GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF:            :
CasE No. 08-06-4
COMPREHENSIVE ZONING REGULATIONS REWRITE: ARTS & CULTURE
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Thursday,
September 18, 2008

Hearing Room 220 South
441 4th Street, N.W.
Washington, D.C.

The Public Hearing of Case No. 08-06-4 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
GREGORY N. JEFFRIES, Vice Chairman
CURTIS L. ETHERLY, JR., Commissioner
OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary
ESTHER BUSHMAN, General Counsel

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON
TRAVIS PARKER
MATT JESICK

The transcript constitutes the minutes from the Public Hearing held on September 18, 2008.
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CHAIRMAN HOOD: Okay. Let us get started.

Good evening, ladies and gentleman. This is the Public Hearing of the Zoning Commission of the District of Columbia for Thursday, September the 18th, 2008.

My name is Anthony J. Hood. Joining me are Vice Chairman Jeffries, Commissioner Etherly and happy birthday. Would you like to tell us how old you are?

Okay. We are also joined by the Office of Zoning staff, Ms. Sharon Schellin and Ms. Bushman.

This proceeding is recorded by a Court Reporter and is also webcast live.

The subject of tonight's hearing is Zoning Commission Case 08-06-4. This is a request by the Office of Planning for the Commission to review and comment on proposed
concepts with text amendments to the Zoning
Regulations.

Again, this is one of the series
of hearings on various subjects currently
under review as part of our broader review.

Notice of the hearing was
published in the D.C. Register on August 1st,
2008, and copies of the announcement are
available to my left on the wall near the
door.

The hearing will be conducted in
accordance with the provisions of 11 DCMR
3021.

Preliminary matters. Presentation
by the Office of Planning, report of other
government agencies, report of the ANCs,
organizations and persons in support,
organizations and persons in opposition.

The following time constraints
will be maintained in these hearings. ANCs,
government agencies and organizations five
minutes, individuals three minutes.
Most people know this but I'll read it anyway trying to save time.

All persons appearing before the Commission are to fill out two witness cards. These cards are located to my left on the table near the door.

As you come forward to speak to the Commission, please turn on your microphone, identify yourself and begin your presentation.

The decision of the Commission in this case must be based exclusively on the public record to avoid any appearance to the contrary. The Commission requests that persons present not engage the members of the Commission in conversation during any recess or any time. The staff will be available throughout the hearing to discuss procedural questions.

Please turn off all beepers and cell phones so not to disrupt these proceedings.
Also, I omitted to mention that we are also joined on the dias with the Office of Zoning staff, Mr. Parker, Mr. Jesick and Mr. Lawson.

Okay. Office of Planning staff.

Yes. I already got the Office of Zoning.

At this time the Commission will consider preliminary matters.

Does the staff have any preliminary matters?

SECRETARY SCHELLIN: No, sir.

CHAIRMAN HOOD: Okay. With that, we will turn it over to Mr. Jesick.

Mr. Jesick.

MR. JESICK: Thank you, Mr. Chairman, Members of the Commission.

My name is Matt Jesick.

As part of our overall zoning review the Office of Planning looked at zoning for arts and cultural uses. And this is one of our 20 or so subject areas.

In addition to the overall goals
for the zoning review, items like clarity, ease of use, internal consistency we also looked at arts and culture because the Comprehensive Plan seeks to put more of an emphasis on using arts, culture and creative enterprises generally as vehicles for economic development and community development.

They seek to do this through job creation, expression of community identify and values and certainly attraction of tourism dollars. And to achieve those goals, the plan suggests two principal avenues.

One is increasing the geographic distribution of arts throughout the District and another is making more affordable for artists to practice their craft.

And when I talk about increasing the geographic distribution I certainly mean getting art out into all the neighborhoods of the city, especially where arts have been lacking in the past. But also, re-enforcing our existing arts districts and creating new
So, with those goals in mind, the Office of Planning produced a list of recommendations. We had a lot of help from our working group who lent a lot of their time and talents and efforts and ideas to our process.

Our first meeting with the working group was March 18th. We had four meetings with them. The group was made up of working artists, representatives, arts organizations and its businesses, developers who worked with arts organizations as well as representatives from community organizations.

So, we had a broad array of professions and also group members represented many areas of the city.

After we developed our preliminary list, we forwarded that to the task force and the task force also had several good recommendations for us which we incorporated into the list that you'll hear about tonight.
So, I'll go through our recommendations. I do want to note that the content of the recommendations in our report is the same as in the public notice. Some of the concepts listed in the notice require a sizeable amount of explanation. So, we divided them out into two or more actual recommendations in our report. But I just wanted to make that clear.

So, I won't spend too much time on each recommendation as there is a fair amount of detail in the written report. But afterwards I'd be happy to take any questions or fill in any details that might be missing.

The first several of our recommendations deals specifically with arts districts. And the ones later on deal with arts more generally throughout the city.

So, our first recommendation is to create a stand-alone arts district that would incorporate all of the existing arts districts and any new arts districts that may be created.
in the future.

As you know, we have the downtown overlay currently, the uptown overlay, the H Street arts sub area which is part of the H Street Overlay.

What we're proposing is something like Chapter 13, the Neighborhood Commercial Zone.

There would be one set of regulations which governs all the arts districts and after that, each individual arts district would follow the same template, but that template could be personalized so to speak based on the needs of each specific district.

So, we feel that this would have a number of advantages over the current arrangement and some of those are listed in the report including simplifying the regulations, making them easier to use, eliminating inconsistencies, and allowing new arts districts to be more easily created by
following the established template.

And that leads right into our second recommendations which is to create a new unified list of arts uses.

Currently, each arts district has similar but slightly different list of arts uses. We definitely want to eliminate any inconsistencies in that regard and create a standard list. So, we're calling this the preferred arts use list or PAUL. That's just the name we've given it for now and that name may change.

Also, the format may or may not end up as you see it in our report. I know Mr. Parker spoke to you about how uses may be represented in the Zoning Regulations in the future. We may end up with just a list of uses like we have currently. And we may also wind up with a more narrowed down smaller list of just categories of uses. And the same can be true for a list of arts uses that you see in the report.
Now, as you notice the arts list as specified in Recommendation 3 is divided up into different use groups. We heard from our working group that the zoning needs to be targeted and able to focus in on specific geographic areas with specific categories or uses. And as we go through our recommendations, hopefully that will become a little more clear how that works.

Recommendations 4 and 5 are closely related.

Our downtown and uptown overlays currently require that an amount of FAR be set aside for preferred uses. And preferred uses can be either actual arts uses or non-arts, retail and service uses. But we want to simplify that provision and just require that properties devote at least 0.5 FAR to PAUL uses. And this is obviously similar to our existing system where we have requirements for FAR. But we also feel that it is simpler to other housing requirements that the city may
put in place or retail requirements that are currently in the Zoning Regulations.

PAUL does have a broad range of uses so we also feel that property owners would not be unduly constrained by a narrow selection of tenants.

And combined with that is Recommendation 5 which would not permit the non-arts uses to count towards the FAR requirement. In fact, what we're proposing is that those secondary list of uses in the arts districts be eliminated, the service and retail lists and simply that we would allow any commercial use as otherwise permitted in other commercial district to also be permitted in arts districts.

What can happen now is that most or all of that parts requirement can be absorbed by the non-arts uses. For example in the Uptown Overlay the requirement is 50 percent of the ground floor to be dedicated to preferred uses. Not necessarily the arts, it
could be any other service or retail use that's listed.

So, we want to just simply that procedure and simply require the arts use.

Now, the next recommendation is to identify in each arts district or art or an arts district which use group is the preferred use group. Again, this gets back to what we heard from our working group that our zoning needs to be more targeted to specific categories of uses.

Now, some of these use groups could be identified currently based on either existing zoning or specific language in the Comprehensive Plan. But others may need to be identified in future small area plans or other Office of Planning initiatives when future arts districts are identified.

And what we're suggesting is when a property owner or developer commits to providing use from the preferred use group, they would get a one-to-one FAR bonus.
Now, they could still do any use from the PAUL list, but they would only get the bonus if they chose from the preferred use category.

But we do want to maintain flexibility for property owners, some of whom may not want to provide an arts use or for some reason may not be able to provide an arts use and so Recommendation Number 7 says that a combined lot development or some other mechanism should be in place to allow the transfer of both the use requirements from one property to another or any earned bonus density from one property to another if the property in question can't use it for some reason or wants to get rid of it for some other reason. And this is similar to the provision currently in our Uptown Arts Overlay.

The idea right now is that the transfers could only happen within the same local arts district so that the total amount
of art space would remain constant.

And the next view recommendations deal with design.

Recommendation Number 8 suggests that we designate primary streets in each arts district. And the purpose of these primary streets is really to be our main pedestrian retail streets in the arts district.

And the way we accomplish that would be through design and use criteria that we spell out in Recommendation Number 9.

The criteria would be similar to again what have in the Uptown Overlay currently and what we have in the H Street Overlay. Things like bringing building mass to the property line, requiring display windows or entrances every so many feet.

It could also include items that encourage pedestrian safety such as limited driveways or loading entrances. And then we would also on primary streets require that a use from the PAUL list be on the street rather
than another nonactive type of use.

Recommendation 10 also deals with design. It's fairly straightforward. We're recommending that ground floors in the arts districts have 14-foot ceiling heights. The Commission has dealt with that on several occasions so I won't dwell on that recommendation.

Now, we also heard from the work group and from the task force that arts exhibit areas or AEAs were often used as a way to get out of providing some other arts uses. So, in Recommendation Number 11 we are proposing some changes that would allow AEAs to only count as five percent of the total arts requirement. That's half of what is permitted today.

Now, Recommendation Number 12 deals with art in residential areas. What we heard from the work group is that there is a real need for additional studio space in the city and space for new arts businesses and
arts organizations to get off the ground. And
the working group felt that unused school
buildings or other former public or
institutional buildings could be locations for
art centers or art incubators.

And when you look at those sites
many of them are zoned residential so what we
recommend is that those sort of multi-function
art uses be permitted in residential zones
either by special exception or as a matter of
right.

Either way we feel it would be
appropriate to have certain standards attached
to those uses certainly governing things like
noise, light, traffic but also perhaps a
maximum FAR or minimum lot size requirement.
And I know that the low and modest density
residential working group is working on
standards for institutional uses in
residential areas and they'll be bringing
those forward to the Commission in the future.

Number 13 is also a fairly
straightforward. We would like to expand the range of uses that are allowed as home occupations. And these would still be subject to the criteria that govern home occupations today for noise, light, etcetera.

And our final recommendation is to allow a new form of live work space in the District. We're calling it multi-artist live-work space. What this is is where apartments for arts may be located upstairs in a small apartment building, but then a communal work space would be located on the ground floor or the first two floors. It's just another form of studio living relationship for artists.

