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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Public Hearing

Case Nos. 17-01 and 17-02 [Office of Planning - Text
Amendment to Subtitles B and U re: Continuing Care
Retirement Community and Use Clarification Language]

6:30 p.m. to 7:09 p.m.
Thursday, March 13, 2017

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

1 Board Members:

2 ANTHONY HOOD, Chairman

3 ROBERT MILLER, Vice Chair

4 PETER MAY, Commissioner

5 MICHAEL TURNBULL, Commissioner

6 PETER SHAPIRO, Commissioner

7

8 Office of Zoning:

9 DONNA HANOUSEK, Secretary

10

11 Office of Planning:

12 JENNIFER STEINGASSER

13 JOEL LAWSON

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

2 CHAIRPERSON HOOD: Good evening, ladies and
3 gentlemen. This is a public hearing of the Zoning
4 Commission for the District of Columbia. Today's
5 date is April the 13th, 2017.

6 My name is Anthony Hood. Joining me are Vice
7 Chair Miller, Commissioner Shapiro, Commissioner May,
8 and Commissioner Turnbull. We're also joined by the
9 Office of Zoning staff, Ms. Donna Hanousek, as well
10 as the Office of Planning staff, Mr. Lawson and --
11 oh, Ms. Steingasser, and Mr. Lawson.

12 This proceeding is being recorded by a court
13 reporter and is also webcast live. Accordingly, we
14 must ask you to refrain from any disruptive noises or
15 actions in the hearing room, including the display of
16 any signs or objects. Notice of today's hearing was
17 published in the D.C. Register, and copies of that
18 announcement are available to the left on the wall
19 near the door.

20 The hearing will be conducted in accordance
21 with provisions of 11-DCMR, Chapter 5 as follows:
22 preliminary matters, presentation by the petitioner
23 or the Office of Planning, reports of other
24 government agencies, report of the ANC. And that's
25 city-wide. Organizations and persons in support,

1 organization and persons in opposition.

2 What I'm going to do is incorporate this
3 opening statement and everything, and I'm going to
4 ask testimony be done -- combined when you come up,
5 for 17-01, as well as 17-02. And if you can just
6 distinguish which case you're talking about. Let's
7 do one first, and then we'll 17-02 second.

8 The following time constraints will be
9 maintained in this meeting. Office of Planning has
10 60 minutes. I'm sure they don't need 60.
11 Organizations, five minutes. Individuals, three
12 minutes.

13 All persons wishing to testify before the
14 Commission in this evening's hearing are to register
15 at the witness kiosk, and I see that has already been
16 done. We thank you.

17 The staff will be available throughout the
18 hearing to discuss procedural questions. Please turn
19 off all electronic devices at this time so not to
20 disrupt these proceedings.

21 At this time, the Commission will consider
22 any preliminary matters. Does the staff have any
23 preliminary matters?

24 MS. HANOUSEK: No, sir.

25 CHAIRPERSON HOOD: Okay. I have one. We

1 want to welcome Zoey. She's over there helping her
2 dad out, who obviously is going to do a very good job
3 court reporting this evening. So, Zoey, you want to
4 waive at us? You want to waive to us, Zoey? We're
5 glad to have you. Welcome to the District of
6 Columbia Zoning Commission.

7 MR. MAY: She's already got the headphones
8 on. She's ready to start recording.

9 CHAIRPERSON HOOD: So, we want to welcome her
10 to the Zoning Commission. And also, we want to
11 acknowledge that today is one of our colleagues'
12 birthday. Mr. Turnbull. We want to wish him a happy
13 birthday. We're going to have a celebration for him
14 this time next Thursday, when the person who puts
15 everything together is here. So, we want to wish you
16 a happy birthday. I would sing, but I don't want to
17 spoil your birthday, but we all from -- all of us
18 want to wish you a happy birthday. Hopefully we'll
19 get you out of here and you can go out and enjoy
20 yourself. Okay?

21 All right. Any other preliminary matters? I
22 don't have any. Let me turn it over to Ms. Lawson.
23 I'm sorry. I'm looking at Mr. Lawson, and I'm
24 looking at Ms. Steingasser at the same time. So, I'm
25 all messed up.

1 MS. STEINGASSER: We'll just go with OP.

2 So, I'm going to be really brief. Sixty
3 seconds will be more like --

4 CHAIRPERSON HOOD: Okay. Hold on a second.
5 This is a --

6 [Pause.]

