

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC HEARING
CASE 25-12

+ + + + +

THURSDAY

OCTOBER 30, 2025

+ + + + +

The Public Hearing of the District of Columbia Zoning Commission convened via teleconference, pursuant to notice at 4:00 p.m. EDT, 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:

PAUL YOUNG, Zoning Data Specialist
SHARON S. SCHELLIN, Secretary
ELLA ACKERMAN, Acting Secretary

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

JACOB RITTING, ESQUIRE
BRIAN LAMPERT, ESQUIRE

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON
JOSHUA MITCHUM
JENNIFER STEINGASSER

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OFFICE OF ATTORNEY GENERAL STAFF PRESENT:

MAXIMILLIAN TONDRO
NOELLE WURST

ALSO PRESENT:

MARK ECKENWILER, Commissioner, ANC 6C
JOE BISHOP-HENCHMAN, Commissioner, ANC 5F
GWENDOLYN LOHSE, Commissioner, ANC 2E
MERIDITH MOLDENHAUER, Cozen O'Connor
BRIAN BLAESSER, Committee of 100
MICHAEL MCDUFFIE

The transcript constitutes the minutes from the
Regular Public Hearing held on October 30, 2025.

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(4:00 p.m.)

CHAIRMAN HOOD: Good afternoon, ladies and gentlemen. We are convening and broadcasting this public hearing by videoconferencing. My name is Anthony Hood. Joining me this evening are Vice Chair Miller and Commissioner Wright. We're also joined by the Office of Zoning staff, Ms. Sharon Schellin, as well as our Office of Zoning Legal Division -- I thought I saw -- oh, Mr. Jacob Ritting and Mr. Brian Lampert. Okay. Hold on one second. Okay. We're having problems getting in. I'm going to keep reading this, and we'll deal with -- Sharon's having problems getting in. Copies of today's -- let me just go back. That got me distracted. Let me go back -- the Office of Zoning, Ms. Sharon Schellin, who's having problems getting in; and Mr. Paul Young, who will be handling all of our virtual operations; our Office of Zoning Legal Division, as I mentioned previously, Mr. Jacob Ritting and Mr. Brian Lampert. We will ask all others to introduce themselves at the appropriate time.

Copies of today's virtual public hearing notice are available on the Office of Zoning's website. Please be advised that this proceeding is being recorded by a court reporter and is also webcast live via Webex and YouTube Live. The video will be available on the Office of Zoning's website after the hearing. Accordingly, all those listening on Webex or by phone will be muted during the hearing, and only those who have signed up to

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11 All persons planning to testify either in favor, opposition, or
12 undeclared must sign up in advance and will be called by name.
13 If you wish to file written testimony or additional supporting
14 documents during the hearing, then please request that the
15 submission be entered into the record and be prepared to describe
16 it at the time of your testimony.

17 The subject of this -- we have broken this up, Zoning
18 Commission Case Number 25-12. I want to thank everyone who
19 mentioned that this was quite a bit. Once we got to this, we
20 realized that this was quite a bit, so I want to thank everyone,
21 the public, Commissioners, staff, everyone who basically helped.
22 That's why teamwork makes the dreamwork. So thank you all for
23 doing that, because it was quite a bit for one hearing, believe
24 me. So the case for tonight, the process is this. We will hear
25 the introduction by the Office of Planning, the zone boundary

1 line for a split-zoned lot, Subtitle A-207; Zoning Administrator
2 flexibility, Subtitles A-304, Y-702; then we'll hear light poles
3 for District recreation facilities, Subtitle B-100, D, E, and F,
4 203, 212, and 4904; and Green Area Ratio, Subtitle C-601. So
5 that's all we'll be discussing this evening and having a
6 conversation, and we'll see how it goes after we finish that. I
7 know we have some preliminary matters, but let me finish reading
8 my opening statement.

9 The hearing will be conducted in accordance with the
10 provisions of 11-Z DCMR, Chapter 5, as follows: preliminary
11 matters, presentation by the Office of Planning, report of other
12 government agencies, report of the ANC -- not necessarily
13 particularly in that order -- testimony of organizations and
14 individuals -- organizations, five minutes; individuals, three
15 minutes, respectively -- and we'll from those in the order of
16 support, opposition, or undeclared. While the Commission
17 reserves the right to change the time limits for presentations,
18 if necessary, it intends to adhere to the time limits as strictly
19 as possible and notes that no time shall be ceded.

20 At this time, the Commission will consider any
21 preliminary matters. Give me a moment. I do have a preliminary
22 matter. Let me see if everyone who's on this preliminary that I
23 have is here. I'm going to ask that -- do we have -- Mr. Young,
24 do we have Maximillian Tondro from the Office of Attorney General
25 here?

1 MR. YOUNG: I do not see him on.

2 CHAIRMAN HOOD: Do you see --

3 MR. YOUNG: We have someone else from Attorney
4 General's Office on.

5 CHAIRMAN HOOD: Could you bring them up for me please?

6 MR. YOUNG: Yeah.

7 CHAIRMAN HOOD: Okay. I see we have Ms. Wurst from --
8 Noelle Wurst from the Office of Attorney General. Good afternoon,
9 Ms. Wurst.

10 MS. WURST: Yes. Good afternoon, Chairman Hood.

11 CHAIRMAN HOOD: Do you know if Maximillian Tondro is
12 going to join us this evening?

13 MS. WURST: He will not. We believe that we have, you
14 know, adequately had our concerns addressed by the breaking up
15 of this meeting into several hearings, so, at this point, we can
16 decline to comment more on that, not since we wouldn't like an
17 opportunity to, but, rather, I think you resolved the problem
18 here, so thank you.

19 CHAIRMAN HOOD: Yeah, yeah. So that was not actually
20 the issue. He had requested to come and say some things about
21 Jennifer Steingasser, so maybe he did it the other night, which
22 I was unavailable to make that. Vice Chair Miller, was he able
23 to make the event the other evening?

24 VICE CHAIR MILLER: I did not see him at the retirement
25 party.

1 CHAIRMAN HOOD: Okay. Well, you tell him I fulfilled
2 his request, but I'm sure he would have had something to nice to
3 say about Ms. Steingasser, and I'll just leave it at that. So I
4 wanted to make sure I acknowledged that before we got started.
5 Okay. Thank you.

6 MS. WURST: And I echo his, you know, praise of her
7 work so far, thank you, Jennifer Steingasser. It's been a
8 pleasure, you know, working with you, even indirectly, through
9 the works of the Zoning Commission. Thank you for all you've
10 done.

11 CHAIRMAN HOOD: Okay. Thank you, Ms. Wurst, for
12 stepping in for him and we appreciate OAG giving some accolades
13 to Ms. Steingasser, who are well deserved. I understand that the
14 event the other night was well attended, well done. People think
15 a lot of Ms. Steingasser and the work that she's done, and I will
16 continue to echo that. I apologize for not being there, but I
17 want to thank Vice Chair Miller for standing in on my behalf and
18 on the Commission's behalf. So we appreciate it, again, Ms.
19 Steingasser. I know a lot was said. You got your flowers, and
20 I know, you know, people will remember you for years to come, as
21 I stated, and I'm sure that the impacts you have made and the
22 planning you've done for this city -- when we're sitting there
23 enjoying this city, we will think about you as well. So, again,
24 congratulations, Ms. Steingasser, as you move on to bigger and
25 better things.

1 Okay. Mr. Young, you can take Ms. Worst down. Ms.
2 Worst, we'll see you shortly. Ms. Ackerman, I understand that
3 you are filling in right now.

4 MS. ACKERMAN: Yes. I'm just getting some notes
5 together right now. Okay.

6 CHAIRMAN HOOD: Okay. I don't necessarily -- I don't
7 think we have any preliminary matters, other than -- oh, we do
8 have --

9 MS. ACKERMAN: I'm checking.

10 CHAIRMAN HOOD: Okay. So are you ready to tee those
11 up for us?

12 MS. ACKERMAN: Somewhat. I might just be a little
13 slower than normal, yeah.

14 CHAIRMAN HOOD: That's all right. We got plenty of
15 time. We got until 12 o'clock. Psych.

16 MS. ACKERMAN: So at -- since the public meeting on
17 July 10th -- we are meeting for day one of six, and since that
18 meeting, we have an ANC report from 5F at Exhibit 10. Do you
19 want to start with the motion or did you want me to give updates
20 from the case on -- or the public meeting on July 10th?

21 CHAIRMAN HOOD: Give me a moment. I'm getting text
22 messages about things. Give me one moment please.

23 MS. ACKERMAN: Okay. All right.

24 (Brief pause.)

25 CHAIRMAN HOOD: Okay. All right. I'm sorry, Ms.

1 Ackerman. Let's go back to what you said. It looks like it's
2 going to be longer starting than probably the hearing. Go right
3 ahead, Ms. Ackerman.

4 MS. ACKERMAN: Okay. So, at Exhibit 10, ANC 5F
5 submitted a report in support. On October 28th, ANC 3/4G
6 submitted a request that the Commission delay the hearing to
7 another date by a few weeks. On October 16th, DDOT submitted a
8 report with no objection at Exhibit 16. At Exhibit 17, the Office
9 of the Attorney General, they supported amendments one, which was
10 the zone boundary line for Subtitle A-207. Let's see, at Exhibit
11 76, the Committee of 100 submitted a report -- or sorry --
12 submitted a letter in opposition. They also submitted another
13 letter at -- let me find it; I'm sorry. There's a lot in this
14 record today. Oh, Sharon's on. Okay. Well, I'll speak until
15 she gets settled -- 76 and 84. And then we also have an ANC
16 report from 5E at Exhibit 83A and 83, and that is -- Sharon, can
17 you hear us?

18 MS. SCHELLIN: I'm sorry. What was that?

19 MS. ACKERMAN: We're just going through all the reports
20 that have come in since July 10th.

21 CHAIRMAN HOOD: So we don't -- let me just say this.
22 Let me -- let me take it from here. We don't need to repeat
23 anything. I think we're good.

24 MS. SCHELLIN: Okay. Yeah.

25 CHAIRMAN HOOD: We want to address -- let me just let --

1 appreciate the staff. I just want to address the issue from ANC
2 3/4 -- 3/4G. I always have a problem with that --

3 MS. SCHELLIN: Yeah.

4 CHAIRMAN HOOD: -- but I do want to address it.
5 Commissioner -- Chair Gore, I appreciate -- and I don't know if
6 she's listening, but I appreciate all the work that the ANC has
7 done, and I appreciate their request to us. I think, from my
8 perspective -- and I'm talking to my colleagues now -- from my
9 perspective, there will be plenty of time to opine on this, and
10 I would -- I think that we need to move forward tonight. We
11 broke this up. We have made it easier for ourselves, at first --
12 to begin with, and also easier for the public. So I think that
13 we need to move forward.

14 And I will assure Chair Gore and ANC 3/4G and the city
15 that everyone will have an opportunity, if they wish, to be able
16 to give us their sentiments. And I think that showed the other
17 day, from another case that we had and what we did, that we
18 definitely take public input seriously, and we definitely value
19 it, and we definitely want it. So I don't have an issue with --
20 I would not honor this request from Commissioner -- Chairperson
21 Gore, but I respect what she's asking for, and I think that the
22 Office of Planning -- and I've worked with Mr. Lawson for years,
23 and I'm sure that the Office of Planning, whoever it may be, will
24 make sure that they go out and kind of explain what's going on
25 at the -- at the time that they have it. I do know that they

1 | have had many, many engagements across the city, and I'm not sure
2 | how -- maybe somebody was not available. I don't want to start
3 | speculating, but I know that the engagement will get done. So
4 | let me hear from my other colleagues. I am not moved to postpone
5 | it, because I believe there will be opportune time for everyone
6 | to be able to give us their input. Commissioner Wright.

7 | COMMISSIONER WRIGHT: I agree. I am not in favor of
8 | postponing at this time.

9 | CHAIRMAN HOOD: And Vice Chair Miller.

10 | VICE CHAIR MILLER: Yes, I agree with both of you and
11 | all the reasoning that you gave, Mr. Chairman.

12 | CHAIRMAN HOOD: Okay. So was that the only -- do we
13 | have another motion that I may have missed? I thought it was
14 | two things that I had to deal with.

15 | MS. ACKERMAN: No. The ANC submitted it twice. It's
16 | a duplicate. So that would be Exhibit 75 and 77.

17 | CHAIRMAN HOOD: Okay. All right. So I think we've
18 | expounded that. Do we have any other preliminary matters, Ms.
19 | Ackerman?

20 | MS. ACKERMAN: No, we do not.

21 | CHAIRMAN HOOD: Okay. All right. So let's bring up
22 | the Office of Planning. And, again, the format tonight is the
23 | introduction by OP, zone boundary line for a split-zoned lot,
24 | Zoning Administrator Flexibility, light poles for the District
25 | recreation facilities, and Green Area Ratio. Commissioner

1 Wright, I heard you ask -- I was coming over here -- I think you
2 asked for something from Mr. Lampert and Mr. Ritting. Do you
3 need that in advance or you want to wait to until hear it?

4 COMMISSIONER WRIGHT: No, no. It was really just a
5 heads up that some of the testimony and letters that have been
6 submitted raised some questions that I think we'll need to address
7 when it comes up .

8 CHAIRMAN HOOD: Okay. Thank you. All right. Office
9 of Planning, you may begin. Ms. Steingasser or Mr. Lawson. Can
10 we hold -- can we hold one second. I'm getting some last
11 minute -- okay. Let's bring Mr. Tondro up. I know he had some
12 work issues and I know he had expressed an interest to us that
13 he wanted to say something about Ms. Steingasser. Don't worry,
14 Mr. Lawson, believe us, your time is coming. All right. Mr.
15 Tondro. Mr. Tondro, you're on mute. We would really love to
16 hear what you have to say.

17 MR. YOUNG: It doesn't look like -- he's on mute now,
18 but he wasn't. He might need to change the microphone setting.

19 CHAIRMAN HOOD: Oh, okay. Yeah, he's still on mute.
20 Can you hear us?

21 MR. TONDRO: I can hear you.

22 CHAIRMAN HOOD: There you go.

23 MR. TONDRO: You can hear me now?

24 CHAIRMAN HOOD: Yeah, you're good.

25 MR. TONDRO: And, good evening -- good afternoon,

1 Chairman Hood and members of the Commission. Yes, thank you for
2 the opportunity. I just wanted to recognize Jennifer Steingasser
3 for her role, certainly, not only on behalf of the District, but,
4 also, in my life -- my experience working with her. I've very
5 much enjoyed that opportunity. I've learned an enormous amount
6 from her. I know that she has given a large part of her life
7 and has a serious -- made a serious commitment and done wonderful
8 things for the people of the District, and I just wanted to
9 congratulate her at this time, so thank you.

10 CHAIRMAN HOOD: Thank you.

11 MS. STEINGASSER: Thank you, Max. That's very kind.
12 Appreciate that.

13 CHAIRMAN HOOD: I'm sorry, Ms. Steingasser. I'm
14 thanking him like it was directed to me. So, Ms. Steingasser,
15 let me be quiet and let you say it again.

16 MS. STEINGASSER: I just wanted to say thank you. I
17 appreciate that. It very kind, and I appreciate those words.

18 CHAIRMAN HOOD: Okay. Good. Thank you. Maximillian
19 Tondro and the Office of Attorney General for coming on to say
20 that. We appreciate you all reaching out. All right. Okay.
21 Now, let me see where we are. Okay. So we will turn it over to
22 the Office of Planning at this point, Ms. Steingasser and Mr.
23 Lawson, and let you all proceed how you -- how you wish.

24 MR. LAWSON: Thank you, Mr. Chair and members of the
25 Commission and members of the public who are here for this hearing

1 tonight. Thank you, once again. My name is Joel Lawson. I'm
2 the Associate Director for Development Review here at the Office
3 of Planning, and I'm going to be providing the presentation for
4 the Office of Planning for this case. As you know, we're here
5 for the first of six nights of hearings on the omnibus text
6 amendment case. And thank you, Paul, for bringing up the
7 presentation. You can go to the next slide. I will say, before
8 I start, that I am having some trouble with my computer, so while
9 the presentation is on, I'm going to turn my video off, but once
10 we get into questions, we can try again and hopefully it will
11 work a little bit better.

12 So just to provide a little bit of background on this
13 case, for the sake of everybody, this case was set down for a
14 public hearing by the Zoning Commission at your July 10th public
15 meeting. At the hearing -- or sorry -- at that meeting, the
16 Zoning Commission provided instructions for how the public
17 hearing should be organized. Since then, of course, as you know,
18 the Commission decided to hold the hearing over six nights with
19 four items each night, and we've structured this presentation
20 accordingly. OP has also filed, for people's convenience, a
21 restructured, but otherwise completely unchanged OP report to
22 correspond to the order that the items will be addressed and the
23 hearing night when they will be heard. Again, this is for the
24 ease of use of the public and by Commissioners, and it's provided
25 at Exhibit 22. Again, it's exactly the public hearing report,

1 but restructured to be consistent with how the hearings are going
2 to be structured.

