GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION
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SPECIAL PUBLIC MEETING
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THURSDAY
OCTOBER 16, 2008
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The Special Public Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 6:00 p.m., Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD        CHAIRPERSON
GREGORY JEFFRIES       VICE-CHAIRPERSON
MICHAEL TURNBULL, FAIA COMMISSIONER
(OAC)
PETER MAY              COMMISSIONER
(NPS)

OFFICE OF ZONING STAFF PRESENT:

ESTHER BUSHMAN       General Counsel
DONNA HANousek       Zoning Specialist
SHARON SCHELLIN      Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN H. BERGSTEIN, ESQ.
JACOB RITTIG, ESQ.
OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, DEPUTY DIRECTOR
JOEL LAWSON
TRAVIS PARKER
PAUL GOLDSTEIN
MAXINE BROWN-ROBERTS
STEVEN COCHRAN

The transcript constitutes the minutes from the Special Public Meeting held on October 16, 2008.
<table>
<thead>
<tr>
<th>AGENDA ITEM</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>CALL TO ORDER, Anthony J. Hood</td>
<td>4</td>
</tr>
<tr>
<td>PRELIMINARY MATTERS</td>
<td>5</td>
</tr>
<tr>
<td>PROPOSED ACTION</td>
<td></td>
</tr>
<tr>
<td>A. Z.C. Case No. 08-06-2 (ZRR: Parking)</td>
<td>7</td>
</tr>
<tr>
<td>ADJOURN, Anthony J. Hood</td>
<td>133</td>
</tr>
</tbody>
</table>
CHAIRPERSON HOOD: We're ready to get started. This is a special public meeting. Good evening, ladies and gentlemen. This is October 16th. This is our special public meeting of the Zoning Commission, District of Columbia.

My name is Anthony Hood. Joining me are Vice Chairman Jeffries, May, and Turnbull. We are also joined by the Office of Joining Staff under the leadership of Ms. Jerrily Kress, Office of the Attorney General under the leadership of Mr. Bergstein. Tonight it looks like we're under the leadership of the Office of Planning with Mr. Parker.

Copies of today's meeting agenda are available to you and are located in the bin near the door. We do not take any public testimony at our meetings unless the Commission request someone to come forward.
Please be advised that this proceeding is being recorded by a court reporter and is also webcast live. Accordingly we must ask you to reframe from any disruptive noises or actions in the hearing room. Please turn on -- I'm sorry, please turn off all beepers and cell phones.

Does the staff have any preliminary matters?

MS. SCHELLIN: Just one with the case before us. There are two documents that came in after the record closed, Exhibits 87 and 88. They came in, I believe, maybe four or five days after the record closed if you guys would reopen the record to accept those.

CHAIRPERSON HOOD: Colleagues, I don't see a problem with reopening the record. Do we need to do a general consensus or vote?

MS. SCHELLIN: Consensus is fine.

CHAIRPERSON HOOD: I think we have general consensus. Do we have anything else, Ms. Schellin? I will tell you this is the
first of many series for the Commission in moving forward and I want to put this on the record.

While we may have to make some tweaks and changes as we go along, I believe that this process is a work in process so bear with us as we go through this. We are going to fend through it the best way we know how and any changes that we made I'm sure that this Commission staff and all we will govern ourselves accordingly.

A lot of work groups have put a lot of comments into the record. Tonight I'm going to be referring to September 3rd. The process now is to give guidance in how the Commission wants to proceed.

I think we have a fine document which is in the public record. It's dated September 3. Unless my colleagues see another way of moving, I would like to basically use this as our road map.

I do know that a lot of groups, as
I stated earlier, have made a lot of comments. I think there will be another bite at the apple in time for us to make tweaks as we seem and see necessary.

That is the fashion that I think this Commission -- at least I would like to see us move in that fashion unless my colleagues feel otherwise. Are we in agreeance? Okay. All right.

Okay. Ms. Schellin, are we ready to proceed?

MS. SCHELLIN: Yes, sir.

CHAIRPERSON HOOD: Okay. Proposed Action, Zoning Commission Case No. 0806-2. This is under the ZRR and tonight's issue is parking. Ms. Schellin.

MS. SCHELLIN: You have before you the case on parking and it's our understanding that the Commission will have dialogue with the Office of Planning and give them some direction regarding a parking policy.

CHAIRPERSON HOOD: Okay. With
that, again, colleagues, let's refer to the submission dated September 3, 2008. This is our road map and I would just like to start off with No. 1, minimum parking requirements.

This is kind of like -- the way I envision it this is just like a road map. I actually have two copies but I want to -- before we get started I'm going to point out one thing that I've heard and I'm just going to take it from a number of places.

Mr. Bergstein, I think this is not in compliance with how we need to proceed. You can chime in. I've noticed in supplementals one of the things that I heard from a number of people who commented, for example, I'm taking this straight from an August 19th letter of the committee of 100.

I think Lindsey Williams also mentioned this to Kalorama Citizens Association, the Federation of Citizen's Association as well have mentioned basically the same concept. We have been asked -- I
think we need to do this preliminarily.

We have been asked and it says, "The committee recommends the Zoning Commission hold a round table which the related governmental agencies, OP, DDOT, DPW, and the Zoning Administrator can offer integrated proposals based on their programmatic responsibilities."

Then it says, "The public, too, deserves the opportunity to inquire further into what will change in their communities."

I think there is going to be -- the way I see it I think there is going to be enough bites of the apple in the process, again, a working process. We are not exactly sure how many bites.

We know there will be at least one more bite at the apple. I'm seeing Mr. Parker concurring by nodding his head. I'm sure there is some collaboration between OP and DDOT. I'm not sure what role right now the DPW may be playing but I'm sure they are
probably involved as well as the Zoning Administrator.

When I look at the review of the task force and the folks in law, I think that some of that is actually starting to materialize. If it's just right out there at this point, I'm not sure if that's the case but that is something that we probably will put on the back burner. In other words, I want to make that statement because I don't want anyone to feel that we have not read the materials.

Tonight we are just giving guidance. It's more of a general. We're not getting down to the knitty gritty specifics of exactly what we are going to move when we get some language. I just wanted to put that on the record. If anyone has any problems with what I said, speak up now. If not, we're going to move forward.

Okay. Let's go back to September 3, 2008. I think this is a good road map. It
says "minimum parking requirements." We have some options. A. Off-street parking by the public or building tenants. We have Option 1, do not require any building in any area to provide off-street parking.

There is a direction if we don't accept Option -- if we go with Option 1 but then we have Option 2, required building to provide off-street parking if houses one or more nonresidential uses and is located in a residential district where multi-family dwellings are not permitted or a commercial quarter within however many feet we deem seem necessary of such a district except in transit or development areas.

Then we have Option 3 if we don't agree with that. I mean, this is the way I see that this plays out. Option 3, require buildings to provide off-street parking if -- that's if we don't accept 2 that's for us to fill in. Then Option 4, retain existing parking minimums. What I would like to do at
this time is open it up to my colleagues and let's talk about Option 1.

First of all, let me do it this way. Does anyone have -- is there anyone who would like us to accept Option 1? Option 1 says, "Do not require any building in any area to provide off-street parking." Does anyone move? I'm looking. I want everybody to concur before we move.

COMMISSIONER MAY: I'm not ready to say no minimums period. I wasn't convinced by the testimony we got from the Office of Planning and those who supported the notion of no minimums period.

CHAIRPERSON HOOD: All right. Let's look at Option 2, required building to provide off-street parking if it houses one or more non-residential uses as located in a resident district. We have it in front of us. I'm not going to keep reading the same thing because we have it in front of us. Anyone move or would like to comment on that? Option
MR. TURNBULL: Mr. Chair, I guess I go back and do Bill Cruise's letter to us and the concern about the spill-over effect. He mentioned -- you know, I'm looking at his Exhibit 83. He talked about, "Specific uses to trigger the exceptions do not include multi-family residences uses wherein the single family rowhouse areas are in commercial court of such areas."

That's what he talks about. Maybe Mr. Parker could comment upon what Mr. Cruise was getting at in his. I mean, I think we've had this from others, too, to worry about the spill-over effect in areas where there isn't any parking.

MR. PARKER: Would you like a response?

MR. TURNBULL: Please.

MR. PARKER: Well, keep in mind that No. A where we're talking about retaining parking minimums, that's in low and moderate
density residential zones. That's in single-family districts and flat districts. Those types of buildings aren't allowed in those districts. Existing buildings that are there like that are grandfathered whether they have parking or not so it's really not an issue.

I assume that the issue that would be of concern is in commercial corridors for new multi-unit residential buildings and commercial corridors. Again, it's a choice that you certainly have to make but our recommendation and the recommendation of our consultant was that the market has provided this.

In Portland they removed parking requirements for all uses along their commercial corridors in an effort to spur development, to provide more incentives to infill these smaller lots, and to remove the variances when you have to dig underneath on these small lots or provide parking.

You don't have room in the back to
provide parking. Less than 1 percent of the new buildings in Portland in those zones were built without parking so it's not an issue of new multi-family buildings going up without parking.

People who have cars want to move into a building with parking space and want to buy a parking space. That's what we found and that's what the research done by our consultant has shown. Our minimum parking requirements as we have them now don't really play a role in providing parking for those buildings.

We can argue about whether we should set those limits higher and provide more parking in those buildings. Right now it's not been an issue.

COMMISSIONER MAY: Now, what about in the circumstance where you've got a commercial corridor and then immediately adjacent to that commercial corridor you have a low or moderate density residential zone.
MR. PARKER: Right.

COMMISSIONER MAY: You're saying that -- what you're saying is that the market for the higher density buildings is going to be such that it's going to -- that the parking is going to occur just by market demand.

MR. PARKER: We're actually pushing for maximums in order to limit the amount of parking for this very reason. The other cities that we've looked at that have done this same thing certainly have not had a problem with the provision of parking. Portland and San Francisco you have letters in the record from them who have initiated the same sort of thing and they have gone further. They haven't required it for the office or the commercial in these commercial corridors. They have not had an issue with projects being built without parking or without adequate parking.

COMMISSIONER MAY: The neighborhoods where we have spill-over issues
right now, what's causing that?

MR. PARKER: Well, there's a lot of reasons for that. Part of it is right now everyone drives everywhere. Right now if there is plenty of parking in a neighborhood people are going to drive there and the first thing that they're going to do is not go down into that parking lot.

They are going to drive around the neighborhood and take the first spot that comes. The provision of more parking what it can do is encourage more people to drive to that neighborhood. People don't drive necessarily to Adams Morgan because they know they're not going to have a place to park.

COMMISSIONER MAY: That never stopped me when I went there. I remember, I don't know, maybe I've been around Washington too long, but the whole parking garage controversy in Adams Morgan when everybody in the council and everybody else was clamoring to get a parking garage built in Adams Morgan
to deal with that.

MR. PARKER: And it hasn't helped the on-street parking situation.

COMMISSIONER MAY: Well, would it be worse? Are you saying it would be just as bad because it's "build it and they will come?"

MR. PARKER: Very much so. Build extra and they will come. We're not talking about not building any. Obviously the developers are going to build as much as they can sell and that's always going to be the case.

It's building stuff that they can't sell that's an issue. Wherever we require it, usually we are going to be below that but in a few cases we are requiring them to build more than they can sell, those are the cases we want to take care of.

COMMISSIONER MAY: How many of those cases have occurred that have built more than they can sell? I've heard about one in
Columbia Heights.