And what we're proposing for this use is that it be allowed at the same density as the surrounding neighborhood. So, if you're in a district that allows flats two artists could form a multi-artist live-work space. And I know that the low and moderate residential group is also considering other density zones like a three-unit zone or a
four-unit zone. So, if that's the case, then multi-artist live-work would be allowed at the same density.

So, those are our recommendations for arts and culture. We're drawn a lot from our existing Zoning Regulations but tried to simply those regulations, organize them and make them consistent. We've also thrown in some new ideas so we hope that together those items will help achieve the goals of both the zoning review and the Comprehensive Plan.

And I'd be happy to take any questions.

CHAIRMAN HOOD: Thank you, Mr. Jesick.

Who wants to start off? Vice Chairman?

VICE CHAIRMAN JEFFRIES: Yes.

Thank you, Mr. Jesick.

A couple of questions. I'm trying to get my arms around where the real sort of art corridors here in the District? I mean
where you see sort of a plethora of, you know, art galleries and artists space and so forth. And I'm not dealing so much with the Uptown Overlay. Just where are they? I'm not -- I'm not clear about where the existing ones are now.

MR. JESICK: Well, certainly where the overlays are located are some of our primary arts areas.

VICE CHAIRMAN JEFFRIES: Can you tell me where they are?

MR. JESICK: Sure. Well, 14th Street between say Thomas Circle and U Street.

VICE CHAIRMAN JEFFRIES: Okay.

MR. JESICK: Although it's beyond the overlay, some of that is going up into Columbia Heights now. And, of course, along U Street definitely. It's a great, as you know, music area.

Also, I believe there are a few new arts uses popping up on North Capitol Street. And so there's almost a connection
between along Florida Avenue between North Capitol and U Street that seems to be developing.

VICE CHAIRMAN JEFFRIES: But the thrust of what we're trying to do here is to create more, you know, arts and culture and so forth. And your argument is sort of simplified and better organizing would potentially lead to at least, you know, most arts uses and so forth.

VICE CHAIRMAN JEFFRIES: You know, we heard from our working group that the regulations were not user friendly. And certain when you read through them it does appear that way. So, we want to make it easier for the average property owner to understand the regulations, take advantage of them where they provide a bonus for an arts use, for example. And also make it easier for the new arts districts to develop by using that same template, just using those same simple set of regulations again and again.
VICE CHAIRMAN JEFFRIES: Were there real estate developers part of the working group?

MR. JESICK: Yes. We had a real estate developer who works quite often with arts organizations and so they provided their input.

VICE CHAIRMAN JEFFRIES: A real estate developer who worked with art. Okay. So, I'm also trying to deal with sort of the economic development aspects of this. I mean, obviously there's a tension here between, you know, the kinds of rents that you can, you know, charge, you know, an arts organization. And we're looking at floor to ceiling heights and ground floor and, you know, it's -- it's somewhat complicated. And so I'm just sort of interested in, you know, hoping that the working group, you know, had a diversity of different opinions and so forth. And it might be interesting, you know, to, you know, get the -- a few more developers
to sort of look at this and really think about some of the repercussions of some of the things that we're putting forth here.

I mean, you know, I've often said that Washington -- I'd love to see more arts and culture here, you know, but there are some built-in impediments. And I think this is good in terms of getting it organized and so forth. But --

And the other question I have is best practices. You did talk about this in your -- in your memo. In terms of some of the cities you used like Providence and I think Santa Fe. I mean, you know, some of those cities, you know, are obviously quite different that the District.

Did you take some of the ideas such as the multi-art-artist live-work space? Did you take some of those ideas from other cities?

MR. JESICK: Yes. The city of

Oakland, California, comes to mind. They have
some different arrangements for living and working space such as what we're proposing in the multi-artist live-work space.

They've defined them very specifically. I think we're a little more general that we're just having regular live-work and multi-artist live-work. But we certainly drew from a lot of different cities.

The one thing I would point out is that I think the District has done quite a bit in terms of actual zoning for arts compared to most cities in the country. I think a lot of other cities may take a more programmatic approach to promoting the arts. But the District, I think, has been a leader to date in, you know, actually zoning for the arts. And we just want to try and make that as good as possible, take what we've done already and improve it.

VICE CHAIRMAN JEFFRIES: I guess I'm just saying I don't zoning is just quite enough. I mean, it's clearly a start. I
mean, you know, to obviously, you know, address various envelopes but I mean if there is clearly, you know, economic feasibility issues tied to this. I mean, I've dealt with this when I was at NCRC in dealing with that City Vista Project and initially -- the first one we were looking at, you know, arts -- artist live-work spaces and, you know, they were just very difficult to pencil out.

As much as you wanted it, it was just such tension, you know, very similar to affordable housing. I mean, it's --

MR. JESICK: Well, we certainly hope that the FAR Bonus would be somewhat of an economic incentive.

The other thing I would mention is the District is undertaking the Office of Planning as a lead, a city-wide effort public creative action agenda

VICE CHAIRMAN JEFFRIES: Creative action agenda?

MR. JESICK: That's correct.
And it will look at a broader scope of issues affecting all creative industries and they might get into some more of the programmatic or financial incentive type issues that will hopefully complement what we're trying to do with the zoning.

VICE CHAIRMAN JEFFRIES: Yes. I mean, you know, I'm a big lover of art. I have lots of original work in my house and, you know, I love music and so forth.

But, you know, I'm just dealing with sort of the realities of the situation. That's it.

The other question is you said future art districts.

Where do you see perhaps other corridors popping up in the District?

MR. JESICK: Our working group had a long discussion about this and they suggested, you know, many different places that could be arts districts. And we also talked about what characteristics make a good
VICE CHAIRMAN JEFFRIES: Because it doesn't necessarily have to be right on 14th Street. I mean, there's a lot of pockets. I mean, at Wiltonberger. I mean, there's just different places. But I'm just wondering, you know.

MR. JESICK: Yes. There are lots of places throughout the city and the Comprehensive Plan really emphasizes those areas east of the Anacostia as well.

Some areas that came up were Anacostia proper, the downtown Anacostia. Areas like Benning Road. Some areas in the northern part of the city like Tacoma or Brookland.

So, people have ideas for, you know, all over the city of where that could occur.

We may have some specific guidance in the Comprehensive Plan for some areas that we could implement immediately like Rhode
Island Avenue, for example, may be a possibility. That's one area that is specifically mentioned in the Plan.

But I think for other areas, we would need some specific either small area plan guidance or perhaps the creative action agenda would give us that planning the guidance that we would need to come back to you in the future and say we're ready for a map amendment at this point to actually implement the text that we created here.

VICE CHAIRMAN JEFFRIES: Yes. And it doesn't -- you know, the corridors don't have to be, you know, a mile long. I mean, it can be a couple of, you know, blocks, very contained, very intimate locations. You know, some interesting, you know, architecture. I know it's a lot in terms of warehouse space herein the District but, you know, there are some things that could happen.

So, anyway, thank you very much.

CHAIRMAN HOOD: I have the sign in
sheet. So, it appears that we have four -- I
know we're interested in that here, but it
appears that we have four -- only four people
signed up to testify. So, what I want to do
is to give this back to Ms. Schellin if you
want to testify. You can see her and sign up.

Well, I must be misjudging in the
number of folks that are here tonight. So,
okay. Anyway.

Commissioner Etherly.

COMMISSIONER ETHERLY: Thank you
very much, Mr. Chair.

Again, Mr. Jesick and to the
Office of Planning, thank you very much for
your excellent efforts around, if you will,
breathing more life into our arts scene. And
I agree with the vice chair and I'm sure the
chair as well with respect to the importance
of the role of arts and culture in the
vibrancy of our city.

I want to run through just a
couple of quick things and reference in part
some of the comments that were raised in the
September 18th letter from the Cultural
Development Corporation. I'm not going to run
through all of their observations but there
were a couple that jumped out at me.

But before I go there if I could,
let me go right to, I think, one of the big
issues and that is how we carve out a space if
you will or continue to carve out a bigger
space for the presence of arts in our
residential districts.

And as you indicated in your
report and I believe also in your verbal
remarks, there clearly is, I don't want to say
tension, but there are some needs and concerns
that have to be balanced with respect to how
you bring about more of those uses. And your
written remarks indicate that there is still
some work to be done about whether or not you
apply a matter of right analysis or if you go
to a special exception analysis or if you even
continue to utilize a variance be it a use or
otherwise to get at these issues.

So, this question may simply be early in terms of OP's work on it but have you looked at how other jurisdictions have dealt with the issue of trying to allow for more arts-related uses in residential districts?

MR. JESICK: We didn't see too many cities that have the same situation when we're talking about those institutional type uses. Many cities have sort of home occupation approach and we certainly want to continue that.

What's missing though is -- are those sort of larger spaces where you can have an art incubator or an arts center for the community where many different artists can come and use that space. It can be tailored to their specific needs. So, that's what we were trying to get at with the maybe reuse of schools or other public buildings.

I think we were probably leaning more towards the special exception and to the
recommendation rather than matter of right
because it is hard to anticipate all those
impacts.

That being said, we do want to
have definite criteria for that special
exception review such as like I mentioned
light, air, traffic, storage of materials
would have to be concealed.

COMMISSIONER ETHERLY: Okay.

MR. JESICK: Possibly loading and
like I said, maybe there would be an FAR cap
at some relatively low level. And maybe some
minimum lot size as well.

COMMISSIONER ETHERLY: And in
referencing the home occupation piece and to
an extent this may also be part of this
segment of the conversation. Your written
report refers to some of the challenges around
the issue of noise trying to provide for some
type of analytical approach to deal with noise
impacts, but there being some difficulty
there.
Do you have a sense of how long it may take to work that out because as you reference, there are some other tricks that are currently at work at the counsel, OAG. Do you have a sense of how long that's going to take to play out?

MR. JESICK: I took a look at the counsel legislation that has been introduced and one of the bills has been, I believe approved but not yet enacted. I could be wrong about that.

But those bills that have been introduced are rather narrow in their focus talking about non -- I'll probably get this wrong but non-commercial amplified speech --

COMMISSIONER ETHERLY: Okay.

MR. JESICK: Speech emanating from schools in residential zones. So, it's I'd say rather narrowly defined.

What should be noted though is that in Title 20 of DCMR which deals with the environment generally, Chapter 27 talked about
noise levels and sound levels and 2701 does list some maximum decibel levels in residential zones.

So, I mean, at the very least we could fall back on that.

COMMISSIONER ETHERLY: Okay.

MR. JESICK: They seem to be in line with what we've seen in other cities.

COMMISSIONER ETHERLY: Okay.

Okay.

Now, let me come to the letter that I referenced from the Cultural Development Corporation.

There were a couple of observations among many, but there were a couple that jumped out at me that I want to just kind of hit very quickly just for a sense of rationale.