7 CHAIRPERSON HOOD: Ms. Steingasser.

8 MS. STEINGASSER: Case 17-01 is the case for
9 continuing care retirement community text amendment.
10 It proposes text to allow the use as a special
11 exception in the R-1-A, R-1-B, R-2, R-3, and RF
12 Zones, to allow the use as a matter of right in the
13 RA Apartment Zones, which then carry forward into the
14 mixed-use zones.

15 There has been, submitted into the record,
16 some further clarification requests, and the Office
17 of Planning has no objection to that clarification
18 and neither does the Zoning Administrator's office.
19 The Zoning Administrator has also submitted, through
20 OP, some additional clarifying language which was
21 submitted in our report.

22 Oh, and with those two changes those
23 submitted by the Office of Zoning Administrator and
24 Donohue/Stearns, the Office of Planning recommends
25 that case be approved.

1 17-02 has some clarifying and corrective
2 language, but it is language to sections that were
3 neither set down in the original case of 08-06A, the
4 original ZR-16 rewrite, or was taken -- there was no
5 proposed action taken it, so it was never in the
6 public realm for discussion. So, those corrections
7 are also enumerated in our report, and we recommend
8 they be adopted. And with that, we're happy to stand
9 on the record and answer any questions.

10 CHAIRPERSON HOOD: Okay. Thank you, Ms.
11 Steingasser. Commissioners, any questions on either
12 one of the cases, 17-01 or 02? Vice Chair Miller?

13 MR. MILLER: Thank you, Mr. Chairman. Well,
14 since I have 17-02 in front of me, I just wanted to -
15 - thank you for your report, Ms. Steingasser. But,
16 my question on 17-02 was, on page 4, adding the
17 missing uses that somehow missed it, one of the
18 missing uses apparently was mass transit facilities.
19 So, just are mass transit facilities a, under this
20 and under what's being proposed, and under the
21 preexisting ZR-58, are they a matter-of-right use in
22 R-Use Groups A, B, and C Zones?

23 MS. STEINGASSER: Yes, sir. They first start
24 out as a matter of right in the R-1-A, in the 1958
25 regulations.

1 MR. MILLER: So, bus shelters and depos
2 and --

3 MS. STEINGASSER: Yes, sir.

4 MR. MILLER: -- street car repair facilities
5 and --

6 MS. STEINGASSER: Anything that would qualify
7 as a mass transit facility is allowed as a matter-of-
8 right.

9 MR. MILLER: And --

10 MS. STEINGASSER: So, we brought that
11 forward.

12 MR. MILLER: Okay. And, we didn't have
13 any -- I don't recall, myself, any public hearing
14 testimony in the -- on that subject in the seven
15 years that --

16 MS. STEINGASSER: No, sir.

17 MR. MILLER: But there has been controversy
18 from time to time about those type of facilities in R
19 Zones. I just was surprised to see that it was a
20 matter of right use in every zone.

21 MS. STEINGASSER: Yes. So, when you're
22 thinking about things like the northern bus garage on
23 Georgia, that's in the R-1 Zone, and then there's
24 smaller facilities that have to do with, not so much
25 a maintenance facility, but maybe a transformer type

1 support facility --

2 MR. MILLER: Okay. Okay.

3 MS. STEINGASSER: -- that you could see.

4 MR. MILLER: Okay. So, that was just my
5 question about that. Kind of jumped out at me.

6 On 17-01, the continuing care retirement
7 community text amendment, which I have to
8 unfortunately disclose I'd be eligible for, which I'm
9 not happy about, the -- in the RA-1 and RA-6, are
10 they going to be by special exception or matter-of-
11 right? I was confused. It looked like on the top of
12 page 3, that in the -- I thought you just said in
13 your verbal presentation that in the RA Zones they'd
14 be matter-of-right, but at the top of page 3 it
15 appears that an RA-1 and RA-6, and I realize those
16 are low to moderate density, low to moderate density
17 apartment zones.

18 MS. STEINGASSER: Yes, sir.

19 MR. MILLER: But, are they subject to a
20 special exception at set --

21 MS. STEINGASSER: They would be -- yes, sir.
22 I'm sorry. They would be subject to a special
23 exception in those two zones. Those are the
24 equivalent of the 1958 R-5-A zones. R-5-A, yes.

25 MR. MILLER: So, my question about that is,

1 if it's only an independent living facility, as
2 opposed to including the assisted care, assisted
3 health care, or the nursing care, nurse license
4 nursing care, and we're limiting it to eight.

5 MS. STEINGASSER: Yes, sir.

6 MR. MILLER: Does the RA-1 or RA-6 Zone
7 otherwise limit the number of residents in apartment
8 buildings in those two zones?