MR. PARKER: That's information that we cannot get because it's not something that developers are willing to share. Developers build too much parking and they want to tell people buying their spots that there's -- I mean, they don't want to lower their prices. They don't want to tell their lender that they've built too much. It's not information that we can readily get.

VICE-CHAIR JEFFRIES: I think there is something on Columbia Heights. I think it's like 14th and Gerard. I think the ground floor has a Dunkin' Donuts. I think they have more parking than --

COMMISSIONER MAY: Somebody's presentation mentioned that building in particular.

MR. PARKER: That was DCUSA I think that was mentioned.

COMMISSIONER MAY: Oh. So this is another one?
VICE-CHAIR JEFFRIES: This is another building.

MR. PARKER: So it happens. We just have no -- that's impossible to get data on because it's not something that people are willing to share.

COMMISSIONER MAY: Is that the problem -- that's not the problem we're trying to solve. We're trying to manage people's habits or people's tendencies.

MR. PARKER: That would be the parking maximums. Here we are trying to eliminate those cases where we may be forcing too much parking and cut down on the number of variances where parking wouldn't be necessary but it's required or parking wouldn't be needed but it's required. This isn't about managing. This is about removing --

COMMISSIONER MAY: So why wouldn't we just be looking at reducing the minimums?

MR. PARKER: We certainly can.

COMMISSIONER MAY: I'm asking why
are you eliminating minimums as opposed to
simply reducing them or finding a mechanism
for reducing them in an orderly fashion and in
a coordinated fashion?

MR. PARKER: I guess the point is
whatever level you set minimums at, it's not
right for 90 percent of the project. You're
right for a project somewhere but for half of
the projects that's more than they need and
for half of the projects that's less. Now,
actually --

COMMISSIONER MAY: You're saying
half the projects are building more parking
than they need?

MR. PARKER: Not at all. Forgive
me that I said that. The point is whatever
limit you set some of the projects -- in this
city most of the projects need more parking
than that limit. Some of the projects need
less. We can't set a parking requirement
that's as exact as the people who are building
that building.
They have more information about how much parking need there is for that building than we do and it changes on a site-by-site basis. What we found is that parking minimums set for a particular use across the city are a shot in the dark in terms of what the actual need for that use in a particular location is.

COMMISSIONER MAY: So the answer is to not take a shot at all.

MR. PARKER: Well, it's not needed and it hasn't been in the cities that have taken away the minimums.

COMMISSIONER MAY: Well, I'm not absolutely convinced of that based on some of the other testimony that we've received and we've seen a lot of things that contradict.

MR. PARKER: From other cities that have done this.

COMMISSIONER MAY: Well, what's in people's testimony and in their submissions about the success of the other cities. I
mean, some of what's in there. You know, you
read so much of this stuff it's hard to know
what to believe and what not to believe.

You get some blanket statements
from reputable organizations that say things
like, "This policy has been implemented," or
there's enough proof from where these policies
have been implemented that minimums don't work
as if it's fact, stating this as if it's fact. It's not fact. What they are stating is a
generalization so it makes it very hard to
rely on a lot of the data that we have.

MR. PARKER: I guess the point is
they have worked very well for what they were
designed to do 50 years ago. Fifty years ago
people didn't build parking. People didn't
put it on their own lots. The only parking
was on the streets and there was a need for
off-street parking and people had to be
engineered to provide it.

That's been done. We've got 50
years of engineering to get us to provide
parking and now we are doing it on our own.
People build the parking that they need and
they build it on their own lot and people want
parking on their own lot. What we're saying
is that the need for our social engineering by
requiring it is gone. We've been successful
in getting people to realize that they need
parking on their lot.

VICE-CHAIR JEFFRIES: Do you mind,
Commissioner May, that I step in? I just want
to get some clarity here. So the Office of
Planning you were effectively recommending
that we remove minimum parking standards from
the parking schedule but maintain minimums in
areas where there is potential spill-over
effect.

MR. PARKER: Absolutely.

VICE-CHAIR JEFFRIES: Okay. That
seems reasonable to me. The question is let's
look at 14th Street, my neighborhood.
Adjacent you have R-5. I think you might have
a couple of R-4s but R-5s. There may be
spill-over there. In those situations for those buildings that are going up on 14th Street you would require some sort of minimum?

MR. PARKER: We've recommended that, yes.

VICE-CHAIR JEFFRIES: Okay. Then in situations where there are non-residential uses that are in, let's say, R-4 --

MR. PARKER: Schools and churches.

VICE-CHAIR JEFFRIES: Schools and churches, you would require some level of minimum.

MR. PARKER: The same as we have now. We wouldn't change it.

VICE-CHAIR JEFFRIES: Okay. So, Commissioner May, what is your issue with that?

COMMISSIONER MAY: This is all under the Option 2 framework. Is that right?

MR. PARKER: That was our recommendation, yes.

COMMISSIONER MAY: I'm just not
completely convinced that what's being addressed in terms of the risk of spill-over is adequately defined by what's on this piece of paper.

In other words, you know, which is required billing to provide off-street parking if it houses one or more nonresidential uses and is located in the residence district where multiple family dwellings are not permitted or a commercial corridor located within X feet of such a district.

I think there are other factors that play into that. From when I had read this, mixed use areas served by transit might be places where it's acceptable. I mean, why are we defining the areas where -- you know, why is it none anywhere except trying to address some of the spots where we know we have the spill-over issue? Why don't we focus on where we think it's okay to eliminate the minimum?

VICE-CHAIR JEFFRIES: I mean, I
thought the main thrust of some of this was really trying to deter people from driving their cars into certain neighborhoods, particularly if there were metro stations, very strong buslines. I live three blocks from Adams Morgan and you are absolutely right.

There's certain neighborhoods you don't even think about getting in your car and driving to because it's just going to be a major, major hassle and you figure out other ways to get there.

I guess I thought that's what we were really trying to get to clearly recognizing that certain people are going to drive but as we look into the future here in the District, I mean, we have to start to sort of manage this.

It seems like a reasonable recommendation to me. I get the impression that you're right, that there's probably some tweaking and some things that we really need
to do to sort of address it but I don't --
clearly beyond the former zoning
administrator, I mean, a number of people have
talked about the spill-over effects so we
really do need to address that. This is what
I consider to be somewhat of a hybrid sort of
approach. It seems reasonable to me.

VICE-CHAIR JEFFRIES: If I might.

VICE-CHAIR JEFFRIES: Sure.

MR. PARKER: One other thing that
I haven't really mentioned that we need to
consider is the one reason to provide on-
street parking has always been to prevent
spill-over onto on-street parking or to
provide off-street parking has been to prevent
spill-over.

What our consultants have been
telling us is that the provision of off-street
parking does not prevent spill-over, does not
keep people from parking on the street and we
can see that. We've had these requirements
for 50 years. We have problems all over the
city with spill-over parking on the street.

  The question becomes if that's not
  the answer what is? The answer is the
  management of on-street parking through better
  RPP, through better enforcement of RPP,
  through demand pricing of commercial streets.

  That's what DDOT is working on.

DDOT understands that we've had these
requirements for 50 years. They are not
controlling the on-street parking so they've
got to do it more directly.

VICE-CHAIR JEFFRIES: So, Mr.

Parker, are you saying -- I'm going to go back
to 14th Street even if you were to provide
visitor parking underground, several spaces,
people driving there might or might not. They
might decide not to go there. They are still
sort of park in some of the adjacent --

MR. PARKER: Think of the places

in the city that have the most off-street
parking. Downtown has tons of off-street
parking. Is there places on the street to
park? Has it stopped spill-over?

    I mean, the places with the most
off-street parking do not have less spill-over
than the places without any. What we're
seeing and what our consultants have said is
that off-street parking is not the solution to
on-street parking.

    VICE-CHAIR JEFFRIES: There's not
a nexus?

    MR. PARKER: There's not the nexus
that there was believed to be. We can control
on-street parking through other methods and
DDOT is working to do that now and will
continue to work to do that. What we're
saying is that people are conditioned to build
their off-street parking.

    They are going to build what they
need. We don't need to require them to build
more because whether they do or not we're not
going to clear up spaces on the street that
way.

    CHAIRPERSON HOOD: How is DDOT
doing it? Just give me an example of what they're doing. I know Ms. Ricks testified for DDOT. How are they doing it? Just give me an example.

MR. PARKER: Well, they've got several strategies. They're running several pilots across the city. One thing they're looking at -- basically I think the general goal is 80 percent filled parking so that wherever you go in the city there will always be 20 percent of the spots open.

The way that you do that where you charge for parking is you raise the rates and you have demand prices so during rush hour parking cost more than in the middle of the night. The cost of parking always keeps some spaces open.

In residential zones it becomes more an issue of enforcement and may be narrowing the areas which RPP cover and having smaller areas so that only the residents of that immediate area can park in that area and
enforcing to ensure that commercial people don't. Spill-over parking from commercial isn't legal now in a lot of residential neighborhoods.

COMMISSIONER MAY: For two hours it is.

MR. PARKER: Well, maybe it shouldn't be. I mean, maybe that's the issue. If we make that illegal and enforce it, that's going to keep the street clear.

CHAIRPERSON HOOD: The key to the last word -- and I know that some of this is probably going beyond. We can put a reg in place but enforcement, that last word you said, is very key.

MR. PARKER: Absolutely. And that's the only thing that will solve the problem, not the provision of more off-street parking.

VICE-CHAIR JEFFRIES: Some of this is out of our jurisdiction. We're just one part of this overall puzzle here. I don't
think that we need to -- you know, I mean, I think we need to consider these things but clearly recognize what we do here.

CHAIRPERSON HOOD: Right. I appreciate your comments but I also want to make sure, at least from my standpoint that I try to make an informed decision on where I'm going to fall on this. Okay. Let's move this along.

COMMISSIONER MAY: I'm sorry.

CHAIRPERSON HOOD: We want to go back to Option -- where are we at now, 2? We're still on 2.

COMMISSIONER MAY: Well, no. I just want to follow-up on that slightly if I could. I know I've heard discussion of residential parking permit costs going up and being graduated for first car, second car, so on.

MR. PARKER: That's certainly an idea. I mean, if you charge more for the second and third car, yeah.
COMMISSIONER MAY: Is anything happening with that?

MR. PARKER: I can't answer that. Maybe Chris Ziemann from DDOT can answer that.

I know that's been considered in the past and I know it is being considered again but I don't know where it's at.

COMMISSIONER MAY: Yeah. Okay.

MR. ZIEMANN: Hi. Should I state my name?

COMMISSIONER MAY: Yes.

MR. ZIEMANN: Okay. My name is Christopher Ziemann. I'm the Ward 2 transportation planner for DDOT. DDOT is doing a lot of different pilot programs right now.

COMMISSIONER MAY: I just have a very discrete question which is are you looking at raising the rates on RPP and graduating it one car, two car, etc.?

MR. ZIEMANN: We are looking at it right now. It depends on a lot of things,
especially city council, popularity and
everything. That is definitely one of the
ideas that we're bouncing around.

COMMISSIONER MAY: So it's
bouncing around. Okay.

MR. TURNBULL: What about the
notion that was raised just about a minute ago
about eliminating the spill-over parking, the
two-hour parking for other than residents
parking on the street? Is that contemplated?

MR. ZIEMANN: Yeah. There's a
number of ideas right now that are being
contemplated. That's one. For example, what
some people are talking about is having it on
one side of the street and then still
retaining the two-hour parking on the other
side of the street.