On the -- and this is my first question with respect to the PAUL list itself. Clearly it's a work in progress. It's going to continue to evolve.
The inclusion of fast food establishments in the entertainment use group, I'm just curious about that.

Well, what we said. I believe this was in the written report was that those restaurant uses would -- well, I use the term restaurant. Restaurant fast food establishment, prepared food shop, they would all still be governed by the principles of the recent text amendment that was done. So, I believe fast food would not be permitted, I think it's Cl. Mr. Parker can jump in if I'm not saying it correctly. But there would still be those type of guidelines that would regulate eating establishments.

COMMISSIONER ETHERLY: Okay.

With respect to -- moving onto a different topic.

The issue of nonprofit art galleries. I'm kind of jumping into the definitional section for a quick moment.

The definition as it's proposed
for the moment is an establishment that
derives more than 50 percent of its income
from the display and sale of objects of art.

There was some concern expressed
about the impact or potential impact on
nonprofit art galleries or art galleries that
may not reach that threshold.

Is that an issue that came up
during the working group discussion in any way
or part?

MR. JESICK: I don't believe it
came up during the working group. And we just
took that definition straight from the
existing zoning regs. But we'd be happy to
meet with the person who raised the concern
and definitely look at that definition to see
if we can create a more appropriate
definition.

It's possible that they may also
fall under a different category like perhaps
a museum of some sort or something else that
isn't relying on retail sales.
COMMISSIONER ETHERLY: Okay.

Excellent.

Thank you.

Thank you, Mr. Chair, that concludes my questions.

CHAIRMAN HOOD: Thank you,

Commission Etherly.

Mr. Jesick, I just have a few questions. And me just ask Mr. Parker.

I don't know if we asked for this but I think it's great and I don't know if you did it before maybe it just looks different because it's in bold and regular print.

Attachment 2, the Task Force Comments. Is this the first time we've gotten this like this in this format?

MR. PARKER: Maybe in this format. We've been attaching all of the comments that we've received on the back of our reports before and trying to reference them in the report as well. This may be the first time that we've laid it out this way.
CHAIRMAN HOOD: Okay.

MR. PARKER: But we can certainly copy this if you like it.

CHAIRMAN HOOD: Well, I personally, I know all my colleagues are not here but I personally like this format.

MR. JESICK: You got it.

CHAIRMAN HOOD: It pops right out. But I want to go to number 5 that's in the Task Force Comments. And I didn't see it addressed in the report. I may have missed it.

Can you elaborate about this encouragement of public arts in PUDs, Mr. Jesick?

Help me understand how we're going to do this. Are we going to proffer like we normally do, ask it as an amenity or what's going on?

MR. JESICK: I think you hit it right on the head. The working group came up with many more recommendations than what I
discussed tonight. But a lot of them were
more appropriately handled in other working
groups.

One of those was encouraging
public art in PUDs. And what the working
group suggested was that we have the amenity
list in Chapter 24, different items that can
count as amenities in PUDs.

They thought that certainly
affordable space and public art should be
formally recognized as PUD amenities. And we
thought that that was a good idea.

We just thought it should be
handled maybe later on in a future working
group that will deal with PUD procedures.

CHAIRMAN HOOD: Speaking of being
handled later on. I see in the report where
it talks about the noise level. And we're
waiting for legislation, I believe. Counsel
is handling some legislation at this point.

MR. JESICK: Yes. I believe there
are two different bills. One has been I
believe voted on but not enacted. And one has just been introduced, I believe.

So, those deal with very specific types of noise produced. Title 20 of DCMR does deal with noise levels. So, at the very least we could fall back to that -- that section of the regulations which lists maximum decibel levels.

CHAIRMAN HOOD: Yes. And I was wondering. Is that going to -- did we foresee a change in the level in different areas? And I'll tell you why. When I look at some of the arts uses and I'm going to really have to see some of this in the language once we get it crafted.

One of these that really struck out and I know it's there now. But it's a use that's going on in one of the communities now. Was it bars and -- oh, drinking -- drinking place including bar, nightclub and cocktail lounge.

So, you know, when we talk about
noise levels in different zones, I guess the
decibel point is it going to fluctuate
depending upon the zone. More intense, less
intense? You know, I guess I'm kind of trying
to figure how it's going to come back to us.

MR. JESICK: Well, we can
certainly craft it however the -- you know,
whatever the Commission's preference is we can
craft it for different zones or different
types of uses.

What is stated in -- again, this
is 20 DCRM Chapter 27. It differentiates by
zone. For example, residential, special
purpose and waterfront zones have the lowest
allowable noise levels and industrial zones
have the highest. And commercial falls in the
middle.

So, we can take that same approach
or look at some other approach if appropriate.

CHAIRMAN HOOD: And I think we
need to be careful because a lot of industrial
zones in certain areas of the city are right
across the street, more less intensive zones. Some of them are actually across the street from residential zones. And say it's higher intense just because it's in an industrial zone. We need to look at that. I'm not saying we have the fix-all, but that's one of the things that we really need to be cautious of. We need to take in mind and some of those industrial zones with that heavy intense use is right across the street from a residential zone. So, we can look at that.

The other thing is the language that we -- I didn't call any wards. The other thing that we are looking at -- that we need to look at is our language. I saw a production and it reminds me in the Zoning Ordnance it talks about manufacturing. In this city unfortunately manufacturing is trash transfer stations. So, I think that we need to be very -- and the BZA on Tuesday we really had to go to these definitions.

I'm not saying the definition is
going to be the fix-all or catch-all, but as we're looking at this, let's try to make sure we can make our lives -- for those who will be here, lives a lot easier -- a lot easier as we move forward.

And I'm just throwing that out there. I really appreciate the comments that I see here from the task force and also the work that has been done.

And, Mr. Parker, I do like this format. It's easier for me and I'm sure my colleagues like it too. I'm going to speak for them on that approach.

Any other questions of the Office of Planning?

Any other questions?

Okay. All right.

Thank you very much.

We have one ANC commissioner here and let me take that person first. Ms. Faith Wheeler from ANC Single Member District 4B02.

Normally, it's good to give us a
position whether you're a proponent or opponent. Typically, but I'm not going to do this tonight because we only have one. But typically, if you're not a proponent or opponent we normally call you last. So, Ms. Wheeler, next time make sure you're a proponent or a opponent so we won't call you on how we've done in the past, last. So, if you can come forward.

I'll probably say -- I'm going to guess and say you're a proponent with some concerns? Or a proponent with concerns. That way I covered it.

COMMISSIONER WHEELER: Let me say that I'm not representing my ANC. The ANC has not considered this and so perhaps it would appropriate for others to go first. I'd be happy to do that. Or I'm also happy to go now as you --

CHAIRMAN HOOD: Since you're at the table, Commissioner, I'm sure nobody will mind hopefully.
COMMISSIONER WHEELER: Okay.

I am Faith Wheeler, ANC Commissioner of 4B02, in Tacoma, D.C. I'm also Ward 4 Committee Woman Elect to the Democratic State Committee.

And I will just make initial remarks or comments on just a very few elements of this case here.

And then reserve the -- the request, I guess, to submit other comments in writing as I am able to study this more and understand it better.

The elements that I would like to comment on are those of ground floor design and street frontage design requirements. They are rather specific, but those are elements that I had dealt with before, particularly in regard to the Tacoma Overlay Zone which is something that has come up.

And I want to comment on 11A, Street Frontage Design Requirements, something that Mr. Jesick referred to. It's on page 3
of this printout that I've made.

And, well first of all, I guess I could preface this by saying an arts district in Tacoma sounds absolutely wonderful. And I think could not be more appropriate for a place like Tacoma which has a number of arts businesses so to speak already.

But let me go so as not to use up my time on that. Let me go straight to the point.

And this is in regard, as I said, to my involvement with the Tacoma Overlay Zone several years ago in '05.

We want very much to be sure that as Mr. Etherly said, contribute to the vibrancy of our city. And vibrancy is about neighborhood serving businesses and activities and destinations that attract tourists whether they're tourists from far away or the next neighborhood over like Shephard Park, for example, or Anacostia or wherever it might be. It doesn't matter.
And part of that is facilitate walkable communities. Yes. Okay. All right.

Anyway, so I won't go into the point of building this on the property line. This means that there would be very limited corridor space, very limited walkable space. It's practically nothing for a sidewalk cafe. If there is any place in the entire city that is appropriate for sidewalk cafes it is Tacoma.

CHAIRMAN HOOD: Ms. Wheeler, let's do this.

Since you were the first person and we have three minutes and we only have four other people that want to testify, we're going to give you another minute and a half and my colleagues -- well, let me say. Minute and a half and you want to take two. But if you do a minute and a half, in that way we'll give everybody else a minute and a half. Okay. Because we only have -- if you could -- and you can always give us something -- supply
something to us.

COMMISSIONER WHEELER: I will.

Thank you. Thank you, Mr. Jeffries for calling my attention to the time.

Okay. In any case, I am concerned about building mass on the property line. We have a good bit of new construction in and around the Metro Station. The Tacoma Overlay Zone calls for a minimum of 13 feet. The first new building that went up had 10 feet. We thought that was wonderful. It is very, very narrow for a walkable community. And we continue to have narrow, narrow sidewalks and not anything that really allows for sidewalk cafes.

If you look at the old sidewalks, the old business district, business block on Fourth Street and in front of our wonderful Tacoma Theater, they are very wide in front of our old library. The first branch library in all of D.C. Very wide and the buildings are
set back so that it does -- it is a lovely kind of inviting, welcoming aura. And it's so much better than feeling constrained and feeling like you have to walk single file on the sidewalks when you approach somebody coming the other way.

So, I really, really caution you and really urge you to re-examine that business of building mass on the property line. It just feels very crowded. It doesn't feel like Tacoma at all. It feels like, I don't know where. Somewhere else.

And I am very much pleased that you suggested or are suggesting to reduce the building height -- excuse me. The first floor height from 15 to 14 feet. That is particularly important in this age of climate change.

We have one store right now which is the Love Store in the entire neighborhood--

CHAIRMAN HOOD: Ms. Wheeler, I'm going to have to -- we did two minutes.
Right?

COMMISSIONER WHEELER: Minute and a half, I thought.

CHAIRMAN HOOD: Yes. Can you give us -- can we keep the record open on this? We been keeping the record open.

Can you provide your statements. I actually have your name exactly in the regulations on my copy of what the issue is and about building up to the property lines. So, if you could provide us the rest of your comments in writing that would be great.

Let me see first. Colleagues, do we have any questions? Any questions of Ms. Wheeler?

But I will ask you.

Ms. Wheeler, I will be frank and honest. I'm wondering why I have a few names and I have a number of people in the audience. That's just been boggling my mind. I'm just asking.

Are these your constituents?
COMMISSIONER WHEELER: Are these my constituents?

CHAIRMAN HOOD: Yes.

COMMISSIONER WHEELER: Actually, let's see. I think there are --

CHAIRMAN HOOD: Or are they just interested in the conversation and the topic? I'm just curious.