9 MS. STEINGASSER: It limits apartment
10 buildings to special exceptions, so in the -- if
11 it --

12 MR. MILLER: They're all special exception in
13 those zones.

14 MS. STEINGASSER: In those zones, yes.

15 MR. MILLER: Okay. That --

16 MS. STEINGASSER: Those are primarily, like I
17 said, the R-5-A zones under 1958 regulations, which
18 allowed for semi-detached and fully detached as a
19 matter-of-right residential use. Any other use
20 required special exception in front of the BZA. So,
21 this just carries that forward.

22 MR. MILLER: But they don't have a limit of
23 8.

24 MS. STEINGASSER: They do not. They do not,
25 no.

1 MR. MILLER: So, why would we want to limit
2 eight, for if it's just a limit -- if it's just an
3 independent living facility alone, why would we want
4 to treat them more restrictively than any other age
5 group, I suppose, or diverse age group, mix of age
6 groups?

7 MS. STEINGASSER: We don't have to. We were
8 just carrying it forward as --

9 MR. MILLER: Yeah.

10 MS. STEINGASSER: -- for consistency. But we
11 could certainly remove the -- we could put a
12 condition that said in those zones there would be no
13 limit on the --

14 MR. MILLER: Yeah, I'd be more comfortable
15 with that.

16 MR. MAY: Would they just then be apartment
17 buildings?

18 MR. MILLER: Which it almost is, what it is.

19 MS. STEINGASSER: Which it almost is. The
20 Zoning Administrator was concerned that -- of them
21 suddenly changing definition. So, he asked that we
22 add them in as a use as a matter-of-right in the RA
23 zones. So, we --

24 MR. MAY: With a limitation of eight.

25 MS. STEINGASSER: Oh --

1 MR. MAY: You carry that forward just for
2 consistency.

3 MS. STEINGASSER: We carry the limitation of
4 eight forward into the R-1-A and RA -- I'm sorry --

5 MR. MAY: Right.

6 MS. STEINGASSER: -- the RA-6 and the RA-1
7 Zones.

8 MR. MAY: Right.

9 MS. STEINGASSER: But in the other zones we
10 called it out as the -- as a matter-of-right use we
11 had presumed it would qualify as fully compatible as
12 an apartment use.

13 MR. MAY: Right.

14 MS. STEINGASSER: There was concern that
15 there might be confusion and interpretation. So, we
16 went ahead and added it. But I don't see any reason
17 why we couldn't, as part of the conditions of the
18 special exception, remove that limit of 8 for those
19 two zones.

20 MR. MAY: Uh-huh.

21 MR. TURNBULL: Would that be, then,
22 unlimited, or a limit of what of --

23 MS. STEINGASSER: There would be no limit.
24 Like, right now there is no limit in those zones on
25 the number of apartments that could go in. It's

1 limited by FAR and the BZA conditions.

2 MR. MILLER: And that would be the case for
3 just -- if it's only an independent living facility.

4 MS. STEINGASSER: Yes. Yes.

5 MR. MILLER: As opposed to including either a
6 nursing care of assisted living care. Or are you
7 saying that it could be in any case?

8 MS. STEINGASSER: We had not anticipated
9 removing the full caps off of it in these zones, but
10 rather treating it more consistently with the
11 detached and semi-detached dwelling units, making it
12 more compatible with that as opposed to the apartment
13 aspect of those zones. But we could look at removing
14 that limit.

15 There is no limit on the assisted and the
16 nursing facilities. So, it would just be removing
17 that limitation of eight for those two zones only.

18 MR. MILLER: Well, I would be in support of
19 that.

20 MS. STEINGASSER: Okay.

21 MR. MILLER: Personally. I don't know where
22 my colleagues are, but. The only other thing was the
23 -- I appreciate the -- I think the definition has
24 gotten better in the latest iteration, and the
25 clarifying language that you cite from the Zoning

1 Administrator I think was helpful. I think I still
2 support the grammatical phrasing that I had
3 suggested, and which I think one of our witnesses,
4 one of our letters and one of our witnesses is going
5 to speak to. I think that that's -- I think that's
6 clearer, but to -- having a lot of time with
7 legislative drafting, if you have A or B or C, it can
8 be any -- it can be any combination of, which is what
9 your definition does say.

10 But, when you just had the -- when you had
11 that A and B, it almost -- I think it can be
12 interpreted and might be confusing that you have to
13 have that B, which I think was the assisted care.