Another strategy is to actually
put multi-space meters on residential streets
so that people who are parking there for two
hours still have to pay. There's the pilot
program around the ballpark which during
baseball games I think the first hour is $2, the second hour is $8, the third hour is also $8, and then the fourth hour is another $2. That is somewhat equivalent to what it cost to park in the parking garage.

VICE-CHAIR JEFFRIES: Did you say meters on residential blocks?

MR. ZIEMANN: Yes.

VICE-CHAIR JEFFRIES: You didn't say that. Did you say that?

MR. ZIEMANN: Yeah. Not for residents, though. Except for residents. Visitors who come to the area would pay the meters.

VICE-CHAIR JEFFRIES: So we have to see these little meters all up and down our residential blocks.

MR. ZIEMANN: We don't have to do anything. These are options that we're considering.

COMMISSIONER MAY: Yeah, that's being done in some places in S.W. in
MR. ZIEMANN: Where it is being implemented it's shown to be very popular.

VICE-CHAIR JEFFRIES: I'm just dealing with the physical appearance of that.

MR. TURNBULL: Maybe we need some better looking parking meters?

VICE-CHAIR JEFFRIES: I don't know. It's just one more thing that's up and cluttering the street and so forth but whatever.

MR. TURNBULL: With all the number of pilot projects and programs you've got going, how long -- what is the test period? How long does this go?

MR. ZIEMANN: It depends on the specific program. I know with the ballpark parking pilot they have been kind of tweaking it and evaluating it periodically, perhaps monthly or bi-monthly. I'm not sure but they're been having community meetings to kind of get feedback on how it's working and what's
working and what's not working.

I think they might have changed the prices and the scales a little bit. It would depend on the specific program. Some could be six months and some could be a year.

MR. TURNBULL: I guess if it's going to take that long do you see a time period where you feel you could come back and you're going to be telling -- you're going to say, "Here is what we are planning to go forward with?" I mean, do you have a set period of time when you are going to roll out some of these new ideas?

MR. ZIEMANN: Well, we're rolling them out right now as test pilots. Basically what we've found is that every neighborhood is different so every neighborhood seems to be -- needs to be considered --

MR. TURNBULL: So you're tweaking it for the neighborhood, for each neighborhood.

MR. ZIEMANN: Right. Yeah. I
mean, we come with the ideas of what we think
will work and then we see why it does work,
why it doesn't work, how it could work better,
what are the strengths and weaknesses of each
program in each area.

MR. TURNBULL: Do you think that
when you're ready you have the funding to be
able to carry out some of these programs on a
wider basis?

MR. ZIEMANN: Yeah, yeah.

Definitely. I mean, as far as funding goes it
depends on a lot of things. It depends on
which program we're talking about if we're
talking about meters on residential streets or
just talking about different signage or if
we're talking about increasing enforcement.
For example, at night U Street or Georgetown
or something on the weekends.

MR. TURNBULL: Okay. Thank you.

CHAIRPERSON HOOD: Let's try to
get back to -- okay. Option 2 is -- I don't
want to sound -- let's leave that in the
parking lot. Let's just park right there for Option 2. Let's go down to -- let me skip to Option 4.

Obviously retain existing parking minimums. Is anyone interested in that? I'm working my way differently so we can move along. Option 3. Does anyone have anything that we may want to recommend and maybe we can tie that in with Option 2.

At this point unless -- I don't want us to do it off the cuff but at this point if someone has something that they may want to come back and reconsider, we'll put both of those in the parking lot and move on and come back to that.

COMMISSIONER MAY: I'm not sure what you mean by putting them in the parking lot --

CHAIRPERSON HOOD: Let's park it and let's move on. Put a pin in it.

COMMISSIONER MAY: I understand.
Option 2 has been cast has eliminate the minimums except where there is an issue of spill-over. Right? That's the way someone characterized it here. In principle I think that is probably okay.

I was originally thinking, "Well, maybe what we should be doing is not looking at where we would have minimums but where we would eliminate minimums which is the approach that was taken in most of the other cities where the examples have been provided where they say, "Okay, this is an area where we don't think we need them and it's been successful in those areas."

I certainly would be open to that approach. That may not be as aggressive in achieving some of the other goals of making this change which is to reduce the number of vehicle trips into the neighborhood.

If we go back to Option 2, I guess I would just want to broaden Option 2 so that what it covers is not just a building that has
a nonresidential use in it because I think
residential uses can also cause the spill-over
effect. Are you looking at Option 2?

VICE-CHAIR JEFFRIES: Yeah, but --
okay, what are you referring to?

COMMISSIONER MAY: I'm just
reading --

VICE-CHAIR JEFFRIES: Go on.

COMMISSIONER MAY: I'm saying, you
know, Option 2 says require a building to
provide off-street parking if it houses one or
more non-residential uses, you know, if it's
an office building. If it's a -- well, you
can't do it in a residential neighborhood.
Does that really -- I guess I'm confused then
because the way someone characterized Option
2 was that it would be a way of addressing the
spill-over effect.

VICE-CHAIR JEFFRIES: Nonresidential
uses would be schools -- I mean, that are
accepted in a residential zone would be a
school, churches, those few --
CHAIRPERSON HOOD: Let's get some clarification on that. I don't know who said that. Mr. Parker, help us with that.

MR. PARKER: Absolutely.

Institutional uses would be the best example of things that are allowed in residential, churches, schools, daycares.

COMMISSIONER MAY: That's the only thing that would be required to have a minimum.

MR. PARKER: Unless there was a variance granted to put a commercial or an office space.

COMMISSIONER MAY: No, no, that's not what I'm suggesting. I guess what I had in my mind based on someone's characterization of Option 2 where we have a spill-over effect where we have you are adjacent to a commercial district and you're in a residential district that there would have to be some minimum in that circumstance. You're not suggesting that?
MR. PARKER: No. The two things are trying to find the uses that are considered to cause the spill-over.

COMMISSIONER MAY: And those uses are?

MR. PARKER: In the residential zones the institutional uses, the churches and schools and such and the commercial corridors near those zones, the commercial and office use, the uses where people drive to the neighborhood for those uses.

COMMISSIONER MAY: All right. So what I'm getting back to is that where it says at the bullet points, "Require a building to provide off-street parking if it houses one or more nonresidential uses and is located in a commercial corridor located within X feet of a residence district."

MR. PARKER: Right.

COMMISSIONER MAY: What I'm saying is that a building -- you're only going to make that a requirement if it's a
nonresidential use.

MR. PARKER: With a direct potential for causing spill-over on residential properties.

COMMISSIONER MAY: Right. I guess what I'm hung up on is the fact that residential uses -- I mean, I'm thinking of you have a commercial district that could have a building that is 100 percent residential.

MR. PARKER: Right.

COMMISSIONER MAY: And it's next to an R-4 zone.

MR. PARKER: Right.

COMMISSIONER MAY: That could cause spill-over into the neighborhood. Right?

VICE-CHAIR JEFFRIES: Yeah, but what they said earlier -- what the Office of Planning said there is not necessarily a nexus between what's going on at that 100 percent residential that's in a commercial zone like 14th Street. I mean, I keep going back to
that. The point is there's not necessarily a
nexus. You're still going to get spill-over.

COMMISSIONER MAY: I understand

that but are we going to wind up with

apartment buildings in commercial zones where

the people live in those things but they go to

work every morning so every night they park in

the neighborhood a half a block away or those

sorts of circumstances.

There are plenty of people who

live in apartment buildings who park in

neighborhoods and some of them manage to get

residential parking permits. I don't know

what the deal is with that.

VICE-CHAIR JEFFRIES: My

experience with this and particularly with
developments, residential developments, there

has to be a certain percentage of those units

that have parking. They just won't be able to

move those units.

COMMISSIONER MAY: I understand

that.
VICE-CHAIR JEFFRIES: People want their cars.

COMMISSIONER MAY: There are always people who are not willing to pay that price. I mean, there are people who park on Haines Point and walk three-quarters of a mile to go to work at the Bureau of Engraving and Printing in the rain and they do that because they don't want to pay.

VICE-CHAIR JEFFRIES: Right.

COMMISSIONER MAY: People do that all the time.

CHAIRPERSON HOOD: Okay. Let me --

COMMISSIONER MAY: I'm not worried about the spill-over affect on Haines Point.

CHAIRPERSON HOOD: Let me bring you back in. The changed behavior and stuff, I think there are some things that we need to fine tune so we can move this along because actually we don't have any text in front of us.
Again, we have given direction. From what I hear out of this discussion, and I would agree and, Mr. Parker, you let me know if that's enough guidance, I think for all of us Option 4 is definitely out of the question.

Option 2 would probably be more likely. We might need to fine tune it.

VICE-CHAIR JEFFRIES: Mr. Chair, can we just simply say of the options do a show of hands in terms of which one --

CHAIRPERSON HOOD: No one has Option 1. We're just not going to cut them out totally. That's why I was taking a poll here. Option 4, retain existing parking minimums. We know that we need to do something so I was leaving the flexibility of 2 and 3, basically on 2, but it's how we word it and what we're looking for once we get more clarification. That is Office of Planning's recommendation, Option 2.

MR. PARKER: So your guidance is Option 2.
CHAIRPERSON HOOD: It's Option 2 with a few --

COMMISSIONER MAY: I would just want to raise the issue that I think we need to look more carefully at whether it's just nonresidential uses located in A and B. We need to look at residential uses there as well.

VICE-CHAIR JEFFRIES: A resident district where multi-family dwellings are not permitted.

COMMISSIONER MAY: It's the first line where it says, "Require a building to provide off-street parking if it houses one or more nonresidential uses." If it's 100 percent residential, then you've got no requirement.

VICE-CHAIR JEFFRIES: Right.

COMMISSIONER MAY: Doesn't matter where it's located.

MR. PARKER: Commissioner May, I don't think we can solve the problem. We
can't force people -- even if we force them to provide parking we can't force the residents to buy it. We can always have the people who just say, "I'm not going to buy it. I'm going to take my chances in the neighborhood."

Forcing the building to provide the parking doesn't solve the problem that you're looking at. I guess the point being --

COMMISSIONER MAY: And I'm not suggesting that we're going to solve the problem tonight. All I'm suggesting is that if we're going to look at a direction for the language that I would want to keep the direction open to considering the impact that a residential building in this circumstance has on the parking.

You may be convinced that residential buildings in this circumstance having minimums are not going to solve the problem but if you ask the general public what they think, there are a lot of people who do believe that.
VICE-CHAIR JEFFRIES: What you're saying, Commissioner May, is on my block there's a 20-unit residential building that is going up. It's an R-5-A. Your concern is that if there is not a minimum associated with that development and that developer decides that they are not going to provide parking, then there's going to be a greater -- I mean, considerable burden on street parking from that particular development.

COMMISSIONER MAY: Conceivably. I don't know. I'm not trying to establish what --

VICE-CHAIR JEFFRIES: No, no, no. I'm not trying to disagree with you. I'm just trying to --

COMMISSIONER MAY: That's the concern. It's not just that. It's not just that. It may not even be the R-5-A. It might be the C-2 or the C-3 that's within 100 feet of that that has that building with a residential use in it. It's 100 percent
residential and it's still caught.