3 Next slide please. Just wanted to briefly, for the
4 sake of the public, touch on the timeline and the process for
5 this entire case for 22-12. The first -- the whole process kind
6 of kicked off, you know, certainly at the staff level, but then
7 really kicked off with the first ANC virtual open houses, which
8 were held in June of 2025, prior to the case being set down. All
9 ANCs were informed of those meetings and invited to attend, and
10 we had a pretty decent turnout and the discussion was really
11 great at those meetings. Videos of the meetings, by the way,
12 are available on the Office of Planning's website.

13 The Office of Planning report -- setdown report --
14 sorry -- indicated areas of the text that was proposed at the
15 time that had been informed by those discussions. A copy of the
16 setdown report was forwarded to the ANCs when it was filed, and,
17 since then, we've continued to receive comments from members of
18 the public and from sister agencies, and these, again, have been
19 incorporated into the revised text attached to the OP hearing
20 report. We've, more recently, held two additional ANC virtual
21 open houses on October of 2025, and that kind of brings us to
22 the righthand box on the -- on the slides, and that's the first
23 of the six public hearings, which is where we're at right now.

24 Next slide please. In terms of the objectives, what
25 we're trying to achieve through this amendment, each of one of

1 | these text amendments generally address one or more of the
2 | following main objectives. As with any Zoning Commission case,
3 | a primary objection is to address Comprehensive Plan policy and
4 | objectives, including ones to help address housing policy and
5 | equity issues, as will be discussed in a minute.

6 | There are also objectives to unnecessary barriers to
7 | housing, including the provision of processes for providing IZ
8 | units in all parts of the city, to add clarity to the zoning
9 | regulations, remove redundancies, and make the language a bit
10 | more consistent to make the regulations easier for residents,
11 | architects, and staff to use and interpret. We also are trying
12 | to ease administrative burdens for homeowners and property
13 | owners, as well as administrative burdens for the BZA, ANCs, and
14 | staff. We're doing this by trying to remove unnecessary hurdles
15 | and unnecessary review processes, which can greatly increase the
16 | time and expense for property owners trying to obtain permits.

17 | And, finally, of course, we're simply trying to update
18 | the 2016 zoning regulations, themselves, updating them to current
19 | regulation standards and practices within the city. As with many
20 | proposed amendments to the zoning regulations, we've tried to
21 | balance the desire to protect neighborhood and community
22 | character with the needs and aspirations of property owners and
23 | with the needs and wishes of homeowners to modernize their homes
24 | to current standards or update them to reflect changing family
25 | needs, whether that be a growing family or aging in place or

1 | intergenerational family living, whatever that may be, so that
2 | our residents can remain within the community. At the Office of
3 | Planning, we also consider potential future residents of the
4 | city. Are we providing an inviting and acceptable opportunity
5 | for them to become residents as well?

6 | Next slide. Various proposals that we're bringing
7 | forward were raised by different sources and sometimes by
8 | multiple sources. So, first of all, of course, there are a number
9 | of these that were requested by you, by the Zoning Commission and
10 | BZA members, usually through your comments and instructions to
11 | OP, as part of Zoning Commission or BZA hearings and
12 | deliberations. Other ones certainly come from DC agencies,
13 | including us here at OP, as well as Department of Buildings,
14 | Department of Transportation, Department of Parks and Recreation,
15 | and Department of Energy and Environment. Architects, designers,
16 | and builders, as well as their land use attorneys and traffic
17 | engineers and the whole teams that put projects together provided
18 | a great deal of input, which was appreciated. Some of them came
19 | directly from ANCs, themselves. And, finally, of course, many
20 | of them have come from homeowners and members of the community.
21 | Again, often that happened through the review of BZA cases.

22 | Next slide. I mentioned, of course, that any proposal
23 | before the Zoning Commission must be considered not inconsistent
24 | with the Comprehensive Plan, so our OP reports have provided that
25 | analysis against the Comprehensive Plan. We feel that the

1 proposals -- oh, sorry. And that includes when viewed through a
2 racial equity lens. The OP set down report and the hearing report
3 provide this analysis, but I'm just going to very quickly kind
4 of summarize some of the main points here.

5 Overall, the proposed amendments would specifically
6 advance policy objectives of the Comprehensive Plan, mainly ones
7 related to the main objectives noted on the last slide, removing
8 barriers to the provision of housing in all parts of DC, including
9 affordable housing; reducing administrative hurdles and
10 uncertainty; and making the regulations a little bit clearer and
11 easier for residents to use and staff to interpret and enforce.

12 The proposals do not include any rezoning of property
13 or substantial change to permitted use on any property, or height
14 or density beyond what is anticipated by the existing zoning.
15 While any one amendment could certainly have a significant impact
16 on a particular proposal or an individual property, either in
17 terms of the regulation, itself, or the process that the property
18 owner is required to go through, these are not typically major
19 moves that you would normally seek through a text amendment
20 process. They would, as I said, address some barriers to the
21 provision of housing, including, in some case, barriers to the
22 provision of affordable housing units consistent with the IZ
23 Program. They would reduce some impediments to creative building
24 design, the provision of outdoor space valued by neighborhoods
25 and by residents, and the provision of services throughout the

1 city. Finally, they would provide additional clarity to aspects
2 of the regulations and, again, remove unnecessary procedural
3 hurdles that plague -- that haunt residents and property owners
4 in all parts of DC.

5 Next slide. With respect to review of the
6 Comprehensive Plan, as discussed in the OP report, collectively
7 and individually, the proposed amendments would address policy
8 statements from multiple city elements of the Comprehensive Plan.
9 Again, that's spelled out in our reports, and we would refer
10 people to those, rather than go through all of this in detail.
11 The proposals do not generally target any specific part of the
12 city or address any area-specific Comprehensive Plan Area Element
13 policy objectives or specific guidance from approved Small Area
14 Plans from individual neighborhoods.

15 OP did not identify individual policies from the
16 Comprehensive Plan that would be significantly impaired by the
17 proposal, although a report -- the report, particularly the
18 hearing report by OP, notes a few policies that could be
19 interpreted as being not furthered by individual proposals, but,
20 even there, OP feels that this is significantly outweighed by
21 other policy statements in the Comprehensive Plan that the
22 proposal would be consistent with or further.

23 Next slide. With respect to racial equity analysis and
24 the review of the Comprehensive Plan through the racial equity
25 lens, it is really kind of difficult to determine the potential

1 impact of a series of discrete text amendments which do not
2 significantly impact use or building type reform. In general,
3 OP feels that the proposals should not result in direct or
4 indirect displacement of residents or businesses and, in some
5 cases, may make it easier for existing residents or property
6 owners to use or update their property in a way that is both
7 consistent with policy, consistent with intent of zoning, and
8 consistent with their desire to stay in the District. The
9 proposals would add clarity and certainty to the regulations,
10 which should also be of benefit to all residents of the city. In
11 summary, we do not anticipate the proposals would have a
12 significant impact on overall demographics in the city or on any
13 particular neighborhood or neighborhood type. Overall, they
14 could have some positive impact on equity throughout the city.

15 Next slide. Briefly touching on our outreach efforts,
16 as noted earlier, these proposals include ones that respond to
17 suggestions and comments made by ANCs, community groups and
18 individuals -- in other words, members of the public -- often
19 made through past BZA and Zoning Commission cases. On June 24th
20 and 26th, again, we held our virtual open houses -- our first
21 virtual open houses for ANC members. These meetings were intended
22 to provide advanced awareness of the text amendment proposals and
23 to solicit early feedback, and answer questions about the issues
24 and the proposed zoning. OP presented the proposals, including
25 the rationale for each, and provided opportunities for discussion

1 and comment. As a result of the ANC Commissioner feedback, OP
2 did amend the proposal, as discussed, as part of the setdown
3 report. A link to the OP setdown report was forwarded to each
4 ANC Commissioner prior to the setdown meeting.

5 OP held two additional ANC virtual open house meetings
6 on October 7th. Again, a video of the meeting was posted on the
7 OP website, along with the OP presentation we made to the ANCs.
8 Since then, there have been additional discussions with members
9 of the public and individual ANC Commissioners. At the time the
10 OP hearing report was drafted, some public comments had been
11 added to the record, and OP tried to address these comments in
12 the hearing report and, in a few cases, have recommended
13 adjustments and additional amendments, based on those comments.

14 Subsequent to the hearing report being filed, of
15 course, many more comments have been added to the record and we
16 expect many more will continue to be added. OP has reviewed the
17 record to about noon today and -- sorry, just lost my place --
18 the record includes comments of support from DDOT and OAG. There
19 are many public comments that have been filed in support,
20 particularly of the housing-related proposed changes that we'll
21 be dealing with in future hearing nights.

22 Other submissions offer support, opposition, and/or
23 suggestions for changes to the specific proposals. OP really
24 appreciates these comments, and we'll continue to monitor the
25 record. In some cases, OP will note a response tonight in our

1 verbal testimony, as we deal with each of the individual cases.
2 Of note, more recently, ANC 5B today filed detailed comments on
3 the proposed amendments, including support for the four cases on
4 the agenda today. The Citizens Association of Georgetown
5 submitted comments asking that any changes to BZA approvals not
6 apply to historic districts. OP notes that Old Georgetown Board
7 review or HPRB review in other historic districts would not be
8 impacted one way -- impacted one way or the other by these
9 proposed changes. OGB review is not triggered by a need for BZA
10 relief.

11 Next slide please. All right. So for the remainder
12 of this presentation, I'll provide a quick overview of the four
13 proposed amendments on the agenda tonight. Again, the OP hearing
14 report provides considerably more analysis of each of these
15 proposals, including more information on their origin, intent,
16 potential or intended impact, illustrations, and, in many cases,
17 analysis of past BZA cases.

18 The report also notes other proposed technical or
19 corrective changes to regulations otherwise being amended through
20 this process, things such as reordering or correcting references
21 or spelling mistakes. They're in the report, but I'm not
22 typically going to be addressing those in our verbal presentation
23 tonight. Again, for reference, OP has filed a reordered hearing
24 report to reflect the Zoning Commission hearing schedule. There
25 are no changes in that report, other than reordering, and it is

1 provided, again, for the ease of Commission members and members
2 of the public, as well as for me, who may want to refer to the
3 report as these hearings proceed.

4 Next slide. So the first of the four amendments to be
5 dealt with tonight relates to split-zoned lots. Typically, a
6 zone boundary line runs down the center line of a street or an
7 alley or some -- or often along a property line, but sometimes
8 the zone boundary line runs right through an existing property.
9 The current practice is certainly to try to avoid the creation
10 of new split-zoned properties, but they do exist in many parts
11 of the city.

12 Sometimes a building can be constructed with different
13 portions of the building conforming to the different zones for
14 where that property is located, particularly where both zones on
15 the property allow similar uses and densities. Sometimes it is
16 not possible, and this provision, the provision in the existing
17 regulations, is intended to provide the information needed to
18 help determine the permitted building bulk, density, and range
19 of uses permitted on that property.

20 So the scope of this change is that it would basically
21 apply to any split-zoned lot in the city. There are split-zoned
22 lots in many parts of the city, and they certainly occur
23 throughout different neighborhoods. The origin of this one was
24 mainly from staff, and a lot of it was based on recent BZA cases
25 and the administration of split-zoned properties. Issues, as

1 well as some -- in addition, some of the -- some of the changes
2 are -- some of the changes -- one of the reasons for bringing
3 this one forward is comments from property owners of split-zoned
4 properties and their representatives, again, often provided
5 during BZA cases. And the policy that we're addressing through
6 this one, we're trying to provide additional clarity to the
7 regulations, provide additional certainty to property owners, and
8 to promote the ease and use and administration of these
9 regulations.

10 Next slide. It is kind of a difficult provision to
11 kind of sort out. The wording is not the clearest in the
12 regulations right now. Again, we're trying to make it a little
13 bit easier to use, but we found that the best way to try to
14 understand what the provision is doing is to -- is to actually
15 walk through an example. So, in this example, there's a property
16 that's split-zoned -- a very simple property that's split-zoned,
17 MU-4 and R-2. The MU-4 portion is considered the less restrictive
18 or more permissive zone, and the R-2 is considered the more
19 restrictive zone. It allows less things, as well as less density.

20 The existing regulations first establish a by-right
21 process for allowing the transfer of some density from the more
22 restrictive, or R-2 zone, to the less restrictive MU-4 zone. The
23 building bulk allowed in the MU-4 portion cannot be extended into
24 the R-2 portion. Rather, the R-2 portion may only be used for
25 required setbacks, open space, and parking for the building. And

1 I think it's also worth noting that the transfer of density that
2 I mentioned that's allowed in the by-right process is only for a
3 portion of the R-2 zone. In this scenario, a portion of the
4 R-2 zone generates no density at all that the owner of the
5 property can use.

6 The regulations also provide a special exception
7 process that is a bit more permissive, albeit, again, a little
8 bit unclear. It allows the use and density of the less
9 restrictive zone, MU-4, to be moved onto a portion of the lot
10 with the more restrictive zone, the R-2 portion, limited to the
11 first 35 feet of the property within the R-2-zoned portion.

12 Next slide please. Anything, by the way, beyond
13 that -- beyond that special exception process would require a
14 variance from the provision, and there certainly have been a
15 number of cases that have gone to the BZA to do just that. So,
16 in this example, this is simply providing kind of a more -- a
17 better illustration of the by-right proposal -- or of the by-
18 right option and the special exception option under the current
19 regulations. In the by-right option, you can see the one-way
20 arrow of a little bit of density from R-2 to the MU-4A portion;
21 and, by special exception, a little bit of that bulk can be then
22 transferred onto the R-2 portion from the MU-4A portion.

23 Next slide please. So OP's proposal is mainly to
24 provide additional clarity to the existing provisions, but we are
25 proposing some additional flexibility, in terms of the amount of

1 density generated on the more restrictive portion of the lot, the
2 R-2 portion in the last -- in the example, for use on the less
3 restrictive portion of the lot, the MU-4 portion in the example.
4 We're also proposing to move this entire provision, which is a
5 little bit unusual, but it seemed that this was a provision that
6 was more appropriate to the general regulations provision,
7 rather, the administrative chapter, so we're proposing to move
8 it to Subtitle C, as a more logical place than Subtitle A.

9 So I mentioned BZA cases. There have been quite a few.
10 Most of them -- all of them have been approved, and half of them
11 actually -- there were ten in total, and half of them included
12 area variance relief to do something beyond what the special
13 exception process would allow. So the additional flexibility
14 that we're proposing is, rather than being allowed to move the
15 portion of the density from R-2 to the MU-4 portion from the
16 first 35 feet of the property, we're proposing to allow that for
17 the entire portion of the property zoned R-2. So, again, one of
18 the reasons for this -- and, actually, I'm going to try to get
19 into some of the comments that we got from members of the public
20 so far. The reason for this is we consider it fair, and we don't
21 know -- we couldn't quite understand why a property would have a
22 portion of the property that's rendered basically useless and
23 having no value whatsoever, even though it's taxed, just because
24 it happens to be split-zoned. So there were public comments, as
25 I mentioned, related to this proposal in the record, including

1 ones from land use firms, generally in support, but also
2 recommending additional changes. At this point, with one
3 exception noted on the next slide, which we're not ready for yet,
4 OP does not support those additional changes at this point. We
5 think that those additional changes would require additional
6 study and analysis.

7 The comments from the Committee of 100 also go into
8 some detail, and they're generally in opposition to the proposal.
9 Specifically, they first ask why OP would suggest the proposal
10 to allow more of the density on the less restrictive portion of
11 the lot to be utilized. Our response is that it is fair and it's
12 consistent with policy to do so. Under the current regulations,
13 a portion of the more restrictive area of the lot effectively has
14 no development potential at all and is not allowed to generate
15 any development potential at all. This, again, we feel is unfair
16 and is also contrary to policies to encourage appropriately-
17 scaled infill development, especially for the provision of new
18 housing. By limiting the bulk that's available -- or the
19 density -- sorry -- that's available from that low-density zone,
20 you're basically limiting the housing that can be produced on the
21 site.

22 They also asked why we're proposing to change the word
23 "bulk" to "density", and that is because, in our minds, the
24 provision, to us, is intended to address density much more than
25 bulk. The building bulk does not change under the existing or

1 proposed language, and this provision is dealing with density,
2 not bulk, in that it is clearly expressed in the provision,
3 itself, as Floor Area Ratio. In other words, the transfer from
4 the low-density zone to the -- or sorry -- the more intensive
5 zone to the less intensive zone is a transfer of FAR, even when
6 the less intensive -- or the more restrictive zone does not
7 typically have an FAR. The regulations establish what that FAR
8 should be.

9 Finally, the Committee of 100 is opposed to changes
10 related to removing redundant language for the special exception
11 process. Again, we consider that language redundant to the
12 special exception review process, and one intent of this case is
13 to remove redundancies like this to address Comp Plan policy by
14 streaming -- streamlining regulatory processes and minimizing
15 unnecessary burdens to property owners.

16 And next slide please. I mentioned that there was one
17 suggestion from law firms that OP is raising with you all as an
18 alternative. We're not particularly proposing this. We think
19 it adds merit, but we note that it wasn't advertised, and so
20 we're raising it with you as an option to consider. The split-
21 zoned lot provisions are intended to address existing split-zoned
22 lots, not to encourage new ones, obviously. The regulations,
23 therefore, include a clause that they only apply to lots created
24 prior to the adoption of the 1958 or former zoning regulations.
25 A suggestion was made to change this date to the date of the

1 adoption of the current regulations or to remove it entirely.
2 Again, we don't particularly feel strongly about this change, but
3 it has -- but it has been provided for an option for your
4 consideration. Changing the date altogether -- or sorry --
5 removing the date altogether is something that the Office of
6 Planning would not support.