14 MS. STEINGASSER: Right. And we do recommend
15 inclusion of the languages submitted by Ms. Brown.

16 MR. MILLER: Okay, great.

17 MS. STEINGASSER: Yes.

18 MR. MILLER: Thanks.

19 CHAIRPERSON HOOD: Okay. Commissioner
20 Shapiro?

21 MR. SHAPIRO: Thank you, Mr. Chair. I'm
22 respectful of Vice Chair Miller's wanting the
23 language to be consistent, but I just would like to
24 give you the space to think through with us what any
25 unintended consequences of that change might be.

1 MS. STEINGASSER: I don't think there are
2 any. We would obviously ask for flexibility to work
3 with the Office of Attorney General to concur with
4 that, but -- to get concurrence with that. But we
5 did run it by the Zoning Administrator's office, and
6 they were also comfortable with it because of that
7 parallel, direct parallel structure with the
8 conditions that are in the --

9 MR. SHAPIRO: We're talking about the size,
10 here?

11 MS. STEINGASSER: Oh, no. I'm sorry, we were
12 talking about the --

13 MR. SHAPIRO: I was referring to the size
14 limit.

15 MS. STEINGASSER: Oh, the size limit? I
16 don't know of any unintended consequence to remove,
17 because it would go through a public hearing in front
18 of the Board of Zoning Adjustment, and so, they would
19 still have to meet the criteria that are there.

20 MR. SHAPIRO: Thank you.

21 MR. MILLER: Mr. Chairman, I forgot to ask
22 one last question that I asked at set down on 17-01.
23 Did the Office of Planning do any further outreach to
24 that group of -- that testified at the technical
25 corrections, when we had it as a technical

1 corrections and they were concerned that they may not
2 be able to do it at all.

3 MS. STEINGASSER: Yes.

4 MR. MILLER: Even by special exception. Did
5 you do further outreach than that?

6 MS. STEINGASSER: We did, and they have filed
7 their special exception and it's pending. It's got a
8 hearing coming up in front of the Board of Zoning
9 Adjustment.

10 MR. MILLER: And you may have answered that
11 when I asked you that previously, but thank you
12 for --

13 MS. STEINGASSER: No, sir. At that point,
14 they had not yet filed.

15 MR. MILLER: Okay.

16 MS. STEINGASSER: So, they have --

17 MR. MILLER: All right. Thank you.

18 CHAIRPERSON HOOD: Okay, Commissioner
19 Turnbull.

20 MR. TURNBULL: Thank you, Mr. Chair. I just
21 want to continue on the line of the question with
22 Commissioner Shapiro about the limit of 8. I mean,
23 you have had previous talks with the ZA on this. So,
24 you're sort of assuming that he's going to say that
25 that's fine.

1 MS. STEINGASSER: Well, the issue of how many
2 people reside in the facility is not one that the
3 Zoning Administrator would weigh in on.

4 MR. TURNBULL: Weigh in on.

5 MS. STEINGASSER: Because that's a policy
6 call that they would look to OP to make the
7 recommendation and the Zoning Commission to adopt.
8 What he had no objection to, I ran by him was to make
9 sure that he was comfortable also with the
10 definitional change as submitted by Ms. Brown. And
11 they were very comfortable with that.

12 MR. TURNBULL: I guess, I'm not opposed to
13 making the change, but I think I'm sort of
14 interpreting there, or putting words in Commissioner
15 Shapiro's mouth that without the unintended
16 consequences aspect like, if the ANC is there,
17 there's some of these neighborhoods may be opposed to
18 increasing it beyond the eight is something we don't
19 know yet.

20 So, I mean, I'm willing to go with all the
21 changes we've got so far, and maybe holding back on
22 going over the eight until we get some more feedback
23 to make sure that there was a comfort level from the
24 community. I'm not sure.

25 MS. STEINGASSER: Well, we could certainly do

1 that, and if there was a facility that wanted to move
2 forward in those two zones, they could always apply
3 as an apartment and they would still -- and as a
4 straight-forward apartment building, they would not
5 be subject to anything but the special exception in
6 front of the BZA.

7 MR. TURNBULL: Yeah, I mean, I as I say, I'm
8 not really opposed to the change except the thing
9 about caps is that sometimes it will have an effect
10 on a community, will suddenly realize that there's
11 something perceived real or whatever, and they may
12 have some feelings about changing something like
13 that. So, that would be my only concern.

14 MS. STEINGASSER: Okay.

15 CHAIRPERSON HOOD: Commissioner May.

16 MR. MAY: Yeah, I just had one question
17 having to do with a suggestion that was made by one
18 of the witnesses about to testify, which is having to
19 do with the, you know, the independent living, or
20 assisted living, or nursing, right? I mean, that's
21 essentially how it's going to read.