VICE-CHAIR JEFFRIES: So your concern -- I just want to be clear. Your concern on my block where they are doing the 22-unit that's in the middle of a rowhouse zone not requiring a minimum there potentially a developer would just build all these units and not provide parking and, therefore --

COMMISSIONER MAY: Or not provide enough parking and everybody would park -- or they would provide what -- you know, they could even be providing the minimum and you wind up with people trying to park in the neighborhood anyway. I've just been through a bunch of PUDs where we wind up with townhouse developments with outrageous amounts of parking all because the neighborhood is so concerned about the parking that's there.

VICE-CHAIR JEFFRIES: Listen. I think you are using a scalpel and I think that's a good thing to use a scalpel here but I do think -- I would agree with the chair
that I think what we're saying here is Option 2, perhaps 3 if the Office of Planning can look at this a little more or something. I mean, that's fine but I think at least, Mr. Chair, I'm supportive of Option 2. I think Commissioner Turnbull is supportive of 2. I don't know where you are.

CHAIRPERSON HOOD: What I was trying to do because I can tell you that we can have this discussion for the rest of the evening. There are some other things I also wanted to add to this as we move further. First, if we move in that direction, Mr. Parker, does that give you what you need?

MR. PARKER: We can come back with -- what we're going to do from here is just turn this into parking language so we're going to bring you at some point a parking chapter that says what you tell us you want it to say. At this point I'm bringing you back a parking chapter that codifies Option 2 and you have an option to tell me to add these others things.
What I'm hearing is --

CHAIRPERSON HOOD: We've heard

what Mr. May's concern was. Do you want to
repeat it, Mr. May?

COMMISSIONER MAY: Does anybody
agree with it? I think we shouldn't close the
door on declaring residential --

CHAIRPERSON HOOD: I would agree.

I'm just trying to see -- I know this is
probably not making Office of Planning's job
any easier but nobody said it was going to be
easy.

MR. BERGSTEIN: Could I make a
suggestion?

VICE-CHAIR JEFFRIES: There could
be a variance, by the way. I mean --

CHAIRPERSON HOOD: I want to talk
about the variance.

VICE-CHAIR JEFFRIES: -- the
situation that Commissioner May is talking
about but --

CHAIRPERSON HOOD: Let me ask you
this.

VICE-CHAIR JEFFRIES: I'm just trying to get to a place where we are giving direction to the Office of Planning. We are saying Option 2. Now, when they come back with their text or whatever they're coming back with, they can address issues or concerns that Commissioner May -- I mean, I am trying to move this along. I'm not trying to stay on this.

CHAIRPERSON HOOD: I don't have anything else to do tonight. No football so we can stay here all night. Mr. Bergstein wanted to ask something and then I want to ask something.

MR. BERGSTEIN: I was just going to make a suggestion because there is another step here. One thing that we could do is basically add in Option 2 and then Option 3 which is an also so you can see what it looks like which would be to require parking for multi-family dwellings which I think is what
Mr. May is suggesting if I'm correct.

Then the other issue would be all multi-family dwellings or multi-family dwellings over a certain number of unit size. We could always put that in for you to see and discuss in the context of seeing it all together.

It would be nonresidential uses -- let's use current zoning terminology -- nonresidential uses located in buildings in R-1 through R-4 zones, nonresidential buildings located in corridors in C zones that are adjacent to an R-1 through an R-04 zone, or a multi-family dwelling no matter where it's located.

The or is what I think Mr. May is going towards and the question is should we just pop it in for you to see next time around or do you want to resolve it one way or the other tonight.

VICE-CHAIR JEFFRIES: But we're only talking -- we're only talking about -- I
mean, how are we talking about R-4 zones?

MR. BERGSTEIN: Because the way this is written it's nonresidential uses in any zone that does not permit multi-family dwellings. That's how it begins.

VICE-CHAIR JEFFRIES: I guess I'm trying to break this down because clearly in an R-5 zone you can get multi -- I mean, it's my block. You can get that and I understand what Commissioner May is saying in that instance but R-2, R-3, I mean, you can't really -- I don't think you can --

COMMISSIONER MAY: It's only when they are in close proximity to like a C-2-A or --

VICE-CHAIR JEFFRIES: You can't get that residential multi-family in an -- I guess you can't get that in that R-4 zone.

MR. BERGSTEIN: The way this is written -- I'm sorry. The way this is written in terms of residence zone there would be a parking requirement for nonresidential uses in
only those zones where multi-family dwellings are not permitted.

If you had a nonresidential use in a zone where multi-family dwellings were permitted, there is no parking requirement for the nonresidential use. There is no parking requirement for multi-family dwelling.

What I thought I heard Mr. May express concern about is whether some residential uses, one-family dwelling, two-family dwelling, multi-family dwelling because that's what we got, would cause a parking concern so that there should still be some retention of a parking requirement for them.

I assume that would be in any zones or just the commercial zones which I'm not clear about from the discussion. The question is do you want some language that addresses residential dwellings but there would need to be some scope for us.

Are you talking about one-family dwellings, flats, multi-family dwellings, or
all three? Are you talking about them in all zones? That's the issue or we could just go on and leave it.

VICE-CHAIR JEFFRIES: I think you're talking about the example that I raise. You're not talking about a one-family or a flat or something like that.

CHAIRPERSON HOOD: Tell us what you're talking about and let's do that and let's move forward.

COMMISSIONER MAY: Okay. It's the circumstance where you have a residential building, a multi-family building in close proximity to one of these lower density residential zones. What Option 2 says now is that if there's a nonresidential use in the building and it is in a residence district where multi-family dwellings are not permitted or commercial corridor located within X feet, I mean, it's that proximity.

Maybe I'm just not understanding this. Maybe it was already covered but I'm
just concerned about the residential building that's close to a moderate density residential zone because I think the spill-over from the residential building is potentially a lot worse than the spill-over from nonresidential building.

CHAIRPERSON HOOD: It's almost like living next to an end zone, the residential right across from the end zone. I mean, I recognize it a little better when I talk about industrial uses because I know exactly what you're talking about. I think if we do as we said, Option 2 and 3, colleagues, I think we get there. I think this is an issue -- will that give you enough?

MR. PARKER: Not quite. What you would like us to come back with are two chapters, one that has Option 2 and one that has Option 3 and then you decide between them?

CHAIRPERSON HOOD: No, no. I thought Mr. Bergstein --

MR. BERGSTEIN: What I thought I
heard from Mr. May would be simply add a C to this which would be "or a multi-family dwelling located within a certain number of feet of such a zone."

MR. PARKER: Add that in the alternative or that's the decision of the Board.

MR. BERGSTEIN: That's what I would like to hear from the Board but that is how I would accomplish it and the only question is coming to them should we just put a bracket around it and say do you want to resolve this now, say it's basically left up in the air at this point, or do they want to resolve it and it's not left up in the air and that we have guidance?

VICE-CHAIR JEFFRIES: So, Mr. Parker, we're saying Option 2 and we're adding -- after A and B we're adding C.

MR. PARKER: We will add a requirement for parking for multi-family buildings in these areas near --
VICE-CHAIR JEFFRIES: That are near -- yes. I mean, R-1 to 4.

MR. PARKER: In these commercial corridors, for example.

COMMISSIONER MAY: Yes, satisfied with that.

CHAIRPERSON HOOD: Mr. Parker, are you okay? Are we okay with that? Let me also ask as a number of us --

VICE-CHAIR JEFFRIES: Excuse me.

Mr. Parker, did you say you're satisfied?

MR. PARKER: If that's your guidance, that's what we'll do.

VICE-CHAIR JEFFRIES: I didn't hear him.

COMMISSIONER MAY: He understands but I think he might be disappointed.

VICE-CHAIR JEFFRIES: Okay.

CHAIRPERSON HOOD: I got it. One of the things --

MR. PARKER: You can still take it later.
CHAIRPERSON HOOD: We can make any change we want to make, or whoever is here can do that anytime. The other thing is a lot of us are set on BZA cases where cases have come through and parking was not needed. One of the things I hear us talking about -- this is just for consideration, this may not be the appropriate time but I'm bringing it up anyway.

One of the things I think we need to look at as opposed to a variance can we look at whether or not parking relief can be considered a special exception. Does that move anyone?

MR. PARKER: Relief from the minimums that we are now very narrowly going to apply?

CHAIRPERSON HOOD: What I'm saying is opposed to the process being a variance I wonder if we can look at --

MR. PARKER: I think in terms of defining some of these things if that gives
the Office of Planning some flexibility to provide the incentives that affect the behavior, I mean, yeah.

I mean, I would want to make it -- I think it's a good idea to make it easier in certain ways providing certain conditions are met and that's the good thing about doing it as a special exception is that there is an assumption that it could be reduced but it defines the conditions under which it could so that we don't --

MR. PARKER: I got lost. Where are we on that on the worksheet?

COMMISSIONER MAY: We're not on the worksheet anymore.

MR. BERGSTEIN: You're actually jumping the gun. Relief from parking requirements will follow in just a few minutes.

COMMISSIONER MAY: Okay. Anthony.

CHAIRPERSON HOOD: Did I jump the gun? That's fine. It won't be the first or
the last time. Anyway, we're straight with 2.

We are ready to move now to B. Again, another
thing I have in front of me.

Mr. Parker, what I brought up earlier and I see here in the response OP --
this goes back to what I said about the
committee of 100, Lindsay Williams,
Federation, they talk about working closely
with DDOT, DPW.

I think some of the submittals we have here OP is working closely with DDOT to
ensure that on-street parking management complements the recommended zoning policy and
mitigates any spill-over effects. That's being done.

The only difference is from what I've heard from I guess members of the
community was that the only people who were not involved with this discussion from what I see here is the zoning administrator and DPW.

I'm still trying to figure out where DPW fits into that but I thought that
was a good recommendation even though the recommendation was to hold off any hearings until everyone has a chance to sit at the table.

    I don't know if that's exactly what we need to do. Anyway, I've seen that's being done with DDOT with the spill-over and whatnot. There is some collaboration between Office of Planning and DDOT.

    MR. PARKER: Quite a bit.

    CHAIRPERSON HOOD: Okay. But do you think it will ever happen with the zoning administrator and DPW?

    MR. PARKER: Oh, absolutely. The zoning administrator is part of -- I mean, he's on the task force. He's reviewed everything that we've done and then we've had discussions on almost all of our subjects with the zoning.

    CHAIRPERSON HOOD: Okay. I just wanted to make sure for the zoning record.

    Okay.
COMMISSIONER MAY: Is parking enforcement still in DPW?

MR. PARKER: I think so, yes.

COMMISSIONER MAY: So that's where they would come in.

CHAIRPERSON HOOD: Parking enforcement? I thought DDOT had that.

MR. PARKER: I think it's still in DPW. Actually parking enforcement many, many police departments can issue those tickets. The Mint police can issue parking tickets.

I'll give you the list one day. It's not just DPW. There are a slew of agencies that can issue parking tickets.

CHAIRPERSON HOOD: Okay. All right. Moving right along, let's go to B, off-street parking for car-sharing companies. It's right below where we were up in Option 4. Everybody with us? It's on the same page, off-street parking for car-sharing companies.

As you can see, "In addition to any minimum parking requirement imposed, any
new parking lot whether accessory or public with at least 50 parking spaces shall provide parking spaces for exclusive use of one or more car-sharing companies -- share companies as follows."

Then we have the number of parking spaces to be built, 50 to 149. Number of reserve spaces for car sharing will be one. This gives the formula. We have recommended 150 to 249, recommended two. Then 250, three plus one space for each additional 100 spaces. Then we have some bullet points. We have one -- well, it's not numbered but I numbered it one.