7 Next slide please. The second of the four items for
8 tonight deals with Zoning Administrator flexibility in BZA cases.
9 The current regulations provide rules for how much zoning-related
10 flexibility the Zoning Administrator has when reviewing by-right
11 projects and ones subject to Zoning Commission and BZA orders.
12 The exact wording has resulted in administrative problems and
13 delays in permitting, particularly with respect to BZA cases.
14 Unlike a Zoning Commission PUD or design review case, the BZA is
15 typically not approving a project, as such, but, rather, relief
16 from specific regulations to a specific amount. Typically, the
17 plans prepared for a BZA case are not the more expensive and
18 detailed final construction set of drawings. Those level of
19 drawings tend to be created after the owner of the property has
20 received the assurance of the BZA approval of the relief that
21 they've requested.

22 The provisions that are in the current regulation are
23 not always very clear and can be difficult and, at times, very
24 contentious for the Department of Buildings to administer.
25 Uncertainty in Zoning Administrator flexibility can result in

1 additional unnecessary delays, as well as additional expenses to
2 homeowners and businesses. For this one, the scope -- again, it
3 would apply to property for -- throughout the city, specifically
4 ones for which a building permit is being applied for and mainly
5 ones that have received a BZA approval. The origin is mainly
6 from staff, as well as from designers, owners, and building
7 associate members -- association members who have had to go
8 through this permitting process and try to sort it out. The
9 policy direction that's being applied here from the Comprehensive
10 Plan is to clarify existing regulations, add procedural certainty
11 for property owners in the city, and to add ease of use and
12 administration to the regulations.

13 Next slide. So our proposal is to clarify and amend
14 the regulations, particularly pertaining to Zoning Administrator
15 flexibility for the review of permit plans, mainly for ones
16 subject to a BZA order. We're also proposing to streamline
17 reporting requirements, and we're proposing to add one additional
18 level of flexibility. This one is for front setback. The front
19 setback is a relatively new provision, and, when it was put into
20 the regulations, the regulations for Zoning Administrator
21 flexibility was not updated correspondingly.

22 So changes since setdown; mainly, the changes are
23 additional clarifications. OP has included two amendments
24 suggested by law firms, after discussing them with the Department
25 of Buildings staff. The first is to add pervious surface to the

1 list of issues for which the standard two percent flexibility
2 could be granted by the Zoning Administrator. We feel that
3 there's not a reason to exempt this provision from this standard
4 flexibility allowance.

5 The second is a modification to the Zoning Commission
6 order flexibility to remove a clause which is inconsistent with
7 the flexibility provided throughout the remainder of this
8 regulation and is both overly limiting and administratively
9 difficult to even determine, and, again, not consistent with the
10 intent of the provision itself.

11 The Committee of 100, again, has raised a number of
12 concerns, some of which I have already addressed in my testimony
13 tonight. They're also opposed to the proposal to not prevent --
14 or sorry -- they're also opposed to the proposal to not prevent
15 a change of use when the use is not the subject of the BZA relief,
16 arguing that this might impact external impacts. The Committee
17 of 100 is opposed to the flexibility proposed, related to front
18 setback. Typically, the flexibility is two percent, but we're
19 proposing in our -- well, when we looked at this, we looked at
20 how the front setback was determined differently from a normal
21 yard provision, such as like a side yard being eight feet. So
22 the two percent rule that's typical really didn't seem to work
23 administratively.

24 Every provision in the regulation is intended to
25 balance neighborhood character with the wishes of homeowners to

1 | update and modernize their homes to suit their changing needs
2 | without having to leave the District, and the front setback
3 | provision is no exception to this. So we feel that this
4 | additional flexibility is warranted for the rational and
5 | appropriate administrative process, but if the Commission wishes
6 | OP to revisit the amount of the flexibility in this regard, we
7 | can certainly do so. As noted in our report, we're proposing --
8 | rather than the two percent, we're proposing 12 inches of
9 | flexibility, and that is certainly something that we can take
10 | another look at, if the Commission feels that it should -- that
11 | that should happen.

12 | Finally, the Committee of 100 is opposed to the change
13 | in flexibility related to parking. Currently, the flexibility
14 | is two percent, which really doesn't work in most scenarios,
15 | because two percent of one parking space all the way up to 50
16 | parking spaces is less than one space. So that's why we're
17 | proposing that that be amended to two percent of the parking
18 | spaces or one parking space. We continue to think that that is
19 | an appropriate response and is similar to what we're proposing
20 | for flexibility from the number of units.

21 | And next slide. This one has certainly generated some
22 | conversation. Currently, light poles or standards for recreation
23 | and play fields are not specifically regulated in the zoning
24 | regulations, which has led to some uncertainty and has limited
25 | the ability of District agencies to provide for evening use of

1 | these desired resources. So the scope is that they would apply
2 | to District-owned recreation fields that are part of a public
3 | school or recreation facility in the R, RF, and RA zones in all
4 | parts of DC, so it's limited to District-owned facilities and
5 | it's limited to those zones.

6 | The origin; this one came from staff principally. The
7 | policy direction is to provide clarity to these regulations and
8 | to add certainty to the administration and to facilitate the use
9 | of District-owned recreation sites. There are policies in the
10 | Comprehensive Plan that specifically call out the need to make
11 | as much use of our District-owned recreation sites as possible.

12 | Next slide. So OP is proposing to amend the definition
13 | of "structure" to more clearly address light poles for public
14 | outdoor athletic fields by specifically regulating light
15 | standards to this height for athletic, recreation, and play
16 | fields on District-owned properties, public schools, rec centers,
17 | and parks without the setback. In other words, the light poles
18 | are currently allowed 90 foot of height under the current
19 | regulations, as long as they're set back one to one from the
20 | property line. We're proposing to allow that height without
21 | providing that setback. Part of this is to provide additional
22 | flexibility, obviously, to the placement of those lights, and
23 | certainly to provide more flexibility in how those recreation
24 | facilities are used. It's also, you know, honestly, to allow the
25 | light standards to face away from adjacent properties, rather

1 | than having to have them face towards adjacent properties. Of
2 | course, DC Department of Parks and Recreation guidelines for the
3 | design, placement, height, and orientation of such light poles
4 | generally intended to insure adequate lumination -- illumination
5 | of play fields for safety of the players, but also to minimize
6 | light spill onto adjacent neighborhoods, would continue to apply
7 | to any light standard that DPR provides. No change, by the way,
8 | is proposed for university or private school campuses. In those
9 | cases, they're subject to a Campus Plan review, and so that Campus
10 | Plan review would continue to assess the light pole standards.

11 | Since setdown, there have been some further amendments
12 | to the provision, as discussions about the proposed language
13 | continued, mostly with other staff and other agencies. The
14 | current proposal provides additional clarifications and include
15 | additional provisions identified for amendment, but also
16 | consistent with the original intent, as brought forward in the
17 | setdown and hearing report.

18 | OP is aware that there is an active appeal related to
19 | this case. At its meeting yesterday, actually, the BZA decided
20 | to postpone consideration of that appeal, awaiting additional
21 | guidance from the Zoning Commission through this case. The
22 | Committee of 100 has again indicated opposition to the OP
23 | proposed change. My understanding of their comments were that
24 | they -- that they feel that BZA review should be required for the
25 | light standards. There are other letters in the record as of

1 | about noon today -- there may be others since -- that also note
2 | opposition to the proposed change, also noting that a BZA review,
3 | as a special exception or a variance, is warranted.

4 | Next slide. And, finally, the fourth of the four
5 | tonight, Green Area Ratio or GAR is a relatively recent provision,
6 | and it addresses environmental building and site design. Much
7 | of the regulation deals with stormwater management. And the
8 | regulation actually predates a number of the changes that the
9 | Department of Energy and Environment has since instituted, you
10 | know, through other provisions and regulations that also regulate
11 | many of these -- many of these same issues. However, there's one
12 | issue with the current GAR provisions, that they require GAR
13 | review for projects that are for interior renovations of
14 | buildings involving little to no substantive external
15 | modifications to the building. This is not really consistent
16 | with either the description of IZ or the stated purpose -- or
17 | sorry -- of GAR or the stated purposes of GAR, and having to go
18 | through this process for those kinds of buildings can create a
19 | lengthy and expensive administrative process and burdens for
20 | applicants and review staff. So the scope is that it would apply
21 | only to interior renovations or alterations to existing
22 | buildings, except, of course, in the R and RF zone, where GAR
23 | does not currently apply. The origin is mainly from staff, but
24 | we also have heard from building industry officials and designers
25 | who noted this administrative issue. And the policy direction,

1 again, is really to remove regulatory burdens and to update
2 burdens for the updating or conversion of existing buildings, and
3 since those conversions are often to housing units, it's a burden
4 to the provision of -- the provision of new housing in the
5 District.

6 Next slide. So we're proposing to clarify that such
7 interior alterations would not trigger GAR. We're continuing
8 discussions with DOEE about these provisions, and discussions
9 with DOEE have helped to inform the current proposal that's before
10 the Zoning Commission tonight. As part of these talks with DOEE
11 staff, they also raised a couple of other more technical issues
12 to address; how GAR is calculated on split-zoned lots and
13 amendments to the list of certified landscape experts, to bring
14 that more up to date.

15 So the changes since setdown, there has been additional
16 clarification based on those further discussions with DOEE and
17 Department of Buildings, particularly related to the work that
18 could be completed for an interior renovation without triggering
19 GAR. And OP did not see any particular opposition to the -- in
20 the record, as of about noon today, to this provision. There
21 was certainly statements of support from some of the -- from some
22 of the commenters.

23 Next slide please. Just about done. So just a final
24 reminder of the four topics before the Zoning Commission tonight.
25 In summary, OP recommends these amendments as being consistent

1 with and furthering District policies outlined above and in more
2 detail in the OP reports. And thank you, and I'm available for
3 questions or comments.

4 CHAIRMAN HOOD: Thank you, Mr. Lawson and to the Office
5 of Planning. I think that was very well done, very well
6 presented to us. And as we were going through this and I was
7 thinking about how we first set out, and I want to make sure I
8 thank each and every person that made sure that we broke this
9 up. I'm not leaving nobody out. I'm a little more focused as I
10 get closer to things, and I know -- I think I heard Commissioner
11 Wright mention it earlier and others, but everybody, trust me,
12 thank you very much for helping us break this up so we can do
13 the exhaustive conversation which has been pointed back to me by
14 the Committee of 100 and Empower DC. So, anyway, it is what it
15 is. Mr. Ritting, you have something to say?

16 MR. RITTING: Yeah. I just popped up because Ms. Wright
17 asked a question earlier and I didn't want to let it go too far
18 without addressing it, so you can ask some follow-up questions
19 of OP. The question, as I understand it generally, was what's
20 the difference between bulk and density. And in the Committee
21 of 100 report, they distinguished the two correctly, I think, by
22 stating that bulk is sort of a broader definition, and it includes
23 concepts like number of units and FAR, but it also includes
24 concepts like lot occupancy and required yards. And the thing I
25 wanted to add to the discussion is that density is defined in

1 | the zoning regulations. It's at Subtitle B-301, as "Residential
2 | density is calculated as either the maximum number of principal
3 | dwelling units per lot in the R and RF zones, or by Floor Area
4 | Ratio in other zones." And then it goes on to say, "In other
5 | than residential zones, the density is calculated by FAR." And
6 | as I understood Mr. Lawson's testimony -- and maybe he can -- he
7 | can expand on this, if he sees fit, is that OP was making a
8 | conscious choice to substitute density for bulk, because of this
9 | more precise definition. And I think that concludes the comments
10 | that I have about it, and maybe that'll trigger Ms. Wright to
11 | ask a follow-up question of Mr. Lawson, or maybe that's enough,
12 | or maybe she has more questions for me, so I'll stop my video
13 | there.

14 | COMMISSIONER WRIGHT: No, I appreciate that. One of
15 | the things that I did want to make sure I understand fully is,
16 | with the transfer of density from the less-intensively-zoned lot
17 | to the more-intensively-zoned portion of the lot, all other
18 | requirements, such as height limitations, lot coverage, setback
19 | requirements, any -- if it's in an area where there are, you
20 | know, requirements to step a project, any of those still exist,
21 | that none of that goes away, even if it's a split lot and you
22 | transfer density from the less intensive portion of the lot to
23 | the more intensive. But I just wanted to verify, everything else
24 | is still in place, which is really -- are the elements that help
25 | to create the bulk of a building, you know, height, the setbacks,

1 any kind of stepping requirement, lot coverage; those are all
2 still in place, correct?

3 MR. LAWSON: You are absolutely correct, Commissioner
4 Wright. And if -- and to further -- you're right. So when that
5 density transfers over to the more permissive zone, the -- all
6 of the provisions, the -- as you said, the bulk provisions -- the
7 height, you know, the setbacks, the lot occupancy -- all of those
8 continue to apply. So this would be adding density within that
9 envelope that's already permitted, you know, in that zone. And
10 that was the reason that we felt that the word "density" made
11 more sense, rather than "bulk", throughout most of that
12 provision, because, you know, Mr. Ritting, you know, properly
13 noted the definition of density, and that density -- and the
14 Committee of 100 raised this as well, that in some zones density
15 is actually number of units; it's not, you know, regulated through
16 FAR. But the zoning regulations, themselves, specifically say
17 that for the purposes of interpreting this provision, it
18 establishes FAR for those low-density zones. It's pretty much
19 the only place where those FARs are utilized. And so, for
20 example, if you're zoned R-2, that generates .4 -- 0.4 FAR; not
21 a lot, but a little bit. And so that .4 FAR could be used on
22 the more permissive portion of the property, but within that
23 bulk. I should say that, within that provision, where it made
24 more sense to keep the word "bulk", particularly in the special
25 exception portion, where there was talk about allowing some of

1 that more bulk-related provision, how to address, there we left
2 the word "bulk", because it was talking about the building form,
3 as opposed to, you know, a more strict FAR discussion. Thank
4 you.

5 COMMISSIONER WRIGHT: Thanks. That's very helpful.
6 I'm just repeating it back, so I'm making sure I understand.
7 This particular provision of the code is literally talking about
8 the transfer of density. It is not implying that with that
9 transfer of density there is any change to the regulations on
10 building form that exists already.

11 MR. LAWSON: Yes. When we're talking about the by-
12 right scenario, that's absolutely correct. In the special
13 exception process that exists now that we're not proposing to
14 change, there is some ability to transfer a limited amount of
15 bulk -- actual bulk, the building form, from the more permissive
16 zone to a portion of the less permissive zone, but, again, we're
17 not proposing to change any of those provisions.

18 COMMISSIONER WRIGHT: And that would still be subject
19 to a special exception?

20 MR. LAWSON: Correct. Yeah.

21 COMMISSIONER WRIGHT: Great. Thank you. I think that
22 clarifies a lot for me. Thank you.

23 MR. LAWSON: Thank you.

24 CHAIRMAN HOOD: Commissioner Wright, do you have any
25 questions of any one of those topics tonight -- any other topics?

1 COMMISSIONER WRIGHT: My only other question was on the
2 light pole and the definition of "structure", I know that in the
3 staff report there's a reference to the Department of
4 Recreation's current, I guess, policy about light poles on public
5 recreation fields. I am assuming that is a policy that is created
6 by the Department of Recreation, but does not require a vote by
7 any public body; it is simply a policy that the Department of
8 Recreation develops and implements of their own accord; is that
9 true?

10 MR. LAWSON: I believe that is the case, yes. I think
11 that they administer that through their processes of establishing
12 what they would allow on District-owned property, yes.

13 COMMISSIONER WRIGHT: And do you happen to know -- and
14 maybe from the Department of Recreation is even here. I'm not
15 even sure. But in the existing policy that they have, do they
16 put limitations on how late at night the lights can be on and
17 what time they need to be cut off, and do they put language in
18 there about lights needing to have appropriate light shields to
19 direct the light downward and minimize the amount of light that
20 spreads to nearby neighborhoods?

21 MR. LAWSON: I have to tell you that I'm not an expert
22 on their lights, and I do continue to think it is appropriate
23 for them to be administering these things, but my understanding
24 is that it does include guidelines regarding to the form of light,
25 regarding the intensity of the light or the -- I think it's

1 (indiscernible) or, you know, the luminosity of the lights, as
2 well as shielding that should be installed on lights, depending
3 on exactly where it's being proposed to put. I think they also
4 have standards for different kinds of uses. Obviously, like, I
5 mean, their standards for, you know, a foot path would be very
6 different from their standards for, you know, a recreation field,
7 and so they're more encompassing, certainly, than what we're
8 proposing to address as part of this text amendment.

9 COMMISSIONER WRIGHT: Thank you. That's helpful to
10 understand. And that's it for questions, for me at least.

11 VICE CHAIR MILLER: Did we lose the Chairman?

12 COMMISSIONER WRIGHT: Yeah, it looks like he's having
13 some technical difficulties.

14 VICE CHAIR MILLER: Well, let's wait a minute. As Vice
15 Chair, I can step in, but I'll wait. Let's wait. Here he is
16 coming back.