COMMISSIONER WHEELER: The people who are here?

CHAIRMAN HOOD: Well, I know -- I know some of them are here and I'm kind of looking to them. We're glad to have you, believe me. I was just wondering what was the topic?

Normally, when we --

COMMISSIONER WHEELER: I recognize none of my constituents. I do recognize a neighbor who is across the line from the Tacoma Overlay --

CHAIRMAN HOOD: You can help me out with this. Maybe I'll ask them after the
hearing is over.

COMMISSIONER WHEELER: The Tacoma Theater is in my Single Member District as is the original commercial district of all of the community of Tacoma, D.C. and Maryland. It is in my Single Member district. And I would really very much like to be as pragmatic as I possibly can which I think is probably fed by my 30 years of development professional with the InterAmerican Development Bank.

CHAIRMAN HOOD: Okay.

COMMISSIONER WHEELER: Have to be pragmatic, have to look at what will actually work, not necessarily what's text book convention, but what will actually work for the major factors that you have to consider.

CHAIRMAN HOOD: Thank you.

COMMISSIONER WHEELER: Including the economic factor needless to say.

CHAIRMAN HOOD: Ms. Wheeler, thank you so much.

COMMISSIONER WHEELER: Okay.
CHAIRMAN HOOD: You answered my question and you finished testify, but please just give us something in writing. We will definitely look at it.

Okay.

Let me start with proponents. I have two proponents. Loretta Neumann, Tacoma Theater. Anyway, Tacoma Theater and Anne Cobert -- Corbett, I'm sorry. Thank you, Vice Chair.

Is there anyone else that wants to testify in support?

I guess I'll eventually just have to call Mr. Graves out and ask him what everybody is doing. I mean, not that we don't mind, I'm just trying to figure out what the issue is. It's always good to know that the community is involved with the issue. But I want to know what the issue is.

I will tell you before this hearing I'm going to find out.

Ms. Neumann, if you would begin.
Thank you.

MS. NEUMANN: Thank you. Good evening.

Thank you for the opportunity to testify.

I'm Loretta Neumann. I'm President of the Tacoma Theater Conservancy. And I also was a member of the working group. I attended all the meetings and participated in all the deliberations and much appreciate all the hard work that Matt Jesick and the team did. They were extremely good and we did have a very diverse group.

There were only a few of us representing the performing arts. A lot of fine arts, a lot of working artists and then, yes, some developers and people from different perspectives, educators. It was quite a wide variety of people.

In terms of -- I have my testimony. I also have copies of a couple of brochures and I also have for the theater. I
don't know if you're aware of it. The Tacoma
Theater has been dark for several years and our
organization when the owner threatened to tear
it down a couple of -- a year or so ago, organized to buy the theater and we're trying
to raise money to do that.

We've had considerable assistance
from the city and foundations and private
individuals in that effort.

One of the things we were able to
do and just have received a report, a needs
assessment. And I want to give a copy. I'll
actually give a couple of copies for the
record. I don't have enough for everybody but
I've offered to Matt Jesick to provide him an
e-mail copy as well. Whatever form I can get
it to you that way I will.

We are very interested in the
c concept of the arts district but have some
c concerns. And we feel that Tacoma as was just
mentioned would be a wonderful place for an
arts district.
I'm wondering because there are different portions of Tacoma. There's 4th Street and then there's other area on the other side of the Metro tracks. And there's some more like warehouse kinds of areas further on the other side that could be part of this and so this might be, you know, not just one big block of a district but subdistricts of some sort. I don't know how you would do that or map it. But that would be my preference.

Our concerns are the following.

We have several.

One -- the primary one is we don't understand the statement about having an arts district as opposed to an arts overlay district.

If that means supplementing our existing zoning then we would not support it. We like our existing and I have been in the neighborhood since the '70s and have worked on every plan in that neighborhood. And all that
zoning has -- all the plans that have been
developed have been very hard thought and so
we don't want to throw that out.

Putting an overlay on it, however,
as we did recently with the commercial
overlay, having an arts overlay would work
quite well. We do have a lot of arts uses in
the community already.

The Washington National Opera has
their rehearsal facilities there and they
would love to use the Tacoma Theater by the
way. We have the Liz Lerman Dance Theater.
We have a couple of like the Institute for
Musical Traditions, folk music that's just
over the line in Tacoma Park, Maryland, but we
partner with everybody. That boundary line
doesn't affect us. We work together.

And lots of writers and artists in
the community. So, we have the nucleus for
having an arts district.

We'd love to call it actually an
arts district, but from a practical standpoint
we would like to have it as an overlay over
the existing zoning and not have new zoning
category that we don't even know what that
would be.

The second is the criteria and
process and as Matt said, the working group
did come up with a list of -- actually about
37 potential areas and of those maybe five or
six that really already fit the criteria that
we developed. And I mentioned some of that
criteria here.

I was sorry to see that criteria
not included in the OP recommendations because
I thought it was very useful and I would
strongly urge that the criteria be included
and a statement somewhere of the process that
would be followed.

I understand this is a regular
zoning kind of thing, but for the public, if
I'm going to go back to the community and say
we want an arts district, they're going to
want to know much more how it would be done
and what the process would be.

As far as incentives, we have found like with the theater and I'm not here for a theater. But there are other theaters, I'm sure in other places that would have a similar situation. But right now if we want to add onto the theater as this needs assessment says that we need to do, the current zoning is 1.5 for commercial which is what they would qualify for this. 2.5 would be residential.

Now, it might be that we might want to put in some residential artists living space. I don't know. We haven't thought that through. But definitely for any use for the theater itself. Doesn't seem to make sense to me to not give a bonus to theater uses for a theater. So, we would encourage that.

We also are very concerned about the relationship with historic preservation. This is an historic district and many of the other areas that might be included as arts
districts may have historic -- may be historic
themselves or have landmarks that are in them.
We need to know what the relationship of
zoning with historic preservation would be.
And the arts uses as was pointed earlier.

I do feel that there needs to be a
very definite specificity about what is and is
not. For example, a bar. To me a bar and a
restaurant in an arts district would probably
be a great thing because it would bring lots
of people. But on the other hand, it's not of
itself an arts function and shouldn't be given
those kinds of bonuses.

And lastly, I was confused about
the announcement that we saw and the
recommendations from OP and I am now assuming
from what Mr. Jesick said that they are really
together and they aren't two different things.
So that if we read what OP has recommended,
that is what you are considering? Or did I
get that right?

CHAIRMAN HOOD: It is a small
group. You can answer the question.

MR. JESICK: Yes. The legal ad, the public notice, has all the same content as what our recommendations were. Like I said at the beginning, it's hard to sometimes explain all the things in the public notice in one recommendation. So, we had to kind of break out the recommendations a little bit.

But the content is all the same.

MS. NEUMANN: Lastly, I would like to have inserted. I can't -- these are very expensive to reproduce. We're not that flush with money. But I did bring a couple of copies of this needs assessment that I would be happy to give you for the record. And I think you find the information extremely useful as the study includes a lot of information about other areas around the city and theaters and that sort of thing. Demographics.

CHAIRMAN HOOD: Okay. You just give us one copy and we'll reproduce it in
black and white. My time is up.

Okay. Ms. Neumann, if you can
hold your seat and Corbett. Thank you.

Ms. Corbett, you can begin.

MS. CORBETT: Thank you.

My name is Anne Corbett. I am
Executive Director of a nonprofit here in the
District of Columbia called Cultural
Development Corporation. It sounds like you
received my letter and you've seen it. I'm
not going to repeat anything that's in my
letter.

I would, however, like to comment
that I am a proponent. I was involved in the
process. The gentlemen from OP were very
gracious with their time and willingness to
get community input. I think there was a
great deal of that.

I probably only fell down in that
I didn't give them enough of my time and
input.

I just want to I guess caution you
about this process because I am concerned that the zoning is in a silo disconnected from the greater planning and economic development strategies.

There was reference to the creative action agenda that is under way. Presumably there will be some consulting there because that's being coordinated by the Office of Planning as is the zoning recommendations. But really in the best practices that were looked at, this is most effective when arts districts are a comprehensive strategy.

In Prince George's County, for instance, communities apply to the arts districts and then there's a package of enhancements that come along with that that address some of the economic pressure that Mr. Jeffries referred to earlier and really reward communities, good businessmen and developers and people willing to roll up their sleeves and put in some sweat equity, put in some of their own money and create public benefit and
public amenities in exchange for tax
abatements or streetscape enhancements or
transportation enhancements and grant dollars
and all of that works together to really make
the district function effectively.

In the past, what we have had in
the city are some effective arts development
strategies vis-a-vis the zoning code. But
we've also had some marketing techniques.

The H Street Arts District, the
newest one came about after the predominate
use. The Atlas Performing Arts Center was on
the drawing board and really paved the way for
commercial redevelopment there which is all
good. However, there was no additional arts
uses generated or public benefits vis-a-vis
the arts generated after the arts district was
stamped on the map. Really it just became
sort of a signal that now H Street was cool
again and you should buy property there if you
were smart and adventurous.

And I live in that neighborhood
and I welcome all the new restaurants and shopping, etcetera. But we really need to make sure we're considering what we want the public policy around arts districts to accomplish. Is it a marketing tool or is it like I said a comprehensive asset building strategy that develops our creative micro enterprise network that provides educational enhancements for our kids, that provides leisure and quality of life enhancements for our residents, etcetera.

So, I would really hope that the Commissioners would in whatever power you all have sort of reach out to the mayor, council members to really try to get this zoning amendment not to happen in a vacuum, absent DOT's role or the Deputy mayor for Economic Development's role, etcetera.

Yes. I think that's it.

Thanks.

CHAIRMAN HOOD: Thank you very much the both of you.
Let me see if any of my colleagues have any questions.

VICE CHAIRMAN JEFFRIES: Yes. I do.

I appreciate your comments, Ms. Corbett. And, in fact, you were much more eloquent in terms of really trying to make the case that I was really questioning the Office of Planning around.

You know, obviously, our jurisdiction here is zoning. That's what we do but I think your comments are absolutely -- I mean, those are the types of things we need to look at because I think at the end of the day we're trying to get more arts uses. You know, and you can set of a wonderful zoning codes but you need those other parts to really make it all work. And you really need someone from the executive level who is going to really, you know, sue the full mantra of a position to really push, you know, arts policy throughout the District.
And so your comments are appreciated.

Thank you.

MS. CORBETT: If I could just add really quickly.

I would also recommend, there were 37 places identified in the working group. We don't need 37 arts districts. We need to be very deliberate and discriminating and the community should be involved in that decision, you know, like folks from Tacoma Park taking a very active role. That's a very different outcome in the end than if we sort of spread it all over and dilute the power or the impact of public policy to support arts.