22 So, what's continuing about that? Why do we
23 call it a continuing care facility when it's just a -
24 - I mean, does it -- is continuing supposed to
25 distinguish it from some other kind of facility?

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1 MS. STEINGASSER: Right. The continuing
2 allows for all three, or any combination of those
3 uses to be together in one building.

4 MR. MAY: Well, right. And I understand that
5 when there are -- there's more than one of those.
6 But this could be any one of those.

7 MS. STEINGASSER: This could be --

8 MR. MAY: And not a combination of them.

9 MS. STEINGASSER: That's correct. And that
10 came forward when we brought it forward as a
11 technical correction to say that there needed to be
12 some kind of nursing operation; some kind of care.

13 MR. MAY: Right. Well, okay.

14 MS. STEINGASSER: And then there was a whole
15 lot of opposition to that. Apparently in the past,
16 under the '58 regulations, it had always been
17 interpreted as any combination, including a single
18 use of those three. So, that's what we brought back
19 and --

20 MR. MAY: To clarify that it could any one of
21 them. All right. So, but I still don't understand
22 why we call it continuing -- I mean, you know, it's a
23 -- it just seems weird for it to be called a
24 continuing care facility and it could just be a
25 senior independent living facility. It just seems

1 like --

2 MS. STEINGASSER: It could be.

3 MR. MAY: Anomalous.

4 MS. STEINGASSER: I would say that it allows
5 for the adaptation as people --

6 MR. MAY: Yeah.

7 MS. STEINGASSER: -- for the use to adapt as
8 people age and --

9 MR. MAY: Yeah, I didn't really have an
10 objection to it. It just seems like it's -- I mean,
11 if we're going to call it a continuing care facility
12 it seems like there --

13 MR. SHAPIRO: Should be some care?

14 MR. MAY: There should be -- well, not that
15 there should be some care, necessarily, but that, you
16 know, we're making a distinction to allow a
17 combination of these uses, but it's not like there is
18 -- you know, we have separate classifications that
19 are independent living, assisted living, or nursing.
20 They're all just lumped together. So --

21 MS. STEINGASSER: They're lumped together in
22 this definition. There's licensing distinctions --

23 MR. MAY: Reasons? Okay.

24 MS. STEINGASSER: -- that dependent of --

25 MR. MAY: In other regulations. Okay. All

1 right. So that, I understand it a little better.

2 MS. STEINGASSER: Right.

3 MR. MAY: It still just seems a little weird.
4 But that's okay. I'm not going to make a fuss.

5 CHAIRPERSON HOOD: Okay. Any other questions
6 up here? I will associate myself, though, with Mr.
7 Turnbull's issue about the cap of eight. It may not
8 be -- it may be insignificant, but I think that for
9 me I would rather for us to proceed with caution.
10 I'm not ready to -- and I don't know where the votes
11 are on that, if that's a major issue. But I would
12 think that we would -- I'm not sure what, Mr.
13 Turnbull, I can't remember what your recommendation
14 was.

15 MR. TURNBULL: I guess my recommendation is
16 first that the -- what we've got before us, I'm fine
17 with. I'm totally fine with all the corrections and
18 everything else. And my only thing was just
19 proceeding with caution with the change to above
20 eight to make sure that we've got enough input back
21 from community organizations, or input from some
22 ANCs, or just to give us a better feel that there is
23 an understanding of what it means.

24 CHAIRPERSON HOOD: Because, let me see now,
25 with this -- I'm trying to think of our new rules.

1 If it goes out it gets 30 -- are we still doing 30
2 days? I don't know what we do no more. We still, it
3 still gets advertised. If we do it today, I mean, if
4 we were to move forward with how it is, or even if we
5 were to take the eight hours, it still -- or maybe we
6 could do it in the alternative for the second -- for
7 to go back out and to see whether -- you know, I
8 don't want to make this messy, but I'm just trying to
9 figure out how we proceed because I think there is
10 another vote on this. Okay?

11 MR. MILLER: Mr. Chairman, my initial
12 question about the eight was just about the
13 independent living facility alone, because I didn't
14 think that we should be treating what is essentially
15 an apartment building for people who are 60 years and
16 older, any differently from another apartment
17 building where there is no restriction other than the
18 restrictions in that zone.