17 MS. SCHELLIN: He had said earlier he may have to turn
18 his camera off.

19 VICE CHAIR MILLER: I'm sorry. Did you say something,
20 Ms. Schellin?

21 MS. SCHELLING: I think he's good. I think earlier he
22 may have needed to turn his camera off, so I think he's back.
23 Good.

24 COMMISSIONER WRIGHT: So, Chair Hood, I finished my
25 questions, if you're ready to get questions from other Commission

1 members.

2 VICE CHAIR MILLER: Well, that would be me, so I'll
3 take the opportunity to say thank you, Joel Lawson, for a very
4 comprehensive report, 90 pages for the entire omnibus text
5 amendment. And I agree with the Chairman that it is appreciated
6 that the suggestion came from the Committee of 100, Empower DC,
7 and others to break this up. I think it makes it much more -- I
8 mean, I think your presentation tonight was almost 45 minutes, I
9 think, and that was just on four topics of the 24. So it makes
10 it, I think, much more understandable for us, for you all to be
11 able to present it, and the public to understand it, for ANCs
12 and others to consider it, so I'm glad that we've proceeded in
13 this fashion, and thank everybody who worked and you all worked
14 to break it up into a way that was meaningful, that -- subject
15 matters that relate -- somewhat related to each other. So I
16 appreciate all of that. I --

17 MR. LAWSON: By the way, Commissioner, we concur with
18 that, so --

19 VICE CHAIR MILLER: Let me see if I have a voice. Hang
20 on. Hang on a second. Anyway, I -- sorry. Apologize for that.
21 I don't really have any specific questions. I think that it
22 might be helpful for the process, at some point, for -- I
23 appreciate all of the responses you gave to the -- to the -- why
24 you may have disagreed with some of the Committee of 100's
25 suggestions, for example, or why you maybe disagreed with some

1 of the land use law firms' suggestions.

2 I think it might be useful, at some point, to have a
3 matrix of your responses in a written form, so that we can -- we
4 and the public can digest that and review it when we get to the
5 time that we need to be reviewing this again, if we -- when we
6 get to deliberations, it just would help. Maybe you were going
7 to do this anyway, at some -- you probably were, at some -- at
8 some juncture. So I just think a written -- I think everything
9 you verbally said made a lot of sense, and the modifications that
10 you did -- that you have made, like changing the date for the
11 split-zone application of this from '58 to 2016, but there were
12 broader recommendations made by some of the land use law firms,
13 which your report says, if the Commission felt they had merit,
14 you -- it would require additional study and planning analysis,
15 and you -- again, OP could consider whether to come forward at
16 some future date with a standalone case for those more broad.
17 And I would -- I think that some of them do have merit, and
18 I -- the ones that you cited in your report, I think they have
19 merit and they're worth considering. And so if they require
20 further planning analysis at some future point, I think that
21 would be useful to have.

22 So I really don't have any specific questions at this
23 time, but after the public -- we hear from some of the public,
24 we may come back to you, I guess, but I thank you again. And
25 let me see where we are with Ms. Schellin and where the

1 Chairman -- is the Chairman trying to get back on or should we
2 go to the next District agency? Do you have any further
3 questions, Commissioner Wright? I mean, I'm sure Chairman Hood
4 has some questions, so we're going to have to, when he gets back
5 on --

6 COMMISSIONER WRIGHT: No, I don't have any additional
7 questions at this time.

8 VICE CHAIR MILLER: Okay. Well, I'm sure the Chairman
9 does, and he didn't really raise any specific ones yet, so we'll
10 wait for him to get back on. In the meantime, Ms. Schellin,
11 would it be appropriate to go to the Office of Attorney General
12 and any other District agency who is here to present verbal
13 testimony? Is that the order? I don't have a script -- any kind
14 of script in front of me.

15 MS. SCHELLIN: Yeah. I'll bring up the -- bring up the
16 Office of the Attorney General first, and if DDOT --

17 VICE CHAIR MILLER: Let's bring them up then. Let's
18 bring up OAG. Hello again, Ms. Wurst. We're glad to see you.

19 MS. WURST: Good evening.

20 VICE CHAIR MILLER: We appreciate the report that the
21 Office of Attorney General provided. I think you -- I agree, I
22 think, with almost everything, if not everything, that you stated
23 in that report, but please present -- I think you may have a --
24 do you have a PowerPoint presentation?

25 MS. WURST: Yes. I think it's going to be Exhibit 80.

1 VICE CHAIR MILLER: So maybe, Mr. Young, if we're able
2 to bring up the PowerPoint. Mr. Chairman, you're back. No?

3 (Office of Attorney General PowerPoint shared on
4 screen.)

5 CHAIRMAN HOOD: Hold on. I don't know what's going on.
6 It just cut off, so keep going until I figure out what's
7 happening. Just keep going.

8 VICE CHAIR MILLER: Okay.

9 MS. SCHELLIN: I was just going to say, Chairman, you're
10 a little bit -- your video is flashing a little bit, so maybe
11 it's your video. You might want to turn it off. I just noticed
12 it. You're clear right now.

13 CHAIRMAN HOOD: Yeah. Actually, I had it unplugged.
14 I don't know why I did that. I wasn't getting no power, so keep
15 going. I'm going to turn it off for a minute.

16 VICE CHAIR MILLER: Okay. We'll look forward to your
17 return. Ms. Wurst, you can proceed with your verbal testimony.

18 MS. WURST: Yes, thank you. So good evening, members
19 of the Commission. My name is Noelle Wurst. I am here testifying
20 on behalf of the Office of the Attorney General. As stated just
21 a minute ago, these slides can be found at Exhibit Number 80 --
22 that is eight-zero -- on the record, and our written comments may
23 be found at Exhibit 17.

24 So tonight we're going to be testifying specifically
25 in support of just a single amendment, but I also wanted to touch

1 on, you know, some of the broader conceptual and legal, you know,
2 aspects of this whole package of text amendments that we think
3 are worth noting. So we're going to be speaking on, you know,
4 those text amendments that we believe do a lot to support housing
5 and especially affordable housing production in the District, and
6 also those that produce those, you know, burdensome regulations
7 that impede the production of housing. And, if you note, both
8 of these goals are, you know, consistent with the Comprehensive
9 Plan's goals as well, and we think the cumulative impacts of
10 these are to, you know, remove disincentives to housing
11 development and also expand existing standards, so it'll allow
12 for a greater flexibility for, you know, landowners, homeowners,
13 as tailored to the District's housing needs and, of course, in
14 compliance with the Comprehensive Plan.

15 So next slide please. And here's a brief overview of
16 which amendments that we are going to be testifying and note that
17 the scope of our testimony in general and then on each night will
18 be limited to these. Tonight, we will be testifying, of course,
19 on the first amendment here, which seeks to remove the limit on
20 transfers of density on split-zoned lots, as OP mentioned
21 earlier.

22 Next slide please. Now, within the first proposed text
23 amendment here, we're going to focus on one of the particular
24 aspects of impacts of this, you know, which is essentially that
25 it eliminates this current limit on the amount of density that's

1 transferrable from usually a lower-density portion of the lot,
2 which tends to correspond with those that are more restrictive,
3 moving it to the denser portion of that lot, which also tends to
4 have fewer restrictions. So here we have a kind of bifurcated
5 diagram that demonstrates once that transfer of density happens
6 across a split-zoned lot, what happens to the lower-density-zoned
7 portion of the lot that can, of course, only be used for open
8 space, setbacks, accessory parking facilities; whereas, sort of
9 the, you know, remaining limits on the higher-density-zoned
10 portion of the lot is that it can still only be used in compliance
11 with various limits imposed by that zoning, including high FAR,
12 lot occupancy, and setbacks, you know, both the bulk and density
13 that, you know, the Commission and OP commented on earlier.

14 So I'll go ahead and move on to the next slide, because
15 here we have a graphical representation of what that could look
16 like. Here, we see a transfer of what would otherwise be
17 permitted in a lower-density zone in red to the higher-density
18 portion of that lot. And, of course, I have notated that there
19 would be no building on that lower-density portion of that lot.
20 It would be left for open space, as I mentioned earlier, and this
21 would ultimately create a bit of a smarter use of that density
22 and a little more flexibility and choice for that landowner here.

23 So this has two ultimate impacts here, which would be
24 to protect the lower-density-zoned portion of the lot with an
25 open space transition to a higher-density-zone. And, ultimately,

1 | what that does is, as I mentioned prior, it allows this landowner
2 | to concentrate the density that they receive otherwise by
3 | right -- there's no density created, so to speak -- onto this
4 | higher-density portion of that lot. And given that certain other,
5 | you know, zone limits will still apply, you know, such as bulk,
6 | height, setbacks, and what not, this will help create a more, you
7 | know, gentle use of density and also, you know, serve as a
8 | transition to other, you know, portions of the neighborhood and,
9 | ultimately, respond to the context of the neighborhood. What's
10 | the surrounding density? What are -- how are the surrounding
11 | buildings, you know, articulating their facades or their massing
12 | or otherwise using other physical features that would help
13 | increase the residential GFA here? That could be an additional
14 | bedroom; it could be, you know, a larger bedroom; it could be
15 | more space for other necessary parts of the building.

16 | So, ultimately, we see this as a very positive
17 | development, and, although OP notes that only a very few lots
18 | would be subject to this, because there are only a handful of
19 | lots that are split-zoned, we do see this as a positive way to
20 | allow landowners this additional flexibility and choice on those
21 | lots when this, you know, situation comes to be. Now, this is a
22 | very brief testimony by OAG tonight. I look forward to testifying
23 | again next Monday on additional text amendments, but, in the
24 | meantime, I'd be happy to take any questions you all may have.

25 | VICE CHAIR MILLER: Thank you, Ms. Wurst, for your

1 presentation and that graphic representation. It was helpful,
2 in addition to the graphic representations that we already got
3 from OP, so thank you for that. So you don't have any comment
4 at this time on the other three subjects that are -- beyond the
5 split-zone that are the subject of tonight's hearing, but you'll
6 be back on future subjects, which we look forward to; is that
7 correct?

8 MS. WURST: Right.

9 VICE CHAIR MILLER: Okay. All right. Well, thank you
10 very much for your testimony. Let me see if Commissioner Wright
11 has any questions or comments.

12 COMMISSIONER WRIGHT: No, I don't at this time, and I
13 thank you for your presentation. The graphic, in fact, was very
14 helpful, so thank you.

15 MS. WURST: Yes. Thank you.

16 VICE CHAIR MILLER: Chairman Hood, are you with us?

17 CHAIRMAN HOOD: Yeah, I think I'm back. I'm trying to
18 let my other machine charge up. I don't know why I disconnected
19 it, so that's another operator's problem. Send Archie over here
20 to help me. Let me just say, first of all, Ms. Wurst, I appreciate
21 your testimony. I appreciate the PowerPoint that's been
22 presented. I appreciate the input from the Office of Attorney
23 General. So I don't necessarily have any questions, but I will
24 say this though, Mr. Vice Chair, I do have questions for the --
25 I hate to go back, but -- you know what? I have --

1 VICE CHAIR MILLER: No, we said we would -- we said
2 we'd go back. We anticipated that, and Mr. Lawson standing by.

3 CHAIRMAN HOOD: Okay. I may cut off again, but let me
4 try it at least. And so that's -- is it all right to go back
5 now? Are we straight?

6 VICE CHAIR MILLER: Yep.

7 CHAIRMAN HOOD: Okay.

8 VICE CHAIR MILLER: Mr. Lawson, can you come back on,
9 or are you hear? Yeah.

10 CHAIRMAN HOOD: Thank you again, Ms. Wurst. And I'm
11 sorry I missed Vice Chair's comments. I heard Commissioner
12 Wright's. Let's go back to the split-zone, Mr. Lawson. I was
13 looking at the shifting of the density. Through all of these, I
14 want to make sure that we're not rewriting the policy. I heard
15 you mention policy. I don't know if that's me. Everybody else
16 is on mute. Okay. I know. Mr. Lawson, just mute for a second,
17 and then I'll mute when I get ready to.

18 Okay. Mr. Lawson, one of the things that I'm always
19 concerned about is making sure that we're not shifting policy by
20 trying to change our regulations and -- for example, we're
21 talking about shifting the density to a more restrictive use.
22 Expand on that a little more for me, because I followed your
23 exchange with Commissioner Wright, but I, too, have some of the --
24 I have a concern about shifting from a less restrictive to a more
25 restrictive use and what are the -- did we look at any unintended

1 | consequences?

2 | MR. LAWSON: Well -- thank you, Mr. Chair -- that
3 | aspect of the provision, of course, is existing, and we're not
4 | proposing to change that. The ability to shift some of the --
5 | and, in this case, we would talk about some of the bulk from the
6 | more permissive zone to the more restrictive one that exists in
7 | the current regulations. What we're proposing to change is kind
8 | of the opposite to that. And, by the way, that's the special
9 | exception process.

10 | The by-right process is the one that we're proposing
11 | to make some minor changes to, and, again, that process exists
12 | right now, so all we're doing is clarifying it. That's the one
13 | that allows that shifting of density from the more restrictive
14 | zone, the R-2 portion, to the less restrictive portion, the MU-
15 | 4, in the example that we used. And, again, there's no additional
16 | bulk being created here, and there is no additional density being
17 | created here. It's simply being allowed to move some of that
18 | density in a way that's appropriate for a development to move
19 | forward. So I don't -- I don't believe that there's any policy
20 | issues. I think there are certainly policy issues related to the
21 | need to clarify these regulations and, in some instances,
22 | potentially policy issues related to appropriate infill
23 | development and the provision of housing throughout the city that
24 | this change would help to further, albeit in a small way.

25 | CHAIRMAN HOOD: Okay. Thank you, Mr. Lawson. But I

1 think you said something that may be some of the pause that we're
2 getting to a certain degree. I know some of these, we're not
3 getting any pause, but it's like we're making it more a matter
4 of right. I'm trying to follow that. Because what I'm starting
5 to see, as a result of last week, I'm starting to see some of
6 the comments. People are concerned about being able to articulate
7 or being able to respond or being able to have engagement or
8 input in things that go on here, as far as zoning concerns, so I
9 just want to make sure that we're not moving too far, too much
10 to -- and I know that some of these things have been looked at
11 over a period of time, but I'm just concerned about making more
12 things a matter of right, especially as of last week. So, anyway,
13 you know what, I can put that in the parking lot for now.

14 Let's talk about the ZA flexibility, and soon I'll have
15 my other slide opened up. But I've always been -- had an issue
16 with the ZA flexibility. I'm trying to understand -- to me, when
17 I look at your PowerPoint, I don't know if that -- if that's
18 making it easier, the flexibility, or is that subjective, more
19 or less, because, you know, the ZA changes. I'm looking for
20 predictability. The ZA changes. One ZA may interpret one way,
21 and another ZA may interpret it another way. Am I losing -- am
22 I losing sight of what you're trying to achieve here?

23 MR. LAWSON: Well, I think the first thing -- thank you
24 for the question. I think the first thing we're trying to
25 achieve, again, is some additional clarity in the provision

1 | itself. I believe that the Zoning Administrator, because of the
2 | existing wording, has, over time, struggled with what the
3 | flexibility even is, and, even when there are interpretations
4 | about what that flexibility is, there are constant struggles and
5 | battles with property owners to try to get some clarification
6 | around how much flexibility the ZA has. So the principal thing
7 | that we're trying to do is to add that clarity to where that
8 | flexibility exists and how much it is.

9 | We're also trying to provide some consistency in that
10 | flexibility. So that's why some of the proposals to have
11 | provisions that would allow Zoning Administrator flexibility that
12 | we're proposing as part of this. If we're -- if we're going to
13 | have Zoning Administrator flexibility, for example, it makes no
14 | sense to not allow that same flexibility for something like
15 | pervious surface amount. Now, the amount of flexibility the
16 | Zoning Administrator has is very small; like, I mean, it's two
17 | percent, you know, so it's a rounding error, basically, on things,
18 | and it really is intended to address situations where, once you
19 | get into the permit drawings, you know, there's a difference of
20 | a couple of inches, you know. This is not major flexibility
21 | that's being proposed, in most instances at least. So we just
22 | think it's more appropriate that it be consistent and that it be
23 | a little bit spelled out, so that people understand where that
24 | flexibility is, how much it is, to avoid the constant arguments
25 | that I understand are currently happening with every single case

1 | about that flexibility and what the Zoning Administrator has and
2 | does not have, but -- you know, and, likewise, we're trying to
3 | make the regulations kind of make sense. You know, again, if
4 | there's going to be flexibility, flexibility of two percent of a
5 | unit makes no sense; two percent of a parking space makes no
6 | sense, you know. So we're trying to add -- you know, add that
7 | language that adds some kind of logic to the Zoning Administrator,
8 | so that the Zoning Administrator has the tools to administer it
9 | easily and less contentiously.

10 | CHAIRMAN HOOD: Okay. And we -- and I'm sure you've
11 | had many conversations with the ZA.

12 | MR. LAWSON: Yes.

