the -- I think the general special exception
15 criteria would cover the pattern, character, and scale of
16 existing neighborhoods, but I guess that I'd ask Mr. Lawson,
17 would -- is there specific criteria here in what we're doing, or
18 is it just the general special exception criteria and that would
19 have to, on the BZA's interpretation, cover the issue of
20 compatible with the existing character -- with the traditional
21 character of the neighborhood?

22 MR. LAWSON: Thank you for the question. OP had not
23 proposed specific criteria for the front setback relief, whether
24 it be by variance or by special exception. And, you know, I just
25 point out, even with this rule, there will be some situations

1 that will continue to require a variance; for example, a new
2 house on a conforming lot would continue to require a variance
3 from the front setback, as it would require a variance from all
4 the other provisions. If the Commission would like us to look
5 at whether some additional language to provide a little bit more
6 heft, I guess, to that aspect of the review, we'd be happy to
7 look at that and bring that forward as part of a supplemental
8 report, before you take proposed action, to allow it to be
9 considered. The general criteria do address streetscape
10 character. It would be a question of if you would like some
11 additional stronger language for this particular form of relief.
12 And we'd be happy to look at that, if you'd like us to.

13 VICE CHAIR MILLER: I guess I would defer to my
14 colleagues. I mean, I did raise the issue at the hearing. I
15 think the general criteria can encompass it, but if adding -- if
16 it's -- if you can -- I think it might be worth looking again
17 and seeing if there's a specific reference to that language,
18 which is elsewhere for specific special exception criteria, the
19 pattern, character, and scale of the neighborhood, it might be
20 helpful in this situation, but I would ask my colleagues if they
21 agree with that, to look at it.

22 COMMISSIONER WRIGHT: I agree. I mean, if it's a simple
23 additional sentence and you'll be coming back to us for other
24 things anyway, I -- you know, I really fully support this
25 subcase. I just think an additional sentence to emphasize, when

1 the special exception is being considered, that neighborhood
2 patterns need to be taken into account would be a good thing to
3 have.

4 CHAIRMAN HOOD: And I think it's a wasted language.
5 When the Vice Chair mentioned the 10-foot setback -- and I always
6 say and those know that I say this -- we put all of the criteria,
7 and I think what we have is sufficient, even in this case, because
8 all it is, is a bunch of fluff. That's all it is. Because if
9 you look at the track record on the 10-foot rule, Vice Chair, I
10 even wonder why they even did it, because I can tell you right
11 now, have none been denied. So, I mean, to me, it's just extra
12 wording, extra fluff, and it does exactly the opposite of what
13 we tried to do in ZR-16, but it's not a show stopper for me. If
14 my colleagues want an extra sentence or extra two sentences,
15 that's fine. But, I mean, when you start getting down to the
16 meat and potatoes of whether something should be approved or not,
17 to me, an extra sentence, other than what we already have here,
18 is an extra thing of fluff. But if I'm outnumbered, because I
19 do want to try to get this moving, we will wait for the other
20 sentence that's going to be just like the fluff in the 10-yard
21 (sic) -- 10-rule (sic) setback. It just is there for fluff. So
22 that's just my opinion on that, and I don't want to sound strict
23 and harsh, but that's what it is. So, obviously, it's two to
24 one, so, Mr. Lawson, if you could bring that back -- bring some
25 more fluff for us to read, that'll be great. All right.

1 VICE CHAIR MILLER: We can reject the fluff. I thought
2 it was just worth looking at and -- but, yeah, I mean, the special
3 exception process provides for the most important aspect, the
4 community neighborhood adverse impacts on the community
5 evaluation, so if OP ends up saying it's really not necessary as
6 well, whatever they say, I can go either way.

7 CHAIRMAN HOOD: Okay. Well, we're going to put that
8 in Number Two. I do respect my colleagues position. Just because
9 I called it fluff, I'm going to think about you all when we --
10 when we approve all of it. Hopefully, that doesn't happen, but
11 anyway -- all right. Vice Chair, I'm going to ask you, if you
12 could take -- since it's balconies, whenever I see balconies, I
13 always think about you. So if you could take the balcony one,
14 and I'll take a break on this one.

15 VICE CHAIR MILLER: Okay. So the balconies, which
16 was -- and Gross Floor Area was the Number 5 in our order of
17 hearing the cases. OP -- Office of Planning is proposing to
18 amend and clarify the Gross Floor Area provisions, which
19 permitted -- which determined permitted FAR, Floor Area Ratio,
20 to exempt balconies that are inset into the building external
21 façade. We had the hearing on that issue. It's really --
22 Goulston and Storrs supported it, but wanted to remove the eight-
23 foot maximum and wanted to add other things. The Office of
24 Planning's response was, these -- those requests would expand the
25 scope of the proposed amendment, which was only intended to be a

1 relatively modest expansion of the permitted balcony size, but
2 does not count against Gross Floor Area, so they -- OP did not
3 support those additional changes supported by that particular law
4 firm. Cozen O'Connor supported the proposal with no comment.

5 Committee of 100 opposed the proposal and stated that
6 exempting inset and external balconies from Gross Floor Area
7 conflicted with citywide policies concerning affordable housing,
8 because, one, it reduces the number of IZ units required in
9 development, and, two, will increase rents. The Office of
10 Planning's response at the hearing was that they disagreed, which
11 I agree with their disagreement, because the Office of Planning
12 believed that the likely response would be that the Gross Floor
13 Area would -- could then be used to build a larger building or a
14 larger unit, which would result in increased inclusionary zoning
15 in the building as well.

16 So ANCs 2E and 6C testified at the hearing that they
17 were concerned about the exemption in the RF rowhouse zones could
18 result in the loss of privacy. And the Office of Planning
19 response and some of our responses at the hearing was that the
20 proposal removes the disincentive that currently exists because
21 of that GFA calculation to provide quality outdoor space.
22 Balconies result in increased social connection, so not
23 necessarily a bad thing. I must say that I -- you're right, Mr.
24 Chairman, I have pushed for this proposal for some time, mostly
25 in the context of multifamily higher-rise buildings. I really

1 wasn't thinking about it in terms of rowhouse, townhouses. I'm
2 not sure it's a problem in single-family neighborhoods, where
3 there's a much greater separation between properties -- buildings
4 and where the balcony might be on the second floor.

5 But I neglected to say, the Office of Attorney General
6 also testified that they supported the proposal because they,
7 too, felt it removed a disincentive that -- under the current
8 regulation to provide outdoor -- private outdoor space in
9 multifamily buildings and facilities and could -- this can -- the
10 proposal could increase the number or size of dwelling units,
11 including affordable units.

12 So I'm open to exempting RF zones, if that's a concern,
13 and so I would defer to my colleagues on what they have to say
14 about that and the Office of Planning. I really had been thinking
15 about this proposal for a long time and all the context. It
16 really was in the context of all those high-rise buildings --
17 higher-rise buildings. So, Mr. Lawson, did you have any -- would
18 you like to elaborate? I don't know if I characterized your
19 responses correctly. Maybe you can tell us what you actually
20 think about this.

21 MR. LAWSON: Sure. Thank you. I think I understand
22 the concern here. I think it's a little bit misplaced. There
23 is no GFA in the R and RF zones, so I think this is probably
24 referring more to the lot occupancy -- the balcony and lot
25 occupancy issue than the GFA issue. And we'll get to that at

1 some point when you're ready. That discussion -- we definitely
2 heard the conversation there, and there may be some merit in
3 that, when it comes to the lot occupancy, but, with GFA, it just
4 doesn't apply in R and RF.

5 VICE CHAIR MILLER: Well, that's helpful. I didn't
6 make -- I neglected to make that distinction, and that is going
7 to come up shortly in our conversation, so, yeah. So I guess I
8 don't -- and if it doesn't apply, it's not a problem, so --

9 COMMISSIONER WRIGHT: Yeah, I was leaning the same way
10 as you, Vice Chair Miller, but if GFA does not apply in the RF
11 zone, then this is -- this doesn't make any difference in the RF
12 zones, so I think we could move forward with it, as currently
13 written.

14 VICE CHAIR MILLER: Right, and deal with the issue when
15 we get to lot occupancy.

16 CHAIRMAN HOOD: So I guess we all (indiscernible)
17 because I was ready, too, to go the exact same way. I'm not
18 going to use the word "fluff", because I agree with what was --
19 I thought -- but if it doesn't apply, it's no sense to deal --
20 we'll deal with it later, as has already been mentioned, so that's
21 good to note. And we will note that, as mentioned, it does not
22 apply to the Gross Floor Area, so -- all right. So can we say
23 that we'll put this in Packet One?

24 VICE CHAIR MILLER: (Nods head affirmatively.)

25 COMMISSIONER WRIGHT: (Nods head affirmatively.)

1 CHAIRMAN HOOD: Okay. All right. So we'll put that
2 in Packet One. Thank you, Vice Chair Miller. Commissioner
3 Wright, I'm going to ask you, can you do the next one for me
4 please? If not, the one after, but if you can do the next one,
5 it would be great.

6 COMMISSIONER WRIGHT: Sure. No, I'll be glad to. So
7 it's Subcase Number 20, new dwelling in an accessory building in
8 RF zones, Subtitle U, Section 301. And there was no change to
9 the text that was set down.

10 We did get some opposition. The Committee of 100 said
11 they would like clarification from OP on whether any of the
12 proposed amendments conflict with Number 18, which states that
13 accessory apartments are not allowed in RF zones. It appears
14 that OP is recommending that apartments be allowed in an accessory
15 building, albeit in an accessory building used as a principal
16 housing unit. We think the restriction on accessory apartments
17 should continue. We also oppose elimination of the requirement,
18 that expansion of an accessory building for housing is allowed
19 only by special exception. We should note that we oppose the
20 amendment to increase the matter of right size. We're going to
21 be getting into that.

22 And they don't agree that the special exception process
23 for determining if an accessory building can be enlarged should
24 be eliminated. And we're going to be getting into that later.
25 Their overall concern is, the expansion of an existing structure

1 could affect privacy, access to light and air, and adjoining
2 homes. And they believe the special exception is the process to
3 address these issues.

4 OP is also proposing to amend the alley access
5 requirements for a principal unit within an accessory building
6 in the RF zones. Specifically, OP is proposing that for accessory
7 housing units on an alley, that the alley be at least 15 feet in
8 width, rather than 24 feet under current law. Since accessory
9 units in a rowhouse may take up the entire width of the lot, the
10 Committee of 100 questions whether a 15-foot alley will still
11 provide enough room to store trash cans.

12 So I think that, again, we may want to hear a little
13 bit more from Mr. Lawson on this issue. I think that it was a
14 sort of technicality, as I understood it, whereby if you have an
15 accessory building in the RF zone, there was a concern about
16 allowing a new dwelling in that accessory building, and that, I
17 guess, the idea of converting an existing accessory building or
18 garage carriage house, whatever, into a new dwelling -- and that
19 is separate as I understand it from an accessory dwelling unit.
20 So maybe you can give us a little clarification, Mr. Lawson.

21 MR. LAWSON: Sure. And thanks for the question. You're
22 absolutely right, I believe, in what you just said. At the time
23 the ZR-16 was adopted, there was concern by a small number of
24 people -- a concern by some people that this be allowed by right,
25 and that's why the special exception process was put in place.

1 So the regulations allow the second unit that's permitted in an
2 RF zone to be in either the principal dwelling or in an accessory
3 building, but placed these restrictions on placing it within, you
4 know, a newly constructed accessory building or one that's
5 expanded to accommodate the second unit on the property. We're
6 proposing to get rid of those restrictions. We feel they're
7 outdated at this point. We've transitioned now, and the
8 provisions -- the restrictions -- like I said, we feel they
9 should be removed.

10 OP also proposed a second thing, and that was to amend
11 the access requirements to that unit within the accessory
12 building. We were proposing it to correspond to what's being
13 proposed in a separate text amendment related to alley lots for
14 consistency. Because, in some respects, they do operate in kind
15 of a similar way, we thought that it made sense that those access
16 restrictions be the same, whether it's an alley lot or an
17 accessory building -- a unit within an accessory building.

18 So we would not remove from the proposal -- our
19 proposal to delete the restrictions on placing an accessory unit
20 within the accessory building. We believe that should be by
21 right. However, if the Zoning Commission, when you have your
22 hearing on the alley lot case, which is coming up in January --
23 if you decide not to adopt those changes in the access
24 requirements to alley lots, then we would either keep -- that we
25 would keep the existing -- the existing access requirements for

1 the accessory building in an -- for the accessory building, so
2 that they would, again, still correspond to what's in the alley
3 lot provisions. So it's unfortunate that we've got these two
4 cases kind of running concurrently and they're dealing with, you
5 know, at least this one kind of similar issue, but we wanted to
6 make it clear that our intent is to make the requirements be the
7 same, whatever the Zoning Commission ends up feeling is most
8 appropriate, as you deal with this case and then the alley lot
9 case. I hope that helps, but it might be more confusing than
10 helpful. Sorry.

11 COMMISSIONER WRIGHT: No, that was very helpful. And,
12 again, just for whoever may be listening and to make sure I'm
13 understanding it correctly, so I'm sort of repeating it back,
14 this is not about an accessory dwelling unit.

15 MR. LAWSON: Correct.

16 COMMISSIONER WRIGHT: This is about a new dwelling in
17 an accessory building.

18 MR. LAWSON: Correct.

19 COMMISSIONER WRIGHT: And that accessory building could
20 exist today or it could be built or it could be an expansion of
21 an existing accessory building, but it would be a new unit, like
22 a new apartment or a new condominium or just a completely new
23 unit that would be in an accessory building. And I think that,
24 again, in our efforts to support the goal of more housing, I
25 think this is a good idea to allow this and to allow it by right.