19 CHAIRPERSON HOOD: Uh-huh.

20 MR. MILLER: So, that was -- so, I have no
21 problem with advertising it as the eight for the --
22 if it has assisted care or if it has nursing care
23 because those do bring in people --

24 CHAIRPERSON HOOD: Uh-huh.

25 MR. MILLER: -- to a neighborhood. If it's

1 just independent living care, I don't think we would
2 want to be in a position of treating folks who just
3 happen to be 60 years or older, differently, when
4 it's a matter of right for a regular apartment
5 building with no limitations, for the limitations
6 that are in that zone. So, my question was about the
7 -- my initial question to Ms. Steingasser was about
8 removing the eight for the independent living
9 facility alone.

10 CHAIRPERSON HOOD: Okay. And, I hear that
11 but I just want to make sure that we don't do -- and
12 maybe your clarification, what you just mentioned,
13 helps me. When I first got on the Commission we
14 dealt with the fair housing. And I know that was a
15 major issue, and we talked about matter of right
16 then. I just don't want us to revisit some of that,
17 so it sounds like, if I'm not mistaken, your
18 recommendation doesn't put us back into that
19 situation.

20 So, okay, I can support that. Mr. Turnbull,
21 is that a showstopper for you?

22 MR. TURNBULL: No, it's not a showstopper, I
23 just --

24 CHAIRPERSON HOOD: But you'd just rather
25 still proceed with caution.

1 MR. TURNBULL: Yeah. I mean, I've got my
2 fingers crossed it's not going to come back to bite
3 us. I mean, when you talk about independent care,
4 depending upon the definition, is it going to have
5 any medical -- in theory, just independent care, but
6 we've got enough wiggle room in here that could other
7 things be added into that?

8 CHAIRPERSON HOOD: Yeah. You know --

9 MR. MAY: I mean, it's independent living. I
10 mean, I think I'm with Commissioner Miller on this.

11 MR. TURNBULL: Okay.

12 MR. MAY: We're just talking about an
13 apartment building that essentially has an age
14 minimum requirement.

15 MR. TURNBULL: Okay.

16 MR. MAY: And it's not different from any
17 other apartment building that would otherwise be
18 allowed in the zone.

19 MR. TURNBULL: Okay.

20 MR. MAY: Right.

21 MR. SHAPIRO: By special exception.

22 CHAIRPERSON HOOD: And so, if we would do the
23 eight, we would be falling right in line, or going
24 against the Fair Housing Act for the most part. I
25 guess, I just don't want to, I don't want to tie on

1 to that.

2 I'm sorry? Yeah, I know it doesn't but --

3 MR. MAY: I have to be fair (simultaneous
4 speech).

5 CHAIRPERSON HOOD: I know it doesn't, not
6 into this, but I just don't want to relive what we
7 did then, in '98. So, I mean where the city was
8 going to get sued every day and --

9 MR. MAY: Uh-huh.

10 CHAIRPERSON HOOD: -- because we weren't
11 treating everybody fairly across the board. And I
12 think from what I'm understanding, what you're saying
13 -- I'm just making sure I understand this, is that
14 what you're saying is, what you've put in place does
15 not discriminate against any. So, that's all I'm
16 trying to make sure that I understand this. It takes
17 me a minute to get there, but I'm there.

18 Okay. Did we have any other -- anybody else
19 up here has any other comments?

20 Okay. Do we have any other government
21 agencies that responded? I didn't see any in my
22 materials, other than some material that came in from
23 others. We didn't have any other ANC reports, also.
24 I didn't see any.

25 Organizations and persons in support, I'm

1 going to ask, and we have organizations and persons
2 in opposition, but I see everybody, from what I see,
3 is a proponent. But I'm just going to call everyone
4 up. Ms. Brown, Ms. Prince, and Mr. -- I'm getting
5 ready to mess your name up. Dan. Come on up, Dan.
6 Forgive me, Cinelli. Cinelli. Okay.

7 Is there anyone else who would like to
8 testify either in support or opposition here tonight?
9 Okay.

10 So, we will begin with Ms. Brown, and you all
11 will have five minutes. You don't need it all, but
12 if you want it, we do have your submissions.

13 Okay. You may begin.

14 MS. BROWN: Thank you. For the record,
15 Carolyn Brown with the law firm of Donohue and
16 Stearns, and I'm here to speak on Case No. 17-01.

17 I did submit a letter to the record. I think
18 it's self-explanatory, and I'm pleased that the
19 Office of Planning and the Commission seems to
20 believe those are good changes to the definition to
21 make them in the disjunctive. And I also would just
22 state for the record that I agree with the assessment
23 that the Commission seems to have arrived at about
24 not limiting the number of units for independent
25 living in the RA Districts. I think that is

1 consistent with the Fair Housing Act and the right
2 way to go. So, I stand on the letter I submitted to
3 the record and thank you for the opportunity to
4 speak.