13 | CHAIRMAN HOOD: Does the ZA have the staffing to be
14 | able to do it where we'll get to people in a reasonable period
15 | of time? I'm sure that discussion has come up as well.

16 | MR. LAWSON: Well, I think that's the issue, you know,
17 | that the current regulations are kind of obtuse enough or are
18 | indirect enough that it takes a lot more time than it should to
19 | even -- to even realize, you know, where the flexibility is and
20 | what flexibility is permitted. This is intended to streamline
21 | that process, you know, and provide that certainty to both the
22 | Zoning Administrator and to the people coming in to talk to the
23 | Zoning Administrator about where that flexibility is and how much
24 | it is. So this should, if anything, you know, ease that -- ease
25 | that time drain that can sometimes be necessary for these kinds

1 of interpretations. That's my understanding

2 CHAIRMAN HOOD: I want to thank you, Mr. Lawson,
3 because, as you know -- I don't know if you remember -- I've
4 always had a problem with two percent, and I'm glad that we have
5 now arrived at -- because I think I can deal with the 12 inches
6 more than the two percent, because I never understood the two
7 percent, and it's so abstract. My two percent may be different
8 from your two percent, so I get it, I get it.

9 Now, the light poles. I do know there was an appeal
10 yesterday on the BZA. You kind of mentioned that, that they were
11 waiting on our move. So if we were to go forward with what's --
12 well, maybe I better not ask the question that way, because I
13 don't want to cancel out whatever they're doing. But the light
14 pole issue would only be specific to public recreational
15 facilities; is that correct?

16 MR. LAWSON: That is correct. Public schools and
17 public recreational -- public recreation facility athletic fields
18 only.

19 CHAIRMAN HOOD: Okay. That's all my questions. It
20 looks like we're good on GAR. We have not gotten any responses
21 on that, at least -- or comments back, but we'll continue to
22 discuss that. Okay. Thank you, Mr. Lawson. Those are all my
23 questions. And, again, I apologize for whatever happened over
24 here, and I still don't know what's going on. Vice Chair Miller.

25 VICE CHAIR MILLER: Thank you, Mr. Chairman. Yeah, I

1 | just had a follow-up question to your question about the
2 | flexibility provisions. Can you respond, Mr. Lawson, to the
3 | Committee of 100's comment that the flexibility to allow a change
4 | of use in a previously-approved BZA order to a new matter-of-
5 | right use -- they expressed some concerns about that. I assume
6 | you read the letter. I don't know if I have to repeat what the
7 | concerns are, but can you respond to it somewhat -- I mean,
8 | verbally here, in addition to the written responses that I've
9 | asked for previously?

10 | MR. LAWSON: And, you know, I certainly don't want
11 | to -- the Committee of 100 has obviously put a great deal of
12 | thought into this, and so I don't want to certainly speak for
13 | them. And they're -- they'll be, I'm sure, here to talk about
14 | their provisions themselves. You know, again, I think it gets
15 | back to the nature of a Board of Adjustment case. And there are
16 | certainly some Board of Zoning Adjustment cases that are directly
17 | related to use -- you know, a special exception use or a use
18 | variance to provide a use. That's not where this flexibility
19 | would apply. This flexibility would apply to somebody who gets,
20 | you know, a rear-yard, you know, special exception relief or
21 | something, something not related to the use itself. And,
22 | evidently, this is a major issue, you know, once the Zoning
23 | Administrator's staff has to interpret these regulations and have
24 | to interpret how they apply to a project that's subject to a BZA
25 | approval. You know, again, unlike the Zoning Commission, where

1 | you, through what -- the work that you do, you're approving a
2 | project, you know, a PUD or a design review. That's a project,
3 | and it includes, you know, everything about it, including the
4 | use. A typical BZA case is not that. You know, again, you're
5 | approving; the BZA is considering approving a specific amount of
6 | relief from a specific regulation. They're not approving a
7 | project. And so allowing that additional flexibility just gives
8 | that flexibility that's not related to the BZA order to the person
9 | who owns that property. That's what it's intended to get at. I
10 | understand -- I have read the Committee of 100's concerns, and I
11 | understand their concerns, but this is the -- this is the
12 | proposal.

13 | COMMISSIONER WRIGHT: And if I can just -- again, it
14 | helps me sometimes to repeat back to make sure I'm understanding
15 | what you're saying.

16 | MR. LAWSON: Sure.

17 | COMMISSIONER WRIGHT: So if there was a BZA case that
18 | considered a specific use only allowed by special exception, that
19 | is the only use that would be allowed on that site, unless they
20 | went back to the BZA and got a different special exception or
21 | amended their existing special exception. So everything we're
22 | talking about, in terms of today's changes, does not affect that
23 | situation. What this does is, if there is a PUD with a retail
24 | use required and if they have put in a nail salon, but, for
25 | whatever reason, that nail salon goes out of business and they

1 want to instead put in a restaurant, both the nail salon and the
2 restaurant are allowed -- are permitted uses within the zone that
3 the PUD is in, and that would be allowed without having to come
4 back and amend the PUD. And this sort of clarifies that. Is
5 that what I'm understanding?

6 MR. LAWSON: Well, the provision that we brought
7 forward after our conversations with DOB really relates more to
8 BZA cases than the PUDs, but the concept is the same. If a BZA
9 case is approved and it's approved for, you know, a restaurant,
10 and somebody -- and the restaurant closes, and somebody wants to
11 put in a nail salon, then this would allow that to happen,
12 assuming that both of those uses are permitted within that zone.

13 COMMISSIONER WRIGHT: I see. So this would actually
14 change something that -- would -- but if the use had only been
15 permitted by the BZA through special exception, that would not
16 be pertinent -- that would not be allowed. But if the -- if the
17 special exception was for a project that had a retail use, even
18 with a BZA case, you could change that use without having to come
19 back and amend the special exception, again, unless the special
20 exception had been specifically to permit a use not normally
21 allowed in the zone. Is that correct?

22 MR. LAWSON: That's certainly my understanding, for
23 sure. And that's because the order that the BZA issues or that
24 the legal staff issues for that BZA case would be noting, you
25 know, what that use is. That becomes part of the approval.

1 Whereas, in a typical BZA case, the use is not part of the
2 approval; you know, the approval is for, you know, setback relief
3 or lot occupancy.

4 COMMISSIONER WRIGHT: Uh-huh. Thank you. That helps
5 me understand.

6 MR. LAWSON: Thank you.

7 CHAIRMAN HOOD: Okay. I'm going to -- I'm here --

8 VICE CHAIR MILLER: On the -- on the light pole issue,
9 just following up on Commissioner Wright's question, if you're
10 able to get from DPR, if they're not here, what policies they
11 have for District light poles -- at DC recreational facilities
12 is what we're talking about, and -- so it might be useful to
13 have -- to see -- it might be -- I would like to see -- I would
14 like to see what those policies are. I think the public would
15 like to see what those policies are. Maybe the public that is
16 adjacent to these fields with lights already is very aware of
17 what they -- of what they are, but I think it might be useful,
18 and to look at -- for you all to look to see if any of them should
19 be codified in this change -- should be in a zoning regulation,
20 whether it's hours of operation, the illumination shield to the
21 adjacent residential neighborhoods. I know -- and you noted that
22 different recreational fields have -- may have different policies
23 that -- I know I go by Guy Mason and it seems to be lit way
24 beyond -- for those baseball games, way beyond other places that
25 have -- may have lighting, and it may be because of -- and I

1 don't know what -- for what reason, but if you're able to get
2 that -- some of those policies -- or DPR can provide us with
3 those policies and you can look at them as well to see if any of
4 them should be codified in this -- in this zoning regulation or
5 some other zoning regulation.

6 MR. LAWSON: I can answer both of those right now. I'm
7 happy to reach out to DPR. I have seen some copies of
8 regulations, but I want to make sure that they're the current
9 ones, that they're up to date, so I'll make sure that they're
10 provided. As for the second part, OP would strongly oppose --
11 strongly oppose incorporating those provisions into zoning.
12 They're far too technical for the BZA to administer relief from,
13 and they should be administered through the normal DPR process,
14 so we would not be proposing any of those provisions to be wrapped
15 into the zoning regulations.

16 VICE CHAIR MILLER: Including operations of operation?

17 MR. LAWSON: Especially hours of operation, shielding,
18 illumination. That's outside the scope of what zoning should
19 normally be done, unless it's to review a Campus Plan, which is
20 why -- which is why we're not proposing to make changes for
21 private schools and universities, because those issues are
22 normally addressed there. Here, we've got DPR, who administers
23 those regulations, and they should be allowed to do that.

24 VICE CHAIR MILLER: I appreciate that response, and
25 we'll look forward to seeing whatever DPR produces for you.

1 MR. LAWSON: Thank you.

2 CHAIRMAN HOOD: Okay. Anything else?

3 VICE CHAIR MILLER: Thank you, Mr. Chairman. I'm done.

4 CHAIRMAN HOOD: Okay. Any other comments?

5 (No response.)

6 CHAIRMAN HOOD: All right. Let's go to -- and, again,
7 thank you. And if I go off again, Vice Chair, just keep it going.
8 I'll get back. And, also, I want to thank the Office of Attorney
9 General. I did hear most of your presentation, and I appreciate
10 that as well. Mr. Lawson expounded very well on a number of
11 submissions that we have with the ANC, but, Ms. Schellin, do we
12 have any ANC Commissioners present, or Ms. Ackerman?

13 VICE CHAIR MILLER: I saw -- I see a few of them in
14 the -- at least two of them in the attendees. I saw 6C there,
15 Mark Eckenwiler, and I think I saw 5F's Commissioner, who
16 presented -- sponsored one of the letters that -- resolutions in
17 our record.

18 CHAIRMAN HOOD: So, Vice Chair, when I ask those
19 questions, I usually already know the answer. So I want her to
20 just call them up and bring them up. I already know the answer.

21 VICE CHAIR MILLER: I do too. I was just -- since I'm
22 filling in for people who don't seem to be on the screen --

23 CHAIRMAN HOOD: I appreciate you helping me out.

24 VICE CHAIR MILLER: -- I thought I would fill in.

25 CHAIRMAN HOOD: You're right. I may vanish, especially

1 | if I don't have it plugged up, so, again, I need Archie over here
2 | to help me. All right. Ms. Schellin, can we -- or someone --
3 | can we bring up -- I see Mr. -- Commissioner Eckenwiler, and I
4 | think we do have some other Commissioners. While staff is working
5 | on bringing the other Commissioners up, let's go to Commissioner
6 | Eckenwiler.

7 | COMMISSIONER ECKENWILER: Thank you, Mr. Chairman.
8 | Just as a preliminary note, I am speaking in opposition, so I
9 | think I might be going out of order technically. I just wanted
10 | to make you aware of that. I'm happy to wait, if that's your
11 | preference, or go now.

12 | CHAIRMAN HOOD: You can go right ahead now.

13 | COMMISSIONER ECKENWILER: All right. Thank you. So
14 | one more preparatory comment. I realize I was before you and
15 | the other members of the Commission only three days ago, in
16 | opposition to a different text amendment. I do want to assure
17 | you -- I know you already know this, Mr. Chairman, but, you know,
18 | we are not reflexive in this. I will be back before you in the
19 | coming days with some affirmative unconditional support for some
20 | of the changes proposed in 25-12. It just happened that this
21 | one fell on the first evening. So if Mr. Young could put up my
22 | slides, I'd appreciate it.

23 | (ANC 6C PowerPoint presentation shared on screen.)

24 | COMMISSIONER ECKENWILER: Thank you, Mr. Young.
25 | So -- and you can -- you can go ahead and go to the next slide

1 here. This is about the light pole setback and elimination
2 thereof. I want to introduce you to Stuart-Hobson Middle School.
3 This is about a half-block from my house. It's in my Single-
4 Member District at 410 E Street Northeast, built just shy of a
5 century ago. And you can see there that the north third of this
6 city square, which the entire block is occupied by the school,
7 is a very, very nice turf field. I want to give you just a little
8 page of history, so you understand how this got there, because I
9 think it bears a lot on the question of this particular text
10 amendment.

11 Next slide please. So this is, as I say, very recent.
12 Up until 2008, that entire north lot was hardtop; it was asphalt.
13 And about a third of it, as you can see in the photo on the left,
14 was for staff parking, and the rest was striped out as tennis
15 courts, although the facilities were not really well maintained.
16 Come 2013, which was my first year as an ANC Commissioner, you
17 can see that parking had expanded to cover more than 50 percent
18 of that lot, and the remaining portion had a turf covering put
19 over the hardscape, so, nominally, an astroturf field, but really
20 quite dangerous, not at all safe for players.

21 The goal here -- and this was very much a widely shared
22 goal of the ANC, the -- you know, I, in person, the school, a
23 lot of people wanted to see something different. And how we got
24 to that field -- that really nice field that you saw there in
25 the first photo was a process. Because we had a shared goal, we

1 | were able to work through a number of challenges, including,
2 | well, where was staff going to park. That wasn't the only
3 | challenge, but we worked through those issues, and as a result
4 | of compromise and negotiation between the community, and
5 | especially the ANC, and DCPS, we created this gem, this wonderful
6 | thing that the students at Stuart-Hobson are now able to enjoy.

7 | Next slide please. But I want you to understand the
8 | context here. This field, which runs all the way up to the fence
9 | line, is surrounded on three sides by rowhouses. Every single
10 | building around it, other than the school, is a rowhouse. And
11 | if we zoom out, as you can see in the second photo, it's rowhouses
12 | as far as the eye can see.

13 | So ANC 6C, which had a unanimous vote to oppose this,
14 | has two different concerns here. One is about light pollution
15 | and spillage. We've heard a little bit about that, and
16 | Commissioner Wright and Vice Chair Miller have already touched
17 | on it. I can't find these DPR standards anywhere. They don't
18 | seem to be public. Second, even if they're wonderful on their
19 | face, as far as I can tell -- and Commissioner Wright touched on
20 | this -- I don't they're enshrined in law; they're just kind of
21 | optional. I don't want to dwell on it, but if you want to hear
22 | in Q-and-A, DPR has been an extraordinarily unreliable partner
23 | with respect to this specific field. And I will tell you a really
24 | bad story about how they were extremely unresponsive to a serious
25 | problem that we were having.

1 So trust DPR and their -- whatever light standards they
2 have, yeah, is not really an acceptable answer for my
3 neighborhood. But here's the thing that -- and this is
4 extraordinary to me -- that the OP report completely fails to
5 acknowledge. We are not talking about putting up a light pole
6 next to a foot path, as was adverted to earlier. The reason you
7 put up light poles on a field like this is so there can be games.
8 And when there are games, there will be noise. There will be
9 noise from spectators. There will be noise from the participants.
10 And DPR is not going to be able to regulate that, except as to
11 hours. And I have no idea, again, what rules they might have
12 or -- I'm -- honestly, I'm skeptical at the extent to which, you
13 know, they would take our input in determining how that should
14 be regulated.

15 And unlike light, where I think the impacts are likely
16 to be limited to people immediately across the street -- and I
17 just want to -- I want to add here, those streets on the left
18 and right -- 4th Street on the left, 5th Street on the right,
19 those are extraordinarily narrow. 4th Street is 34-feet wide.
20 I went out and measured 5th Street. It's about 31-and-a-half
21 feet wide. Mr. Chairman, I did just hit the five-minute mark.
22 May I continue for another couple minutes?

23 CHAIRMAN HOOD: Yes. We have -- I probably shouldn't
24 say this, but we have so few people, we want to get all your
25 input, so thank you.

1 COMMISSIONER ECKENWILER: That's great. I appreciate
2 your indulgence here. So, obviously, the -- you know, the
3 neighbors who live around this field hear a lot of noise during
4 the school day, and that just comes -- my view is, that comes
5 with the territory. The school is not -- it's not invisible.
6 It's not secret. It's been there for a century. Everybody who
7 comes here knows there's going to be daytime playground noise
8 from very, very boisterous middle schoolers, and that's just how
9 it is. But nobody is expecting nighttime games; nobody's
10 expecting tall light stanchions; and that is a whole different
11 thing that I think has serious potential to disrupt the lives of
12 neighbors -- as I say, not just the immediate neighbors, but that
13 sound is going to carry, partly because the school is right there.
14 It's a big sounding board, and it's going to project a lot of
15 that noise to the north. So the current process -- if this
16 school, or some school similarly situated, wanted to have 90-
17 foot-tall light poles and not set them back -- and, clearly, that
18 wouldn't be feasible with this field, you know, to have that set
19 back, but if they wanted to have those light poles, they would
20 need to go through a public process. The BZA would need to hear
21 from the community, would need to hear from the ANC, and we could,
22 in fact, work out with confidence -- assuming that, you know, we
23 could kind of get close to yes, we could work on, you know, what
24 the hours and days might look like. But if this amendment goes
25 through, as proposed, that compromise, that discussion, like the

1 | discussions we've had in the past that were successful, will not
2 | happen. It'll just go up, and the residents, you know, of this
3 | neighborhood will bear the brunt of whatever it is DPR is willing
4 | to allow to happen. And that is why ANC 6C ardently opposes this
5 | proposal. I'll also mention, it doesn't make any sense for, you
6 | know, there to be no review at all for public schools and, you
7 | know, the stringent Campus Plan review for, you know, private
8 | schools and universities. That's just kind of, you know,
9 | incoherent. I do want to add, you know, just for your benefit,
10 | if you look in the record, you'll see there are, I think, at
11 | least three letters from residents whose properties abut 5th
12 | Street, you know, right across the street from Stuart-Hobson, who
13 | are also in opposition, so it's not just me and the ANC talking.
14 | So I appreciate your indulgence, Mr. Chairman. I would be happy
15 | to answer any questions.