1 I think that perhaps we should not deal with the alley access
2 requirements at this time, until we take up the other case, but
3 I'd be interested in hearing what my colleagues think.

4 CHAIRMAN HOOD: Vice Chair Miller.

5 VICE CHAIR MILLER: Thank you, Mr. Chairman. And I
6 appreciate the dialogue that Commissioner Wright had with Mr.
7 Lawson. I support this amendment, as proposed, for the reasons
8 articulated by Commissioner Wright and by Office of Attorney
9 General at our hearing, because I think it supports --
10 facilitates additional housing, additional, possibly, affordable
11 housing, and removes really unnecessary burdens -- restrictions
12 to the development of that housing, that five-year restriction
13 rule. It might have -- again, it might have made sense when we
14 first adopted the ZR-16, but in terms of the alley access, the
15 15-foot, we're going to take that up. The Fire Department has
16 said that that's acceptable. That's why we're going to take that
17 up. And we've always just approved any changes to whatever the
18 24-foot -- whatever was in the regulations originally, so I
19 don't have a problem with going forward with both, and if we have
20 to reconsider that -- I'm not sure, procedurally, how to deal
21 with that part of it, but I think there's a lot of support for
22 that case, which is why we set it down for a public hearing,
23 including by ANCs. As I recall, ANCs 4D, 2E, Georgetown, and 3E
24 all supported that case being set down. So I don't think there's
25 a lot of controversy there on that 15-foot access situation, so

1 I'm comfortable with moving forward, as proposed, but if -- I'm
2 comfortable moving forward, as proposed, and putting it in Number
3 One category, if that's how we're categorizing it.

4 CHAIRMAN HOOD: Okay. Thank you. I, too, am
5 comfortable with putting it in the Number One Category, but I
6 think Commissioner Wright has some hesitation on one. And if we
7 don't move forward, I believe the whole thing will die. Am I
8 right? Did I characterize what you said, Commissioner Wright?
9 I want to make sure I understood it.

10 COMMISSIONER WRIGHT: No, I support this subcase. My
11 only concern is sort of a process issue. This subcase includes
12 a proposal to amend the alley access requirements, but we're
13 taking that up separately, in a separate case that's coming up.
14 So I just wondered whether we should have this particular subcase
15 only deal with the clarification that a new dwelling in an
16 accessory building in the RF zone is allowed by right and deal
17 with the alley access requirement when we take up the larger
18 case. But it's really sort of a process question. If we approve
19 it here, does that then, you know, prejudice our action on the
20 future case that we're going to be hearing soon?

21 CHAIRMAN HOOD: So I don't want to answer for the Office
22 of Planning. I may have to bring Mr. Lawson back up to make sure
23 that what we're hearing a distinct difference and understanding
24 the distinct difference, but I believe that if we hear it here
25 and make a change and if we find something that may trigger us

1 to go back and revisit this, which I don't think we will, because
2 I'm sure they line it up like that, then we can do that at that
3 time, but, Mr. Lawson, can you help us see our way through this?

4 MR. LAWSON: Well, I can try. The OZ staff are probably
5 better than this than I am, in terms of just the timing of things,
6 but I would expect that you would not take final action on this
7 case -- on the omnibus case, certainly, before you take proposed
8 action for the alley lot case. I think that that timing can be
9 worked out, and the Commission, certainly, has the authority to
10 make additional changes to the text between proposed action and
11 final action. Again, and it's just to make sure that the language
12 is the same, you know. So that would -- I guess that would be
13 my advice. I would not advise, I think, removing it from this
14 case and adding it to the alley lot case, because that one is
15 already advertised as well, and the public hearing notice is done
16 and everything, so I think that it's more -- probably a cleaner
17 approach to simply understand that the two cases are moving
18 forward at the same time and they'll -- in the end, before you
19 take final action, they'll both be made consistent.

20 CHAIRMAN HOOD: Okay. I see your heads shaking. It
21 looks like we're good on that.

22 VICE CHAIR MILLER: (Indicates thumbs up.)

23 CHAIRMAN HOOD: So we'll move this one -- can we --
24 we'll put this in the Number One, because --

25 COMMISSIONER WRIGHT: Yep.

1 CHAIRMAN HOOD: -- all this will be under proposed, so
2 we'll just put that in the Number One as well. All right. I
3 thank both of my colleagues for a break, and I will be back to
4 you shortly. Let me do -- let me -- let's move on. I think
5 we're at Number 24, designated uses in neighborhood mixed-use
6 zones; am I right?

7 VICE CHAIR MILLER: (Nods head affirmatively.)

8 COMMISSIONER WRIGHT: (Nods head affirmatively.)

9 CHAIRMAN HOOD: Okay. That's where we are. All right.
10 So, again, changes to the text was none.

11 Comments on the text advertised in the public hearing
12 notice. We received many comments in support and in support with
13 conditions, and there were no comments in opposition. Most
14 comments led by ANC 5F. They wanted OP to amend this condition --
15 wanted OP to amend this proposed amendment to add a catchall
16 provision that would declare any street activation -- excuse
17 me -- use as a designated use, rather than adding designated uses
18 one at a time.

19 OP responded to the ANC, Exhibit 82, and stated OP
20 discussed this with DoB staff and agreed that it would not be
21 possible to adequately administer such a broad provision. In
22 addition, the current regulations include virtually all forms of
23 retail and service uses.

24 DC Yes In My Backyard, which I'm still trying to get
25 used to that, agrees with the ANC -- agreed with ANC 5F, but, in

1 response to OP, they offered and either/or suggested revision to
2 the proposed amendment.

3 Goulston and Storrs supports the amendment and
4 recommended deleting Subtitle H-6006.1. OP responded to Goulston
5 and Storrs -- and this is referenced as "G and S" -- and stated
6 it does not support G and S's recommendation at this time.

7 We had a number of support letters. Cozen O'Connor,
8 Exhibit 62. We had Exhibit 103, 103A, 113, and on and on,
9 citizens submitting form letters in support, form letters meaning
10 active support, and that -- we've gotten that as well.

11 Supports with conditions, as we've noted, ANC 5F. The
12 ANCs recommend OP -- again, with the catchall. DC Yes In My
13 Backyard agrees with -- okay, so on and on. Greater Greater
14 Washington agrees with ANC 5F with the catchall, and dozens of
15 form letters in support. So, again, OP's response, they talked
16 to DoB, the people who govern, about the catchall provision. And
17 then we didn't really express a whole lot of comments. And let
18 me just see -- first, let's see, did we agree -- I thought we
19 talked about this. Do we agree with the catchall provision?

20 VICE CHAIR MILLER: No, because, I mean -- and I think
21 I did comment at the hearing. I mean, I see the attractiveness.
22 We all want street-activating uses to be part of the -- these
23 mixed-use neighborhood zones, and this proposal is simply adding
24 one that isn't there. They're all listed specifically, and this
25 is adding daytime care use, and they're all supposed to be street-

1 activating neighborhood-serving retail uses. But that kind of
2 catchall I see as unworkable by the ZA in administering. It's
3 very subjective. It's undefined. As we -- I mean, we can -- as
4 we're doing now, we can amend the zoning regulations -- it's a
5 living document -- to add the necessary street-activating uses
6 that people think should be in these mixed-use neighborhood
7 zones, as they come up on a case-by-case basis, or if there's a
8 generic one or a new type of retail street-activating use that
9 we're not aware of right now that becomes important in the new
10 economy, we can consider it. So I think the catchall,
11 unfortunately, while attractive, is not workable administratively
12 and so I'm prepared to support the proposal, as proposed by Office
13 of Planning.

14 CHAIRMAN HOOD: Okay. Commissioner Wright.

15 COMMISSIONER WRIGHT: Yeah, I agree. I think we have
16 to listen to the people who are enforcing this, and if they say
17 it's problematic and that they will have trouble interpreting and
18 enforcing the catchall, then I don't think we can do it.

19 CHAIRMAN HOOD: I would agree with both of you, Vice
20 Chair Miller and Commissioner Wright. The people who are the
21 stewards of this, they've told us what their concerns are, so I
22 would agree exactly a hundred percent with Commissioner Wright's
23 statements, as well as yours, Vice Chair Miller. So can we say,
24 as proposed, we'll put this in the Number One Category as well?

25 VICE CHAIR MILLER: (Nods head affirmatively.)

1 COMMISSIONER WRIGHT: (Nods head affirmatively.)

2 CHAIRMAN HOOD: Okay. All right. In this next one,
3 I'm going to be leaning on you and Commissioner Wright, because
4 I'm - still confused about this, and I'm -- I have some
5 uncertainty, but I'm sure you guys will get us through it. All
6 right. So, again, this is the Priority Corridor -- I think this
7 is the one we're on, right? I've been circling.

8 VICE CHAIR MILLER: (Nods head affirmatively.)

9 COMMISSIONER WRIGHT: (Nods head affirmatively.)

10 CHAIRMAN HOOD: Okay. Priority Corridor Metrobus route
11 update, Subtitle C-702. Changes to the setdown; there were none.
12 Opposition and ANC comments included three inadvertently omitted
13 segments on 14th Street, Rhode Island Avenue, and Independence
14 Avenue; and two segments where headways are 15 minutes or less,
15 North Capitol Street, 12th Street Northeast, omitted segments,
16 which was -- which was expressed by ANC 5F. OA -- Office of
17 Attorney General -- after hearing OP's response, OA -- excuse
18 me -- OAG encouraged OP to take another look at future date. And
19 Exhibit 83A, ANC 5E, dozens of form letters in support from
20 citizens provides that sites on any listed route be included if
21 the listed route no longer provides, one, headways of 12 minutes
22 or less during peak daytime hours; two, weekend and nighttime
23 service; and, three, connections to Metro Stations. The
24 Committee of 100 -- the Committee of 100 was Exhibit -- oh,
25 that's -- I think that's what the Committee of 100 said, I

1 believe. Anyway, ANC 5F thinks three of the segments meet the
2 12-minute standard, omitted only because they are not on the DDOT
3 map; thinks they were omitted because they have multiple service
4 patterns.

5 Parking reductions would apply primarily in
6 predominantly Black and Brown neighborhoods in Wards 7 and 8 --
7 I think that came from the Committee off 100 -- okay, yes -- came
8 from the Committee of 100 -- which are the residents most likely
9 to drive a car to work, so they need parking spaces. And the
10 Committee of 100; minimum parking should not be reduced on streets
11 and eligible for RPP, and because RPP is less available in Wards
12 7 and 8, the exclusion discriminates against Black and Brown
13 residents. And I believe that also came from the Committee of
14 100.

15 DDOT opposed the omitted segments. OP and DDOT
16 responses; opposed to the omitted segments because they don't
17 meet the criteria already established in the regulations. Some
18 of them are in the R and RF zones, which are excluded.

19 ANC 5F; OP is wrong. Some of the segments do meet the
20 criteria; address racial equity comments by stating that the
21 recommendations simply follows the updated routes and includes
22 Wards 7 and 8. Costs of constructing and maintaining parking can
23 be eliminated. Much of the area eligible for reduction is federal
24 land that isn't subject to zoning.

25 Alternative text was proposed or suggested at the

1 hearing, and I will let others do -- mention what they have.
2 Yeah, let's do that. Let me start with Commissioner Wright.

3 COMMISSIONER WRIGHT: So my understanding is that the
4 only disagreement -- first of all, let me just say, I don't agree
5 with the Committee of 100's reasoning that we shouldn't be
6 reducing parking in Wards 7 and 8 that have these transit lines
7 that meet the criteria, because I do believe that, as I said
8 earlier, we have a good progressive parking policy in the city
9 of Washington, and we should maintain that policy in all of our
10 Wards. So I'll just put that to rest.

11 What I see the issue or the concern here seems to be
12 that there is a disagreement about whether certain segments meet
13 the criteria, but were omitted. And there's a discussion that
14 some of them were omitted because they're in the R and RF zones,
15 but ANC 5F continues to believe that there are segments that meet
16 the criteria that are not included.

17 And, you know, I had made a suggestion saying, can we
18 simply -- rather than lifting every segment, can we reference a
19 map that's maintained either by the District Department of
20 Transportation or by WMATA that identifies these corridors that
21 have, you know, very short or relatively short headways, 12
22 minutes or less, weekend and nighttime service connections to
23 Metro stations? Is there a map that is updated periodically by
24 WMATA or the District Department of Transportation, and can we
25 simply reference that? I was told that, generally, we don't

1 incorporate route data by reference and that the zoning
2 regulations, generally, don't reference external documents. It
3 does -- it does mean that we're going to have this argument that
4 will need to be resolved about each segment. And I do understand
5 that, you know, it sounds like OP and District Department of
6 Transportation explained why they omitted certain segments, but
7 the ANC doesn't agree and thinks that the segments do meet the
8 criteria.

9 So, I mean, I think that this is important and that we
10 do need to try to get the roots -- the update of the roots
11 correct, but I also don't want to throw out the baby with the
12 bath water, and if it takes an undue amount of time to argue out
13 between DDOT and the ANCs or community members who think that
14 certain routes do meet the criteria, I'd rather move forward with
15 what they -- what we have, with the understanding that we can add
16 some additional routes subsequently, once this is argued out.
17 But, again, maybe the argument can be resolved quickly and we
18 will get that additional data and information before we vote on
19 this final document. I think that we just need to make sure that
20 the Priority routes are correct and that everything meets the
21 criteria. And so I think at this moment we're dealing with sort
22 of a factual disagreement about which routes meet the criteria.
23 So, again, for Mr. Lawson, maybe you can come and join us again.
24 Is there time to work out those factual disagreements before we
25 take final action on this particular omnibus?

1 MR. LAWSON: Thank you for the question. I believe the
2 answer is yes. The routes that OP proposed and wrote out are
3 actually the routes that are -- they were actually the routes,
4 as brought forward by WMATA. So we just -- we just basically
5 took the WMATA information and transferred it over to our zoning
6 regulations.