"After the CFO is issued the owner shall make a required space available to a car-share company no later than 90 days after receipt of a written notice." Then we have 2. "If more than one request is received, the owner may provide the space to the car-share company that offers the most advantageous terms."
Then we have 3. "A car-share service may occupy the space for a five-year period which is automatically renewable unless one or more different car-share companies desire the same space in which case B applies." Or the recommendation says, "Do not require parking spaces to be reserved for the exclusive use of one or more car-share companies."

VICE-CHAIR JEFFRIES: Mr. Chair, I have a question for the Office of Planning. In terms of the ratios that were established, just for the record, how do you determine the ratios? I mean, why one space between 50 and 49? I just wanted to -- I mean --

MR. PARKER: I may have to get back with you on that. I know we looked at examples of this being done in other places including Arlington. I know that this came from elsewhere, from Best Practice Research, but I don't know.

VICE-CHAIR JEFFRIES: Okay. I
just wanted to make certain there were some -- if it was Best Practices or there was a discussion with a car-share. I don't know. I mean, in terms of where you got these --

MR. PARKER: This was looking at other places have done it.

MS. THOMAS: Then Arlington does it on a similar basis. They do it through their site plan review process and it's all written up as part of their TMP, transportation management plan.

VICE-CHAIR JEFFRIES: Okay.

CHAIRPERSON HOOD: Any other questions?

COMMISSIONER MAY: I think I'm find. We may wind up wanting to tweak the numbers, the schedule, or whatever. By the time this is enacted there may be -- we may want to rethink the numbers but I think it's fine generally.

CHAIRPERSON HOOD: Okay. Are we asked to pick one of these -- we are asked to
pick one of these three or do not require parking spaces.

MR. PARKER: It's everything above the or or the thing below the or.

VICE-CHAIR JEFFRIES: We're going with everything above the or.

CHAIRPERSON HOOD: Definitely above the or. Let me just ask, if I remember correctly, and this may be jumping the gun again, there was some testimony that talked about not wanting to do a car-sharing and -- was it private buildings?

VICE-CHAIR JEFFRIES: Yeah, private buildings where you couldn't have access.

CHAIRPERSON HOOD: Has that been considered?

MR. PARKER: You heard testimony from that at the hearing. The Zip Car regional manager was here and she talked about how they provide keys to the private garages. When they make deals with buildings with
private garages they provide keys to those

garages for Zip Car members.

CHAIRPERSON HOOD: Okay. Maybe

that was a hearing then when we were told

because of the security issues. Okay. I know

there was some testimony at some point down

here about car sharing and private garages.

Okay. We're going to do everything above the

or.

MR. PARKER: Okay.

CHAIRPERSON HOOD: No. 2, maximum

parking requirements. Maximums do not provide

-- existing regulations, as we know, do not

provide a cap so, to me, I'm treading down

some unfamiliar water. Anyway, we have some

recommendations in front of us. Maximum

parking requirements, established parking

maximums in certain circumstances.

Then it also goes on to say, "To

be recommended in future working group

submissions which may happen in the future,"

which is going to happen in the future, or,
"Do not establish parking maximums." Anyone feel compelled to -- let me ask this. Does anyone feel compelled to do B?

VICE-CHAIR JEFFRIES: No.

COMMISSIONER MAY: I'm happy to hear the results of those work group sessions and see where it goes.

CHAIRPERSON HOOD: Okay. All right. Let's move to No. 3, relief from parking minimums, Option 1, relief as of right, lack of access, and it talks about -- let me read it.

"The only means by which a vehicle can access a lot is from a primary street (90 feet in width or greater) and a request to install a curb cut at the location cannot or has not been granted, and relief by special exception up to a 50 percent reduction of the parking requirement based on any of the following criteria, proximity to transit, demonstrated lack of parking demand, demonstrated lack of available space for
parking both on the lot and in the vicinity."

Then we have a note, "Any relief beyond 50 percent will require an area variance." Then we have Option 2 which is relief only through a variance.

MR. BERGSTEIN: Which, by the way, is the status quo.

CHAIRPERSON HOOD: Right now relief only through a variance.

MR. BERGSTEIN: Yes.

CHAIRPERSON HOOD: Okay. Is this my time to talk about relief through a special exception or is anyone compelled? Maybe this is the appropriate time.

MR. BERGSTEIN: That's the issue before you. Right now we're talking about an absolute reduction from parking requirements. Not just moving it some place but just saying to the extent that they actually say, let's say, someone has a minimum of 20 spaces. If they can't get access to their lot for all the reasons stated in A, it's a matter of right
exemption.

Then B, if they want a reduction from 20 to 10 and they can show one or more of those factors have been met, then they can get a special exception. Right now they would have to get a variance under both circumstances.

CHAIRPERSON HOOD: So everything in Option 1. It says "and" so A and B. Let me make sure I understand. Under Option 1 it would be A and B or Option 2.

MR. BERGSTEIN: The two circumstances would never coincide. Option 1 I'm basically on a lot that I can't get my cars onto. Then you would get an absolute matter of right, no special exception, no hearing. You get an absolute elimination of your parking requirement.

Option 2 is where that circumstance doesn't apply. You can get cars onto your lot but there are reasons why it would be appropriate to reduce that parking by
up to 50 percent and those would be the factors.

There's two ways that you can get relief from parking. One, matter of right based upon the circumstances of your lot. The second is a special exception based upon proof that certain circumstances exist.

CHAIRPERSON HOOD: Okay. I guess maybe I'm confused but I'm looking at Option 1 that says A. It says A and then it says "and B." I wasn't tying in Option 1 and 2. I was just saying Option 1 has A and B and I'm guess that is what we're considering. Then, if not, we're going to do Option 2.

Am I clear, Mr. Bergstein?

MR. BERGSTEIN: Well, I guess you can forget about the "and." In other words, you could say just A, you could say just B, and then you can say neither in which case experience all around.

In other words, if you think a person who doesn't have access to their lot
should not get an automatic relief, then you would go back to the status quo which is variance. If you believe that a person who can prove these factors should, nevertheless, still have to prove the variance requirement, then you will reject B as well.

They are two different things. I guess there shouldn't have been an and there. It's just two different circumstances both of which now require variance relief. In the first instance there would be an absolute matter of right reduction and in the second instance there would be discretionary reduction going to the BZA.

CHAIRPERSON HOOD: I think I got it now. As a matter of fact, I know I have. Okay.

Mr. May.

COMMISSIONER MAY: Yeah. I'm not ready to say that A is going to work, that relief can be granted as a matter of right. The reason I say that is I'm just concerned
that there would be circumstances where a
decision whether or not to allow a curb cut is
not being made wisely by those who get to make
that decision.

It has an impact on the zoning
requirement. I'm just not ready to give that
authority away. It also frankly opens the
doors for kind of gaming the system, for
assembling your lot in such a way to make sure
that you don't turn a corner onto that
secondary street so, therefore, I can't park
no matter what.

This sort of runs contrary to the
idea that we don't really want to have
minimums in the first place. I just know that
there are people who are going to want to go
out and build just the cheapest thing they can
get and aren't going to want to address
minimum requirements when it really is
appropriate.

I wouldn't have any problem with
structuring a special exception relief to have
100 reduction if there were certain circumstances that were met but I would rather have the BZA have to look at those circumstances. If you made A a special exception, then --

CHAIRPERSON HOOD: So we're all agreeing. I actually like that.

VICE-CHAIR JEFFRIES: Yeah, I would agree. I just think there are all kind of circumstances. I don't think we want to hand that over, the curb cuts. I mean, I would agree with Commissioner May that is one that -- I'm open to a special exception as well if we want to go that route. As long as there is some regulatory review in those instances, it seems fine to me. Certainly I want to fast track where I can but this looks a little critical.

COMMISSIONER MAY: The whole subject of fast tracking is an interesting thought, too, because the way a lot of BZA cases are handled that ought to be hopefully
a subject of discussion because things like a
consent calendar, you know, ought to be part
of the process so that we can deal with
certain things quickly. Very good.

CHAIRPERSON HOOD: Okay. So are we all in agreement?

MR. TURNBULL: I would agree, Mr. Chair. Unfortunately it's a very cynical way of looking at life but I think it's also a very pragmatic and practical one that we have to deal with so I'm in concurrence with that.

CHAIRPERSON HOOD: Okay. So can we move on?

MR. BERGSTEIN: So can I confirm? A would exist as a special exception. Okay.

CHAIRPERSON HOOD: Are we okay?

VICE-CHAIR JEFFRIES: Yeah.

CHAIRPERSON HOOD: No. 4, flexibility of minimum space requirements through shared parking. We have "or."

Anyway --

MR. BERGSTEIN: I'm sorry. This
end of the table must have missed something.

What did you do with B in 3B?

VICE-CHAIR JEFFRIES: 3B stays as a special exception.

MR. BERGSTEIN: Okay. Thank you.

CHAIRPERSON HOOD: You mean the one we just -- okay, No. 4. Flexibility for minimum space requirements through shared parking. A, permit the parking requirement of one lot to be satisfied in whole or in part by parking spaces on a different lot located within 400 feet thereof, or continue to require special exception from the requirement that required parking spaces shall be located on the same lot with the buildings or structures that are intended to serve 11 DCMR 2116.1.

VICE-CHAIR JEFFRIES: Okay.

Office of Planning, for 4A effectively -- I mean, it says flexibility here. If we stuck with B, obviously that's more restrictive. Sorry, I'm just -- I mean, you're just making
a point of flexibility giving more options to
a developer in terms of --

MR. PARKER: If you'll remember
from the report this is for areas like say
you've got a restaurant that is open at night
next to an office building. If the office
building isn't using their parking after 5:00,
the restaurant can meet their requirement if
they are only open at 5:00.

Basically if there's an agreement
between two parties to share based on time of
day and the needs of their space, then they
can do that as a matter of right. Things like
a church and a school next to each other could
share their parking requirement in one lot
since they use different days of the week.

VICE-CHAIR JEFFRIES: Is there any
thoughts on how that could be abused in any
way? I mean --

MR. BERGSTEIN: There's actually
-- if I could try again, there is a lot of
this that has been written out and we spared
you it because it would be so into minutia
next round. There's covenance, there's all
sorts of things that have been written out
that relate to this.

There's penalties for early
termination of agreements. It's all there but
we wanted to get your go ahead on the concept.
Once we got your go ahead on the concept
there's all sorts of protections that have
been written out in the 15th draft of this
that we'll stick in in some other place for
your review.

VICE-CHAIR JEFFRIES: Mr. Chair,
I'm fine with 4A.

COMMISSIONER MAY: I'm glad to
hear that because my big question was what is
really going to guarantee that this parking
remains available if it's not on site in
perpetuity or for the life of a C of O or
whatever. I don't envy you trying to craft
that.

VICE-CHAIR JEFFRIES: We'll see
that in the next round.

CHAIRPERSON HOOD: Okay. All right. We are on 4A. Let's move to 5, location of nonrequired parking spaces. A says, "No longer require nonrequired parking space to be located on the same lot as the building they serve or continue to require special exception for the requirement that nonrequired parking spaces shall be located on the same lot with the building. These instructions are intended to serve 11 DCMR 2116.1."

VICE-CHAIR JEFFRIES: The same thing applies effectively as 4.

MR. BERGSTEIN: Except this one is going to be totally matter of right. This is a situation where you are back to the restaurant and they have taken care of the required spaces but they want to have 20 more parking spaces that are associated with the restaurant so they call the place across the street and they say, "Can I add those 20
spaces to your parking lot not affecting your required spaces?"