VICE CHAIRMAN JEFFRIES: You know, and what's interesting, I mean, Ms. Corbett and I we were on the board of Lincoln Theater for a few years. And, you know, one of the difficulties is, you know, we were always looking around the corner and someone else was looking to put up another, you know, theater
venue.

And, you know, at some point it's like, you know, we have a few theater venues already and we really need to think about, you know, are we going to put, you know, all our efforts to really support one or two or three or are we looking to expand and so forth?

So, I think that sort of goes back to this whole notion of really being thoughtful and comprehensive about how you move forward with this.

MS. NEUMANN: But there are, in fact, some of this -- there are, in fact, areas that are underserved. And ironically, Ward 4, Ward 3, Ward 5 are underserved. There is no other performing arts facility in any of those wards that are not either a single use such as a dance place in Brookland or for film like the Avalon and such in Ward 3. Or affiliated with the university which is limited access to the general public. It's
usually, you know, put on by the universities.

So, we are underserved in those three wards.

VICE CHAIRMAN JEFFRIES: So, you're saying that each ward should have a performing warts venue?

MS. NEUMANN: I'm not saying it has to, but I am saying that there is nothing for those three wards and Tacoma Theater is it. But there could be. And I think that that to me seems to be a public responsibility to help provide those kinds of things, especially as you pointed out in areas where people want them.

The list that we came up with that 37 which is, you know, hypothetical ones that were possible and we had the criteria and which ones we thought maybe might fit. But then there were about five or six that really went down to the criteria and said, wow. These really do fit. And Tacoma was one of them.
I didn't bring that file with me
so I can't tell you what the other ones were.
I'm sure Matt remembers. But the city out in
the neighborhoods is not as well served as
closer to downtown. A lot of wonderful things
and I think Ms. Corbett, the one that's been
the spark plug behind a lot of it, they're
terrific but they're not out by us.

CHAIRMAN HOOD: Commissioner
Etherly.

COMMISSIONER ETHERLY: Thank you
very much, Mr. Chair.

A couple of specific questions.
More so for you, Mrs. Corbett. As you heard,
I picked up on a couple of things that were
raised in your letter.

But, perhaps, let me start with a
larger question for the both of you and thank
you both very much for your work on the front
lines here.

I am familiar with the vicinity of
the Tacoma Theater due to my love of tennis
and being at the Tacoma Tennis Courts quite a bit, which hasn't seemed to help my tennis game much, but that's a whole another conversation.

Let me -- one of my colleagues aid that's because I'm getting older. Well, yes, indeed. The march of time.

This question could take a long time to answer to I'm not inviting a foray into it in depth. But part of your exchange with Mr. Jeffries and part of the part that you raised, Mrs. Corbett and that you also spoke to. This issue of kind of the arts in the District of Columbia. Clearly we're blessed in many ways with, I use the word vibrant, vigorous, whatever you want to call it. It's a very wonderful scene. And from my untrained eye I feel that it's gotten even better over definitely the last few years in terms of the venues that are available. And that's a good thing. And I think that's part and parcel, although as Mr. Jeffries said, we
are really zoning and that's all we do. It's part and parcel of what we need to be considering.

I guess my question is. Is it also, however, still the challenge for us from a zoning standpoint, chiefly because that's what we're about here, to make sure that we're also not forgetting the smaller individuals and collectives and arts groups that may be out there that aren't part of the bigger marque institutions? They're not at the Kennedy Center, they're not at Studio Theater or other major venues. Or even some of the smaller mid-sized venues, but they're really grass roots that individual crafts person or artisan working in a space but they could most certainly benefit from having access to a better space maybe in a residential district, if a school or some other similar property becomes available?

For the two of you having experience in the arts milieu if you will, is
that -- is that -- am I correct in saying that
that is still a problem and that's got to be
part of what we address here? Because I'm
trying to make sure that as we deal with some
of these proposed changes, I kind of got into
that issue of the residential piece in
particular because we recently dealt with as
the Office of Planning is aware and my
colleagues are aware, a piece of emergency
dealing with surplus school properties. And
as many of us know, they're out there and
they're sitting smack dab in many of our
communities.

And the idea of the challenge, the
hope is that we continue to make productive
public use for public benefit of those
buildings where possible. But being aware of
an ancillary impacts that may come from those
uses if we don't plan for them accordingly.

That's a long preamble to the
question of. You would agree -- maybe this is
a yes or a no kind of multiple choice
question. You would agree that we aren't
doing as well a job from a zoning standpoint
of making these types of spaces available for
individuals or smaller artists groupings or
entities?

MS. CORBETT: I completely agree.

And, in fact, over the past decade that I've
been at work on this issue, we have made
unbelievable strides in major facilities. And
although certainly Tacoma Park lacks one,
theaters, performing arts facilities, major
organizations satisfying pent up demand for
better high caliber facilities.

I mean, the landscape has
dramatically changed in our city in that
regards. And, in fact, our organization is
specifically focused on the issue that you
bring up because I think it's micro-enterprise
and small business development in the arts
that are the burning issues. And those
surface in affordable housing for artists and
their families, affordable work space for
artists, services and funding to support artistic endeavors.

Mr. Jeffries wants to be able to have original art work in his living room. Someone has to have an appropriately priced and zoned place to create that or he's buying it from Baltimore.

And that's the reality right now.

COMMISSIONER ETHERLY: Yes.

MS. CORBETT: That the individual artist cannot thrive in our city the same way that frankly policemen, fire fighters and teachers probably struggle to thrive, given housing prices, cost of living, groceries, fuel, the whole nine yards.

So, I think you're exactly right and I think what is the challenge is that zoning policy really has a hard time creating any mechanisms to give power to the individual or sort of the leg up to the individual.

COMMISSIONER ETHERLY: And that's where your point of comprehensiveness comes
into play. And I'm not looking for us to be the complete answer. There has to be other phases involved in this.

    MS. CORBETT: Exactly.

    COMMISSIONER ETHERLY: So, perhaps, my question is. Given the start that we have right now on the page, do you feel that we're maybe not there yet, but we're on the right trek or that the Office of Planning is proceeding kind of in the right direction towards addressing that issue?

    MS. CORBETT: Most definitely.

    COMMISSIONER ETHERLY: Okay.

    MS. CORBETT: I think the burning issue is whether the Office of Planning gets the ear of the Department of Housing and Community Development and DOT and all the other agencies that really need to come together to support whatever the creative action agenda puts out.

    COMMISSIONER ETHERLY: Okay.

    VICE CHAIRMAN JEFFRIES: Because
if you don't do that, from what I hear Ms. Corbett is saying, all you've done effectively is just sort of organize your zoning code and made it more, you know, readily understandable by, you know, artist folks. But they still can't do what they need to do. So, at the end of the day you're not achieving, you know, more venues. More arts use. I mean, and, again, I mean obviously the Office of Planning is dealing with more FAR. I mean, they are really trying to deal with, you know, a lot of the -- you know, some of the economic development issues impacting arts additions.

But it has to be comprehensive. And, again, I think it needs to come from the very top. But it needs to be a very serious commitment on the part of the district to really move the arts districts and make them really vibrant and really working. It's not just enough to reorganize this code.

CHAIRMAN HOOD: On that question, let me just follow up on it because I do have
a question for Ms. Corbett that goes in line
with Commissioner Etherly's question about the
complete package.

And you named some agencies. I
unfortunately am not as astute as my
colleague, Vice Chair Jeffries.

You mentioned the Department of
Transportation. Can you name -- you mentioned
the Deputy Mayor for Economic Development.

VICE CHAIRMAN JEFFRIES: Neal O.
Albert.

CHAIRMAN HOOD: I'm just trying to
get a feel for some of the other people that
need to be in that complete package. You
rattled off about five or six different
agencies. I don't mean rattle, but you
mentioned.

MS. CORBETT: Well, so the D.C.
Commission on the Arts and Humanities is
natural. That's who gives our programmatic
grants to artist and arts organizations.
VICE CHAIRMAN JEFFRIES: Mr. Giddings, is he still --

MS. CORBETT: No.

VICE CHAIRMAN JEFFRIES: He's gone. Who is the head?

CHAIRMAN HOOD: Three is a young lady there.

MS. CORBETT: Someone is after him.

CHAIRMAN HOOD: Oh, different?

MS. CORBETT: Yes.

CHAIRMAN HOOD: From last week. Because they throw something at the Ronald Reagan Building and somebody else -- well, anyway.

VICE CHAIRMAN JEFFRIES: Okay. Sorry.

CHAIRMAN HOOD: Was on the Washington new.

VICE CHAIRMAN JEFFRIES: Sorry.

Go ahead.

MS. CORBETT: He named someone
this afternoon.

Department of Housing and Community Development who we've been working with frustratingly for several years now to get a live-work housing project off the ground. DOT because they do streetscape enhancements and transportation enhancements, if you design an arts district in Tacoma Park, for instance, you want to make sure people can find it and they can get there and they can park once they show up at the Tacoma Theater.

In addition, obviously, you know, there could be some role for OPM because they control a lot of underutilized property. The schools only one of them.

There could be a role for the Office of Tax and Revenue who as of today started the property tax sale of underutilized property that's behind on their taxes.

You know, there's probably any number. Obviously, the Deputy Mayor for Economic Development is over many of those
agencies, not all of them.

CHAIRMAN HOOD: Okay. Okay.

Thank you. I didn't mean to interrupt, Mr. Etherly. But thank you very much.

COMMISSIONER ETHERLY: No. No.

I'll let Ms. Neumann get in because I know she wanted to jump in on this.

MS. NEUMANN: Well, I just wanted to respond to your comment.

The demand is there and about the smaller groups. In this study when you see it they interviewed about 65 different groups, everything from performing groups to education groups. We had our school board. Just a variety to see what kind of demand there is for using the theater, not attending it but to put things on there.

Tremendous demand from all sorts of people and a lot of small ones who said that they can't perform elsewhere. They're priced out whatever. So, that we're very conscious of when we developed this center
that we can have people there who can't afford
it as well as the bigger ones. Hopefully,
we'll have resident companies that are the
bigger ones and that gives us the nut that
enables us to have the smaller ones.

We want to do a tremendous amount
of work with schools too. Coolidge High
School is just a few blocks away. The kids
literally walk in front of the Tacoma Theater
to go to the Tacoma Metro Stop. They should
be stopping in and having things for them.

There are plenty of wonderful
opportunities, not only in theater on the
stage, but behind the stage and as Ms. Corbett
knows, there are a lot of high paying jobs
that we could have internships for the
students, you know, vocational educational
opportunities. All kinds of things could
happen there. So, it doesn't have to be just
for the big groups and the important ones.

COMMISSIONER ETHERLY: Okay.

MS. NEUMANN: The only other thing
I would comment about the schools. We debated that in the working group extensively. I know Matt remembers this very heated discussion. There were two sides. One felt that it should be a matter of right that arts could go in the school and the other felt that it shouldn't.