7 The disputed segments are routes that -- at least my
8 understanding is they're not part of the WMATA High-Frequency Bus
9 Corridor Network, but that residents are saying offer the same
10 level of service as those High-Frequency Bus Network routes. So
11 it would be adding segments to what WMATA is calling the High-
12 Frequency Bus Network. So, in one respect, just kind of using
13 what WMATA was putting forward as their routes made the most
14 sense to us.

15 You know, at the same time, we're not opposed to taking
16 a look at these other routes. I will admit that I have not done
17 that yet, but I can certainly take a look at those additional
18 segments and see if they do meet the criteria, in which case we
19 could have that conversation with DDOT and, potentially, WMATA.

20 There was a second question raised by some people, and
21 I think I should address that one as well, and that had to do
22 with some of the routes that were part of the existing system in
23 zoning, but are no longer part of the WMATA High-Frequency Bus
24 Corridors. For the most part, that's because, you know, WMATA's
25 priorities have changed and the High-Frequency Bus Corridors have

1 been more focused on some corridors than others, and so that's
2 why those changes happened. However, the majority of those areas
3 that are currently in zoning and would not be in the current
4 proposal are captured by other parallel bus corridors, so the
5 parking reduction would continue to apply there, because they're
6 within a quarter-mile, you know, of other bus corridors and --
7 you know, and Metro sites. So some of those concerns, I
8 understood them coming from members of the public. They couldn't
9 understand why we're no longer proposing that. You know, it's
10 because, again, we're -- we were working with the WMATA routes,
11 as they proposed them, but, also, our analysis showed that many
12 of those existing routes will be -- will be covered by the
13 parking -- bus corridor parking reduction anyways.

14 So that's a long answer. The short answer is we're
15 happy to take another look at those. We will be providing more
16 information to the Zoning Commission anyways. We'll take a look
17 at it. If it turns out to be impossible that we just can't work
18 this out in time, that's what we'll put in our report, but we'll
19 take a crack at it and see what we can figure out.

20 COMMISSIONER WRIGHT: I think that's great, and I think
21 that if it turns out that you literally don't have time before
22 this comes up for a final vote, I still think we should move
23 forward with this subcase, and, again, with the idea that if
24 there needs to be more time to look at these other routes, we
25 could do a subsequent amendment to this amendment to add those

1 routes in. It's not saying that we are cutting them out forever
2 and ever, but it's a matter of timing. And I don't want, you
3 know, this, I think, important and necessary text amendment to
4 die, if we can't look at the additional routes that have been
5 asked to be studied.

6 MR. LAWSON: Thank you. I -- we really appreciate that
7 comment. I think that that's an appropriate comment. It is
8 important that we amend the regulations to be consistent as
9 possible with the current WMATA corridors. Thank you.

10 CHAIRMAN HOOD: Okay. Thank you. Vice Chair Miller,
11 anything to add?

12 VICE CHAIR MILLER: Not really. I appreciate the
13 dialogue between Commissioner Wright and Mr. Lawson and agree
14 with the path forward to proceed with the proposal to align with
15 WMATA's current High-Priority Corridors with our parking policy,
16 but for you all to look at, if you have time, in a supplemental
17 report to see if we could add those -- at least the three routes
18 on 14th Street, Independence, and -- 14th, Rhode Island, and
19 Independence Avenue for -- that go, I think, from downtown to
20 Ward 5, into those -- add them to the list, if there's time to
21 evaluate it in a supplement report, but I think we should move
22 forward with what we have in front of us and see whatever
23 information you can -- whatever evaluation you can give. These
24 are our zoning regulations; these are our streets that we're
25 setting parking policies for, so we can add -- supplement onto

1 what WMATA has done, if we think it's appropriate, so I look
2 forward to OP's judgement on that.

3 CHAIRMAN HOOD: Okay. I, too, would agree with the
4 path forward, but I do have pause, because -- to a certain point,
5 but not pause enough not to move forward, because WMATA knows
6 their business, I'm sure, and you're right, these are our streets,
7 so they know their business. And I do know Rhode Island Avenue,
8 so that's what giving me the pause, so I will see what they come
9 back with. So what I would classify this one -- and I'm looking
10 to my colleagues -- I would say this is a Two, possibly going to
11 a One. In other words, as Commissioner Wright has already
12 mentioned, and I agree with her path forward, was that if can't
13 back with it, we would deal with what we have in front of us,
14 but we'll see what the response is first and hope we can deal
15 with all of it. If not, we will go ahead and move it to One and
16 deal with what we have in front of us, but if they're able to
17 come back -- we'll move it Two, and if they're able to come back
18 with something, then we'll work with it from there, and then try
19 to get it to One; but, if not, we will work with what we have
20 and go to One. Is that right?

21 COMMISSIONER WRIGHT: (Nods head affirmatively.)

22 VICE CHAIR MILLER: That sounds good.

23 CHAIRMAN HOOD: Okay. All right. Thank you. All
24 right. Let me move to window separation -- now, don't let me
25 skip one, because I may -- I'm liable to do that, because I keep

1 scrolling up and down. I'm at window separation criteria in the
2 MU and D zones. Okay. So the changes to the text was none.

3 The comments on the text advertised in the public
4 hearing notice; the Commission received a few comments in support
5 of this amendment and comments in opposition by Committee of 100.
6 The commenters noted that the general special exception review
7 criteria is sufficient and that the window separation criteria
8 conflicts with the District's building code, which causes
9 regulatory barriers.

10 The Committee of 100 states that the existing specific
11 criteria is superior to the wholly subjective special exception
12 criteria. Commission (sic) of 100 -- Committee of 100 also states
13 that renters rarely get notice of adjacent zoning projects, and
14 these changes will make it more likely that renters' light, air,
15 and privacy are negatively impacted. There's a fix for that, as
16 we go through that all the time with our renters getting notice.

17 So in support were ANC 5F, Goulston and Storrs, and
18 Cozen O'Connor. They have quite a bit of what they talked about,
19 and it's about the 43 cases that have sought ANCs, and the BZA
20 relief has been granted in all 43 cases, and on and on. The
21 existing window separations for specific review criteria is
22 unnecessarily burdensome; Cozen O'Connor. They propose amendment
23 removes regulatory barriers. ANC 5F; the proposed limit
24 clarifies and simplifies the regulations to allow more
25 flexibilities, and Greater Greater Washington agrees with ANC 5F.

1 Again, the Committee of 100: The existing 40-foot
2 criteria is a concrete standard that is superior to the wholly
3 subjective legal standard, and I mentioned that. This will have
4 a negative impact on the renters' light, air, and privacy, and
5 they mentioned that, and I'm just duplicating what I've already
6 said.

7 OP's response; the review criteria are convoluted. The
8 standards were carried forward from ZR-58 -- was that called ZR-
9 58 -- ZR-48, but they are very different from what they are today.
10 They essentially create standards which are inappropriate for
11 review criteria. They create a big hurdle for a property owner
12 to even try to address. The normal special exception review
13 criteria are enough. And we have additional information.

14 So I guess we can talk about it, and I know Commissioner
15 Wright and Commissioner Miller have spoken on this this, but I
16 guess one of the questions is, does the Commission -- do we still
17 believe that we're going to see a case where existing window
18 separation was an issue? And then, if we do, we can ask for more
19 information. And, then, are we comfortable going ahead with our
20 regular general special exception criteria? All right. Let me
21 open it up. Commissioner Wright.

22 COMMISSIONER WRIGHT: Yeah. I mean, the only thing
23 that really gives me pause is, you know -- well, I know we just
24 had a conversation about how putting specific criteria in a
25 special exception standard is, according to the Chair, fluff,

1 but, to me, it actually is very, very helpful. And when I have
2 served on the BZA, I've often wished there was more guidance to
3 help the BZA on some of these very thorny issues. So I like
4 fluff, I guess I would say. The thing about this that concerns
5 me is the statement that it is inconsistent with the District's
6 building code and are we setting up a Catch 22 situation, which
7 is why we've had so many -- 43 BZA cases. If we set up a --
8 something that's required in the building code, but then this old
9 language about the 40-foot criteria is inconsistent with the
10 building code, folks have to go to the BZA to say, "Please let
11 us fit -- let us follow the building code and not follow this
12 40-foot criteria." That's not a -- that's not a good process and
13 isn't a process we should have. We should not be setting up
14 special exception criteria that are inconsistent with the
15 building code. So if that is correct, and, again, for Mr. Lawson,
16 if you can verify that this is not consistent with the building
17 code, then I'm perfectly happy to remove it without seeing an
18 example and without further study, because I don't think you
19 should put applicants in that kind of a Catch 22 situation, where
20 they have to do one thing because of the building code, but it
21 conflicts with a criteria in the zoning code. So that's my
22 rant -- that's my thought.

23 CHAIRMAN HOOD: Commissioner Wright, if I didn't --
24 maybe I didn't understand, but I didn't hear no fluff in that,
25 so Vice Chair Miller.

1 VICE CHAIR MILLER: Thank you, Mr. Chairman. Yeah,
2 there should not be any inconsistency -- there shouldn't be
3 unnecessary and overly restrictive zoning regulatory burdens in
4 43 cases that were approved that -- where the special exception
5 criteria, in this case I think, light air and privacy can be --
6 can account for whether those windows are too close or -- in a
7 rear-yard situation, which is, I think, what we're dealing with
8 here. So -- and we've dealt with that in many BZA cases where
9 we've required frosting of those -- some of those windows in
10 the -- in the rear yard. So, I mean, we're -- the BZA is capable
11 of evaluating light, air, and privacy issues with the location
12 of windows in rear yards of adjacent buildings -- rear-yard
13 additions or whatever it is.

14 So I -- in this case, I don't think additional specific
15 criteria is necessary, and I think the 43 cases kind of
16 demonstrate that it's been unnecessarily burdensome as a criteria
17 that maybe just predates the modern code. So that's where -- I'm
18 comfortable with moving forward with this proposal, as opposed
19 (sic) -- as proposed by OP.

20 CHAIRMAN HOOD: Okay. And I want to make sure that
21 Commissioner Wright -- are you comfortable, Commissioner Wright,
22 moving forward as well?

23 COMMISSIONER WRIGHT: (Nods head affirmatively.)

24 CHAIRMAN HOOD: Okay. All right. I just want to make
25 sure, because I didn't hear any fluff in that statement. All

1 right. So we're going to move this to Number One, if we all
2 agree. All right. All right. Let me go to the next one. Now,
3 some of these cases, we may be asking for different text, but
4 we'll talk through it as we go.

5 I believe I'm at zone boundary lines for a split-zoned
6 lot, Subtitle A-207. The changes to the text for -- that was --
7 changes to the text that was set down? Yes. Office of Planning's
8 explanation and reason: non-substantive; some additional
9 clarification to the language.

10 ANC comments on the text advertised in the prehearing
11 notice. ANC 5F supports -- and let me just say, I appreciate
12 all those who supported and all those who opined on some of these
13 omnibus issues and being able to stick to it and work with us
14 those nights. I want to say that, because I don't want to forget
15 when we get to the end. ANC 5F supports. ANC 5E supports.
16 Commissioner Lohse, ANC 2E-6 opposes, because lots shouldn't be
17 given by-right rezoning.

18 Okay. The opposition comments on the text advertised
19 in the pre-hearing notice. Committee of 100 prefers that word
20 "bulk" is maintained, instead of replacing it with the word
21 "density", as OP recommends. OP's response: Use of density was
22 an intentional choice, because definitions of density in zoning
23 regulations leads to an FAR or a unit calculation that can be
24 transferred. Bulk includes other concepts that cannot be
25 calculated in a manner that lends itself to transfer on a split-

1 zoned lot. The Committee of 100 urges the Zoning Commission to
2 retain the carefully defined adverse impact standard for BZA
3 consideration when deciding special exceptions for split-zoned
4 lots. OP's response: The elimination of the currently applicable
5 adverse impact special exception standard is merely a technical
6 correction to eliminate a redundant standard in the general
7 standards for the special exception. Committee of 100's further
8 comment: The two adverse impact standards are not the same. And
9 we have them here listed in our submission. So, apparently, the
10 statute says the Committee is correct and they're not the same.
11 And then we addressed it at the hearing.

12 Let me go to the alternative text proposed or suggested
13 at the hearing. OP suggested that it was a possibility to adopt
14 the change suggested by Goulston and Storrs to delete the trigger
15 date of May 12th, 1958. OP stated that while it does not support
16 the change, it further explained that in places, as part of ZR-
17 16, a trigger date was changed from the effective date of ZR-58
18 to ZR-16, and that OP had no objection to the change. And then
19 additional information -- so that's, more or less, a judgement
20 call for us. Are we persuaded by the OP response to the density
21 versus bulk and the adverse impact standard issues and -- okay.
22 So let me open it up. I think -- I think I've teed up the
23 situation about the density versus bulk and the adverse impact,
24 which I think are not the same, as pointed out by Committee of
25 100. Commissioner Wright, any comments or questions -- or any

1 comments?

2 COMMISSIONER WRIGHT: Yeah, we talked about this a bit
3 at the hearing. I believe that density is actually the correct
4 term to use, because it really does talk about moving FAR from
5 one of the split-zoned lots to another, and that has to do with
6 density. Bulk is handled by other things like height, setback,
7 you know, any other kinds of, you know, criteria that might be
8 there. So I think density is the correct word.

9 I am a little concerned about the change in language
10 about adverse impact. I know that does have a very specific sort
11 of legal meaning, and I don't know that I would suggest changing
12 it for a technical correction. I think we may lose something in
13 translation by doing that. And, finally, I do think that I need
14 more information about the impact of changing the trigger date.
15 So I would suggest we put this in, you know, Group Two and
16 ask that OP come back with a supplemental report about what the
17 impact would be of changing the trigger date, but I do think we
18 should use the word "density", and I think we should leave the
19 words "no adverse effect".