Right now you need a whole special exception to do that. This would simply say if you can make an agreement for your nonrequired spaces that you need to fill your customer demand and you find somebody else who is willing to put those spaces in your lot, that's matter of right. It's just a deal between the two of you.

MR. PARKER: The important thing is these aren't spaces that are required so they could legally not have them at all.

CHAIRPERSON HOOD: I didn't understand. I missed that.

COMMISSIONER MAY: These are not spaces that are required.

VICE-CHAIR JEFFRIES: They were just available spaces.

MR. PARKER: We don't care where they are.

COMMISSIONER MAY: We care about
where the minimum required spaces would be.

MR. BERGSTEIN: Right, but at the moment the zoning regulations actually require a special exception for you to place nonrequired spaces, surplus spaces. You need permission to put them some place else.

CHAIRPERSON HOOD: And that's what you call an accessory parking lot or whatever you call it?

MR. BERGSTEIN: Exactly, Mr. Hood.

Yes.

CHAIRPERSON HOOD: I remember that now. Okay.

MR. TURNBULL: I think you want to go with A.

VICE-CHAIR JEFFRIES: Wait.

COMMISSIONER MAY: Do people actually come in for special exceptions that they self-certify for that issue alone?

MR. BERGSTEIN: Yes, but there is
also a special exception associated with the accessory parking lot which is going to be a whole other discussion. For example, you'll have a church that doesn't need its parking spaces during the week and you have a grocery store that does so the grocery store makes a deal with the church that overflow parking can be served. Yeah, we get them quite a lot down at BZA.

CHAIRPERSON HOOD: Okay. We're going to go with A.

VICE-CHAIR JEFFRIES: 5A.

CHAIRPERSON HOOD: 5A, "No longer require nonrequired parking spaces to be located on the same lot as the building they serve."

Okay. Let's move on to 6, "Location of all parking spaces within a lot. Limit surface parking spaces to the rear yard or Office of Planning's recommendation, "Limit surface parking spaces to the rear yard and allow inside yard screens, screen stands to be
provided later, or allow surface parking at
side or rear yard without screening."

COMMISSIONER MAY: Can I ask a
question of the Office of Planning?

CHAIRPERSON HOOD: Sure.

COMMISSIONER MAY: How would
Option A, or even Option B work with something
like a gas station where you have cars parked
out in front? I mean a service station where
they fix vehicles and park them out in front.

MR. PARKER: That's an interesting
question. I don't think the gas pumps
themselves are considered parking spaces.

COMMISSIONER MAY: That's right.

VICE-CHAIR JEFFRIES: I don't
believe gas stations --

MR. PARKER: That's a good
question. They would have to access their
service bays from the side. Well, they
wouldn't be able to park cars out front under
this without a variance.

COMMISSIONER MAY: Do you know how
many gas stations we have left in the city?

MR. PARKER: No.

COMMISSIONER MAY: Do you know there are a lot less now than there used to be 10 years ago, five years ago, two years ago?

MR. PARKER: Even a year ago, right.

COMMISSIONER MAY: I'm not sure that we do anything that's going to make it harder to keep a service station in the District.

MR. PARKER: This would only affect new stations.

COMMISSIONER MAY: Um?

MR. PARKER: This would only affect new stations.

COMMISSIONER MAY: Understandably but you never know what modifications might be made to the stations that could cause other problems for them.

CHAIRPERSON HOOD: When you say new, you don't mean renovated. You mean from
the ground up new?

MR. PARKER: Well, anything that's
grandfathered. If they've got spaces there
now, they can continue.

VICE-CHAIR JEFFRIES: There must
be a long line of gas station operators
looking for gas stations here in the District.

MR. TURNBULL: Actually, there is
one BZA case but they have landscaping.

VICE-CHAIR JEFFRIES: Really?

MR. TURNBULL: It has other issues
that I don't want to talk about but they are
providing landscaping so some semblance of
screening. They are trying to anyway.

CHAIRPERSON HOOD: I don't know
how much experience any of you all have had on
the BZA but I haven't had a whole lot.

VICE-CHAIR JEFFRIES: Whose fault
is that?

CHAIRPERSON HOOD: Your fault.

You and Mr. Turnbull won't let me come.

COMMISSIONER MAY: I just think
that -- I mean, that was just sort of the one practical circumstance where conceivably I thought it could be an issue. At the very least it creates nonconformities.

Who knows what gas stations are going to look like, or fuel stations, what kind of fuel they're going to have, what kind of requirement it's going to have. They'll be different. When the hydrogen stations start getting built, are they going to be --

MR. PARKER: I guess what this encourages is the same for gas stations as it is for everything else. It encourages the building to be on the street and the cars to be in the back. If we have a future generation of gas stations where the building is in front and you pull around behind to get gas, is there a problem with that?

COMMISSIONER MAY: I don't know. I don't know.

MR. PARKER: The thought in writing this was retail, strip mall.
COMMISSIONER MAY: Right.

VICE-CHAIR JEFFRIES: Commissioner May, what are you recommending here?

COMMISSIONER MAY: I guess I would like to know a little bit further more about these types of uses and whether, in fact, by instituting a rule like this are we going to wind up --

VICE-CHAIR JEFFRIES: You've only brought up one use. You have several other ones?

COMMISSIONER MAY: No. I don't have any other uses in mind but that was the one that popped into my head. If people are building gas stations across the country in different models or in other cities, I mean, other cities have development pressures, too, and they've lost gas stations and there are still some, different models I assume.

I don't know. I guess I would just register that as a condition we need to be aware of and that we may to make exception
for. I guess I would look for the Office of Planning to study that a little bit further.

VICE-CHAIR JEFFRIES: Okay. Well, we're fine -- well --

CHAIRPERSON HOOD: I think B --
can we do this? Can we go with B and also with the caveat of what Commissioner May said?
Let's delve into that a little more.

MR. PARKER: Okay. I'm understanding this as go with B but study an exception for gas stations, or if it's needed.

COMMISSIONER MAY: Or other uses.

VICE-CHAIR JEFFRIES: I actually like the whole notion of the building being towards the street in terms of gas stations. I guess what I'm saying I know that you guys have gotten into a little exchange here but just represent that this is a Commission.

MR. PARKER: I prefer one set of guidance.

VICE-CHAIR JEFFRIES: No, it's clear. The guidance here is 6B.
CHAIRPERSON HOOD: The guidance is 6B. Let me help you with the guidance. The guidance is 6B with the caveat of what Commissioner May said just to look into it and that satisfies everybody up here.

MR. PARKER: We'll look into it.

COMMISSIONER MAY: That's all I'm asking for and I may wind up in the same place as you. I may agree that the best thing is to have the front of the gas station up at the street and the parking in the back.

VICE-CHAIR JEFFRIES: I think what OP is having some difficulty here with in terms of our direction is that they are going to walk away from here and start writing text. They can't write text with the option of am I going to do an exception. We just need to let them know.

CHAIRPERSON HOOD: I think what's clear, though, the stronger point was 6B with the caveat of looking. We didn't say you had to come back. It's all about the words we
used.

COMMISSIONER MAY: Look at it.

CHAIRPERSON HOOD: It satisfies everyone. That's the Chair's job. We make sure everybody's input is in. Okay. 6B with the caveat. Okay, let's move to 7. Does anybody need to take a break? Okay. Parking size requirements.

Requirements will apply to all spaces whether required or not. Current regulatory scheme occasionally differentiates. OP's recommendation is 1, update parking space size requirements to current ITE and DDOT standards. Refresh me. What is ITE, Mr. Parker?

MR. PARKER: It's the Institute of Transportation Engineers.

CHAIRPERSON HOOD: Okay. So ITE and DDOT standards. Increase the amount of parking spaces that certain parking facilities may designate for compact spaces from 25 percent to 50 percent of the total and all
size requirements apply whether parking spaces are required or not, or update size requirements -- the first one was OP's recommendation -- or update size requirements but do not keep distinction between required and non-required spaces or do not update parking space size requirements or compact space requirements. Okay. Any discussion?

COMMISSIONER MAY: I think I'm comfortable with OP's recommendations. I would ask a question because I never like to make it easy. What about the really, really small cars that we're getting to? I mean, the Smart Car, that kind of model.

I have to believe there's potentially much more of that. There's also things like scooters and other smaller vehicles that could be accommodated here and do we want to establish size standards or incorporate this in some fashion?

MR. PARKER: That's a fair question. As far as this A3 the
recommendation is if you provide car spaces they have to meet the requirement. You can always provide motorcycle or scooter spaces. That's a good question with minis and with increasingly small cars should we change that.

Quite frankly there's two ways to look at it. Either we could go ahead and do this and then as those car standards change if we continue to get smaller cars, then we need to update this in five years or we continue the existing practice of if your space is not required, just build them however you want. The danger then is that you get some garages that may not be as usable.

MR. TURNBULL: I think you would probably address that as an amendment later on once you see the data that says we're getting automobiles the size of Smart Cars until you start seeing reasonable numbers coming in. I mean, I can't see asking someone to have a third size of a car space for the possibility that a Smart Car or a mini is going to be
there which can still be accommodated by a compact car space.

COMMISSIONER MAY: It's not a matter of requiring it. It's a matter of allowing a very small space to count which in the spirit of trying to reduce parking requirements maybe you want to do. I don't know.

CHAIRPERSON HOOD: Mr. Parker, help me to understand the reason to make this distinction. Maybe I don't understand. What is the reasoning behind making this distinction?

MR. PARKER: Distinction between required and nonrequired?

CHAIRPERSON HOOD: No, distinction between the size. What is the reasoning?

MR. PARKER: Well, right now the regulations allow two size spaces. The standard space is 9 by 19 and if you have a certain number of those in your garage, you can provide some that are compact which is 8
by 16. There are several rules with providing compact spaces that get a little awkward.

One of the rules is you have to provide them in groups of four or five rather than just being able to put them where they fit in your garage. Another is you are limited to, I think, 25 percent of your spaces can be compact spaces.

We're saying in an era of smaller cars you could probably fairly go up to 50 percent compact cars. We've removed the requirement that they have to be grouped so you can put them where it works for your garage but we keep the distinction between standard spaces and contact spaces.

COMMISSIONER MAY: Can we do anything about the guy in the giant car who parks in the compact space?

VICE-CHAIR JEFFRIES: They come the first time and then they don't come the second time.

COMMISSIONER MAY: What's that?
VICE-CHAIR JEFFRIES: They come the first time and it's like sheer hell and then they don't come back.

COMMISSIONER MAY: We could eliminate parking minimums.

VICE-CHAIR JEFFRIES: That's what we're trying to do.

COMMISSIONER MAY: I was thinking like a guillotine kind of thing.

CHAIRPERSON HOOD: 7A. Okay. 8, "Access to parking space requirements will apply to all spaces whether required or not. Current regulatory scheme occasionally differentiates." We have A, as you can see, "Adopt OP recommendation regarding the location of access from a public street or alley to parking spaces on a lot.

One, permitted access points, and then we have the circumstances of permitted access points in the diagram. Two, increase the minimum allowed distance between the driveway and the street intersection from 25
feet to 60 feet to conform to DDOT's minimum
distance standard for curb cuts. Then we
have, "Or do not adopt OP recommendations
regarding access."

VICE-CHAIR JEFFRIES: Office of
Planning, Roman Numeral II, increase the
minimum allowed distance. What would that get
us?

MR. PARKER: That would put the
zoning regulations in line with the current
DDOT standards.