I was one who felt that it shouldn't. I feel that there are wonderful possibilities there and that they should definitely be given the high ranking of possible uses for those schools. But I also think it has to be on a case-by-case basis. And the way to do that is not do matter of right, but through a variance or an exception to whatever method you feel is the most appropriate.

COMMISSIONER ETHERLY: Okay.

VICE CHAIRMAN JEFFRIES: I'm sorry.

COMMISSIONER ETHERLY: That's okay, Mr. Vice Chair.

VICE CHAIRMAN JEFFRIES: So, in
terms of the schools, I mean, you're looking
at sort of like adaptive reuse of the school
and like a torpedo factory. Would that be the
look? Was that what was being discussed?

MS. NEUMANN: That well could be a
model. There are all kinds of use that could
be made of schools for arts purposes.

VICE CHAIRMAN JEFFRIES: And
then--

MS. NEUMANN: Ms. Corbett would
know.

VICE CHAIRMAN JEFFRIES: Well just
something to --

MS. NEUMANN: I think of pottery.

VICE CHAIRMAN JEFFRIES: And in
terms of the downtown destination district,
what's your understanding about that? Was
that somewhat of a comprehensive thing or in
terms of, you know, really trying to work to
have all pistons sort of, you know, working at
once in terms of pushing?

MS. CORBETT: I think downtown is
sort of a unique case because --

VICE CHAIRMAN JEFFRIES: Wait.

Wait. Back up. Back up. It might be -- it might be I'm not calling it right. I'm thinking of area that's at 7th and U. What is that called?

MS. CORBETT: The Duke --

VICE CHAIRMAN JEFFRIES: The Duke -- the Duke Plan. What is that called?

MR. JESICK: That falls under the Uptown Parts Overlay.

VICE CHAIRMAN JEFFRIES: Okay.

Okay. I'm sorry. I'm sorry. Okay.

MS. CORBETT: Well, once again --

VICE CHAIRMAN JEFFRIES: Well, no, I guess --

MS. CORBETT: Well, what my answer is now.

VICE CHAIRMAN JEFFRIES: No. No. I guess, you know, in terms of the formation of that uptown destination district, you still did not feel there were enough, you know,
comprehensive sort of package that really went to sort of push and incentivize developers and artists to be in that area?

MS. CORBETT: Well, once again, what you're getting out of that Duke Plan are some very large even commercial institutional uses.

The individual artist that Mr. Etherly referred to is really not addressed in what's going to happen at 7th and U. I mean, my understanding is there's going to be a very dynamic new jazz venue in the old Howard Theater. That's the predominant use going on there. I don't know of really any other arts uses coming out of that plan at 7th and U.

There's not anything else up there.

And so for instance the old Wonder Bread factory sits vacant that someone who shall remain nameless bought for a song about 10 years ago and could very easily do arts uses there given what he paid for it.
VICE CHAIRMAN JEFFRIES: Well, we know it is a man, so go on.

MS. CORBETT: Anyway, so, yes.

You know, that particular property for instance would really lend itself well to individual artist studios or a place for people to rehearse. I mean, yes.

VICE CHAIRMAN JEFFRIES: Okay.

Okay. Thank you, Ms. Corbett.

COMMISSIONER ETHERLY: Final question, Mr. Chair, for both of you because you both referenced it in your remarks.

I asked the question following up on your letter Ms. Corbett, the issue that entertainment -- entertainment use group, if you will, and I specifically reference fast food establishments. You represent as well, Ms. Neumann in your written submission.

Let me jump -- let me flip to the other side and ask the question of -- we actually have to pause just for a moment to maintain our quorum.
CHAIRMAN HOOD: Okay.

COMMISSIONER ETHERLY: Now, while we're back on the record is seems somehow I always find myself waiting for Chicago natives to find their way back into the room. For any members of the audience who are from Chicago, that's not a gratuitous hit against you.

VICE CHAIRMAN JEFFRIES: I didn't bring up the arts scene in Chicago so be thankful.

COMMISSIONER ETHERLY: And you do a wonderful job from what I've experienced in Chicago.

The issue of restaurants in that entertainment use group. I wanted to kind of ask the devil's advocate question which is. Isn't -- isn't there an argument to be made for insuring that complimentary -- I don't want to call them accessories because they're not. But in some way these types of uses can be complimentary to the arts use and add further energy to the scene that we want to
see in place.

Would that argue in your mind towards in keeping that language in or is there a concern that you're beginning to move too far away from the purpose of an arts district or an arts use by having at minimum a fast food establishment?

MS. CORBETT: You definitely want a full compliment of retail and retail-related uses in your arts district. I think the issue really that the Office of Planning was trying to address was when they're interchangeable as they are in the uptown arts district you could do arts or retail and get the same. Then you end up choosing the highest and best use economically and from a rent paying standpoint if that's your --

COMMISSIONER ETHERLY: You undermine what you're ultimately trying to do.

MS. CORBETT: Right. And go it's why I brought up the issue of combined lot development so if say back to the Tacoma
example, if we're going to develop the Tacoma Theater as a primary cultural anchor in that district and I want to put a high-end cafe restaurant next door that's going to benefit from all the folks that she's drawing, then perhaps I buy out of my arts requirement by giving her money in lieu of developing arts. I do whatever I want, that I feel like it's going to benefit from that and my arts requirement is transferred to her because she's got 20,000 square feet --

COMMISSIONER ETHERLY: She's got the capacity.

MS. CORBETT: -- and my site is 10,000 square feet with a 2,000 square foot arch requirement on it just hypothetically speaking and it's sort of a waste to try to get me to do 2,000 square feet when I'm Joe-Schmo developer that knows about restaurants and luxury condos. And ends up doing an art exhibition area in my vestibule in order to get that box checked.
VICE CHAIRMAN JEFFRIES: Be nice.

Be nice.

MS. CORBETT: And in the intent -- in the spirit of the code served by that and I think that's really the question, is what are you trying -- what is the end game you're trying to accomplish and what's the best way to solve that puzzle which usually involves, you know, a district with a handful of preferred arts uses and several handfuls of complimentary uses, whether they be residential, office, retail, etcetera, and sort of a shared burden for the public benefit.

COMMISSIONER ETHERLY: Okay.

Thank you.

MS. NEUMANN: I totally agree.

COMMISSIONER ETHERLY: Thank you.

Thank you, Mr. Chair, that concludes my questions.

CHAIRMAN HOOD: Okay. Thank you very much.
I just have one more. Ms.

Neumann--

MS. NEUMANN: Yes.

CHAIRMAN HOOD: And I think I saw it on number 5. Yes. Number 5 of your testimony provided tonight.

And that was something I kind of talked about, but elaborate. Do you want to see us take that out? Do something else with that? Explain--

MS. NEUMANN: If I'd have an answer I probably would have put it in there. It was just a concern. Just exactly what she was saying.

We have a couple of restaurants up the street from the Tacoma Theater. To give a new restaurant, you know, have something, you know, a benefit that they didn't get, I mean, I don't know. But I just think that--I know from the discussions they had in the working group that artists there who were working downtown were complaining that there
were restaurants getting this benefit who were
doing nothing for arts. And they were
struggling. The artists were struggling.

So, wait a minute. This is an
arts district and the artists are having
trouble.

That's all. I don't have an
answer. I just wanted to say that we were
concerned about it.

CHAIRMAN HOOD: Okay. Thank you
so much.

I thank you both for your
providing us testimony. And also from the
ANC.

VICE CHAIRMAN JEFFRIES: Good
panel.

CHAIRMAN HOOD: Thank you very
much.

Okay. Let's go to opposition.

Ms. Barbara Zartman, Committee of
One Hundred. And I think I figured out the
crowd. It only took me all night, but anyway.
Studio Theater.

What I have here is either Janet Dewar or Keith Baker. Keith Baker, if you would come forward.

Do we have anyone else who would like to testify in opposition?

Okay. Let's begin with Ms. Zartman and then we have Mr. Baker. And that will be it for the evening.

Okay. Ms. Zartman.

MS. ZARTMAN: Good evening, Mr. Chairman and members of the Commission.

My name is Barbara Zartman and I'm here representing the Committee of 100 on the Federal City, which has long supported public and private steps to further the breadth and depth of artist activity in our communities.

We can agree with a number of proposals in the OP Report and we thank them for making as many amendments from their prior report as they have.

For several, however, we either
need further clarification or we must oppose what has been put forward thus far.

Most particularly, the first recommendation to create a stand-alone arts district instead of overlays. Quite honestly, we aren't even sure how you could make that work.

We believe that the retention of the basic zoning schemes under an arts overlay is precisely what's needed here. It is not even clear to us an arts zone stand alone could function without recreating the underlying zoning.

The goals eliminating inconsistencies, unified promotion of the arts are all goals that can be well accomplished through a revised and improved overlay.

We also recognize the antipathy about overlays that the Office of Planning has expressed in several forums. However, the overlays serve real purposes and they provide real benefits to a range of neighborhoods
which we believe will strongly defend their continued existence.

Perhaps it would be help to have from the Commission an indication about whether it would accept ultimately overall zoning schemes that eliminate in whole or in large part the use of overlays.

Is that something that could be contemplated in your ultimate end of this process?

We support the single list of uses that would be accepted. Philosophically we have no objection to the groupings. But practically in alphabetic listing is more likely to be comprehensive. The current groups are subjectives and thus could be misleading.

Should production use, for instance, include artisan production uses? It doesn't on the draft list.

I give you a series of questions about why certain things are included and why
they aren't.

As to Recommendation 4, we agree that there should be an establishment of FAR requirements for art uses. And as bonuses are considered, we would ask the Commission to consider how the many available bonuses and encouragement mechanisms would or must be included in decision making, especially, mandatory inclusionary zoning.

How are we planning to manage all of these add-on provisions?

As to the eight recommendation designation of primary streets, it's not clear what the limits of such designations will be. Similarly, it's not clear what energetic neighborhoods refer to in Number 9, will encompass.

A considerable amount of discussion in many working groups has seemed to anticipate what I call a Peter Pan society, one in which no one ages, no one becomes infirm, no one require ambulatory support and
yet we know that one in five District residents has a physical condition that seriously limits their mobility.

We cannot design only for Peter and his friends.

Ten we support the recommendations about making more viable, more usable spaces. But what will happen to historic districts and along streets that have dividable character even if they haven't yet been designated.

Sticking a 14-foot store front in the line of 10 to 12 foot buildings may be controlled by HPRB decision in historic districts, but the other neighborhoods character should also be protected from mechanistic conformity, especially when it's out of scale.

Twelve. Allow art center and similar uses in appropriately residentially zoned locations. Define art center. Define similar. Define appropriate.

As this provision stands, we would
oppose such uses especially when made in of right use.

Schools were placed where they are because children had a right to a public education. Arts uses, however laudable, do not respond to a constitutional right. This would be a use variance under our analysis and should be treated as such with all the support of a community that wants that use there.