20 CHAIRMAN HOOD: Okay. Vice Chair Miller.

21 VICE CHAIR MILLER: Thank you, Mr. Chairman. I would
22 agree with everything Commissioner Wright has said, and I think
23 that -- so we can ask for more information on the trigger date,
24 which we've done in other cases, so -- which OP acknowledges,
25 so -- and said they were open to that, so -- but I don't know --

1 really understand the impact either, so -- of doing that one way
2 or the other, so I think more information would be helpful, but
3 I'm ready to move forward, awaiting that information.

4 CHAIRMAN HOOD: Yeah. I, too, think once we get the
5 information -- a little more clarification, especially with the
6 ZR-58 and ZR-16, I am not inclined to go along with -- you know,
7 I've gotten used to "adverse impact", and I think that's a key
8 statement there. So, anyway, if OP wants to opine on those
9 briefly, we will put this in Two, and we'll kind of put this in
10 that same category, and we'll see what comes back -- Two, hoping
11 to push it to One, but let's see what happens. I know at least
12 two out of the three I think are pretty straightforward. We just
13 need to come with that change in the effective date. I think
14 that's important. So we'll put this in Two. All right. Any
15 objections?

16 (No response.)

17 CHAIRMAN HOOD: All right. So we'll put that in Two.
18 Let's keep moving. Let's go to Zoning Administrator flexibility,
19 Subtitle A-304 and Y-702. The change to the text that was set
20 down? Yes, there was a change. The Office of Planning's
21 explanation and reasoning: Additional clarification added
22 following further conversations with the ZA office; no
23 substantive changes.

24 ANC comments on the text advertised in the public
25 hearing notice. ANC 5H -- 5 -- I'm sorry -- 5F supports. ANC

1 5E supports. Commissioner Lohse opposes, because AZ flexibility
2 creates lack of public input; also says HPRB should have final
3 review after the ZA flexibility applied and that this lets people
4 bypass HPRB-approved plans, and it says 99 percent sure that it's
5 wrong. If the plans get changed, they go back to HPO staff. And
6 I think we discussed some of that at the hearing, and I think we
7 saw our way through it. But, anyway, the comments on the text
8 advertised in the public hearing notice. Committee of 100 opposed
9 to most of the proposed changes because they are opposed to an
10 increase of ZA discretion.

11 OP's response: Change adds clarity where flexibility
12 exists; makes no sense to not have same ZA flexibility for previous
13 surface amounts as the ZA flexibility. ZA flexibility is so
14 small, two percent, and will help avoid constant arguments
15 currently happening in every ZA flexibility case. I'm definitely
16 familiar with that.

17 Alternative text was proposed or suggested prior to or
18 at our hearing. Goulston and Storrs suggested broader
19 modifications which would, in general, provide the ZA with
20 additional flexibility at the time of building permit
21 application. OP's response: OP discussed these with the ZA
22 staff. In general, some modifications have merit, but would be
23 beyond the level of change in the vision in the omnibus case.
24 Goulston and Storrs suggested two additional changes, which OP
25 supported in the hearing report. OP has identified two of the

1 Goulston and Storrs' proposals to be included in the
2 modification; that is to allow the limit, two percent
3 flexibility, of Subtitle A-304.2 to include pervious surface, and
4 to amend A-304.5, which relates to ZA flexibility for a project
5 approving under a Zoning Commission order to amend the two percent
6 flexibility provisions. Additional information was requested.
7 We did not request any additional information. And I know some
8 of my colleagues have some comments, so let me open it up, if we
9 have any additional comments as to what's being proposed. Let
10 me go to Commissioner Wright.

11 COMMISSIONER WRIGHT: As I said during this discussion,
12 I think that two percent flexibility is really a very small change
13 and that the proposed request is reasonable. I have no problem
14 with also including pervious surface in the two percent
15 flexibility and including the flexibility for a project approved
16 under a Zoning Commission order.

17 I did not agree with the broader flexibility that had
18 been proposed by one of the groups that testified, I believe
19 Goulston and Storrs. They wanted to go up to, like, ten percent,
20 or I don't remember the exact percentage, but they wanted a higher
21 percentage, and I don't agree with that. I think the two percent
22 is fine.

23 And I did want to note that in a historic district --
24 I understand Commissioner Lohse was concerned about, you know,
25 if there's a change made to a project, would it have to go back

1 to the Historic Preservation Review Board. And I think the answer
2 is yes, that they would not be able to bypass the HPRB-approved
3 plans, and if they make a small change or revision, that also
4 has to go back, at least, to the HPRB staff. That's my
5 understanding. If anyone else has a different understanding,
6 please let me know. But I think that the two percent is an
7 appropriate level of flexibility. Things -- often when you start
8 developing your plans in more detail, when you get to the point
9 of construction drawings, and you need a little flexibility, so
10 I support this.

11 CHAIRMAN HOOD: Okay. Thank you. Vice Chair Miller.

12 VICE CHAIR MILLER: Again, I agree with everything
13 Commissioner Wright has said. Ready to move forward with the
14 proposal, as proposed, with the two additional changes proposed
15 by OP.

16 CHAIRMAN HOOD: Okay. I would agree, too, with both
17 of my colleagues. So can we move this into the One Category?

18 VICE CHAIR MILLER: (Nods head affirmatively.)

19 COMMISSIONER WRIGHT: (Nods head affirmatively.)

20 CHAIRMAN HOOD: Okay. All right. Vice Chair, I see
21 the next one has the word "balconies".

22 MR. RITTING: Can't move it into One, because you need
23 to get new text from OP, so this goes in Category Three.

24 CHAIRMAN HOOD: Okay. What's the new text we need?

25 MR. RITTING: The two Goulston and Storrs' proposals

1 to allow the limited two percent flexibility on Subtitle A,
2 Section 304.2 to include previous surface, and the other one is
3 for the Zoning Commission orders. Those are not currently
4 included in the language that OP included in their hearing report,
5 so in order to effectuate what OP said that they wanted to do at
6 the hearing, you would need to allow them to add additional text
7 to accomplish those two things.

8 CHAIRMAN HOOD: So, in turn, this one won't meet our
9 time frame of what we're trying to get -- this one will be outside
10 of the range of the time frame, because if you're getting new
11 text, we have to advertise it, right?

12 MR. RITTING: Probably not. I mean, these are very
13 modest changes that are within the -- sort of the scope of what
14 was discussed and advertised at the hearing, so I don't think
15 that it's necessary to readvertise it.

16 CHAIRMAN HOOD: So it'll fit in our 30-day comment
17 period when it goes back out? I'm trying to --

18 MR. RITTING: OP would -- the process would be the
19 following. OP, in its supplemental report, will come up with the
20 new language for those two very small things, and then you'd take
21 proposed action to approve those two changes with what was
22 proposed at the hearing, and then you could take final action
23 within 30 days after that.

24 CHAIRMAN HOOD: Okay.

25 MR. RITTING: So this wouldn't slow it down very much.

1 CHAIRMAN HOOD: But people will have a chance to respond
2 to those two issues. That's what I'm trying to find out. Mr. --
3 hold on a second. Mr. Lawson, you came up.

4 MR. LAWSON: Yes, sorry. I believe those were in our
5 hearing report. I don't believe that they were in the public
6 hearing notice. We're certainly happy to provide that language
7 in the supplemental report that we're -- that we'll provide to
8 you.

9 CHAIRMAN HOOD: Okay.

10 MR. LAWSON: I may be wrong -- I may be wrong on that,
11 but I thought I included those in the public hearing -- in the
12 public hearing report, so they've been in the record.

13 CHAIRMAN HOOD: All right. I just want to make sure
14 that we have done our due diligence of notification, so we will
15 put that in Three and wait, Mr. Lawson, and we'll bring that
16 back, hopefully, by the time that we go for our second round.
17 All right. Thank you, Mr. Ritting. All right. Vice Chair
18 Miller.

19 VICE CHAIR MILLER: Thank you, Mr. Chairman. Yes, so
20 the next subcase is -- was Number 6 in the order that we heard
21 it at the -- in the hearings, balconies and lot occupancy,
22 Subtitle B-312, where OP is -- has proposed to exempt open
23 balconies of a maximum depth of eight feet from lot occupancy
24 calculations. And, yes, this is another of the balcony changes
25 that I've pushed for over the years, which I'm very appreciative

1 has been brought forward by the Office of Planning to allow for
2 this additional open space -- private open space and maybe
3 greater articulation and design of buildings where there's a
4 disincentive right now to have them, because it's counting to the
5 lot occupancy and then the unit is -- the unit, by this proposal,
6 could be larger, thereby triggering a larger proportionate
7 inclusionary zoning requirement. So I think, for all those
8 reasons, it's important, but just to -- so I support it, as
9 proposed, but to recap -- well, so there was concern about its
10 application to the RF zones, and I'm open to exempting the RF
11 zones from this particular proposal, because that's not where it
12 had come up in the dozens of cases where I -- where I was sitting
13 on the BZA or in, I think, some Zoning Commission cases as well --
14 PUD cases. So just to recap, there were no changes to the text
15 since setdown.

16 The comments at the public hearing or in the record;
17 Goulston and Storrs supported it, but wanted the eight-foot limit
18 removed and wanted to add other things as well. OP's response
19 was that it said that that would request -- that would expand the
20 scope of the amendment, which is intended to be a relatively
21 modest expansion of the permitted balcony size that does not
22 count against lot occupancy. Cozen O'Connor law firm supported
23 the proposal with no comment.

24 Committee of 100 opposed the proposal, because it
25 claimed it would result in buildings with walls of balconies

1 which might loom over a public sidewalk, increase -- and that
2 that increase in the number of balconies would make buildings,
3 or units, I guess, more expensive.

4 ANC 6C also opposed and recommended for the reason that
5 I previously mentioned, that the RF zones, which ANC 6C primarily
6 represents on Capitol Hill -- RF zones should be excluded from
7 this amendment, because, one, they say rear projections almost
8 always pose privacy concerns in rowhouse neighborhoods; secondly,
9 floor levels align, so there are point blank views into adjacent
10 windows; and, three, multiple stacked balconies would be
11 permitted on a single structure. ANC 2E testified that it also
12 believed that RF zones should be exempt from this balcony lot
13 occupancy proposal.

14 The Office of Attorney general supported the proposal,
15 because it said that it removed -- they believed it removed the
16 disincentive -- the current disincentive to provide outdoor --
17 private outdoor space in multifamily buildings and that this
18 would allow -- the proposal would allow an increase in the number
19 of size of dwelling units and the proportionate size and number
20 of inclusionary zoning units.

21 I think we generally supported this at the hearing, but
22 the Chairman -- you expressed a desire, in terms of, I think, the
23 RF rowhouse zones, that we not create new problems while solving
24 one problem and -- but we want to, I guess, hear from OP as to
25 whether exempting RF zones, which seems to be a simple response

1 to the concerns raised by those who had concerns, whether that
2 would raise complications in our administration of this. I don't
3 see how it necessarily would, but -- so I'm ready to move forward
4 with exempting RF zones, if that's what the Commissioners are
5 comfortable with, or if they need more information from -- or if
6 we need more information from OP on that issue, we can get it,
7 but I think we definitely need to move forward with the lot
8 occupancy exclusion for the balconies on the multifamily
9 buildings. So that's my presentation, and I would call on you
10 or Commissioner Wright -- I guess Commissioner Wright first to
11 bear any comments.

12 COMMISSIONER WRIGHT: No, I agree completely, and I
13 think we should move forward with this, but exempt the RF zones,
14 which would require a small text change, but I agree with
15 everything Vice Chair Miller said.

16 CHAIRMAN HOOD: Okay. I would agree. I think we have
17 a general consensus. I think I saw -- we saw that kind of at
18 the hearing. They made the case, and I believe -- Mr. Ritting,
19 is this Number Three or Two? I done got confused now. This is
20 Number Three. Okay. This is Number Three, and it will fall in
21 line with the one we did previously. Can we take a five-minute
22 break, everybody?

23 VICE CHAIR MILLER: (Indicating thumbs up.)

24 COMMISSIONER WRIGHT: (Nods head affirmatively.)

25 CHAIRMAN HOOD: Let's take a five-minute break. Okay.

1 | (Whereupon, there was a brief recess.)

2 CHAIRMAN HOOD: Okay. We're back in session. Let's
3 go to Number Seven, ground level decks and lot occupancy, Subtitle
4 B-312. Changes to the text at setdown; there were none. Comments
5 on the text advertised in the public hearing notice at the
6 hearing. Excuse me. Exhibit 84; Committee of 100 opposes and
7 states amendment could limit ecosystems and biodiversity, because
8 no one will plant under the deck. Also concerned about housing
9 and cost and privacy. I shouldn't say this -- my wife will kill
10 me -- but you know when you have fake flowers, they do grow up
11 under the deck, because that's what -- anyway, so Exhibit 94,
12 Gail Juppenlatz -- forgive me if I'm mispronouncing the name --
13 opposes because on sloped lots like those found in Burleith, the
14 decks of the main level will be nine to ten feet above ground
15 level and will have negative visual impact and privacy impacts
16 on neighbors. Decks should continue to count toward lot occupancy
17 and require a special exception.

1 applicants shouldn't be able to use both the deck exclusion and
2 the landing exclusion.

3 OP and Commission response -- responses, I'll let my
4 colleagues do that, and then we will decide whether we want to
5 exempt RF zones, and then we'll recommend language to address the
6 land use issue in the supplemental report or address this issue
7 in the future. Let me go first to Commissioner Wright.