5 CHAIRPERSON HOOD: Thank you, Ms. Prince.

6 MS. PRINCE: Good evening, Allison Prince
7 with Goulston and Storrs.

8 I've worked on a lot of senior living cases
9 so I'm just very interested in this whole topping and
10 trying to keep seniors in the city as they age. I'm
11 in a neighborhood with a lot of aging seniors and I
12 see the impact it can have when facilities are able
13 to accommodate their needs.

14 I handled a lot of cases under the old
15 regulations, and under the old regulations, as
16 Jennifer mentioned, we had the three categories of
17 care but they didn't neatly fit into clear categories
18 in the regs, independent living, assisted living, and
19 nursing beds, and they didn't dovetail into the CBRF
20 category. So, we kind of would make them work.

21 So, when we had this opportunity with the new
22 regulations to create a CCRC definition, OP was very
23 open to it and very helpful and cooperative in coming
24 up with a definition that reflected modern trends.
25 So, I'm happy to see that.

1 And under the old regulations, just so
2 everyone is clear, we could do an assisted living
3 facility, that's only assisted living in the R-1
4 Zones with the special exception. So, we definitely
5 want to make sure we clear that up so you can do a
6 freestanding assisted living. You could always do
7 freestanding nursing beds, but what you could not do
8 and what I think is really visionary of Office of
9 Planning to suggest is, you couldn't, under any
10 circumstances, apply for a special exception for a
11 freestanding independent living facility in the
12 single-family zone.

13 And I don't know where this is going to go,
14 but I think it's really a potentially exciting
15 opportunity. And that's why I brought Dan Cinelli,
16 because he does so much senior living, and there's a
17 concept called greenhouse, where there's very small
18 independent living communities are created within a
19 residential neighborhood. And it would be with
20 special exception approval, so there's a lot of
21 control. But I just was all excited when I saw that
22 because I thought that was a really neat opportunity,
23 and you know, OP just went out there and suggested it
24 when there could have been a lot of opposition.
25 There doesn't seem to be, but I think that was a bold

1 move and I think there might be some potential.

2 So, without any -- taking more of your time,
3 I thought Dan could be very helpful on this. He's at
4 Perkins Eastman.

5 MR. CINELLI: Good evening. I'm Dan Cinelli.
6 I'm with Perkins Eastman. I have been involved in
7 senior living for the last 40 years. I'm getting
8 really close to moving into one.

9 But, I've been on other government agencies
10 around the country, advising them on zoning and as we
11 look at the aging of America, and looking at the size
12 of the population, and the demographics coming, we
13 haven't seen nothing yet, until the Boomers get here.
14 So, I think I've read all the documents and I'd like
15 to sort of first of all, commend the Office of
16 Planning and the Zoning Commission to really start to
17 define what a continuing care retirement community
18 is.

19 Mr. May, you made the comment about, you
20 know, what's all inside there and what has to be. I
21 think what this allows you to do, and you know, we've
22 been approached by a number of village movement
23 people in the District, people that have no other
24 senior living options, and they're being forced to
25 move out of their single-family home, or out of their

1 apartment, to another place because there is not any
2 kind of product like this; very few product.

3 I'm also a member of the Leading Age D.C.,
4 which is an organization of all of the not-for-profit
5 retirement communities in the District. It's a very
6 small number. It's like five. And we're always
7 trying to look for opportunities to be able to do
8 what I call a hub and spoke model, so that you might
9 have a CCRC that's available, but be able to be able
10 to go and build an eight-unit IL, or build an eight-
11 unit AL, and keep the people with inside their own
12 community. But if they need other levels of care
13 they might be able to move back into the mothership.

14 So, this creation of this allows for a lot of
15 flexibility. I think the other thing is that the
16 initial language that you had basically really looked
17 at large CCRC -- you know, like a large CCRS. And
18 those are you know, 250 units of independent living,
19 you know, 50 units of assisted living, 40 units of
20 skilled care. We just do not have the land in D.C.
21 to be able to do those kinds of projects. So, we
22 have to be really creative in terms of what we do.

23 This change then allows us to be able to look
24 at those things. And, the other thing is that you
25 don't have to have all of the continuum of care

1 within underside one big umbrella which you've
2 defined as the CCRC.

3 So, what we're seeing is, you know,
4 independent living with assisted living. Or you're
5 seeing independent living with some skilled care.
6 And maybe it's a smaller skilled care component.
7 There used to be a ratio where it was, for ever four
8 independent living, you had to provide one skilled
9 care. That was the rule of thumb from CMS, the
10 Medicare sponsor. And now it's probably 10 to 20,
11 because people are aging in place, aging in community
12 and independent living. So, we don't need the great
13 number of nursing home beds as part of that.