16 | CHAIRMAN HOOD: Okay. Thank you. Commissioner
17 | Eckenwiler, hold tight. I think we have -- let me see, there's
18 | another Commissioner on. Okay. Commissioner Henschman. And,
19 | also, I want to -- before I forget, I think Brian Blaesser -- I
20 | think he's a Commissioner too, I think. I know I read that he
21 | was representing someone, so I believe it's a Commission. And
22 | if anybody else is on that's an ANC Commissioner, please notify
23 | Mr. Paul Young at 202-727-0789, so we won't miss you. All right.
24 | Commissioner Henschman.

25 | COMMISSIONER BISHOP-HENCHMAN: Thank you, Mr. Chairman.

1 My name's Joe Bishop-Henchman, and I'm from ANC 5F. My name is
2 on the submission, but I do want to acknowledge and thank -- we
3 had a working group of community members that went through all
4 24 of the omnibus amendments and came up with what I think, at
5 least, are very concise statements of either support or support
6 with condition or opposition on each of them, and those have been
7 submitted to the record. And I think, for the most part, we're
8 going to stand on our written submission. I do want to speak to
9 number ten, when you get to that in a couple of nights.

10 On this one, the only comment I think I'll make, kind
11 of on my own initiative, is with respect to light regulation. We
12 actually encountered this in my District, which is ANC 5F06. We
13 about the rail line -- the Amtrak rail line, and Amtrak installed
14 a new light and -- in order to do some work on the -- on their
15 tracks, and that light was positioned and unshrouded, and it kind
16 of illuminated one of the apartment buildings. And we got a lot
17 of comments and stuff on it, and we were able to work with the
18 government regulatory agencies and the different departments,
19 brought in the Councilmember, and we found a shrouding solution
20 to that.

21 So, you know, I get that the circumstances around this
22 proposal are somewhat different from that, but, you know, just
23 to echo, I think, something OP said, which is not every failing
24 of a government agency is a zoning matter. So if, you know, DPR
25 is not regulating this properly or if -- you know, whatever agency

1 is in charge of managing recreation fields, there are solutions
2 out there, short of writing everything into the zoning code.
3 But, you know, generally, I think we'll stick to our written
4 submission on all of these, and thank you for hearing from us
5 tonight.

6 CHAIRMAN HOOD: Okay. Thank you very much. I was just
7 informed -- I knew I saw Mr. Blaesser's name. He is with the
8 Committee of 100. We will -- hold tight. We'll come back. Let's
9 go to the ANC Commissioners first, and I think we have
10 Commissioner Lohse on the telephone. Commissioner Lohse, if you
11 hit star six, we should be able to hear you.

12 COMMISSIONER LOHSE: Good evening, Chairman and
13 Commissioners, and apologies I'm on the phone. I have soccer
14 drop-off tonight, so I'm, you know, not able to be on the line.
15 I did submit comments, and I'm commenting on three of the areas.
16 And I do want to emphasize, similar to the previous gentleman, I
17 wish that tonight was not -- we -- there's a lot of this text
18 that we do not oppose, and these are areas where there are
19 concerns, and I'm speaking on behalf of my District.

20 So I'm going to first speak to the zone boundary line,
21 and I did hear the discussion earlier. I do not think the
22 language is clear enough, that there is not room for
23 interpretation, so I'm going to share my comments. And I did
24 hear Joel earlier, and I also heard the OG, but I want to share
25 what interpretations are occurring over here, including by

1 | the -- some people that live next to split-zoned lots. Rezoning
2 | of a lot or properties impacts the properties around them.
3 | Allowing a lot, by right, to change its zoning based on a sliver
4 | of the lot, without any ability for immediate neighbors to
5 | comment, could drastically impact the value and quality of life
6 | of many properties, residents, and existing businesses. For this
7 | level of zoning change, our city should not support a by-right
8 | amendment that removes the ability of property owners to comment
9 | on or find any mutually-agreeable terms between what is typically
10 | the applicant and the impacted parties. Some of the most critical
11 | cases of our ANC works -- work when a property owner wants to
12 | rezone a lot. Dialogue, discussion, potential terms, and, in
13 | some cases, zoning hearings are essential tools when such
14 | proposals emerge. Do not take away that process. Moreover, a
15 | change in the density, per the lot in the proposed text amendment,
16 | could translate, on a long-term basis, to what will or will not
17 | be allowed on the lot mass and size-wise or use-wise.
18 | Recommendation: Oppose. Rezoning of a lot should not be, quote-
19 | unquote, "by right", given every lot has neighboring lots with
20 | property rights and quality-of-life impact. And, Chairman, I
21 | don't know if you want me to read the other two now. What would
22 | be most useful for you?

23 | CHAIRMAN HOOD: I'm looking at your testimony now. You
24 | can do your whole thing, because you have everything that we have
25 | slated in front of us tonight, from what I'm seeing -- Zoning

1 Administrator flexibility. Yeah, you can go ahead.

2 COMMISSIONER LOHSE: Yeah, I tried to be -- yeah, tried
3 to be -- speak to what you -- how you had organized it.

4 CHAIRMAN HOOD: Excellent. Excellent.

5 COMMISSIONER LOHSE: And I do appreciate your staff
6 member, Ella --

7 CHAIRMAN HOOD: Okay.

8 COMMISSIONER LOHSE: -- She was very helpful. All your
9 people -- and Robert's always -- all your staff are great.

10 CHAIRMAN HOOD: Okay. Good.

11 COMMISSIONER LOHSE: So Zoning Administrator
12 flexibility. The desire to reduce red tape is appreciated.
13 However, allowing for the BZA to independently approve a two
14 percent change in design plans, quote-unquote, by right, without
15 any impact by impacted parties, especially in small lots or those
16 with architectural integrity, is not a reduction of burden, but
17 it's a lack of public input. Within ANC 2E, design plans are
18 almost always first approved by the OGB or HP and then go to the
19 BZA. As read, this proposal would mean no OGB or HP review of
20 the two percent design change. Recommendation: Oppose, quote-
21 unquote, "by right" for all historic districts. Should my
22 interpretation of the proposed text amendment be inaccurate,
23 submit a new description clarifying that, in fact, OGB would get
24 the final review/approval in the case of ANC 2E and that HP would
25 be the final review for other historic areas in our city.

1 This is the third one. And I know there is an appeals
2 case going on. I've heard all sides of it, and I'm contributing
3 to this, based upon that. 90-foot poles immediately adjacent to
4 neighboring property lines with no required setbacks will have
5 an impact on the neighboring properties. Support with condition.
6 Condition: When recreation facilities are located immediately
7 next to residential homes, there should be a dialog between the
8 city and the residential homes regarding the impact of the size
9 of the poles and their position in respect to the neighboring
10 residential properties. Working in collaboration makes for good
11 neighbor relations.

12 And then I just want to wrap up that this is a very
13 big omnibus, but I appreciate that many of the ANCs, both in --
14 there was one in Northeast, one in Northwest, wanted more time.
15 I understand that. And when you look across this omnibus, the
16 alley lot, and then, also, the rear-yard addition, there are some
17 crossovers, and there's even crossovers between the 24. And so
18 if there is any way that the OP could look at where those
19 crossovers are and how they could impact each other, it would be
20 very helpful to those of us who are just laypeople and volunteers
21 in our communities. So thank you very much.

22 CHAIRMAN HOOD: Thank you, Commissioner Lohse. If you
23 have a moment -- I know you're out at soccer -- I was going to
24 ask you about light poles out there, but I figured that wouldn't
25 be funny right now, so I won't ask about that. Let me ask this

1 question. Ms. Schellin, do we have any additional ANCs? Vice
2 Chair, I need your help as well. I don't see any. I don't see --
3 I think we're good. I think we've covered all of them.

4 MS. SCHELLIN: We have.

5 CHAIRMAN HOOD: Okay. All right. Let's see if we have
6 any questions of our ANCs, Commissioner Wright, on any of the
7 issues, any of the topics.

8 COMMISSIONER WRIGHT: No, I don't think so at this
9 time. I think the concerns that have been raised are legitimate.
10 I am a big fan of dialogue, but I also, you know, understand,
11 particularly on the flexibility, you know, two percent is a very,
12 very small change. You know, on a 500-square-foot addition to a
13 house, it's ten square feet. And, honestly, when you get into a
14 project and you're doing the construction drawings and you're
15 finding additional issues in the field, I guess, you know, the
16 two percent flexibility or the 12-inch setback flexibility, those
17 all seem pretty reasonable to me. I mean, I think, again, you
18 know, hearing from the ANCs -- (indiscernible) -- I take what
19 ANCs say very, very seriously, and I think that you've made a
20 lot of good points, you know, on many of these topics. The one
21 that I'm still struggling with a little bit is this -- is the
22 flexibility one, because, you know, I know that when one gets
23 into a project, changes occur, you know, and when one gets
24 approval and then does their construction drawings, issues come
25 up and changes occur. So the flexibility -- I know there has

1 | been some written testimony from some folks in the building
2 | industry saying it should be ten percent. I definitely don't
3 | agree with that, but I do think some flexibility is reasonable,
4 | and I think, you know, our job is just trying to make sure and
5 | figure out what the right percentage number is, what the right
6 | degree of flexibility is. So that was no question, just some
7 | comments.

8 | CHAIRMAN HOOD: Okay. Thank you.

9 | COMMISSIONER LOHSE: And I will -- I will
10 | emphasize -- and I appreciate that comment. It is -- there's
11 | a very big difference between large projects and smaller
12 | projects, and when -- especially when neighbors are right next
13 | door to each other, that the two percent could've been something
14 | they already discussed or was reviewed, so -- but I appreciate
15 | your comment. And I do want to say, with the split lots, we
16 | do -- I have spoken with neighbors that live next door to them,
17 | and they feel like their due process is being removed, and I hate
18 | to hear anything like that. So I'm sharing that, because I've
19 | heard it, just so you can think about those people that are right
20 | next door.

21 | CHAIRMAN HOOD: Okay. Thank you, Commissioner Lohse.
22 | Hold tight though. We still have two more Commissioners, myself
23 | and Vice Chair Miller. Vice Chair Miller, you have any questions
24 | of any of our ANC Commissioners?

25 | VICE CHAIR MILLER: Thank you, Mr. Chairman. I'm not

1 | sure -- I don't think I have any questions. I appreciate the
2 | representatives of ANC 6C -- I shouldn't start naming, because
3 | I'm going to get it wrong -- 5F, and 2E -- was that Chair Lohse
4 | from 2E?

5 | COMMISSIONER LOHSE: It is 2E. Thank you.

6 | VICE CHAIR MILLER: Yeah, I thought so, because we saw
7 | you -- I saw -- you were on recently. So appreciate all of your
8 | comments, and I agree that some good points were made; and
9 | appreciate, Mr. Eckenwiler, the visualization of the context of
10 | that field adjacent to the residential neighbors that you
11 | provided. I'm trying to remember whether -- so that field is a
12 | DPR field, not a -- it's not DCPS's field? I guess I do have a
13 | question for you. Is it a -- well, you don't -- I don't know if
14 | this -- and I don't know if this proposal would allow the light
15 | pole as a matter of right at either one or clarify that it's
16 | allowed as a matter of right at either one, because I guess that's
17 | why there's an appeal right now.

18 | COMMISSIONER ECKENWILER: So, Mr. Vice Chair, my
19 | understanding is that DPR manages permitting for that field, so
20 | it would be under their control and not DCPS. It's -- you know,
21 | it's fairly typical for the schools on Capitol Hill, in my
22 | experience.

23 | VICE CHAIR MILLER: Okay. Well, I thank you for your
24 | testimony, and I want to see the DPR regulations, if they exist
25 | in writing, and we'll hopefully get that from OP and maybe have

1 | some further dialogue about that.

2 | Mr. Bishop-Henchman, I appreciate 5F's resolution. It
3 | was very -- it was a very concise summary of all of the amendments
4 | that you -- that you were commenting on, and it helped me actually
5 | understand the amendments and beyond what I was already
6 | understanding from the Office of Planning and other testimony.
7 | It really -- you laid it out in a very informative way that helps
8 | us. You didn't have a comment -- you commented verbally on the
9 | light pole just now, but you don't -- did that resolution comment
10 | on that particular provision?

11 | COMMISSIONER BISHOP-HENCHMAN: I think our position was
12 | support on all four of the ones in front of you today.

13 | VICE CHAIR MILLER: Okay.

14 | COMMISSIONER BISHOP-HENCHMAN: You know, the -- these
15 | matters, they don't just go to you guys or to the BZA; they go
16 | to all of us as ANCs too, and so we're looking for ways to reduce
17 | some of the burden on easier cases. And, you know, I get you're
18 | getting -- you're going into some of the, you know, what-if
19 | scenarios, and that's certainly appropriate, but that's part of
20 | the perspective we came from. And I'll pass along your comments
21 | to the members of the community that helped prepare the documents.
22 | You know, I'm honored here to receive your thanks, but it's really
23 | on their behalf, so I will pass that along to them.

24 | VICE CHAIR MILLER: Well, thank you and the committee
25 | and the ANC and all of the Commissioners here today. Thank you,

1 Mr. Chairman.

2 CHAIRMAN HOOD: Thank you. I, too, want to thank all
3 of our ANC Commissioners, but I want to pull up Commissioner
4 Lohse, and I want to talk with Mr. Eckenwiler. So the reoccurring
5 theme I'm starting to hear, here recently, is don't take away our
6 voice, don't take away our input. That seems keep singing over
7 in my mind, and, actually, that's -- I used to say that all the
8 time; we need to not -- matter of right, when I first got on the
9 Commission, for me was a problem. I had to learn to understand
10 matter of right, because it took out the voice of people. Some
11 things are matter of right. That's just the way the system is.
12 But, now, Commissioner Lohse and them has -- have an example, Mr.
13 Eckenwiler, which I think would fit your area. I'm not sure how
14 that would be done. And the reason why I'm saying that is because
15 I, too, know of a recreation center which is done by -- which
16 actually is a DPR facility, but DGS handles the lights. So I
17 don't know if that's the case over there. It probably is. But
18 I'll tell you this, that what she has here says "Support with
19 conditions" -- "conditions"; "When recreation facilities are
20 located immediately next to residential homes, there should be a
21 dialog between the city and the residential homes" -- or, in this
22 case, the ANC -- "the impact of the size of the poles and their
23 position", kind of what you were saying -- that theme that you
24 were saying of how you all coordinated worked together and you
25 all came out with an outcome. Now, I know of another situation

1 | where there are no homes near, so this would be very apropos for
2 | that situation. So would you be amenable to that condition that
3 | Commissioner Lohse had recommended? And I don't know how it
4 | would all work? I'll leave that up to the legal folks. But
5 | would you be -- and if my colleagues accept it, would be amenable
6 | to that?

7 | COMMISSIONER ECKENWILER: Was that directed at me, Mr.
8 | Chairman?

9 | CHAIRMAN HOOD: Yes, yes, it was Commissioner
10 | Eckenwiler.

11 | COMMISSIONER ECKENWILER: So, honestly, I don't quite
12 | understand -- well, first of all, I disagree that it should only
13 | be where, you know, the lot lines are touching. You know, my
14 | constituents -- well, my former constituents now, who live on the
15 | east side of 5th Street, you know, there's a street in between,
16 | granted it's 31-and-a-half feet wide, curb to curb, but there are
17 | still going to be some impacts here and -- but, secondarily, I
18 | just -- I don't understand what that means, in terms of process,
19 | and I look to what we have today in the regulations, as OP has
20 | propounded them in this rulemaking. You know, they say, you
21 | know, if you want to, you know, get relief from this, you know,
22 | one-to-one setback requirement, then you presumably go to BZA.
23 | And so that is actually, in my mind, where the conversation occurs
24 | and where the assessment of the potential harms and mitigations
25 | should take place. So that's why I'm -- you know, I and my

1 | colleagues in ANC 6C would be opposed to this amendment, rather
2 | than supporting with conditions, because we've got a process now
3 | that allows for us to work through and attempt to resolve
4 | differences. And because, as I hope I illustrated, you know,
5 | with my slides, because we can, you know, very readily foresee,
6 | you know, some pretty significant impacts to neighbors, I
7 | would -- I would want to preserve that process before BZA. So I
8 | hope that answers your question.

9 | CHAIRMAN HOOD: Yeah, it does. What I'm going to ask
10 | the Office of Planning, because my scenario that I'm bringing up,
11 | Mr. Eckenwiler's scenario is very different from. And I know we
12 | can't write regulations specific, but there are some areas in
13 | this city -- and I'm going to say Fort Lincoln, because that's
14 | the one I deal with -- which is definitely would fall into this,
15 | but I don't want to take out those neighborhoods that Commissioner
16 | Eckenwiler's talking about. The dialogue, the one-to-one
17 | setback, I get that. So I'm going to give it to OP again to kind
18 | of look at both of those scenarios.