8 COMMISSIONER WRIGHT: So the first thing I would say
9 is the thing I feel most strongly about is -- I mean, I think
10 this is, basically, a good idea. I do feel strongly about
11 expressly prohibiting the double-dipping of using the stairway
12 landing plus whatever square footage of a deck, so I do think
13 that we are going to need some additional language in the text
14 to address the landing issue.

15 I have mixed feelings about whether to include or
16 exclude the RF zones. We just excluded the RF zones on the issue
17 of lot occupancy and balconies. Should we be excluding them on
18 the issue of ground-level decks and lot occupancy? I mean, it
19 seems like a very similar situation, so I would -- I would raise
20 that as a -- as a concern. And I sort of do think 200 feet is
21 pretty big, and I thought ANC 6C made a good suggestion to have
22 it be 150 feet, or they suggest 150 square feet or eight feet or
23 less from the rear facade, whichever is smaller. And I thought
24 that was pretty good, especially if we expressly prohibit the
25 double-dipping using the stairway landing. But, you know, I

1 think question has been raised by our own legal staff, do we want
2 to exempt the RF zones? And, given that we just exempted them
3 from lot occupancy for the balconies, it seems like it would be
4 consistent to exempt them in this situation, but I'm open to --
5 this definitely looks like something I think we're going to need
6 to have come back in the supplemental with some additional text,
7 particularly about the double-dipping, maybe about the size, but
8 the question is the RF zones. So I'm interested in hearing what
9 my colleagues have to say on that.

10 CHAIRMAN HOOD: Okay. Thank you. Vice Chair Miller.

11 VICE CHAIR MILLER: Thank you, Mr. Chairman. This is
12 another one of those issues that I've asked the Office of Planning
13 to look at, because, according to their report, there have been
14 105 cases in R and RF zones for decks asking for BZA relief, and
15 in 104 of the 105 it was granted. There was an area variance
16 that -- where it wasn't granted. This is the kind of thing that
17 drives homeowners crazy. They just want to put a deck on the
18 back of their -- whether it's a rowhouse or a single-family house,
19 they just want to put an uncovered open deck, which many of the
20 neighbors have as well. It really -- I think there needs to be
21 more flexibility, and it shouldn't have to be -- it certainly
22 shouldn't have to be a variance, and I don't think it should even
23 need a special exception in most cases. I agree with it. There
24 should be a size limit, but I think there's an expectation that
25 there is that -- that's what people have, and I think it does

1 contribute to the community sense and just the outdoor space.

2 And the double-dipping, I think, is an issue, so I
3 think we do need more information on that. I wouldn't want it
4 to hold up going forward with this proposal either with the 200 --
5 is it 200-feet maximum currently, as proposed, or with an amended
6 150 feet? We can hear OP in the supplemental report with the --
7 or hear from Joel Lawson what the response would be to that. I
8 think the average size of those decks in those cases was 150
9 square feet, so there might be some rationale to that lower
10 number, but, in general, this is really a homeowner, whether
11 you're in an RF zone or a single-family zone, which drives people
12 crazy about living in the District. They just want to put a deck
13 on so the kids can go out and they can go out and enjoy an
14 uncovered deck that many of their neighbors already have, whether
15 they were built legally or under pre-existing regulations. I
16 just -- it's just something that I think is due for a change, so
17 I would welcome Joel Lawson's wisdom on this topic, which you
18 gave at the hearing, but maybe we need some refreshing. I do.

19 MR. LAWSON: I would be happy to provide a couple of
20 comments. We're comfortable taking the approach that the
21 Commission wishes us to take. I think adding landing into the
22 exemption, as opposed to it being a separate exemption, would be
23 a relatively easy fix to make in the zoning, and we think that
24 makes sense to do.

25 I would continue to advocate for the 200 square feet,

1 but if the Commission is more comfortable with the smaller number,
2 you know, then that's also a pretty easy change to make. I would
3 caution providing an either/or scenario of 150 square feet or
4 eight feet distance that was suggested by the Commission
5 that -- or sorry -- by the Commissioner. I think that would
6 be -- that could be problematic. I would very, very much caution
7 exempting RF-1 from this provision.

8 I think the balcony situation in RF-1 is a very
9 different situation. There are privacy concerns in RF-1, because
10 RF allows a flat, so that second-floor unit, that would actually
11 be their deck, you know, off the back. It would get a lot of
12 use potentially, and we understand that that could cause some
13 privacy impacts. The deck at the ground floor, that's -- this
14 is a provision that would most benefit owners of lots in the RF-
15 1 zone, because the lots are smaller, lot occupancy is tighter,
16 and so we continue -- we would continue to strongly advocate for
17 allowing the exemption in RF-1 as well. Like I said, the other
18 two changes that you're discussing would be -- would be, I think,
19 pretty simple and straightforward to accommodate.

20 VICE CHAIR MILLER: Thank you for that response.

21 CHAIRMAN HOOD: Okay. All right. Thank you, Mr.
22 Lawson. So I'm just trying to see where we are. All it takes
23 is for one of us to -- I don't really have any problems with the
24 200, but I do agree with Commissioner Wright, and I think you --
25 about the landing, and Mr. Lawson just said that was pretty

1 simple. He also mentioned -- he cautioned us about the 200 foot.
2 I don't necessarily have an issue with that, but while we're
3 doing that, I think, Commissioner Wright, you expressed
4 interest -- maybe if the Office of Planning -- when we send it
5 back, I think this is going to be in Number Three again, and I
6 think when they come back, they can still respond to it to try
7 to get a full -- so we can have a majority on the issue, unless
8 that's a showstopper.

9 COMMISSIONER WRIGHT: And, again, I don't think we're
10 all that far apart. I am convinced by Mr. Lawson that we should
11 keep including the RF zones, so let's not exempt the RF zones.

12 CHAIRMAN HOOD: Uh-huh.

13 COMMISSIONER WRIGHT: I think the double-dipping, the
14 language that I'm looking for, to be specific, is that whatever
15 square footage of the landing has to be included with the square
16 footage of the deck, so it's not like you get 200 square feet
17 for a deck, plus another 50 square feet for a landing. It has
18 to be included all as one. And, you know, I'm open to 150 or
19 200 feet. I'm not -- I don't feel super strongly about that. If
20 the rest of the Commissioners think it should be 200, then I'm
21 fine with 200.

22 CHAIRMAN HOOD: All right. Well, you're right, they
23 only have one issue to come back with. I guess they have to
24 rewrite the text for the -- send us some different -- something
25 about the landing, right? That's the only thing I think that's

1 needed. Okay. So, Mr. Lawson, that's pretty straightforward.
2 You said that was simple to do, so we're looking forward to
3 getting that. So we're going to put that in Three, and,
4 basically, we will -- once we get the information on the landing,
5 we will move that over to One.

6 All right. Let's keep moving. Let's go to IZ opt-in
7 provisions for R-2, R-3, and RF zones, Subtitle C-1001, D-201,
8 E-201. Changes to the text from setdown; there was none.

9 Opposition and ANC comments. I think Meg Maguire is
10 the name -- Ms. Maguire -- let me just say Ms. Maguire, because
11 I don't -- Committee of 100 opposed -- was opposed, because
12 retaining special exception would allow individuals review of the
13 cases. The Office of Planning's response: Special exception
14 review raises costs for providing IZ; more likely to be for-sale
15 units.

16 OAG testified in support, but with suggested change.
17 Office of Planning responses: States it wants to incorporate
18 OAG's suggestions for revised text; says it will work with OP to
19 implement.

20 The Committee of 100 disagrees with -- they -- OP
21 disagreed with the Committee of 100's comments, because the
22 process, itself, is a deterrent to providing IZ in all
23 neighborhoods. And we had Commissioner comments. So the question
24 is, we know the status of whether OP and OAG -- we're going to
25 ask for that text, if we agree with what OAG suggested to change

1 and provide us new text in the supplemental report. And let me
2 ask Commissioner -- let me go to -- come to you, Vice Chair
3 Miller, to get us started on this one.

4 VICE CHAIR MILLER: Okay. Thank you, Mr. Chairman.
5 So, yes, this proposal is to remove a current requirement for a
6 special exception review for opting into inclusionary zoning in
7 the R-2, R-3, and RF zones. And I think this proposal makes a
8 lot of sense, and we should be encouraging the lower-density
9 zones to -- where there's even a greater need for affordable
10 housing, to have -- which can be creating a disincentive for
11 lower-density zones to be able to voluntarily opt into
12 inclusionary zoning requirements. So I strongly support this
13 proposal.

14 The Office of Attorney General's suggested change,
15 which the Office of Planning supports incorporating into the
16 proposal, is really a technical conforming amendment that just
17 removes a reference to the provision that is prohibiting this
18 option in another section of the code, so it's just -- so I --
19 we do -- we do need the text to incorporate the OAG suggested
20 change, which the Office of Planning supports, but that seems to
21 be a relatively simple technical conforming change to the
22 proposal, which I support, as proposed, with that change, so
23 thank you.

24 CHAIRMAN HOOD: Okay. Thank you. Commissioner Wright.

25 COMMISSIONER WRIGHT: I agree, and I support this. It

1 would be in Group Three, but only for that relatively minor
2 additional text.

3 CHAIRMAN HOOD: Okay. Thank you. I would agree, so
4 we can keep moving. We'll put that in Three to try to get it to
5 One. Okay. Let's move on. I think we're at Number 17. And
6 the next one, Commissioner Wright -- not this one, but the next
7 one I'm going to ask you to do, and then I'll take it -- take us
8 on to the finish line. Okay. Accessory building area in R and
9 RF zones, Subtitle D-5003 and Subtitle E-5003, formerly 16.
10 Changes to the text; there was, at setdown, none.

11 Opposition and ANC comments on the text advertised in
12 the public hearing notice. The Commission received several
13 comments supporting the changes with conditions, suggesting that
14 the Commission expand the scope of the rule changes to allow
15 larger ADUs, accessory dwelling units, and to remove additional
16 restrictions on the use of ADUs. The Commission also received
17 comments opposing larger ADUs.

18 Support with conditions. ANC 5F and then DC Yes In My
19 Back -- Yes In My Yard -- is it Yes In My Backyard -- Yes In My
20 Backyard, support with conditions; allow up to 1,200 square feet
21 and remove the owner-occupation restriction and the five-year
22 restriction. Additionally, the restriction that the owner of the
23 property must live in either the principal residence or the
24 accessory apartment and the restriction that the accessory
25 building in an RF zone shall not be used as an ADU for five years

1 | should be deleted.

Exhibit 72, the Coalition for Smarter Growth: We urge the Commission to allow a more appropriate 650 square feet for an accessory building or for an accessory building built to be used as an accessory or second dwelling. If the Commission prefers to be more restrictive without unduly burdening a proposal for a living unit designed to accommodate greater accessibility, it could allow as a matter of right the 650 foot print with the following restrictions. And this comes from the Coalition for Smarter Growth. The building is limited to one story. The -- hold on one second. Sorry about that. That was -- the interior and exterior features provides an accessory entry into the building and accessible route within the building, an accessory in the kitchen, plumbing and electrical elements and facilities. In accordance with the criteria -- and it goes on with the statute -- the 2017 standard for accessible and usable buildings and facilities permitted as a matter of right, this action would incentivize accessible universally-designed units, better preparing our community for increased housing options for those with mobility impairments and assistive devices.

Exhibit 83, which is ANC 5E, recommends support with conditions, as it allows for more flexibility for homeowners, and ANC 5E does not see -- I do not see any disadvantage. ANC 5E also endorses ANC 5F's recommendation to allow the square footage to be increased to 1,200, to be consistent with the other state

1 laws. Proposed amendment is not inconsistent with the
2 Comprehensive Plan. Then we have 109 from the AARP, support with
3 conditions. Support: Regulations establish as a maximum
4 building area for an accessory building of 450 square feet or an
5 area equal to thirty percent of the required rear yard area,
6 whichever is greater. OP proposes increasing the permitted size
7 for an accessory building in all of the R-1 and R-2 zones from
8 450 square feet and from 450 feet to 550 feet in all of the R-3
9 and RF zones. OP notes that, as of their final report, one ANC
10 had submitted comments urging them to allow up to 1,200 square
11 feet of Gross Floor Area for accessory buildings, similar to the
12 current regulations in Montgomery County. They respond that by
13 including the second story, buildings would be able to reach
14 1,100 to 1,200 square feet of Gross Floor Area, depending on the
15 zone. Tying the requirement to GFA, Gross Floor Area, rather
16 than building footprint would give homeowners more flexibility
17 in designing -- okay. So we've been through that.

18 Claudia -- okay. Then we go to the opposition. Ms.
19 Russell, I believe. This is chipping away at the residential
20 quality of life in DC. The ADU size and scale are much too big.

21 And then we have Exhibit 103, 103A, Andrea -- excuse
22 me -- Pedolsky, Cleveland Heights Historical Society. She refers
23 to it as Number 16. Several Cleveland Park residents expressed
24 opposition to allowing larger accessory buildings, because they
25 would clash with historic buildings, and there is a mechanism to

1 seek relief from the current footprint size.

2 Committee of 100: In the setdown report, OP refers no
3 compelling reason for the change and relies, instead, on the
4 number instances that owners or developers have sought special
5 exceptions. In our view, it is not good policy to conclude that
6 the use of an appropriate relief mechanism is a reason to
7 terminate the relief requirement. That makes no sense. Committee
8 of 100 finds no reason to increase the size of accessory
9 buildings, and we urge the Zoning Commission to continue to use
10 the special exception process on a case-by-case basis to review
11 the merits and wavering of the current regulations.

12 ANC 3/4G filed testimony after the hearing. Exhibit
13 (indiscernible). The proposal allows larger accessory buildings.
14 Larger accessory buildings negatively impact light, air, privacy
15 from building area, which reduces the amount of space for trees.