Special exceptions are presumed to be acceptable and they shouldn't be used to rezone property from residential to something else, including those uses in the multi-function group which I'm having trouble wrapping my arms around.

Thirteen. Expand the number of arts uses permitted as home occupations. Define many other arts forms that could be practiced in the home.

We're sure there are such, but without specificity, this provision would be highly problematic. There is also a need for
better definitions and provisions regarding
the multi-artist live-work. It's a trendy but
confusing term. How many are multi-artists?

Do I get one more minute?

CHAIRMAN HOOD: You have a minute
and a half. Okay.

MS. ZARTMAN: OP proposes limits
on the number of units only, not on the number
of artists in residents.

Do they all live alone? What
about families? What about numbers? What
about provisions that home occupations have to
be restored to their prior use.

The task force knows my personal
example of a fine artist neighbor. His
practice of metal sculpting with power tools
makes it sound like a body shop for hours at
a time. And the sound reaches into homes a
dozen door away.

Yes. We need a noise standard.

At the source of the noise, not inside
neighbors homes as was proposed in an earlier
As we increase the density of our neighborhoods we should take great care about the range of pressures we collectively levy on residents.

I thank you for the opportunity to comment.

CHAIRMAN HOOD: Thank you.

MS. ZARTMAN: And I stand prepared to answer any questions you still may have.

CHAIRMAN HOOD: Thank you very much, Ms. Zartman, and we'll go to Mr. Baker.

MR. BAKER: Good evening.

I'm Keith Allen Baker. I'm the managing director of the Studio Theater which is located at the corner of 14th and P Street, NW. And with me tonight are members of our Board of Trustees and staff.

I thank you for the opportunity to represent the Studio Theater's views on the proposal before the Zoning Commission.

The Studio Theater was a pioneer
in the uptown arts district. We were not part of the working group, but we would like to be going forward.

The theater was founded in 1978. The first home was at Rhode Island Avenue and 14th. We now occupy buildings at the corner of 14th and P and completed an expansion of the facility in 2004.

The studio has long been a positive force in the community and we were involved in the creation of the Uptown Arts District Overlay in the late 1990s and so we are very interested in any changes that are being made to that.

It took 20 years for the neighborhood to come back. And many of the things that we involved in in the creation are now coming to fruition.

We wholeheartedly support and share the broad goal of the task force and Arts and Culture Working Group to expand art districts in the city and to create new ones.
It is a concept that works. The studio, its artists, designers, patrons, students, neighbors and employees stand as living proof of the benefits that this support brings.

The continuation of the incentives that foster active and walkable art sectors will make the District one of the most liveable and exciting cities in this nation.

We support recommendations 1 through 6 and 9 through 15. We do have concerns about two specific proposals under consideration.

Recommendation 7 and 8. These proposals would reduce available bonus density for arts and other preferred uses from a 3:1 to a 1:1 ratio. And two, eliminate the ability to transfer density rather than use visa the CLD or TDR transactions.

Both proposals would have an immediate and harmful effect on our theater and the community.
The positive experience of the Studio Theater in the Uptown Arts Overlay District under the existing zoning structure is a testament to this structure's effectiveness.

Several years ago when we expanded the facility, we successfully qualified 150,000 combined lots development rights.

The qualification of these CLDs effectively created a vital financial asset for the theater. We have been able to sell a small quantity of these rights and we have two perspective transactions in the works to transfer approximately half of our remaining CLDs.

The ability to sell these contribute to our capital requirements, not only to renovate the theater but also to buy housing for our artists and apprentices in the neighborhood.

The upcoming transactions could amount to a cash equivalent approaching a
quarter of our annual operating budget and enable us to undertake additional and necessary capital spending. This is particularly important in the current economic climate where the philanthropic support a foundation such as Fannie Mae and Freddie Mac which have played a major part in the arts of our community is now in doubt.

The ability to sell these CLDs to others interested in improving the neighborhood accomplishes exactly the result the Zoning Commission sought when it enacted the Arts Overlay District in the first place.

You have effectively stimulated significant privately funded artistic enhancement and economic development in the neighborhood. At the same time with height and historic restrictions you have protected us all from the possibility of over density. It's a win-win scenario and we are only beginning to realize the benefits.

The balance use of zoning has
contributed in no small measure to the results
to far but much work remains. Significant
sections of our neighborhood still have vacant
or underutilized properties that are right for
development for both arts and retail uses. We
urge you to let the progress continue.

We have three decades of
experience in the neighborhood and we would
like to work with the Office of Planning and
the task force and the working group to devise
more workable, less harmful alternatives to
these two aspects of the proposal.

We believe that Recommendation 7
and 8 need more work to protect the value of
our property and the potential for development
in our neighborhood. We all have the same
goals for the city. Let us work together to
realize it.

Thank you.

CHAIRMAN HOOD: Okay.

Do you have anything else? You
still had a few more minutes.
MR. BAKER: That was everything.

CHAIRMAN HOOD: Okay. Good.

MR. BAKER: Okay.

CHAIRMAN HOOD: All right.

Let me ask you this, Mr. Baker, and I thought your opposition was strong but I understand -- wrote down you have an issue with 7 and 8 and I'm sure the Office of Planning will be glad to have you as part of the work group.

You mentioned your extension. I think the theater extended in a BZA case. Okay. I remember that. I was just trying -- I sat on that case.

How is that working? How did that work? I think the case was well supported but how is it working now? How is that whole piece working because I think you extended it to the next building over or something if I remember correctly.

MR. BAKER: Yes. We had -- we bought the first building and then we bought
the two other buildings and renovated them in 2004.

CHAIRMAN HOOD: Right.

MR. BAKER: And extended the building. So, it's working great for us.

VICE CHAIRMAN JEFFRIES: In a word it is stunning.

CHAIRMAN HOOD: Stunning?

VICE CHAIRMAN JEFFRIES: Yes.

CHAIRMAN HOOD: Stunning. Okay.

Okay. And Ms. Zartman, I will tell you that I think when I looked your -- and I know Committee of 100 is very thorough and I appreciate -- actually, I appreciate all the testimony. And the format, for some reason tonight I must be -- either I'm able to understand a little better than in the past, but the format seems to be great whether you're a proponent or in opposition.

But, Ms. Zartman, the way I've listened to your testimony. Maybe it's because of your nice, sweet eloquent voice,
but it didn't sound like you were that much
opposed, just some tweaking that you want to
see.

    I'm just saying, that's the way it
sounded to me. Now, maybe I need to go and
re-read it. But it sounded like some
tweaking--

    MS. ZARTMAN: It's really
underneath it all.

    Actually, the thing that was very
profound to us was the doing away with
overlays in favor of stand alones on District.
And I tested that with several members of my
zoning subcommittee who are, I'm blessed,
they're extraordinarily talented and
knowledgeable people and they kept scratching
their head.

    The very discussion that you were
having about retaining restaurants within the
arts overlay, would require the retention of
a range of commercial in other zones. And
this is the language. I think that's exactly
the language from your public hearing notice
and from the OP. And it is doing away with
the overlay.

CHAIRMAN HOOD: I think -- I think
though that -- I don't know. I need to
regroup with this but I will tell you that I
do have -- you asked some very questions that
we probably -- I know I will be posing. Why
bars, nightclubs, cocktail lounge, fast food
establishments and prepared food shops and sit
it in entertainment arts.

Some of those questions we need to
have further discussion. But I just didn't
see this as a hard kicker. I may be missing
something. But I think those are questions
that we need to sort through, maybe tweak,
make changes if need be and move at that
point. and I think you and Mrs. Neumann
brought up the same issue about the districts
and overlays.

But anyway, I may be totally
wrong. Maybe this is a hard opposition and
I'm just missing the point?

MS. ZARTMAN: Next time I'll lie and come in in favor.

CHAIRMAN HOOD: Okay. Any other questions, colleagues?

It's his birthday.

Commissioner Etherly.

COMMISSIONER ETHERLY: Please, I'm not going to get giddy with all of this accommodation from my two colleagues.

But let me just simply say as always, Ms. Zartman, thank you very much for your testimony. Your observations are always insightful. Even if I may not necessarily always be there with you, you always give good solidi comments on behalf of the 100 and other organizations that you work with.

To the Studio Theater, I just of course have to just simply amplify what has already been said. I sat on that case as a member of the BZA when that project came forward and Mr. Jeffries well chosen word, is
an understatement. It is just a wonderful
tremendous venue and it's an example of when
we get it right, it can work. It can
absolutely work. And I think I don't take
your testimony to mean that we're not on the
right path here, but of course there are some
things that need to be worked out because it's
always the devils are in the details.

But the institution of the Studio
Theater is to indeed be applauded for what you
bring to the 14th Street Corridor. Just
stunning is an understatement.

Thank you, Mr. Chair.

CHAIRMAN HOOD: Okay. Thank you,
Vice Chairman.

VICE CHAIRMAN JEFFRIES: He is
just the master of understatement.

Anyway, so Mr. Baker, I do want to
understand your issue with Number 7 though the
CLDs.

So, what is being proposed by the
Office of Planning is that, you know, you
would be able to transfer but you would be
disallowed to, you know, for those CLDs to
allocate actual density.

What -- just, can you walk me back
through exactly what the Studio Theater has
been doing with the CLDs that this proposal
will impact?

MR. BAKER: Absolutely.

MS. DEWAR: My name is Janet
Dewar. I'm the Chair of the Board of Trustees
of the Studio Theater.

The question is what have we been
doing with the CLDs?

VICE CHAIRMAN JEFFRIES: Yes. How
will you be impacted? It sounds like, you
know, obviously, you know, you've been able to
use the cell of these CLDs to really help
underwrite, you know, much of what the theater
has been doing. And so I just want to be
clear of what you've been doing and then how
this new language would impact that as it
relates to, I guess, allocating the actual
density?

MS. DEWAR: The difference is the change in the ratio from 3:1 to 1:1. The quantity of CLDs that the Studio Theater has are based on the original density, 3:1. And with a 1:1 and a 1:1 density that would possibly change our situation of CLDs that have already been qualified and that we are able to sell at market rates to other organizations that want to develop properties of --

VICE CHAIRMAN JEFFRIES: Within the--

MS. DEWAR: Within the arts district. And we've had one sale and we have two in the works that would be of substantial benefit to the theater.

VICE CHAIRMAN JEFFRIES: Okay. Mr. Chair, if you don't mind, I'd like for the Office of Planning to respond to that.

MR. JESICK: Yes. I apologize if there was any confusion, you know, in the
public hearing notice. It's certainly our intention to continue to allow transfer of use requirements and the transfer or sale of, you know, combined lot development credits or transfer development rights that sometimes go by different terms in different parts of the city.

MR. PARKER: In terms of CLDs that have already been generated though, nothing would take any existing CLDs away. this is talking about the creation of new. So, if you were to build a studio theater in two years after this is adopted, you'd only generate 1:1. But it doesn't affect CLDs you already have.