VICE-CHAIR JEFFRIES: That's all
that we would be achieving by that one?

MR. PARKER: Right. Right now we
have two different standards. It would make
circumstances like this building not legal.
If you've been in and out of the garage here,
it doesn't work very well because the entrance
is so close to the corner.

CHAIRPERSON HOOD: I think
permitted access points is definitely -- for
those of us who are able to frequent the BZA
we have seen a lot of. I'm not sure about two. So do we want to adopt OP's recommendation?

VICE-CHAIR JEFFRIES: 8A, yes.

CHAIRPERSON HOOD: Let's move right along. Mr. Parker, you got that?

MR. PARKER: 8A.

COMMISSIONER MAY: And I have no special requests.

CHAIRPERSON HOOD: Let's hurry up and move right on. Parking lot trash receptacles. "Required parking areas serving retail uses and restaurants to contain at least one outdoor litter receptacle within the parking area or do not require outdoor litter receptacles." What do we do now?

MR. TURNBULL: I'm just curious. I thought the General Counsel's Office had said at one point this may go beyond a zoning issue.

MR. BERGSTEIN: I don't like to discuss these things publicly. I wrote a memo
to you all expressing concerns over when zoning regulations apply across zoning boundaries where they are not tied to specific boundaries but they say in this case if you've got a use and it has this characteristic, I don't care where it is, you've got to have a trash receptacle. There's concern in my mind over whether or not that's a zoning regulation and I provided some citations to you where the courts have discussed it.

There's also a policy consideration where this regulation and one that will follow it which deals with requiring shower facilities in buildings if they have bicycle racks are matters that could go to the Council of the District of Columbia. There's no doubt in my mind that would be true.

And the Council of the District of Columbia when Home Rule was created Congress gave the council all power to legislate except for certain things and he gave the Zoning Commission the authority to exercise zoning.
My question is how much concurrency and jurisdiction is there between the two bodies and does the Commission want to invite persons who cannot get legislation before the council because the council you can only introduce legislation through the mayor or through a council member but the Zoning Commission all you have to do is petition.

If I've got a choice between who I'm going to bring legislation before -- well, actually, I don't have a choice. I go to the Zoning Commission and I petition them. By doing that I bypass not just the council process but I go from an elective group of persons to a nonelective group.

I go to a group whose legislation becomes immediately effective as opposed to the council legislation which goes to the mayor for consideration. It goes to Congress for oversight.

Where any new obligations you do add can only be enforced by the zoning
administrator because the zoning administrator
enforces all zoning regulations, whereas when
the council passes legislation it gives the
mayor the authority generally to decide who
would best enforce it. For example, something
like this might be enforced by DPW which has
sanitation responsibilities anyway.

The last concern I have is that
when you put legislation before the council
they have to consider physical impact. There
has to be a physical impact statement. You
don't so if someone comes to you and say let's
do this or let's do that, no one has to be
concerned about the budgetary impact.

You might recall what happened
with inclusionary zoning. Those are both my
legal concerns and I wanted to share the
policy considerations with you.

CHAIRPERSON HOOD: I don't know
about my colleagues. What I got out of that
I think we just need to skip over No. 9. Am
I correct? Short version, Mr. Bergstein, just
skip over No. 9?

MR. BERGSTEIN: It's your choice. I'm just your humble legal advisor. I've expressed in a memo my legal concerns which you can accept or not and I've stated policy considerations which is totally up to you to make.

COMMISSIONER MAY: We could just pick B.

CHAIRPERSON HOOD: Let's move to No. 10.

COMMISSIONER MAY: Is that 9B?

CHAIRPERSON HOOD: No, we're skipping it.

COMMISSIONER MAY: So we're not going to take any action.

CHAIRPERSON HOOD: I think -- I recall the memo now and I apologize. I think, unless I'm advised otherwise, that maybe we should just skip over 9.

VICE-CHAIR JEFFRIES: I didn't get a sense that we were going to be admonished if
we voted for 9A. I understand the precedent that you're speaking of. I don't really care but I didn't get a sense that if we voted 9A that, you know, there was going to be legal challenge to us, or are you saying that?

MR. BERGSTEIN: What I'm saying is that I'm prepared to certify as legally sufficient because I think you could probably make a straight-face argument in court that you have the jurisdiction. I'm suggesting to you that there could be grounds for challenging it.

CHAIRPERSON HOOD: Let me hear from my colleagues. I would like for us to move with it after council but Commissioner May thinks B. I think if we leave it alone we're still in the same place.

MR. BERGSTEIN: Maybe what you might want to do, because she's going to come up with loading, too, is to just review my memo one more time because I think I said everything I needed to say legally in that
memo and then you could revisit this when we come back to you and we'll highlight it for you.

CHAIRPERSON HOOD: Okay. Let's just skip it.

MR. PARKER: Okay.

CHAIRPERSON HOOD: Does that give you enough guidance?

MR. PARKER: Skipping does. I mean, we could say -- I guess my suggestion would be that you say our preference would be A or B if we can address it. I mean, we need to know what to bring back to you.

VICE-CHAIR JEFFRIES: My preference is A. I mean, what I heard council say is that he could make a legal sufficiency argument for it and that's fine but, again, I will go with what the Commission wants to do. It's not a big production for me. I would like to see receptacles there whether it's done by council or as long as it gets there.

CHAIRPERSON HOOD: I think what I
would advise is to skip it and come back and revisit it as was mentioned by Mr. Bergstein. We may very well do exactly that. This is our first time. This is our first time out here so let's do that.

Okay. Mr. Bergstein, does that also apply to 12? I don't think it applies to 11. I'm not sure.

MR. BERGSTEIN: No, it applies to 12 which has the same characteristic. In other words, it doesn't matter what zone these buildings are in. If you have a building and you have a bike space requirement, you've got to have a shower facility.

MR. PARKER: The difference there is that's related to -- I mean, we would like to at least challenge that in that this one is directly related to the parking which doesn't have to be zone specific. If bike parking is required, you can make a direct connection between the shower facilities and the bike parking.
MR. BERGSTEIN: I do have a somewhat different view because the power to regulate parking is separately stated in the Zoning Act and it says that you can provide for required parking spaces within buildings but it doesn't then say if you have a parking requirement, then the sky's the limit to what you can do in those buildings.

That is still a concern of mine. It's the same issue. You're not going to hurt my feelings if you decide to adopt either one of those. I just wanted to point out the issue because it has really not come up before and you are going to see more of these as the rewrite continues. Once you basically say this is okay, you are going to get, I believe, some more of these types of across-the-board regulations.

CHAIRPERSON HOOD: I actually went out of order because I thought they were synonymous. Let's go back in order. We can come back to that. Let's go to 10, parking
lot landscaping requirements.

"Requires landscaping equivalent to 10 percent of the parking lot surface area and tree canopy cover equivalent to 30 percent, adopt other OP recommendations to buffer trees and encourage the protection of existing trees, or adopt other standards of a certain percentage of landscaping with a certain percentage of canopy cover, or maintain existing 5 percent landscaping and no canopy cover requirements."

MR. PARKER: 10A.

COMMISSIONER MAY: I would agree but I would suggest that if it makes sense in the process of drafting it to tweak those recommendations. I wouldn't object to minor deviations from those things.

MR. PARKER: And I should point out we are trying to hit a 30 percent equivalent but we may accomplish that with a number of trees per space or something.

COMMISSIONER MAY: So I would
agree with that flexibility.

CHAIRPERSON HOOD: Okay. All right. Is that okay? Are you straight, Mr. Parker, with that?

MR. PARKER: Yes, 10A.

CHAIRPERSON HOOD: Okay, 11, bicycle parking. "Require minimum indoor and outdoor bicycle parking spaces for certain residential and nonresidential buildings or require only indoor spaces or do not require bicycle parking."

VICE-CHAIR JEFFRIES: 11A.

MR. PARKER: I agree.

COMMISSIONER MAY: Concur.

CHAIRPERSON HOOD: Okay. Now, I was going to put shower facilities. Let me read it because one of my colleagues wants to -- Commissioner May wants to speak on this so let me just read it. "Shower facilities if bicycle parking spaces are required" as we've already said, 11A. "Require all buildings subject to minimum bicycle space requirements
to have shower facilities or do not require shower facilities."

COMMISSIONER MAY: First of all, let me say I'm all for having shower facilities and would encourage them. I think it's a very good idea because I ride my bicycle to work and it would be a really good thing to have.

VICE-CHAIR JEFFRIES: I would imagine.

COMMISSIONER MAY: I guess my question is whether it's necessary to cover this in the zoning or are the requirements by the Green Building Act which requires a certain level of certification for buildings of certain sizes and so on, is this already covered in that circumstance because it seems to me this is relatively easy points to get in the LEED scheme.

MR. PARKER: But certainly not required.

COMMISSIONER MAY: Not required
but --

MR. PARKER: And this would cover some buildings that aren't covered in the Green Building Act. This --

COMMISSIONER MAY: How big does a building have to be?

MR. PARKER: Let me pull that up. Maybe it doesn't actually. We had talked about -- oh, nonresidential uses greater than 50,000. I suppose that is the same limit. We think it's an important standard to meet and that it directly relates to the bicycle parking that we're requiring. You're right that a lot of people would do it anyway. I see that as an argument not to worry about going ahead and requiring it.

COMMISSIONER MAY: And the buildings that have the minimum bicycle space requirement --

MR. PARKER: Right.

COMMISSIONER MAY: -- I guess that may be a residential building and it may be
required to have shower facilities but that's
the shower you have in your unit. Is that
right?

MR. PARKER: Right.

COMMISSIONER MAY: That would be a
separate shower facility.

MR. PARKER: No shower facility is
required for resident -- right. This is a
requirement for mainly office buildings but
office and commercial buildings where people
are trying to be encouraged to bike to work or
to bike to these facilities.

COMMISSIONER MAY: In 11 you're
requiring bike parking for residential
buildings.

MR. PARKER: Right, but the shower
facility doesn't deal with residential.

COMMISSIONER MAY: So it's not all
buildings subject to minimum bicycle space
requirements but all nonresidential.

MR. PARKER: That's excellent.

Yeah, let me read the actual recommendation
from the report. "OP recommends that nonresidential uses greater than 50,000 square feet that require Class A, which are the indoor spaces, should also provide shower facilities."

COMMISSIONER MAY: All right.

I've said as much as I wanted to say about this issue. We can elect to treat it as we did No. 9 if you'd like.

CHAIRPERSON HOOD: I think, unless I hear otherwise, we're going to treat it as we did in the previous one, No. 9.

VICE-CHAIR JEFFRIES: Punt, pass.

Go on do a John McCain. Throw that pass.

CHAIRPERSON HOOD: Okay. Any other comments? I guess next what we need to do is, first of all, let me ask Mr. Parker the process. I don't know how clear the direction is but we've given you some direction.

MR. PARKER: We've got some direction.

CHAIRPERSON HOOD: What is Office
of Planning's anticipation of what happens next? You may have already told us this but --

MR. PARKER: I may have to ask Mr. Bergstein for help here because --

MR. BERGSTEIN: Actually, I think Mr. Parker and I have talked about it on the side. I think what we would like to do is to come up with text and also give you an overall introductory document. I like to create text just for my own benefit.

You can throw it away or whatever you would like to do but I think the fact is Mr. Parker and I have been working together on this and understand where we need to go in terms of text just for our purposes and we'll share it with you.