16 OP's responses. OP's responses to Cleveland Park's
17 letters: Many homeowners and designers indicate that 450 is too
18 small and special exception is too onerous. Coalition of Smarter
19 Growth; 650 square feet is the right size. OP agrees. DC Not
20 (sic) -- Yes In My Backyard, AARP, ANC 5E and 5F suggest that
21 even larger footprints. OP's response: We haven't studied this.
22 We need more analysis to forward. Therefore, OP does not
23 recommend now. And then my colleagues have said a few things,
24 and we will -- I will stop there and turn it over to you all.
25 Vice Chair Miller.

1 VICE CHAIR MILLER: Thank you, Mr. Chairman, and thank
2 you for that synopsis of where we are. Yeah, this is a proposal
3 to increase the maximum footprint permitted for an accessory
4 building in the R and RF zones. And OP -- the Office of Planning
5 had identified 33 cases requesting relief since ZR-16 was adopted
6 from the accessory building footprint area, and all 33 were
7 approved with Office of Planning support, ANC support, and no
8 neighborhood -- neighbor objections. So this is just another one
9 of the overall purposes of this omnibus text amendment to try to
10 remove unnecessary or burdensome regulatory barriers to what
11 homeowners would like to do to make their property more useable,
12 both for themselves and with accessory dwellings. This is the
13 accessory building footprint area issue.

14 So the current restriction is 450 square feet in the
15 R-1 and R-2 zones. OP originally proposed going to 600 square
16 feet. The average square footage of those 33 relief case over
17 700 -- was over 700 square feet, and I think OP has said in
18 their -- I can't remember if it was the hearing report or in
19 response to the hearing testimony from Coalition for Smarter
20 Growth and others, that they would go to 650, instead of 600,
21 which I think is appropriate, the 650. Although I have to say,
22 I just sat on a BZA case last week -- just last week asking for
23 relief, 700 square feet -- (indiscernible) need that relief.
24 Nobody objected. OP was recommending approval. ANC was
25 recommending approval. Neighbors approved. So, I mean, we're

1 not eliminating all of the unnecessary burden, but 650 seems --
2 OP said they would need more analysis to go beyond the 650 at
3 this point, so I wanted more analysis. I want to go forward and
4 we can do more analysis later, so that's that.

5 On the -- in the RF zones, it would be 550 square feet
6 under this proposal, instead of the existing 450, I guess it is,
7 and I think that's appropriate and probably in line with the
8 cases that we've heard as well. So I'm supportive of this
9 proposal going forward with that increase, which OP supports,
10 which I guess we need additional text to change 600 to 650 for
11 the R-1 and R-2 zones. So I'm supportive, Mr. Chairman.

12 CHAIRMAN HOOD: All right. Thank you. Commissioner
13 Wright.

14 COMMISSIONER WRIGHT: Yes, I also support going to 650
15 in things R-1 and R-2 zones and 550 in the R-3 and RF zones.
16 There are two other parts of this that I think we should discuss,
17 and one is lifting the restriction about the owner of the property
18 living in either the principal residence or in the accessory
19 apartment, and I'm interested in hearing my colleague's thoughts
20 about that. And there's also lifting the restriction that an
21 accessory building in the RF zones shall not be used as an ADU
22 for five years, that that would be deleted, and I'm interested
23 in your thoughts on that.

24 The other thing that I thought was a very creative
25 suggestion by the Coalition for Smarter Growth but that may be --

1 and, again, our legal staff will have to tell us whether this is
2 true or not -- they were actually suggesting that if it is an
3 accessible unit, 650 square feet and only one story with
4 accessible entry and all of the -- and accessible route within
5 the building and all of the standards for accessible and usable
6 buildings met, that it should be by right rather than by special
7 exception. I thought that was an interesting and creative
8 thought, although I know that that probably wasn't what was notice
9 in this particular case.

10 I think, especially as we have an aging population,
11 there may be people who need to build accessible units for either
12 themselves or for family members. And I am particularly sensitive
13 to that and think that we should make that as easy as possible.
14 So, again, I'd like -- so, in terms of just the numbers, I agree
15 with 650 in the R-1 and R-2 zones and 550 in the R-3 and RF zones,
16 but I am interested in whether you all agree with removing the
17 restriction about the owner living on the property and about the
18 five-year rule. I also am interested in what your reactions are
19 to this idea of an accessible unit, even if that's something
20 maybe that doesn't happen in this omnibus, but that we would take
21 up at a future date. So any thoughts about those things?

22 CHAIRMAN HOOD: So, Vice Chair, I'm going to let you
23 go first, but I do want to comment on the rule -- I mean, the
24 owner and the rental, because I believe it should mirror -- and
25 I'm just throwing this out here for discussion -- I believe it

1 should mirror our short-term, even though I voted against it and
2 I didn't agree with what we did, but I think it should mirror
3 that, and let's have that discussion, but, Vice Chair, why don't
4 you go first before I go.

5 VICE CHAIR MILLER: Well, I think those are all
6 reasonable suggestions to -- recommendations to consider, and I
7 would want OP's comments and evaluation of them, if they can give
8 it in a supplemental report. I don't want to hold up going
9 forward with the proposal, with the 650 change to R-1 and R-2,
10 but I would -- I think they are interesting -- they're reasonable
11 suggestions, and I would want OP's response. I don't know if
12 Joel Lawson wanted to say anything about that now. I can't
13 remember now whether he commented at the hearing about it. Did
14 you comment, Mr. Lawson, at the hearing about those proposals?
15 Do you remember?

16 MR. LAWSON: I do not. I don't remember if I commented
17 on those specific ones. I may have. I think that -- we're happy
18 to provide some additional information in the report. I'm not
19 sure that there is sufficient Comprehensive Plan language to
20 support removing the owner-occupancy requirement, but we can take
21 a look at that. I understand where it's coming from, but it's --
22 that's a far more significant change, in terms of use of the
23 property than any of the size proposals. I agree with you,
24 Commissioner Wright, that the proposal about the AD unit in
25 a -- and if my memory serves me right, that was to allow the

1 1,200 square feet by right for a one-story unit that was fully
2 ADA accessible. I think that one is very interesting. I'm
3 concerned about the impacts on, you know, lot occupancy and yards
4 and so it could either require a much bigger amendment to

5 COMMISSIONER WRIGHT: (Raising hand.)

6 MR. LAWSON: Oh, I'm sorry.

7 COMMISSIONER WRIGHT: The Coalition for Smarter Growth
8 was not the group supporting 1,200. They were actually saying
9 they could allow a matter-of-right 650 footprint, as long as it
10 was one-story and had all of the accessible attributes.

11 MR. LAWSON: Well, that --

12 COMMISSIONER WRIGHT: -- which I think is better.
13 1,200 seems to me to also be problematic and would need more
14 study. All of these things, again, may be beyond this omnibus,
15 but I think they are interesting points that we should follow up
16 on. I mean, I particularly am interested in the accessible, if
17 it was only at 650.

18 MR. LAWSON: Yeah. Well, with the changes that you're
19 proposing or that you're requesting OP to make, they would be
20 allowed, a 650-square-foot one-story unit or 650-square-foot two-
21 story unit. Either one would be allowed by right, yes.

22 COMMISSIONER WRIGHT: Oh, okay.

23 MR. LAWSON: So I actually think that they have proposed
24 a larger size for a one-story accessible unit, which, again, I
25 think is a really interesting idea and one that we would be happy

1 to look at. I think it would just take a little more analysis
2 and a little bit more work. I guess, in one way, I would like
3 to leave the option open to including that in our supplemental
4 report to you, but I suspect it's going to be that it's a bit
5 too big of a lift right now, so --

6 COMMISSIONER WRIGHT: Yes, I see that AARP was talking
7 about, you know, the 1,200-square-feet Gross Floor Area, but I
8 didn't get that from the Coalition for Smarter Growth. In any
9 case, I really wasn't interested in the 1,200 square foot. I
10 feel like that is -- on one floor. I feel like that's a bit
11 much, but I -- and I hadn't realized that at 650 it would be by
12 right. So, in any case, I don't want to slow this down either.
13 The basic goal here is just to change the numbers from 450 to
14 650 and from 550 to 650, depending on the zones. I think we
15 should move forward with that and with changing whatever text
16 needs to be changed, but I think there may be additional
17 conversation that should be had about the accessible units and
18 about owner-occupancy and a few of these other more
19 controversial, but, you know, topics that would certainly
20 probably result in more actual units being built.

21 CHAIRMAN HOOD: So let me, Mr. Lawson -- and maybe I'm
22 missing the boat on this owner-occupancy. I'm trying to remember.
23 Why does that not mirror our short-term -- I can't -- was it
24 short-term rental we did that? Why does it not -- why does this
25 not mirror that, which we adopted, and I remember the whole

1 hearing was all about what they were doing in Montgomery County.
2 So why does this not mirror that?

3 MR. LAWSON: I mean, I have to admit that I just don't
4 know the short-term rental regulations and requirements, so I'm
5 not sure where they may be the same and where they may be
6 different. I think, again, the original intent of the accessory
7 apartment provision was to allow for this second unit on what is
8 otherwise a property zoned for only one unit. And that -- and
9 because it was going to be in a single-unit zone, it was felt
10 that that was only appropriate if it was a rental unit owned and
11 operated by the owner of the property living on the property. So
12 it was intended to provide additional housing opportunities, but
13 also to provide opportunities for having, you know, kind of the
14 granny flat, having, you know, parents living with you, providing
15 a mortgage helper to the person who bought the property, so there
16 are other kind of financial benefits that would serve District
17 residents without it becoming a property with two rental units
18 on it I guess.

19 CHAIRMAN HOOD: So, if you could, if it's a quick fix --
20 I mean, I don't want to go rehash that, but I think, Vice Chair,
21 you were here -- if it's a quick fix, I would -- I would like to
22 see it mirror that, and if there's a compelling reason why it
23 shouldn't, then I need to know -- I mean, if you can bring that
24 to us. Because I can tell you, there was a lot of pressure --
25 and I don't -- I guess the pressure's different here, but there

1 was a lot of pressure to make sure it was unoccupied and that
2 person had to live in the unit with the person -- even though I
3 disagreed with it, so I just wonder why they're not mirroring it.
4 And maybe it's a whole different nuance to this and I'm just not
5 understanding it. So I do know that you're going to be coming
6 back with a few things, but I'm ready, especially with the 650,
7 whatever we need to move that forward. And maybe some of the
8 other stuff may be another discussion later, but, I would remind
9 my colleagues, I don't want this to die for lack of being able
10 to get some of this through, because some of this stuff has a
11 long tenure of needing to be addressed. So, all right, anything
12 else? So where are putting this; in Three? We're going to put
13 this in Three, and then we'll try to get it to One -- Three to
14 try to get it to One, yeah.

15 VICE CHAIR MILLER: (Nods head affirmatively.)

16 COMMISSIONER WRIGHT: (Nods head affirmatively.)

17 CHAIRMAN HOOD: All right. Thank you, Mr. Lawson. All
18 right. I've asked Commissioner Wright and then I'm going to try
19 to take us out for the last few.

20 COMMISSIONER WRIGHT: Great. Thank you. So, again,
21 as I said during our session, some of this is my fault, because
22 I sat through a BZA case where a person was building a new ADU
23 and they got into a conflict with their neighbor over a variety
24 of things, but also over the fact that they needed access to the
25 neighbor's property to actually undertake construction and the

1 painting, because this was being built right at the lot line, and
2 the nearby owners were not very happy about scaffolding and fences
3 being moved in order to actually build this. So I really felt
4 like a really, again, common sense solution really needed to be
5 that there would be some space that would allow for any accessory
6 building, not just an ADU, but a new garage or a new shed, to
7 have a little bit of space so that, if it's part of the
8 construction process, if it's part of the maintenance of the
9 building over a long period of time, that there would be the
10 opportunity to have that space to do it without having to encroach
11 on a neighbor's property.

12 And I understand that the original discussion that OP
13 went out with was five feet, and they reduced it to three feet,
14 and they took the RF zones out of the proposal. So I think that,
15 with those changes, this is -- I know several folks said that
16 this is too onerous, but I think that it is -- again, we're not
17 talking about the RF zones at this point; we're talking about
18 zones that have a little more space. I think that having three
19 feet to do maintenance is important.

20 So, again, the opposition was honing in on ADUs. Again,
21 I want to emphasize, this isn't about ADUs; this is about any
22 accessory building. It could be a garage. It could be a shed.
23 It could be an ADU. And I think that there's -- you know, again,
24 a lot of discussions, they've sort of honed in on the idea of
25 ADUs. And it -- ANC 5E opposed it, because of the negative impact

1 it would have on the RF-1 and R-3 residences, because of the
2 small backyards. Again, I emphasize that I think RF has been
3 taken out of the mix here. ANC 5E is saying it should only be
4 required to allow adequate privacy and light. Again, my goal
5 wasn't adequate privacy and light; my goal was the practical
6 issue of actually getting in to do maintenance. Let's see, three
7 feet was too close, according to several other folks who
8 testified, including the Committee of 100. And ANC 3/4G said a
9 setback is necessary, but three percent isn't enough to protect
10 light, air, and privacy.

11 So, again, OP asked for flexibility to address language
12 in the text to reflect changes to other regulations that should
13 be reflected in the text. Commissioner Miller asked if some of
14 the suggestions from Goulston and Storrs would be adopted. OP
15 said nonconformities will happen whenever there's a change;
16 there's no reason to worry about it now, and so they weren't
17 adopting the Goulston and Storrs' changes.

18 Commissioner Hood said three feet -- asked if three
19 feet is enough space for construction and maintenance, and OP
20 said yes. Again, some people are saying it's too close; others
21 are saying it's not close enough. Maybe that means three feet
22 is just right. We've hit that sweet spot. If we want to go
23 forward on that -- on the three feet, we should ask OP to provide
24 some revised text that reflects the flexibility they requested
25 to address language to reflect changes to other regulations. So

1 that is this particular subcase.