19 | While I know he doesn't favor -- Mr. Eckenwiler and his
20 | team does not favor the condition, I know the scenario, to me,
21 | does not apply to Fort Lincoln, and it would very fine with what's
22 | being proposed. But I also want to let everyone know this. Some
23 | of these measures, not just tonight, but these measures have come
24 | over years. We've heard from the community, Zoning Commission
25 | members, Office of Planning. You know, we got here. This is

1 years' worth of -- a track record of things that have went on,
2 and that's how we got this omnibus. The omnibus didn't just show
3 up. I'm not -- I know I'm preaching to the choir and everybody
4 knows this, but these are things that we've heard, some from the
5 public, some from developers, some from residents, and trying to
6 strike that balance -- and this is a prime example, Mr.
7 Eckenwiler's situation versus the situation at Fort Lincoln are
8 like night and day. No comparison. They're totally different.
9 Mr. Eckenwiler.

10 COMMISSIONER ECKENWILER: Thank you, Mr. Chairman. I
11 do just want to point out, I have no idea how Fort Lincoln is
12 zoned. This proposal, as I recall, would apply only to R, RF,
13 and RA zones, I believe. And I hope I said in my presentation --
14 if I didn't, let me just make clear, while we oppose this in
15 general, ANC 6E specifically opposes it as to RF zones; that's,
16 you know, rowhouse zones like, you know, my neighborhood.

17 CHAIRMAN HOOD: Right, and I get that. And I can go
18 to another one, which is Turkey Thicket, which has the same --
19 it mirrors exactly your neighborhood. I was just trying to stay
20 away from a mirror -- a one-to-one -- I mean, an apples-to-apples
21 example in that case. I get that, and the Turkey Thicket is
22 similar. So I'm just putting that out there for the Office of
23 Planning. I hear what you're saying, Commissioner Eckenwiler,
24 but I also know what's going on, to a certain point, in other
25 areas, and I'm just trying to figure out how do we make this

1 work; how can we achieve that without depriving your area or
2 making it a hardship on your community and also accommodating
3 another community. Sometimes it's hard when you balance that,
4 so I'm just going to leave it out there -- leave it right there.
5 My colleagues and I will definitely take heed to what everyone
6 has said. And I, too, want to thank Commissioner Henschman, as
7 well as Ms. Lohse. I did like the condition, but we got to make
8 sure it's apropos to what Commissioner Eckenwiler is saying and
9 try to strike that balance. That's where I am. And I definitely
10 do not like -- I never like taking away residents' input, because
11 I'm a resident too at the end of the day. All right. Any other
12 questions or comments of our ANC Commissioners?

13 (No response.)

14 CHAIRMAN HOOD: Okay. All right. Thank you all.
15 Appreciate your time. Ms. Schellin, let's go to who we have
16 next.

17 MS. SCHELLIN: Yes, sir. If we could bring up, based
18 off the list that Ms. Ackerman gave me, Brian -- I'm sorry. We're
19 going to go to support first. I'm sorry. Ms. Moldenhauer --
20 Meridith Moldenhauer. She's the only one I have registered in
21 support on the new list, but I will go to the other list just to
22 make sure. That covers everybody, actually.

23 CHAIRMAN HOOD: So is Ms. Moldenhauer the last person?

24 MS. SCHELLIN: No, she's the only one in support.

25 CHAIRMAN HOOD: Oh. Ms. Moldenhauer, you may begin.

1 MS. MOLDENHAUER: Okay. Good evening, Chairman Hood
2 and Commissioners. Thank you for the opportunity to testify. I
3 am here to support the proposed amendment clarifying the light
4 poles for recreation and school facilities that would be
5 permitted by right and remain by right, which is the status quo
6 as of today under the zoning regulations. Additionally, as noted
7 earlier this evening, I would just note for the Zoning Commission
8 I represent the intervenor, the Department of General Services,
9 in the pending BZA appeal 21314, and I'm here to share information
10 and background that I've learned in connection with that appeal.

11 I have reviewed numerous instances across the District
12 where light poles have not been treated as structures under the
13 zoning regulations. Images include in my presentation, which
14 is at Exhibit 26 of the BZA record -- the BZA record, not of this
15 record -- I can provide that if the Board would like -- if the
16 Zoning Commission would like -- show a range of athletic fields,
17 recreational centers, other public and private facilities on many
18 residential zones where lighting has been installed without
19 triggering zoning review. This visual record demonstrates a
20 longstanding and consistent permitting practice confirming the
21 by right status of recreational lighting in both of these areas.

22 Maintaining this approach through the proposed
23 amendment directly supports the District's ability to deliver
24 high-quality, safe, and inclusive recreational opportunities for
25 all residents. District's open spaces is infinite -- sorry --

1 is finite. In the District, we actually very limited open spaces
2 and to provide high quality and high value of these resources is
3 important. Our parks and recreational fields serve thousands of
4 residents, and the ability to safely illuminate these spaces is
5 essential for evening programming, youth sports, and community
6 events.

7 The proposed amendment provides clear and predictable
8 guidance by specifying that light poles are not considered
9 structures, except in limited well-defined cases, and by allowing
10 a light pole to serve the public recreational facilities and
11 school facilities to be installed up to 90 feet in height with
12 no required setbacks. This insures that these critical amenities
13 may be permitted by right, allowing the Department of Recreation
14 and the Department of General Services to maximize the utility
15 of these square footages and open spaces and to provide efficiency
16 for community needs.

17 From policy perspective, the amendment is consistent
18 with the Comprehensive Plan, and the Plan calls for the
19 improvement of outdoor recreational facilities, equitable access
20 to amenities, and the efficient use of public land. By
21 maintaining the by-right status for the recreational lights, the
22 amendment supports the objective of helping the District deliver
23 high-quality and safe spaces that are illuminated.

24 In addition, I'd like to note that in the appeal case
25 there, we do have -- we did have a reference letter of support

1 of the light in that case. I listened to the discussion tonight
2 regarding the request for a dialogue regarding light poles, and
3 I will say, anecdotally, that I have represented DGS, DCPS, and
4 DPR in multiple cases before the BZA for other areas of special
5 exceptions and relief, and I would note that, in all of those
6 cases, once I get involved, DPR and DGS and DPR have already
7 engaged extensively in ANC communication and community outreach.

8 I would also note that ANC Commissioner Eckenwiler is
9 in my neighborhood. We have friends who go to Stuart-Hobson, and
10 there are no lights on that facility, and I would anticipate that
11 obviously our agencies, DGS, DCPS, or DPR would be engaging
12 communities, as they did in the appeals case, four years before
13 the appeal was filed, in connection with outreach and
14 communication.

15 As noted in OP, I would concur that the amendment
16 maintains a robust protection for neighboring properties and
17 broad community outreach. All light installations also would
18 remain subject to DC building code, electrical, and construction
19 review. At some point in the future, if the Commission wishes
20 to explore additional guidance, I would also point them to
21 potentially jurisdictions such as Fairfax County and Montgomery
22 County, which provide way more detailed elaboration on light
23 regulations.

24 I would like to -- while my testimony is in support, I
25 would like to propose two minor recommendations. The definition

1 | currently references light poles. However, in our review, it
2 | should potentially maybe reference poles, to confirm that
3 | athletic netting or backstops are also not deemed to be
4 | structures, to insure, as we're trying to eliminate confusion,
5 | additional potential language regarding a recommendation that
6 | previously existing light poles or athletic poles or netting,
7 | providing that the light poles are permitted or existing before
8 | a date -- maybe today's date, October 30, 2025 -- that do not
9 | comply with the provisions of this section, may remain to insure
10 | that that language is there to provide clarity for those existing
11 | structures that do exist.

12 | Additionally, the reason for potentially having any
13 | issues with BHMPs, light poles already constructed may actually
14 | have never been reviewed or analyzed in regards to zoning height,
15 | so there may be potential issues when -- especially sites that
16 | are very -- have a lot of topography. I was with my daughter at
17 | a track practice at Banneker. Banneker has a very big topography
18 | from one end to the other. There are light poles there
19 | surrounding the track field, and so we would want to insure that
20 | there is some language that catches and protects those existing
21 | structures.

22 | For those reasons, I encourage the Commission to adopt
23 | the amendment as drafted or with the minor edits that I have
24 | discussed, and I'm available for any questions.

25 | CHAIRMAN HOOD: Okay. Thank you, Ms. Moldenhauer.

1 | Let's see if we have any questions or comments. Commissioner
2 | Wright.

3 | COMMISSIONER WRIGHT: Thank you. I appreciate your
4 | testimony. I really have not thought about the issue of
5 | topography, and that is another complicating factor, but I
6 | appreciate your viewpoint, and it gives me food for thought.
7 | Thank you.

8 | CHAIRMAN HOOD: Thank you. Vice Chair Miller.

9 | VICE CHAIR MILLER: Thank you, Mr. Chairman, and thank
10 | you, Meridith Moldenhauer, for your testimony here this evening
11 | and all of the comments by Cozen O'Connor on all the amendments.
12 | I'm still digesting them, but they're very thoughtful. Thank
13 | you.

14 | CHAIRMAN HOOD: I, too, want to thank you, Ms.
15 | Moldenhauer and Cozen O'Connor, as the Vice Chair's already
16 | mentioned. Appreciate all your comments for tonight. I got to
17 | take it one night at a time, so thank you very much. We appreciate
18 | that. Okay. Ms. Schellin, do we have anyone else who's here --
19 | let's go to opposition, and then undeclared.

20 | MS. SCHELLIN: Yes, sir. In opposition, we have Brian
21 | Blasher (phonetic) or Blaesser from the Committee of 100; Michael
22 | McDuffie representing himself; Gwendolyn Lohse has already
23 | testified. And then I'm going to move to our other list, just
24 | to make sure. Ryan Gafney (phonetic). How many does that give
25 | us? Is that four or five?

1 CHAIRMAN HOOD: We have three. We only have three.
2 Let's bring -- yeah.

3 MS. SCHELLIN: Okay. How about -- that's it.

4 CHAIRMAN HOOD: That's it?

5 MS. SCHELLIN: Yeah.

6 CHAIRMAN HOOD: Do we have any undeclared?

7 MS. SCHELLIN: We have -- Laura Richards was down for
8 Committee of 100, but their representative is -- for tonight is
9 someone else.

10 CHAIRMAN HOOD: Okay. So this will be -- this will be
11 our last panel. Let's go ahead and let's start with Mr. McDuffie,
12 and then we'll go to Mr. Blaesser. Hopefully, I pronounced that
13 right.

14 MR. BLAESSER: Yes.

15 MR. MCDUFFIE: All right. Thank you very much. My
16 name is Michael McDuffie. I reside at 3723 R Street Northwest,
17 and I'm here in a personal capacity. I'm also counsel involved
18 in the same appeal Ms. Moldenhauer is, but I'm here just
19 representing myself.

20 I think Commissioner Eckenwiler well-illustrated the
21 effects that high-mass lighting have beyond the bounds of the
22 property, including the potential for noise, light pollution,
23 parking and traffic issues, and view obstruction. And I think
24 that should be taken into account by the Commission in the way
25 that it treats these and whether there should be some requirement

1 | for more process, including through requiring either a special
2 | exception or a variance in order to erect such high-mass lighting.

3 | The other thing I'd quickly note is that the way this
4 | amendment is drawn up, it exempts lighting poles from being
5 | structures entirely in the R, RF, and RA zones. And so it seems
6 | like -- and I think the Committee of 100 may be able to speak to
7 | this as well -- that just anyone that's in those zones can erect
8 | 90-foot lights, because they're not considered structures
9 | anymore. And that seems to be a major problem in the way that
10 | the amendment's drawn up.

11 | Finally, I'd just like to emphasize again the comments
12 | of Commissioner Eckenwiler, with respect to engaging with
13 | District agencies. His experience reflects my experience as a
14 | resident. It's been very difficult to get clear guidance from
15 | DPR and DGS as to how lights will be used, which is very
16 | important, because that affects the neighborhood, when you --
17 | especially when you have properties closely abutting an athletic
18 | field. Thank you.

19 | CHAIRMAN HOOD: Okay. Thank you. Let's go to Mr.
20 | Blaesser.

21 | MR. BLAESSER: Yes. Chair Hood and members of the
22 | Commission, thank you for the opportunity to speak with you
23 | tonight. I am speaking on behalf of the Committee of 100, but
24 | I'm also a land use and real estate attorney, and I have a
25 | Master's in City Planning, so I've done a lot of preparation of

1 regulations. I've also done a lot of real estate development.
2 So that experience informs what I'd also like to say to you
3 tonight, consistent with, obviously, where the Committee of 100
4 is. I'll try to be specific to some of the points that have
5 already been made. I don't want to go through a -- simply a
6 recitation of what you already have. Let me speak, if I may, to
7 this question bulk versus density that Commissioner Wright was
8 concerned about. I would suggest to you that the two terms are
9 different, that what has been introduced with the proposed
10 amendment is going to create lots of interpretation problems.
11 The more specific definition of bulk is height, width, depth, and
12 overall shape or form, but density is primarily number of units
13 on a lot.

14 So let me suggest you could have the same FAR, but
15 different densities, and you could have the same density, but
16 different FARs. And so one of the reasons you bulk as a -- as a
17 standard or a concept is because you're concerned with the built
18 environment, and, in this case, as we're testifying tonight, how
19 that built environment is affected by bulk and whether you're
20 being consistent with or respectful of the character of a built
21 area or, obviously, even a neighborhood.

22 So I note, for example, Mr. Lawson mentioned that,
23 well, bulk is, in fact, a factor when it comes to these special
24 exceptions, which tells me that bulk is a more sensitive tool
25 when it comes to looking at something with a discretionary view.

1 | And what has happened here with the amendment is that no longer
2 | will that be a matter of looking at that particular concept, but
3 | simply exchanging it for the word "density". And I think it's a
4 | mistake, and the Committee of 100 thinks it's a mistake to
5 | substitute density for bulk.

6 | Let me move on to the issue of the special -- of the
7 | adverse impact standard. I would note to you that the -- again,
8 | the proposal is to change the special exception standard right
9 | now, which is in the split-zoned lot considerations, to the
10 | general special exception adverse impact standard.

11 | Now, the general one says that, "The proposed use will
12 | not tend" -- that's the word, T-E-N-D -- "to affect adversely the
13 | use of neighborhood property." But note the difference with what
14 | currently is there now, which says, "The extension shall have no
15 | adverse effect upon the" -- these are the two key phrases --
16 | "present character and future development of the neighborhood."
17 | So they're very different. I've drafted a lot of these kinds of
18 | special exception standards, and I think it's good zoning
19 | practice that you look to particular areas of your zoning
20 | regulations and say, in this case, if we're going to make
21 | decisions about something that may be more sensitive and more
22 | concern, we can have -- and be cross-referenced -- but we can
23 | have a different special exception standard for adverse impact.
24 | So I would urge you to not embrace for the sake of clarity, as
25 | OP has said, because it is not a redundant standard. It's quite

1 different, substantively, and I would urge that you recognize
2 that and not make the change that is being proposed.

3 On the Zoning Administrator flexibility question, a
4 general comment. My view and the Committee of 100's view is that
5 a lot of these flexibility -- and this goes to somewhat of what
6 you were saying, Commissioner Hood -- some of it is flexibility
7 for the sake of flexibility. And when you don't have any real
8 legal or planning basis for it, you invite abuses of discretion.
9 I've been concerned about that a lot from a legal standpoint, and
10 it's a situation where you don't want to suggest -- even though
11 you may talk about two percent and what seem to be minor changes,
12 where there's no opportunity for input. I noticed that Subtitle
13 A, Section 304-11, provides notice to all affected parties, but
14 if you no longer review of what the Zoning Administrator's doing,
15 you basically have neutered that provision, and I think it's very
16 concerning that that would be the case.

17 This question that the Zoning Administrator would
18 have -- or with the proposed amendment to change a by-right use
19 to another by-right use I think has problems for three reasons.
20 First, you could have another by-right use -- no one's saying
21 it's not by right, in the sense that it's in the zoning district,
22 but that use could still have impacts on parking, it could still
23 have impacts on traffic patterns, and greater burden on local
24 infrastructure. Again, understanding that there's no input on
25 this. The Zoning Administrator has no guidelines for really

1 making those decisions.

2 Second, you could have the -- the use could impose
3 impact on the character of a neighborhood. That means the type
4 and mix of uses that you currently have could be negatively
5 impacted by that use. You could impact sensitive areas, such as
6 schools or parks. And, also, there could be physical alterations
7 needed by the new use -- the by-right use; building additions,
8 new parking layout, and so forth. So giving the Zoning
9 Administrator unilateral discretion to make these changes without
10 notice to the public, I think it's bad zoning policy, and so does
11 C-100.

12 The ability to approve deviations from setback
13 requirements up to 12 inches, I appreciate that's a more numerical
14 concept and that's understandable, but, again, it used to be done
15 by variance, which is a protective mechanism for communities.
16 So, again, this -- it's important to recognize that it's
17 something that, again, takes the public out of the process.