We'll also provide you with a narrative document that summarizes how the text relates to your decision making. Then after we give it to you you can decide what you want to do with it.
You can decide whether or not you simply want to keep that for later reference or at a time when you might later take proposed action or go ahead and take proposed action immediately based upon the text that the text works.

I think if you'll humor Mr. Parker and I, I think what we would like to do is come up with a text if nothing else for our own -- get it done now and we can later change it if we need to and share it with you so you see what we've done and then you can decide how worthwhile it is for your purposes.

CHAIRPERSON HOOD: I want to make sure one of the things that I heard in all the submittals we heard at the hearing was that the community wanted to be able to -- once we do that, when do they have the opportunity again to chime in or give input into the text?

MR. BERGSTEIN: It would be after you take proposed action on it. However, that is the way that an agency communicates its
ideas with the public for them to comment on.
There is no law that says after they comment on it you can say, "Well, I want to think about it some more."

The way that an agency formally communicates with the public in terms of its proposed rules is to issue a notice of proposed rulemaking. I know there has been a suggestion that OP could put it on their website.

My problem is that when I produced that for you it's an attorney/client privileged document until you authorize its release. If you want to authorize OP to go ahead and publish it before you've seen on their website for informal comments, you certainly may but to me this is redundant. The more normal process would be for us to provide you the text as best we can.

If you think it's worthwhile to get -- if you think it's a document that can
be rationally commented upon, usefully
commented upon, then we can go ahead and you
can take proposed action just for the purpose
of formally saying to the public, "This is how
we've taken our concepts and translated into
text. Now you tell us what you think." That
would be, as I said, the normal way to do it
under the D.C. Administrative Procedures Act.

CHAIRPERSON HOOD: I guess the
other thing I would ask is if we would
consider, colleagues, and I want to ask this
and then I'll go to Mr. Parker. Normally
that's 30 days. Right? The comment period.

MR. BERGSTEIN: Right, but you can
pick whatever period you would like greater
than that as you did for inclusionary zoning.

CHAIRPERSON HOOD: How many days
did we do it for? I can't remember. Sixty?

MR. BERGSTEIN: I think that was
45. For the program rules they did 90. It's
really whatever you think works for the public
and works for you. It shouldn't be too
attenuated because then there is the possibility of staleness but --

CHAIRPERSON HOOD: I would personally like to give the community at least more than 30 days.

MR. BERGSTEIN: We'll present you the text and you can make the decision. If you decide to go forward with the proposed once you see the text, then you can decide whether or not you would like a larger comment period. You might want to wait until you actually see what the text looks like before you --

CHAIRPERSON HOOD: Thank you. We'll do that. Any other comments? Mr. Parker wanted to say something.

MR. PARKER: I guess I have some process questions of my own now. If this is considered something that needs to come from Mr. Bergstein and go to you, one thing that we had indicated certainly to the task force is that we would make this available to them prior to coming back to you.
I need to know when I can take
this language to the task force. If that
needs to wait until you take proposed action,
then they can comment on it or if I can take
it to them first and then bring their comments
along with the text. I need that guidance
from you as well, I guess.

MR. BERGSTEIN: They would have to
formally give that to you. In other words, if
they say to you that you may provide your work
-- well, you could provide your work product
to the task force. It's when I start getting
involved when I look at a notice of proposed
rulemaking my client really is the Zoning
Commission.

MR. PARKER: My work doesn't look
like my work after you've --

MR. BERGSTEIN: I'm sorry?

MR. PARKER: I said my work isn't
necessarily my work after you've looked at it.

MR. BERGSTEIN: You've noticed
that. If you wanted to be able to provide
something that I've said to you, this is something I'm prepared to legally certify, then I need to know from the Commission that you can share that with the working group with the provisal that document doesn't go further than the working group.

MR. PARKER: The task force.

CHAIRPERSON HOOD: The task force.

Can we do that? Do any of my colleagues have a problem with that? We have some folks who are really up to snuff on these issues in that work group, minus myself.

Mr. Turnbull.

MR. TURNBULL: I don't have an issue. I guess my only concern is when do we get back into 9 and 12? What's the process for 9 and 12?

CHAIRPERSON HOOD: Mr. Bergstein, if you want to --

MR. BERGSTEIN: At this point I'm going to put them in because I think what I'm really hearing is the consensus you would like
to do it if I'm willing to legally certify and
I'm willing to legally certify it. Why don't
we just put them in and you can change your
mind when you take proposed action.

VICE-CHAIR JEFFRIES: Again, if
there is a determination that we don't have
legal standing here, you will hand it over to
council or whatever it is that you do.

MR. BERGSTEIN: No, I just simply
wouldn't certify it which I've never done but
there might be a day. Generally I try to
express those concerns to you and generally
speaking we've always been able to come up
with language that works from a legally
sufficient point of view.

I'm not here to stop the
Commission. My view of legal sufficiency is
as long as you can stand in court and make an
argument that's based upon law, then I'm going
to sign it. All I can do is apprize you of
the risks and it's your risk to take those.

VICE-CHAIR JEFFRIES: But you are
telling us that you think we have legal
sufficiency here for 9 and 12.

MR. BERGSTEIN: I think --

Vice-Chair Jeffries: You stated
the risk. I got it.

MR. BERGSTEIN: Yes. I'm saying
that I'm prepared to certify both of those for
legal sufficiency.

Vice-Chair Jeffries: That's all
we need.

MR. BERGSTEIN: In other words,
yes, you can go forward. I can't stop you
except for not signing that document and I'm
prepared to sign that document.

Vice-Chair Jeffries: I just want
to move this thing along.

Chairperson Hood: We're going to
go ahead and include 9 and 12 for the 9 and 12
section.

MR. PARKER: A for both?

Chairperson Hood: What was it?

Was it A?
VICE-CHAIR JEFFRIES:  A.

CHAIRPERSON HOOD: We can always -- I will tell you there is another bite at the apple for us also. We can always take it back out even if we split.

VICE-CHAIR JEFFRIES: Well, in February 2009 you can do what you want.

CHAIRPERSON HOOD: Okay. Again, let's go back to this process issue about Mr. Parker to the task force giving them the text.

Mr. Bergstein, I understand even after you look at it if we say it's okay, it's all right to still give it to the task force prior?

MR. BERGSTEIN: I think what Mr. Parker is asking you to do is to authorize him to share with the task force the version of this text that we're going to come up with which I believe to be legally sufficient and that will happen before you see it.

That's I believe what Mr. Parker is asking. I'm asking you to state affirmatively that he can do that because
basically this is a privilege that is between you and me and only you can waive it.

VICE-CHAIR JEFFRIES: Effectively when he does that, he is effectively giving it to the public.

MR. BERGSTEIN: As I said, the provisal, I hope, would be that the members of the task force cannot share it. When they accept it they have to agree that they will not share it but you obviously -- you know, you're letting the cat out of the bag but that's the risk you take. It's, I dare say, an inclusionary process so it's really a matter of policy for you whether you can do that.

CHAIRPERSON HOOD: We can do that and I'm just throwing this out here and then I'll hear what my colleagues have to say. We can do that. If the cat really gets all out the bag and then gets haywire and has a problem because it needs to get out of the bag eventually but if there is an issue then, we
can always change it the next go around.

VICE-CHAIR JEFFRIES: But clearly,
I mean, in terms of, and Mr. Bergstein said
it, I mean, the normative process is really
propose action, give them more than 30 days,
give everyone as much time as they need to
review it, and then come back with the
comments.

CHAIRPERSON HOOD: Let's do that.
Let's do that because I don't think there will
be much time for us after we do proposed and
then we can maybe extend the time probably not
more than 60, maybe 45 days.

VICE-CHAIR JEFFRIES: I think
Office of Planning has a comment.

MR. PARKER: What I'm hearing is
you would like to review it first and then
open it up for the normal process?

CHAIRPERSON HOOD: That's what I'm
hearing. I actually would like to give it to
the task force first but I'm going with how --
I've been around here long enough to know how
the vote is going so let's do that as Mr. Vice-Chairman has already mentioned.

VICE-CHAIR JEFFRIES: I'm just concerned about the slippery slope, that's all, if there is an issue. I mean, if we've done this before, that's fine.

MR. PARKER: I guess the whole hallmark of this entire process was to be as open as possible and as transparent as possible. We are just talking about text that we already know what it's supposed to say so there's no surprises in what we're going to be writing. It's just whether we got it right or not.

VICE-CHAIR JEFFRIES: But the proposed action, I mean, that's transparent. Are you making the argument that it isn't?

MR. PARKER: No, no, no.

VICE-CHAIR JEFFRIES: Okay.

MR. BERGSTEIN: Let me just say this does happen a lot of time at the agency
level. You have a very formal process for doing rulemaking including a hearing. It happens many times that an agency will provide a draft proposed rules to the stakeholders in industry, for example, to say is this technically right before we go ahead and propose it.

It is not unusual that where there is a small stakeholder group that you want to get consensus on before you issue proposed rules and for a regular agency that doesn't have hearings to just kick the rules out. There is often a vetting process of the proposed text.

VICE-CHAIR JEFFRIES: Okay, but --

MR. BERGSTEIN: I'm just saying although you've never done it on other agency levels, it does get done that way.

VICE-CHAIR JEFFRIES: Well, to me, and I think what I've heard Mr. Parker say, is that after he has written -- there is nothing preventing him from writing this text and then
sharing his written text before he presents it to the Zoning Commission.

There is nothing stopping him from taking it back to the task force. The only difference is once you take a look at it you're going to revise it so that he might recognize it and than at that point, you know, I guess the concern I have is why can't the two of you work to figure out exactly what it is that you're going to be putting together in terms of a written test. Take that to the task force and then bring it to us.

MS. STEINGASSER: Office of Planning is also a client of OAG so it would not be unreasonable for OAG to work with OP to draft the text in a way that would have an eye to both directions but it would not be a privileged document for the Commission, the same way OAG works with OP when we write any zoning text that we bring to you through the normal set-down process.

That would allow us to get early
feedback from OAG, take it to the task force, and then bring it to the Commission. You would obviously always have the prerogative in your proposed action to accept or reject anything that comes to you.


MR. BERGSTEIN: So do I hear the Commission agreeing that after Mr. Parker and I arrive at a text that we both find acceptable he can share it with the task force. That's the question for the house.

CHAIRPERSON HOOD: Exactly. I would concur that we do that. OAG, OP work together, take it to the task force. If it goes haywire this time, we'll learn from this time. We've got to start somewhere.

We'll learn from this time what we need to do next time so let's do it that way. The task force I think they're great. They work real hard. Even beyond that as far as I'm concerned they can hash through a lot of
it for us. I'm just putting it out there. I think we've got a lot of experts on that task force even though the final say so is with the five commissioners.

Well, right now four. Okay? But at the end of the day you've got one vote just like the rest of us. All right. I'll tell you what. While this is not perfect, this was a great start I think. We may need to make some tweaks in how we deliberate. I appreciate the working document from OAG and the Office of Planning.

I appreciate the Office of Zoning Staff and everyone who has made this a little easier for us but I'm sure we have a lot to do. This is just the work in progress. We'll make plenty of tweaks and we'll see how things work and make adjustments accordingly.

Ms. Schellin, is everything in order?

MS. SCHELLIN: Yes.

CHAIRPERSON HOOD: Okay. With
that, this special public -- is everybody on
the same page? Do we know what our next steps
are? Okay. This special public meeting is
adjourned.

(Whereupon, at 8:36 p.m. the
meeting was adjourned.)