2 CHAIRMAN HOOD: Okay. Thank you, Commissioner Wright,
3 for teeing that up. Vice Chair Miller, you have anything you
4 want to add?

5 VICE CHAIR MILLER: Thank you, Mr. Chairman, and thank
6 you, Commissioner Wright, for that recap and your instigating
7 this case, in some respects, which I think I either watched or
8 sat on a similar case, and so I'm familiar with that -- the
9 concern. So I'm supportive of this proposal going forward, as
10 proposed, with whatever conforming technical amendments that OP
11 is suggesting.

12 I should know the answer to this question, but if
13 someone isn't meeting the three-feet separation for that
14 accessory building, is that a special exception? Would the
15 process for relief from the three-feet requirement be a special
16 exception or would it be -- this is a question to Mr. Lawson,
17 who I know is right here -- would the request for relief be a
18 special exception or would -- it wouldn't revert back to a
19 variance, would it?

20 MR. LAWSON: No. We proposed language to make it really
21 clear that any relief would be by special exception, and that,
22 of course, would be only if whatever they're proposing is also
23 nonconforming. An existing building would be considered existing
24 nonconforming. Any addition would have to be conforming; in
25 other words, provide the setbacks or request the special

1 exception relief.

2 VICE CHAIR MILLER: Okay. And that's an important
3 point, that this is really applying to existing -- yeah. Thank
4 you for that point. Okay. I'm supportive, Mr. Chairman.

5 CHAIRMAN HOOD: Okay. Thank you. I'm supportive as
6 well, but I think we're going to -- oh, this one's going in Three
7 and then coming to One, or is this a One? Because I'll be frankly
8 honest, I don't want to hold this up, but I tell you what, the
9 three feet, I just don't -- I don't -- but I'm fine, I'm fine.
10 I can -- I can work through that. Mr. Ritting.

11 MR. RITTING: Yeah, it's a Three, because OP suggested
12 at the hearing that they wanted to add some text.

13 CHAIRMAN HOOD: Okay. All right. So this will be a
14 Three, and we'll try to get it to a One. I don't --

15 VICE CHAIR MILLER: There were some technical
16 conforming amendments. They're not major.

17 CHAIRMAN HOOD: Okay. All right. So we should be able
18 to resolve that. Let's see where we are. Let me do the next
19 one and take us on out. Number 19, accessory apartments in RF,
20 RA, and MU zones, Subtitle F-201, G-201, U-201, 210, 410, 501,
21 formerly 18. Changes to the text at setdown? No. Hold on one
22 second. I have all these reminders, and they come on while I'm
23 at the hearing.

24 So we have opposition and ANC comments on the text
25 advertised -- excuse me -- in the public hearing notice. ANC 5F,

1 DC for Yes In My Backyard, and AARP opposed, because they thought
2 that the text would have the opposite effect of its stated
3 intentions. And I think one of the questions I asked was, what
4 about comments -- what about the comments that this provision
5 should be deleted; why -- what is motivating this? And the Office
6 of Planning's response to me was, the language is strict and it
7 read like we are trying to prohibit something, when the intention
8 is to make it more permissive.

9 And then alternative text was proposed or suggested at
10 the hearing. Suggested if there is language to clarify that a
11 unit cannot be added as an accessory apartment, OP will work with
12 OZLD and DoB to try to rewrite. Commissioner Miller, you offered
13 to clarify the rationale and put in the text; you believed it
14 was a good idea. And, Commissioner Wright; the idea of
15 clarification suggests an (indiscernible) accessory units are
16 incorporated and covered by the provision of this code that
17 allows -- stated in positive instead of negative; notes that the
18 RF zone has similar language that should be changed as well, if
19 it would adopt a recommendation to add clarifying language. So
20 I guess the question is -- change -- is there support for this
21 change? If not, the -- at the hearing, I believe the Commission
22 felt and OP agreed that the proposed language should be revised --
23 clarified. OP should give a chance -- be given a chance to submit
24 revised language in the supplemental report, which I think we've
25 already stated, but let me hear from others on that. Commissioner

1 Wright.

2 COMMISSIONER WRIGHT: Yes, I think this is pretty
3 straightforward. I think that we all agree with the substance
4 of what this is trying to accomplish, but we felt like the
5 language needed to be rethought. And I had made the suggestion
6 of, rather than stating it in the negative, state it in the
7 positive; you know, accessory units are incorporated in or
8 covered by the provision of this code that allows X, Y and Z. So
9 I think it's really just clarifying the text a little bit and
10 writing it in a that, again, is in the positive, rather than the
11 negative. And I'm sure this will be the -- one of the easier
12 text changes for OP to come back with.

13 CHAIRMAN HOOD: All right. Thank you. Vice Chair
14 Miller.

15 VICE CHAIR MILLER: Right. I support -- I think we all
16 support the change. I think it just needs some clarification
17 that we're not -- clarification that we're not just prohibiting
18 it in other zones where it's already allowed, so I think that's
19 stating it in the positive, and OP seemed willing to do that --
20 in trying to do that.

21 CHAIRMAN HOOD: Okay. So we'll go -- that'll be a
22 Three to a One. All right. Let's keep moving. I think we have
23 two more, so we're almost -- I see light at the end of the tunnel.
24 All right. Let's -- I think it's two more. Did I -- is it two
25 more? Yeah, two more.

1 All right. Let's go to Number 8, 30-foot lot frontage
2 for subdivisions for apartment buildings, Subtitle C-303. The
3 changes to the text at setdown; there were none.

4 The comments -- opposition and ANC comments. ANC 6C
5 strongly opposes, because the amendment would, one, limit the 30-
6 foot frontage rule of RF and RA zones; create exceptions that
7 swallow the rule; allow special exceptions with any guidance on
8 criteria or area variance required now; and would permit creation
9 of irregular flag and Frankenstein lots.

10 Okay. OAG supports, because amendment fosters more
11 housing by allowing existing apartment buildings to be expanded
12 and encourages conversions and eliminates burden on development
13 on irregularly-shaped lots.

14 ANC 2C opposes, because of the concern about types of
15 lots that could be created. And then I'll let my colleagues
16 mention. So, again, we need to -- we -- I think we asked for
17 proposed language in the supplemental report to address comments
18 from what we heard at the hearing, and, if not, this may be
19 actually withdrawn, but let's see what others have to say on this
20 one. Commissioner -- Vice Chair Miller.

21 VICE CHAIR MILLER: I would defer to Commissioner
22 Wright on this one.

23 CHAIRMAN HOOD: Okay. Commissioner Wright.

24 COMMISSIONER WRIGHT: Yeah, I would just say that I
25 think that the problems that this may create may not be worth

1 the few lots where they would apply and help solve the problem.
2 I think this requires more study, and I would put this in the
3 category of something to be -- rather -- because I know we have
4 a limited amount of time to come back with the supplemental
5 report. Most of the things we've asked for are relatively clear,
6 short analyses and changes that don't require a great deal of
7 additional study. I think this would require more study, and so
8 I think we should perhaps defer this particular item to a future
9 discussion.

10 VICE CHAIR MILLER: I agree.

11 CHAIRMAN HOOD: Okay. All right. As we know, this
12 will probably be withdrawn and we may never see it back, but we
13 can, at least, put it in -- put it wherever they're going to put
14 it. Mr. Lawson, could you just let us know, does this -- I
15 already know that -- I think we've mentioned this at the
16 hearing -- is this something that we can achieve? And I hear
17 what Commissioner Wright is saying, but this is something that
18 we probably would not be able to achieve in our time frame,
19 correct?

20 MR. LAWSON: I think it would depend on, you know --
21 thanks for the question. I think it would depend on what all we
22 want to achieve. I certainly heard the conversation at the
23 hearing. There were a lot of concerns that were raised about
24 parts of the proposal. There were fewer concerns raised about
25 other parts of the proposal. I don't think it's a bad solution

1 to kind of send it back to us to take a closer look at this. And
2 since the Commission did not identify aspects of the proposal
3 that you felt were appropriate to move forward with separately
4 from the broad one -- for example, I heard the biggest issue from
5 both the ANC and I think from Commissioners as well was the
6 potential for the creation of flag lots. We share that concern,
7 frankly, but there were other aspects of -- you know, like
8 conversion of a tax lot to a record lot kind of thing, which is
9 also a subdivision, that maybe weren't so controversial. But
10 we're happy to -- yeah, you know, I think aspects of it would
11 take a lot of -- a lot more kind of rationale, and, honestly, we
12 may not bring that forward again, once we go through that study.
13 So I'm not sure if that answered your question. I'm sorry.

14 VICE CHAIR MILLER: Well, I think it might be worth,
15 in the supplemental report, highlighting the aspects that aren't
16 controversial and might be worth going forward with, just so we
17 can make that judgement and keep some of those noncontroversial
18 worthy -- well, noncontroversial aspects that you just
19 mentioned -- if you can just elaborate in a supplemental report,
20 and we can maybe put those, at least, in the Three to a One and
21 not be done with altogether.

22 MR. LAWSON: I'm happy to do that. I'm understanding
23 that you're not asking for any additional analysis, just almost
24 like a bullet-point list, so that would be relatively
25 straightforward to do.

1 VICE CHAIR MILLER: Okay. Thank you. That would be
2 helpful.

3 CHAIRMAN HOOD: And my -- and I know we had -- but my
4 thing is, if we see it, we see it; if we don't, we don't. So
5 that's kind of where I am. All right. All right. I think this
6 is the last one. I'll read all this probably for nothing, but
7 I'm going to do it. This is the last one; Number Three, light
8 pole for District recreation facilities, Subtitle B-100,
9 Subtitles D, E, and F, 203, 490. The changes to the text that
10 was -- for setdown; yes, we did.

11 The Office of Planning's explanation and reason:
12 Additional clarification was provided. Additional regulations
13 identified for amendment consistent with the original intent.
14 All related and limited to light poles for public school and
15 public recreation facilities.

16 Opposition/the ANC comments on the text advertised in
17 the public hearing notice. ANC 6C's testimony and opposition to
18 light pole amendment concerns. Their concerns were light pole
19 spillage; doesn't think DPR policies have force of law; doesn't
20 trust DPR to adequately regulate; lights mean longer use to
21 include nighttime games with noise and other effects. The Office
22 of Planning's response; none.

23 ANC 3/4G filed testimony after the hearing. Concerns:
24 light pollution; harmful to human and animal health; inconsistent
25 with the Comp Plan; park lighting should be compatible with the

1 adjacent residential neighborhoods and support and maintain the
2 District's established low-density neighborhoods and related low-
3 density zoning; noise, DPR standards aren't adequately public;
4 unclear how DPR standards can be enforced.

5 Michael McDuffie: Removing light poles from the
6 definition of structure; this means that any residential
7 homeowner is free to erect up to 90-foot lighting poles on their
8 property by right without meeting the one-to-one setback
9 requirement in Subtitle D-203.5. This is an absurd result --
10 absurd result. No reasonable person would think that any
11 homeowner could erect such absurdly -- whatever that is at this
12 point -- tall lighting poles by right. Office of Planning's
13 response; none.

14 Support comments. Meridith Moldenhauer on behalf of
15 DC DGS cites multiple instances where light poles are installed
16 without zoning review; support idea that light poles are not
17 structures; suggested two changes, adding netting and
18 grandfathering existing already-constructed poles and netting.

19 Additional information requested by the Commission
20 at the hearing. The Commission asked OP for additional
21 information about DPR regulations about limitation on hours of
22 use and shielding of lights. OP's response: OP stated that it
23 is opposed to including these kinds of limits in zoning
24 regulations; unclear whether OP will provide additional
25 information. And the question is, are we persuaded by 6C's

1 comments or other comments, and do we need further information
2 before comfortably going forward? And there are some things that
3 we have to deal with. If we're -- if yes for a decision without
4 further information or changes, then we should state that it is
5 removing it from our omnibus amendment case. That's one of our
6 options. And then, I believe, if we can't get to some kind of
7 reasonable path forward, I think the Office of Planning will
8 withdraw the request and refile it at a much later date, if they
9 do at all. So let me -- I guess I -- Commissioner Wright.

10 COMMISSIONER WRIGHT: I do not think allowing light
11 poles of this type by right is a good idea, and so I do not
12 support this particular amendment. I think additional analysis
13 would be fine. If it wants to come back at some point in the
14 future, you can try to come up with some arguments to persuade
15 me, but, at this moment in time, I do not support allowing these
16 poles by right.

17 CHAIRMAN HOOD: Okay. Vice Chair Miller.

18 VICE CHAIR MILLER: I agree with Commissioner Wright's
19 statement. However, I just want to throw out something. I don't
20 want to delay the omnibus going forward. But it's my
21 understanding that this was proposed because there seems to be
22 some confusion as to what -- that the existing regulation might
23 require this one-to-one setback, which doesn't make any sense for
24 a 90-foot light pole, even if it's adjacent to a residential
25 area, because it -- that would cause more light spillage than

1 just a light going up adjacent to the recreational area. So I
2 just wonder, there's been -- apparently, some have been done as
3 a -- without going through any review and maybe some have come
4 up for review requiring this one-to-one setback. I don't know
5 if they required relief. I would ask OP, is it a big
6 difficulty -- it seemed to me that it should just require a BZA
7 special exception review. These are adjacent to lower-density
8 residential neighborhoods. That's what would be required in a
9 private recreational -- a private university's recreational use.
10 Why can't it just be subject to the general special exception
11 criteria? If we're seeking clarification, because people don't
12 know whether it's allowed by right or whether it has to have this
13 one-to-one setback. That's what it's trying to remove confusion.
14 Would it help at all and would not be a big analysis to -- just
15 to look at whether it's worth considering and would be new text
16 to require simply special exception -- general special exception
17 review criteria, BZA, for a light pole on public school and
18 recreational properties immediately adjacent to these lower-
19 density residential neighborhoods? Is that worth considering or
20 is that too much of an analysis for a supplemental report, Mr.
21 Lawson?