14 So, by making the use that you've done,
15 flexible, provides an option for CCRC operators that
16 might have a location one place, but have run out of
17 room and they need to be able to expand to a smaller
18 satellite, which would allow people to not have to
19 leave their neighborhood.

20 I'm excited to see independent living option
21 for the eight individuals as the special exception.
22 I think one of the things that we're seeing is that
23 for a lot of people that we've talked to as Boomers,
24 they've said that if it looks or tastes or smelled
25 like a big CCRC, I'm not coming. So, what this

1 allows us to do is a much more satellite model. I
2 much more smaller model. A more neighborhood model.
3 And again, it's one of those things where, if it's a
4 seamless vernacular in a neighborhood, you'll drive
5 by and you'll go, wow, that's a neat apartment
6 building. Or, that's a neat place. You won't have
7 to say, that's where all the old people live.

8 So, I think this allows you some great
9 flexibility to do it. I think the regulations that
10 you've got in place right now are really visionary,
11 and would allow the community to be able to look at
12 different options that they had for themselves. The
13 Capitol Hill District, I was advising of them to
14 their, the Village Movement. There is no location
15 for any type of housing options in that area. The
16 homes are worth, you know, a lot of money and they
17 have no opportunities, except to be able to leave
18 that part of town which they've been in for 40 or 50
19 years.

20 So, this will allow you to be able to have
21 other type of options. So, I just wanted to say,
22 congratulations, and thank you very much.

23 CHAIRPERSON HOOD: All right. I want to
24 thank you all for coming down and showing the
25 interest and giving us your input and your testimony.

1 Let's see if we have any questions up here, comments?

2 MR. SHAPIRO: No, it was very helpful.

3 CHAIRPERSON HOOD: Okay. All right. Thank
4 you very much. We appreciate it. And as one of my
5 colleagues just said, very helpful. We appreciate
6 it.

7 MR. SHAPIRO: Thank you.

8 CHAIRPERSON HOOD: Okay. I think that's it.
9 Colleagues, I really don't think we need to belabor
10 this. I think the work has been put into it, the
11 Office of Planning has done a great job, and now that
12 I understand that we're not going to what I thought
13 we were going to, and I thank Commissioner Miller for
14 bringing that up, and other changes that were noted
15 by those who testified. What is your pleasure or
16 would like to -- what would you all like to do?

17 MR. TURNBULL: I think we could do this as a
18 one vote on both items.

19 CHAIRPERSON HOOD: Yeah, if we just call --
20 just call both numbers.

21 MR. TURNBULL: Right.

22 CHAIRPERSON HOOD: Okay.

23 [Pause.]

24 CHAIRPERSON HOOD: Okay. Somebody like to
25 make a motion?

1 MR. MILLER: I would move, we're going to do
2 one motion for each --

3 CHAIRPERSON HOOD: We can -- depends on your
4 -- are we going to --

5 MR. MILLER: I'm fine with it.

6 CHAIRPERSON HOOD: Okay. Let's just do one
7 motion and include both case numbers.

8 MR. MILLER: Okay. Thank you, Mr. Chairman
9 for that guidance. I would move that the Zoning
10 Commission take proposed action on the text
11 amendments in Zoning Commission Case 17-01 with the
12 changes that we discussed earlier, and also take
13 action, proposed action on Zoning Commission Case No.
14 17-02, and ask for a second.

15 MR. SHAPIRO: Second.

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

18 [Vote taken.]

19 CHAIRPERSON HOOD: Ms. Hanousek, would you
20 record the vote?

21 MS. HANOUSEK: Yes. Upon the motion of Vice
22 Chair Miller, as seconded by Commissioner Shapiro,
23 the Commission took proposed action to approve the
24 petition in Case 17-01 as amended, and 17-02 in block
25 by a vote of five, zero, zero, Commissioners Hood,

1 Miller, Shapiro, May, and Turnbull to approve.

2 CHAIRPERSON HOOD: Okay. Thank you. Ms.
3 Hanousek, do we have anything else before us this
4 evening?

5 MS. HANOUSEK: No, sir.

6 CHAIRPERSON HOOD: Okay. Thank you all very
7 much. I want to thank everyone for their
8 participation and coming down, and all the hard work
9 that everyone has done, and this hearing is
10 adjourned.

11 [Whereupon, the hearing adjourned at 7:09
12 p.m.]

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