MR. JESICK: And the other thing I would add real quick is I don't know if we stated this in our report. But typically what we have in all of these districts is that the new requirements only apply to new construction or significant rehabilitation. So, it wouldn't even effect existing
buildings.

VICE CHAIRMAN JEFFRIES: Okay.

But I guess I'm really relating this back to Ms. Corbett's comments about, you know, really having some comprehensive aspects to the zoning regs. And, you know, obviously this is a wonderful test case of the Studio Theater being able to use sale of CLDs in order to underwrite, you know, and expand and so forth and so I'm just wondering whether it makes, you know, good policy sense to reduce that to 1:1.

Just, could you walk me through the reason?

MR. JESICK: We wanted to as one of the goals of the zoning review to simplify the regulations and that was one change we did make was to make all the bonuses 1:1.

Now, one change that we did make. There's a term used in the Downtown Arts Overlay called Floor Area Equivalent. But it's never defined in the zoning regs. So, we
went ahead and defined it. The intent that we assumed the original authors meant was to compensate for uses like theater or like other big volume spaces. So, they're using a large volume of their building but they're not getting credit for that entire volume.

I think right now they only get credit for the one FAR that they would occupy the ground floor.

What floor area equivalent is is giving them credit for every 10 feet or we can adjust that number to whatever is --

VICE CHAIRMAN JEFFRIES: Pro rate.

MR. JESICK: Exactly. Giving credit for the volume. So, they would actually potentially generate more CLDs or more transferrable rights.

VICE CHAIRMAN JEFFRIES: Okay.

so, there might have been some misunderstanding? In terms of -- I mean, I know we're dealing conceptually here right now. But I guess I just want to be clear. I
mean, obviously, we're talking about, you know, increased FAR and bonus. I mean, to me this is very critical. You know, we can talk about, you know, organizing our zoning, but we really need to have these incentives here. So, I just want to be clear.

MR. JESICK: No. We did change the numerical ratio from 3:1 to 1:1 for all uses. We think that we compensated for any change by including the FAR equivalent for uses like theaters. But 1:1 is not the right ratio, I mean, we're not locked into that.

VICE CHAIRMAN JEFFRIES: Well, I just -- can we just -- I just want to make certain that we revisit it. I mean, because, I mean obviously this is a wonderful test case. I mean, this is exactly what I think Ms. Corbett was talking about, you know, in terms of we need to have the right incentives, you know. And, again, I hear what you're saying about the equivalent, you know. And that might cover it, but I just want to be
clear that, you know, we worked out that.

MR. PARKER: I think it's an issue
of that the ratios may not have been entirely
based on but sort of compensate for the fact
that things like theaters are often double,
triple high --

VICE CHAIRMAN JEFFRIES: Right.

MR. PARKER: -- of regular space.
And something like just saying it will be
based on an equivalent ratio so a 30-foot high
theater space will earn 3:1, you know, as if
it was three stories. And a 40-foot would
earn 4:1. So, it's trying to accomplish the
same thing --

VICE CHAIRMAN JEFFRIES: Okay.

MR. PARKER: -- in a more
 equitable fashion.

VICE CHAIRMAN JEFFRIES: Well, my
understanding is that the Studio Theater
representatives are going to be part of this
working group going forward or whatever. I
mean --
MR. PARKER: We'll be happy to discuss with them. Yes.

VICE CHAIRMAN JEFFRIES: So, I just want to, you know, make certain that we get that all squared away.

MS. DUMAS: Mr. Jeffries, if I could jump in to answer one of your questions about how does it impact the Studio Theater. I'm Kinley Dumas with Arent Fox on behalf of the Studio Theater. One of our concerns and the reason we're so concerned about the two recommendation together. Even though the studio has already qualified the bulk of any CLD rights that it has, our concern is pared with the recommendation that only use be transferred and not density, that the production market value of the rights that have already been created.

And it also is important to the studio that the work they've done in the corridor continue and that these same
advantages be available to other arts
organizations that wish to locate within the
corridor.

VICE CHAIRMAN JEFFRIES: Right.

MR. JESICK: So, if I can respond.

Again, our intention was not to
take away the transfer of density. We
definitely want to continue that and I
apologize again if there was any confusion
with the public hearing notice.

We actually, you know, are basing
that recommendation on the current practice in
the Uptown Arts Overlay and we feel that that
is a good model to build off of.

MR. PARKER: And I think -- we
think we've identified where the
misunderstanding comes in.

If you look at Recommendation No.
9, number 7 says transfer through CLDs just
use, not density. And then number 9 says
transfer density through TDRs.

MS. DUMAS: The studio is
completely in support of changing this to a TDR structure. It would simplify what has been done. It would simplify it for other organizations. I don't know that it would work for a studio since they've already engaged in these.

But I think what's lacking in the recommendation is a statement that existing CLD rights are going to continue or, you know, how this is going to be treated moving forward for organizations that already have those rights and those that are already in the market.

MR. PARKER: Will you accept our assurances from here?

VICE CHAIRMAN JEFFRIES: And I have a question for Mrs. Zartman and it's on number 12.

Allow art centers and similar uses.

You say at the end of that paragraph. You say at the end of that
paragraph. You said this would be a use variance under our analysis and should be treated as such. So, it wouldn't fall under a special exception.

Why would you go that route?

MS. ZARTMAN: Because of the fundamental difference in the use of the building. When a school facility if declared surplus it reverts to the underlying zoning which, as an example in Georgetown, would be R3. That would not allow the institutional use that's involved.

VICE CHAIRMAN JEFFRIES: Okay.

MS. ZARTMAN: And I don't know of any special exception provision that would stretch that far.

And a special exception is presumed to be blessed by the zoning regulations.

VICE CHAIRMAN JEFFRIES: Right.

Did we -- did we look at in terms of how we would handle surplus schools,
adaptive reuse in terms of how we -- I thought we talked about special exception.

MR. JESICK: Yes. What we wrote in our report was that it could be either a special exception or a matter of right. And I think what I said in my verbal testimony was that Office of Planning was leaning more towards creating a new special exception for those sorts of art centers or art incubators.

VICE CHAIRMAN JEFFRIES: But could you -- how is that responding to Mrs. Zartman's concern?

MR. JESICK: Well, I think she's correct that presently they would be a use variance.

VICE CHAIRMAN JEFFRIES: Okay.

MR. PARKER: You have been considering a case about the reuse of public schools right now and about allowing uses like this as special exceptions.

VICE CHAIRMAN JEFFRIES: Right.

MR. PARKER: And this would sort
of tie into that same theme of the reuse of
these buildings with some review --

VICE CHAIRMAN JEFFRIES: Right.

Right.

MR. JESICK: -- as a special
exception but not as a use variance per se.

VICE CHAIRMAN JEFFRIES: Okay.

MS. ZARTMAN: I would have serious
concerns about the rigger with which -- these
are large facilities. Many have no parking.
they need a whole variety of accommodation to
carry a large public use without disrupting a
neighborhood.

VICE CHAIRMAN JEFFRIES: But that
could not be covered in the special exception?
I mean, we would deal with all of that.

MS. ZARTMAN: You know what the
community says about special exceptions.

VICE CHAIRMAN JEFFRIES: Yes.

MS. ZARTMAN: They are hard to get
turned down for.

VICE CHAIRMAN JEFFRIES: I turned
down a couple, but anyway.

    MS. ZARTMAN: Maybe the staff can
give you proportions on that.

    VICE CHAIRMAN JEFFRIES: Is that
what he's saying out that special exceptions
are hard to --

    MS. ZARTMAN: Hard to get through.

Yes.

    VICE CHAIRMAN JEFFRIES: Yes.
There's a couple. I don't want to talk about
it but they're not going through. So, okay.
Okay.

    Thank you.
Well, by the way, you were part of
the working group.

    MS. ZARTMAN: I was not part of
this working group. I am a member of the task
force.

    VICE CHAIRMAN JEFFRIES: Okay.
And you were not part of the working group
because?

    MS. ZARTMAN: I'm part of, I think
16 working groups.

VICE CHAIRMAN JEFFRIES: That's not stopped you in the past. And we're talking about Barbara Zartman here so, you know.

Anyway, thank you for coming down.

CHAIRMAN HOOD: Okay. we appreciate everyone's testimony and all your hard work and appreciate you giving us some incite. We greatly appreciate it.

Thank you so much.

MS. ZARTMAN: Thank you.

CHAIRMAN HOOD: Okay. Let's -- I think that was a very good discussion which is going to lead to another very healthy discussion which is going to be interesting.

Do we know if Mr. Turnbull and Mr. Mayor are going to read the record?

Okay. Let me also acknowledge ANC 6B and this was dated 11th. And it says at a regular called and properly noticed meeting on September the 9th, 2008, with a quorum
present, ANC 6B voted unanimously eight to zero to support the comprehensive zoning regulations, rewrite arts and culture in principle, but reserves the right to review the text in the future comments.

Okay. With that, I think, Ms. Schellin, do we have anything else before us tonight for this hearing?

SECRETARY SCHELLIN: Just the dates.

CHAIRMAN HOOD: Okay. We have some dates. October the 3rd. The Office of Planning I think are you giving us a supplemental?

SECRETARY SCHELLIN: I think that they're going to respond to the issues that were brought up tonight. That's the purpose.

VICE CHAIRMAN JEFFRIES: Okay.

MR. PARKER: Could you identify any specific information that you're looking for?

CHAIRMAN HOOD: I don't -- did we
ask for anything?

SECRETARY SCHELLIN: It wasn't anything that was specifically asked. But I think that I got that you guys wanted to try to hash out some of the questions that they brought up with the --

CHAIRMAN HOOD: I think -- I think for me and I want to turn to my colleagues. The way the testimony was written tonight like Committee 100, Studio Theater and even the -- it went along in sequence exactly with how the recommendations were from the Office of Planning. So, I don't think I need anything else.

SECRETARY SCHELLIN: Okay.

CHAIRMAN HOOD: I don't.

VICE CHAIRMAN JEFFRIES: I think that for parking, I remember, you know, what happened. We had a lot of comments and then the Office of Planning went back and you know, put together another -- made some changes and revisited a few things and so I don't --
SECRETARY SCHELLIN: Right. I think they may have answered everything tonight but --

CHAIRMAN HOOD: Yes. I think we're good.

Okay. So, we'll leave that.

So, do we still need to do --

SECRETARY SCHELLIN: Leave the record open until October 10th for any additional comments that the public wants to make and then we'll consider it at our October 20th meeting.

CHAIRMAN HOOD: Okay. With that, anything else?

SECRETARY SCHELLIN: That's it.

CHAIRMAN HOOD: Okay. With that, I appreciate everyone's participation tonight and this hearing is adjourned.

(Whereupon, the above matter was concluded at 6:39 p.m.)