22 MR. LAWSON: My initial -- thank you for the question,
23 and I'm sorry that this one got so difficult. I think it would
24 be, frankly. I think that the issue requires a bit more of an
25 in-depth study, and I would prefer, at this point, to withdraw

1 this from our proposal than bring forward kind of a new proposal,
2 you know, somewhat on the fly like that. It may be that that's
3 a -- that that is the perfect solution, in which case we'll bring
4 that forward. I suspect that this issue will be coming back. It
5 won't be able to not come back for too long a period, but I think
6 it has to come forward as a -- as a new case and with the
7 appropriate analysis.

8 VICE CHAIR MILLER: Okay. Well, thank you for that
9 response.

10 CHAIRMAN HOOD: All right. Thank you. And I was going
11 to go to Commissioner Wright, too, Vice Chair Miller, because I
12 think she was pretty hard fast rule where she was, so I don't
13 know if that would work. There's only three of us. But I also
14 think -- and I know Mr. Lawson is listening -- I also think that
15 Commissioner Eckenwiler's testimony was very persuasive for me
16 in this case, so, hopefully, as we -- as the Office of Planning
17 looks forward to bringing that back to the Commission at some
18 point, that we also review his testimony and other testimonies
19 in this case that was presented. And when you're trying to
20 rewrite or bring something back to the Commission, that would be
21 very helpful and maybe save some time. So, all right, again, I
22 think we have completed everything. Is it Ms. Schellin or Ms.
23 Ackerman? First, yeah, let me -- let's do that. Let's take care
24 of business. Then I want to thank -- do some thank yous. Maybe
25 I should get Vice Chair Miller, but I think I can do these. Let's

1 ask -- is it Ms. Ackerman or Ms. Schellin; who's going to --
2 okay. Ms. Ackerman, do we have some dates? And let me ask Mr.
3 Ritting, if you can come up Mr. Ritting, do you know about how
4 many -- how many do we have that are going from Three -- okay.
5 How many -- let me ask you, can you give us a synopsis, out of
6 the 24 --

7 MR. RITTING: I can.

8 CHAIRMAN HOOD: -- how many -- how many where we've
9 approved, how many have we put from Three to Two and Two to One
10 or whatever that case is, and how many started at One. Give us
11 a whole -- just a general --

12 MR. RITTING: Sure, I can. So for 12 of them, you
13 decided that they go in Category One, which is the category for
14 cases where you're comfortable going ahead with the text that was
15 listed in the OP hearing report. And, for those, you can take
16 proposed action now, because you don't need anything. I do want
17 to mention one caveat, which is we're kind of overwhelmed with
18 stuff here. We're only going to prepare one proposed rulemaking
19 notice, so you'll vote now, but there won't be separate rulemaking
20 notices for different parts of the case. The purpose of this
21 would just be that you would be voting on these, so you don't
22 have to consider them at the next meeting about this. And so
23 let me just list what those -- by number, which ones -- which
24 subcases in the OP hearing report you put into Category One.
25 They are --

1 CHAIRMAN HOOD: Before you do that --

2 MR. LAWSON: Yeah.

3 CHAIRMAN HOOD: Before you do that -- I'm looking at
4 my colleagues -- do we want to vote one time or do we want to
5 take those 12 that he mentioned off the table tonight? I'm
6 looking at my --

7 COMMISSIONER WRIGHT: I'd love to vote tonight on the
8 12 and just get it out of the way.

9 CHAIRMAN HOOD: Okay. Well, go right ahead, Mr.
10 Ritting.

11 MR. RITTING: Okay. So those are numbers -- I'll just
12 do them by number, because it'll take forever for me to read the
13 caption -- 4, 22, 16, 9, 11, 12, 21, 13, 16, 20, 24, and 23, and
14 those are the numbers from the OP hearing report listing the
15 discrete subcases, and those are the ones that the Commission
16 believes that they want to take proposed action on tonight to
17 approve the text that was written in the OP hearing report.

18 COMMISSIONER WRIGHT: Can I make sure, because I've
19 been keeping my notes too, and what I heard is a little different
20 than what I have in my notes.

21 MR. RITTING: Oh, no. Okay.

22 COMMISSIONER WRIGHT: I just want to make sure we're
23 on the same page. So absolutely 4, absolutely 22, absolutely 23.

24 VICE CHAIR MILLER: Can I ask that we actually say the
25 subjects of each, so I think that would --

1 COMMISSIONER WRIGHT: If I'm going to do that, then I
2 will going to do it as my motion, if I'm going to have to --

3 VICE CHAIR MILLER: Yeah, that would be great.

4 COMMISSIONER WRIGHT: Okay. I will make a motion that
5 we take affirmative action to move forward with Number 4, Green
6 Area Ratio, Subtitle C, Section 601; Number 22, penthouse height
7 limit in MU/CAP zones; Number 16, redundant building form
8 language, Subtitle U-201; Number 9, Pre-ZR-16 approved vehicle
9 parking requirements, Subtitle C-701; 11, garage door height and
10 setback, Subtitle C-711; Number 12, surface parking screening
11 along alley, Subtitle C-714; Number 21, align zone descriptions;
12 Number 13, penthouse habitable space affordable housing
13 contribution, Subtitle C-1507; Number 5, balconies and Gross
14 Floor Area, GFA, Subtitle B-304; Number 20, new dwelling in an
15 accessory building in RF zones, Subtitle U, Section 301, formerly
16 24; Number 24, designated uses in neighborhood mixed-use zones;
17 Number 23, window separation criteria in MU and D zones. And
18 that was it for things in Group One.

19 VICE CHAIR MILLER: Second.

20 COMMISSIONER WRIGHT: Does that align with you, Mr.
21 Ritting?

22 MR. RITTING: Yes. Let me check Number 16, because
23 that's the only discrepancy. Let me check it on my document that
24 I've got up here.

25 CHAIRMAN HOOD: Number 16's a discrepancy or was it

1 Number 5?

2 MR. RITTING: Well, Number -- Ms. Wright is absolutely
3 correct about 5; I left that one out. She's right about that.

4 CHAIRMAN HOOD: Okay.

5 MR. RITTING: And I left that out of my list, but I
6 had 16 on my list and she did not, so I want to check that one,
7 as soon as I find it.

8 CHAIRMAN HOOD: Yeah, let me look at 16.

9 MR. LAMPERT: Commissioner Wright's list is what
10 matches up with mine. Jake, when you read yours, you read 16
11 twice, so instead of saying 5, you said 16 a second time.

12 MR. RITTING: Got it. Thank you. So Ms. Wright is
13 correct, and I appreciate the close reading, because I made a
14 mistake. Thank you.

15 CHAIRMAN HOOD: Vice Chair, how was your list? Was
16 your list like Ms. Wright's?

17 VICE CHAIR MILLER: Yes, and I appreciate Ms. Wright
18 going through all of that very comprehensively, and I second the
19 motion.

20 CHAIRMAN HOOD: All right. Okay. It's been moved and
21 properly seconded. I want to thank Ms. Wright for keeping that
22 list so eloquently and correctly, and I want to thank everybody.
23 But, anyway, it's moved and properly seconded. Any further
24 discussion?

25 (No response.)

1 CHAIRMAN HOOD: Not hearing any, Ms. Ackerman, could
2 you do a roll call vote please?

3 MS. ACKERMAN: Yes. Commissioner Wright.

4 COMMISSIONER WRIGHT: Yes.

5 MS. ACKERMAN: Commissioner Miller.

6 VICE CHAIR MILLER: Yes.

7 MS. ACKERMAN: Commissioner Hood.

8 CHAIRMAN HOOD: Yes.

9 MS. ACKERMAN: So for this, specifically, do you want
10 me to list what you guys did, the numbers, and say that those
11 are approved or no?

12 CHAIRMAN HOOD: It's already in the motion, so we should
13 be good.

14 MS. ACKERMAN: Okay. All right. I just don't want to
15 make a mistake here. So those specific numbers are approved for
16 proposed action, three to zero to two, Imamura and Stidham not
17 present, not voting.

18 CHAIRMAN HOOD: Ms. Ackerman, I don't know why you
19 don't want to make a mistake. We all do that, so we do it all
20 the time.

21 MS. ACKERMAN: Well, I make them the most here, so I'm
22 trying to learn.

23 CHAIRMAN HOOD: You're doing a good job, Ms. Ackerman.
24 First, let me, first of all, thank my colleagues for going through
25 this, and especially after last night's hearing. We're going to

1 get maybe two hours off tonight, so I want to thank you all for
2 all your diligence and everything you've done. But, even more,
3 I want to thank -- and Mr. Ritting and Mr. Lampert, if you all
4 could turn your cameras on. I want to thank you too, because
5 without you two, we could not have done it and with -- we could
6 not have done it the way you all have framed it for us. A lot
7 of people don't know, we show up and you all have us prepared.
8 And I'm sure all Commissions and Boards are pretty much like
9 things at; they have a good staff. And you guys have really
10 exemplified what is good -- to have good support, and you guys
11 are excellent, so we really appreciate you. I don't say this as
12 well as Vice Chair Miller, but I know how to say -- I do know
13 how to say thank you. You all have done an excellent job. I
14 can tell you, we could not have done it without the time and
15 effort that you all put into what we're doing here, so hats off
16 to you, and mostly appreciate on behalf of the Commission, we
17 really appreciate it.

18 And I want to thank the Office of Planning too, Mr.
19 Lawson and Ms. Steingasser, who is now retired, and Mr. Lawson
20 and the whole team at OP for working on this. This has been a
21 long time coming. A lot of things have happened over the years
22 that we have experienced, even on the Commission through BZA and
23 wherever, but we appreciate all the work that our Office of Zoning
24 staff and everyone has done. And if I forgot anybody, charges
25 to my head and not to my heart. We -- on behalf of the Commission,

1 we appreciate everything that's been done, because we could not
2 have not done this without you, so we appreciate it. Colleagues,
3 you want to say anything? If not, we're going to close out,
4 because we're going to be here again until tomorrow night like
5 we were last -- I mean, last night.

6 VICE CHAIR MILLER: Fantastic. Thank you, Mr.
7 Chairman.

8 CHAIRMAN HOOD: All right. So, with that, I wish -- I
9 want to wish everyone a Happy Thanksgiving. I don't even know
10 when the -- I think we meet again -- Ms. Ackerman, when do we
11 meet?

12 MS. ACKERMAN: December 1st.

13 CHAIRMAN HOOD: We don't even get a week off. Okay.
14 December the 1st -- no, we don't even get a week off. Okay. So
15 December the 1st we'll be back at four o'clock on these same
16 platforms. I appreciate all of you all. You all have a great
17 Thanksgiving. And, with that, this hearing -- this meeting --
18 special public meeting is adjourned. Thanks, everybody.

19 MS. ACKERMAN: Good night.

20 MR. LAMPERT: Chairman, just real quick before we hop
21 off. Do we want to set a date for OP to provide that supplemental
22 report to you?

23 CHAIRMAN HOOD: Oh, I'm sorry.

24 MS. ACKERMAN: I have a date here, if you want.

25 CHAIRMAN HOOD: Okay. Go right ahead. Thank you.

1 Thank you, Mr. Lampert.

2 MS. ACKERMAN: Okay. The Office of Planning can respond
3 by three p.m. on December 11th, and then we can put this on the
4 agenda for December 18th, if you would like.

5 CHAIRMAN HOOD: Yes, let's do that. I think we're
6 going to have to.

7 COMMISSIONER WRIGHT: Can I just say, December 18th is
8 getting to be a very long night, and it is -- and we have a whole
9 bunch of long nights right before December 18th. There are two
10 very difficult and controversial cases already on the agenda for
11 December 18th, and I am a little concerned about making for a
12 very difficult evening.

13 CHAIRMAN HOOD: So let me -- let me just explain. Every
14 December and ever July we have a rough time, and the reason being,
15 because we all -- we take time off for the holiday; we try to
16 get it before the New Year. And also in July; we take the month
17 of August. So we already know that we're going to have an action-
18 packed agenda, and that has been happening my whole 28 years
19 here. So I don't know how it's going -- I'm saying that now.
20 I'll probably regret it later. That's usually what happens, but
21 I know we have a lot on the Commission, and if we need to defer
22 another case or something, we'll do that.

23 We kind of need to get -- deal with this one, especially
24 while we have the information here and Mr. Lawson is still with
25 us, so this one is critical. Maybe some of the other ones can

1 drop off, but this one is very critical. And I know we have --
2 you mentioned two hearings that we have. I don't even know what
3 they are, but I'm sure you have already looked that far ahead.
4 I haven't, but -- so let's -- we'll work it out. We'll do the
5 best we can, but this particular case, the omnibus, we have to
6 deal with it on the 18th. Okay. I hope that didn't spoil
7 nobody's Thanksgiving, because I'm going to have a great time.
8 Let's just have a great time. And thank you, Mr. Lampert. Are
9 we all straight with the dates, Ms. Ackerman?

10 MS. ACKERMAN: Yes, the 18th.

11 CHAIRMAN HOOD: All right. So, with that, I want to
12 thank you all, and this hearing is adjourned -- this special
13 public meeting is adjourned. Thanks, everybody.

14 (Whereupon, the above-entitled special public meeting
15 was adjourned at 8:30 p.m.)

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C E R T I F I C A T I O N

This is to certify that the foregoing transcript

In the matter of: Special Public Meeting - Case No. 25-12

Before: DC Zoning Commission

Date: 11-25-25

Place: Webex Videoconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

Deborah B. Gauthier

Deborah B. Gauthier