18 The ability to increase Floor Area Ratio -- excuse
19 me -- Gross Floor Area as a percentage of lot occupancy without
20 having to justify it by structural or building code requirements
21 leaves it wide open, and what -- by what do you justify those
22 changes? Again, it's standardless; it's untethered to what would
23 be otherwise, at least, public input, if not specific standards.
24 When you -- when you delegate decision-making to an
25 administrative body, you have to give them some guidance, or you

1 | lead -- it leads to abuse of discretion. So I would point those
2 | out, and, also, the ability to increase the number of parking and
3 | loading spaces by more than two percent. Again, I understand two
4 | percent is not a meaningful concept, but, again, you could have
5 | the impacts on impervious surface, on neighborhoods with small,
6 | private driveways that all of a sudden find they're getting larger
7 | parking areas because these additional parking spaces are being
8 | approved unilaterally by a Zoning Administrator. So, again, you
9 | affect the neighborhood character. The light pole setback
10 | there's been so much spoken about, our main concern here is that
11 | we think there should be review - ZBA or BZA in the R, RF, and
12 | RA zones.

13 | That's -- I've tried to be very quick, because I know
14 | you've dwelled on a lot of this stuff, but I'm happy to answer
15 | any questions, but I do think that you need to think twice and
16 | think about this effort to try to replace density for bulk. It's
17 | a serious issue, and I don't think the -- you can say that density
18 | encompasses FAR, and for them to equate the two I think is not --
19 | it's just not good planning. Are there any questions?

20 | VICE CHAIR MILLER: No, I don't have any, Mr. Blaesser.

21 | CHAIRMAN HOOD: Okay. Good. Let's see if we have any
22 | questions for either -- for this panel. Commissioner Wright.

23 | COMMISSIONER WRIGHT: So I appreciated the comments by
24 | the Committee of 100. I think there were a lot of good comments.
25 | On this issue of bulk versus density, I'm still sort of wrestling

1 with that in my mind. What concerns me a little bit is your
2 statement that density cannot -- aside from everything we've
3 talked about, you just said moments ago density cannot be equated
4 to FAR.

5 MR. BLAESSER: It can't; it's related, but it's not
6 the same

7 COMMISSIONER WRIGHT: I mean, in most situations I've
8 dealt with, density is specifically expressed through FAR. And
9 I think when Mr. Lawson talked about some of the single-family
10 and rowhouse zones, he said they have a -- I don't know if it's
11 a formula or practice where they essentially assign -- that zones
12 equate to .4 FAR.

13 MR. BLAESSER: Uh-huh.

14 COMMISSIONER WRIGHT: and so they have a conversion
15 system for the single-family and townhouse zones. If they didn't
16 have that, I would be a bit more concerned. But if it's a matter
17 of simply shifting density, how would you do that, other than
18 through FAR?

19 MR. BLAESSER: Well --

20 COMMISSIONER WRIGHT: Again, let's leave out the issue
21 of bulk for a moment. How would you shift density, other than
22 through FAR?

23 MR. BLAESSER: Well, if density is really the number
24 of units on a lot or on a parcel, whether it's -- then you don't
25 have a very sophisticated tool for measuring what you're really

1 | doing when you shift density. And if you already have a bulk
2 | concern -- and I'm sorry to bring bulk back, but I don't think
3 | you can have the conversation separate in this way. I think if
4 | you have the issues of bulk in a particular -- in a split lot --
5 | split-zoned lot and you ignore that and you simply say we're only
6 | going to be concerned about density, what you're really doing is
7 | talking out half the consideration. Why should not there be a
8 | consideration, as it's been in this regulation in the past, for
9 | those considerations of height, width, depth, overall shape and
10 | form; why should you ignore all that?

11 | COMMISSIONER WRIGHT: Well, actually, that had been my
12 | question at the -- at the outset. So if you have a proposal to
13 | shift density, as expressed through FAR -- and, again, there's a
14 | formula that the -- it seems like the District Office of Planning
15 | has for how to calculate, rather than unit number in the single-
16 | family and rowhouse zones, they calculated as .4 FAR. I don't
17 | know how that number has come about, but it sounds like that is
18 | an accepted number that's been used.

19 | So, if you have that and you move .4 FAR of density
20 | onto the other part of the lot, that doesn't guarantee, as I
21 | understand it, that they will be able to use that density,
22 | because you still have to go through the approval of height,
23 | setback, you know, if there's something in the zone about
24 | stepping, you know, a 90-degree plane from, you know, adjacent
25 | lower-density neighborhoods, whatever the other kinds of form-

1 based criteria that are on that higher -- more permissive,
2 higher-density, whatever part of the lot --

3 MR. BLAESSER: Right.

4 COMMISSIONER WRIGHT: -- none of that goes away. You
5 still have to adhere to all of things at; at least that's what I
6 understood Mr. Lawson saying. So, if that's the case, then I'm
7 less concerned about a literal discussion of an apples-to-apples
8 transfer using FAR to be clear what the density is that's being
9 transferred, but only if all of the form-based requirements of
10 the zone are still in place. And it may be that once you try to
11 fit that additional density onto the more permissive side of the
12 lot, you're not going to be able to -- it might be that you're
13 not going to be able to fit it, because of the other form-based
14 criteria.

15 MR. BLAESSER: Uh-huh. I would -- I take your point,
16 and I would suggest that the Commission, at least, ask for a
17 better demonstration from staff as to how this really would apply,
18 not simply allowing for the substitution of terminology, and then
19 have them assure you, don't worry, everything else will be
20 according to the District or whatever. I really think that
21 without a demonstration of that, it's not something I would think
22 you'd want to sign off on. And if they can demonstrate that,
23 then we maybe have a different conversation. But the concepts
24 are related, but they are different.

25 And so merely for them to say, well, this equals that --

1 density equals FAR of .04, you know, you are -- you are mixing
2 and matching, and if that gives you confidence or comfort just
3 because they describe it in terms of FAR, I would simply urge
4 you not to be comfort yet -- comfortable yet, until you see a
5 demonstration, and maybe they can provide that, and then we all
6 have that discussion again. But it does not seem, to me, helpful
7 right now with what they've done and I think will lead to a lot
8 of interpretation questions without a better demonstration.

9 COMMISSIONER WRIGHT: Okay. Thank you. That was really
10 my only point that I wanted to talk about in more detail at this
11 time.

12 CHAIRMAN HOOD: Okay. Thank you. Vice Chair Miller,
13 you have any follow-up questions or comments?

14 VICE CHAIR MILLER: I don't have any questions, Mr.
15 Chairman. Thank you. I thank each of the witnesses for your
16 very thoughtful testimony and for your being here today.

17 MR. BLAESSER: Thank you.

18 MR. MCDUFFIE: Thank you.

19 CHAIRMAN HOOD: I, too, want to thank you both for
20 coming down and giving us your -- or all of you all for coming
21 down and giving your testimony. We will definitely do further
22 discovery and examine, as we go through this process, so thank
23 you all very much. And I'm sure I'll be seeing you at our
24 other -- some of our other hearings as well, so thank you both --
25 I mean, thank you all. I'm not sure if I covered everyone, but

1 | thank you.

2 | MR. BLAESSER: Thank you to the Commission. Thank you.

3 | CHAIRMAN HOOD: All right. Ms. Schellin, I think we
4 | have been through everyone, correct?

5 | MS. SCHELLIN: That is correct.

6 | CHAIRMAN HOOD: Okay. All right. Colleagues, I know
7 | we've got some things that we're looking at. I do want to propose
8 | this. Let me pull this up. And I'm not sure where we are, and
9 | I tried to look through and I'm sure we all have looked through
10 | any other comments. One of the resounding themes that I saw a
11 | lot of support for, and it was mentioned by Mr. Lawson, was the
12 | GAR. Is there any unreadiness, when we vote, because it's a two-
13 | vote case, to try to take some of that off our -- us, when we're
14 | getting ready to deliberate? And I think there's plenty of
15 | support for clarification and taking the burden off the homeowner
16 | on the GAR. Any objections to us moving forward or would you
17 | all rather wait and do that later?

18 | VICE CHAIR MILLER: I haven't heard any concerns about
19 | that either. I'm not sure we should take proposed action on one
20 | tonight. Mr. Ritting is here. Maybe he wants to say something.

21 | MR. RITTING: Yeah. The practical consideration that
22 | we have is that if you take proposed action on just that piece,
23 | then we've got to do a separate proposed rulemaking notice for
24 | just that one, and then a separate one for the rest of the other
25 | four, and we're already looking at six different proposed

1 rulemaking notices, and very quickly we're going to exceed our
2 capacity to get these done in time. So, accordingly, we'd request
3 that you don't -- you don't break it up any further, so we can
4 have some time to get these issued.

5 CHAIRMAN HOOD: And I appreciate everybody -- us
6 putting everything on everybody else, and we're being considerate
7 of everyone else's time, but I'm being considerate of our time
8 and what we're thinking. So I appreciate everybody else. I
9 don't know if we need to advertise that right away. Can we not --
10 Mr. Ritting, can we not hold that in abeyance until we deal with
11 the other three? Because what I'm trying to do is take stuff --
12 and this is why we even broke this up -- take stuff off of us,
13 and that's what I'm trying to do.

14 MR. RITTING: Sure, I get it. And the answer is yes,
15 we could -- we could just not issue a separate rulemaking notice
16 for that piece until later. There's always a risk that -- you
17 know, that this could get delayed further and then it would get
18 more confusing, but, sure, we could do that.

19 CHAIRMAN HOOD: But the GAR would be off our plate.

20 MR. RITTING: Correct.

21 CHAIRMAN HOOD: Because by February, I will have
22 forgotten -- well, anyway, I'm sure -- I'm not -- I know I'm not
23 the only one, but I'm just trying to make it easier on my
24 colleagues. There's only three of us as well. And, again, Mr.
25 Ritting, no more work on you all and no more work on us, so --

1 VICE CHAIR MILLER: Mr. Chairman --

2 COMMISSIONER WRIGHT: I think it would be great if we
3 could put to bed the non -- what seems to be the noncontroversial
4 element, even if we take a vote tonight but then we hold off --

5 CHAIRMAN HOOD: Right.

6 COMMISSIONER WRIGHT: -- on the second vote or whatever
7 we need to do for the second vote until we have the other elements
8 complete, but, at least, take a little bit off our plate.

9 CHAIRMAN HOOD: That was my objective, and I -- and we
10 would not put no more on Mr. Ritting and our zoning legal team,
11 because they can hold it, unless there's something legally that
12 I don't know about. Vice Chair Miller.

13 VICE CHAIR MILLER: Yeah. My concern is, isn't the
14 record on everything on 25-12 open? We may get ANC comments.
15 You know, we only heard from three ANCs or four ANCs so far.
16 People are reading through all of the -- even though we're not
17 going to have verbal testimony, isn't the record still open on
18 the entire case and people might submit something and -- I agree
19 that it seems like a non-issue and a real -- just an easy
20 clarification, but -- and -- so I think -- we could put it in one
21 of your easy parking lots until we get something that maybe we
22 hadn't thought about, and then we should think about it.

23 CHAIRMAN HOOD: And this is a two-vote case. We usually
24 revisit all this on the second vote, so we'll have another bite
25 of the apple. I was just trying to dispel some of what we will

1 go through when we start going through this. And if you all
2 remember, we did this once before, something similar some years
3 ago. I can't remember exactly how we broke it up, but we did
4 something like this to ease the burden. So, I mean, you know --
5 you know, if we have to, just remember when we deliberate, you
6 got to remember what's going on with this, because it's going to
7 be quite a bit that we -- of main, specific intense, intense
8 issues, like the light pole and the bulk and the density. And
9 I'd rather focus our attention on that and deal with it, because
10 here's the other thing. This stuff has been out there for a
11 while. It didn't just get out there. And, remember, we were
12 going to hear it all in one night. Well, it probably wouldn't
13 have been one night. We were going to hear it all in plenty of
14 nights. So people have had a chance, and, again, they have
15 another bite of the apple. But, if you all want to, and it seems
16 like we don't have -- we don't have three that want to move
17 forward, we'll just leave it -- leave it there for the
18 deliberations at a later time.

19 COMMISSIONER WRIGHT: Well -- and I think we can,
20 basically, make sure it's pretty clear on the record. I mean, I
21 don't -- I don't think we have a technical ability to do straw
22 votes, which in other jurisdictions, you know, is what they would
23 do, but I think what we can put on the record is that, at this
24 point, it seems like the three members in attendance tonight
25 don't have a problem with the GAR portion of this proposed text

1 amendment. And, you know, when it does eventually come up, we
2 don't have to talk about it; it just gets included in, you know,
3 whatever final action we take on this text amendment.

4 CHAIRMAN HOOD: Okay. You know what? I'm not going
5 to spend -- I'm not going to spend three hours on GAR, because
6 it's really -- I don't even think the record even reflects three
7 hours' worth of work. So what we'll do -- and I accept -- I
8 think we can accept what Commissioner Wright said when we get to
9 that point, if that's still an issue, and then people will have
10 another bite of the apple. And if we see something that comes
11 up, then we'll deal with it. So we will just postpone that idea,
12 because there are a lot of -- a lot of things in this omnibus
13 that are not controversial, and I was just trying to dispel and
14 get rid of those, but anyway. All right. Ms. Schellin, do we
15 have anything else?

16 MS. SCHELLIN: Can I just say something -- one thing,
17 based off of prior cases that were like this?

18 CHAIRMAN HOOD: Yes.

19 MS. SCHELLIN: At the conclusion of each evening in
20 some of the prior cases, not all of them -- I'm sorry, I can't
21 turn my camera on -- but I believe the Commission has closed the
22 record at the conclusion of each evening for those specific
23 topics, and then moved on to the other hearings, so that you
24 could have the hearing on this and not receive any additional
25 information on those topics. But, again, it's up to you. I

1 | heard what Commissioner Miller said, but it's up to the
2 | Commission. And then, as you said, they get a second bite of
3 | the apple, once the proposed rulemaking is published, then the
4 | record reopens, because, typically, the record closes at the
5 | conclusion of the hearing, and this is the conclusion of those
6 | topics this evening. Just a suggestion.

7 | CHAIRMAN HOOD: So what do you all propose? I'm asking
8 | my colleagues. I know what I think.

9 | COMMISSIONER WRIGHT: So what I heard is we wouldn't
10 | actually take a vote on the GAR, but we would vote to close the
11 | record on that portion of 25-12?

12 | MS. SCHELLIN: You don't even have to vote; you would
13 | just say we're cutting it off for these -- for further -- until
14 | we take proposed action, and the record will be reopened at that
15 | time for this subject matter -- for this -- for these subjects.

16 | CHAIRMAN HOOD: All right. Mr. Ritting.

17 | MR. RITTING: Yeah. I hate to do this, but -- so the
18 | public hearing notice specifically says that the record is going
19 | to be open for written testimony until the end. So, if we took
20 | Ms. Schellin's suggestion, we'd be sort of changing the rules
21 | midstream, which seems like a bad idea, but --

22 | COMMISSIONER WRIGHT: Yeah, let's not --

23 | MR. RITTING: -- that's not to say that you couldn't
24 | do it, but --

25 | COMMISSIONER WRIGHT: Right.

1 CHAIRMAN HOOD: Let's just go back to --

2 MR. RITTING: -- I just wanted to let you guys know
3 about that before you decided.

4 COMMISSIONER WRIGHT: Let's just move on, yeah.

5 CHAIRMAN HOOD: Let's just move on. Let's just go back
6 to what Commissioner -- hold on a second. Let's just go back to
7 what Commissioner Wright said. Thank you all for your help.
8 We're good. Let's just go back to what Commissioner Wright said,
9 and we will move up -- on in that process. All right. So we
10 meet again when, Ms. Schellin?

11 MS. SCHELLIN: You will meet again on this case on
12 Monday, which is November 3rd, at five p.m. I just want to make
13 sure everybody understands, five p.m. on Monday the 3rd. And
14 Wednesday and Thursday --

15 CHAIRMAN HOOD: Okay. Let me see what those topics
16 are, if I can find them right quick.

17 VICE CHAIR MILLER: I have them in front of me.

18 CHAIRMAN HOOD: You have them in front of you? Could
19 you tell us what the topics are, Vice Chair Miller?

20 VICE CHAIR MILLER: I'd be happy to. It's mostly
21 balconies and decks. Four items. The four items are balconies
22 and Gross Floor Area, Subtitle B, Section 304; balconies and lot
23 occupancy, Subtitle B, Section 312; ground level decks and lot
24 occupancy, Subtitle B, Section 312; and 30-foot lot frontage for
25 subdivisions for apartment buildings, Subtitle C, Section 303.

1 That is our Monday hearing schedule.

2 CHAIRMAN HOOD: Okay. Thank you, Vice Chair. Maybe
3 since it's balconies -- you're our balcony Commissioner. Maybe
4 you can -- no, I'm just playing. All right. So we will be
5 meeting at five p.m. on these same platforms this coming Monday.
6 I want to thank everyone for their participation, and my
7 colleagues, and our staff, and everybody for helping us through
8 this process, and OP for all the work they've done, and the
9 residents as well, and the ANC Commissioners, everybody. All
10 right. So, with that, this hearing is adjourned. Good night,
11 everyone.

12 (Whereupon, the above-entitled public hearing
13 adjourned at 6:55 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: Public Hearing - Case 25-12

Before: DC Zoning Commission

Date: 10-30-25

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