GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF:
COMPREHENSIVE ZONING REGULATIONS REWRITE: COMMERCIAL ZONES: MAPPING AND USE PRINCIPLES :
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Thursday
October 23, 2008

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

The Public Hearing of Case No. 08-06-5 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W. Washington, D.C., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD Chairman
GREGORY N. JEFFRIES Vice Chairman
MICHAEL G. TURNBULL, FAIA Commissioner (OAC)
PETER MAY Commissioner (NPS)

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

RUTHANNE G. MILLER Chairperson
OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN Secretary
ESTHER BUSHMAN General Counsel

OFFICE OF PLANNING STAFF PRESENT:

TRAVIS PARKER
MICHAEL GIULIONI

D.C. OFFICE OF THE ATTORNEY GENERAL:

ALAN BERGSTEIN, ESQ.

This transcript constitutes the minutes from the public hearing held on October 23, 2008.
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PROCEEDINGS

Time: 6:38 p.m.

ZC CHAIR HOOD: We will go ahead and get started.

Good evening, ladies and gentlemen. This is the Public Hearing of the Zoning Commission of the District of Columbia for Thursday, October 23, 2008.

My name is Anthony Hood. Joining me are Vice Chairman Jeffries, Commissioner Turnbull and Commissioner May. We are also joined by the Board of Zoning Adjustment Chairperson, Ruthanne Miller; also Office of Zoning Staff Sharon Schellin and Esther Bushman, Office of Attorney General; Mr. Bergstein, Mr. Parker from Office of Planning.

I probably shouldn't have introduced everybody, because -- and I spoke to that gentleman when I came in. Could you give me your name?

MR. GIULIONI: It is Michael Giulioni. I am a newer staff working on the
zoning review with the Office.

ZC CHAIR HOOD: Okay, welcome, Mr. Giuliani.

MR. GIULIONI: Giulioni.

ZC CHAIR HOOD: Giulioni. All right. Thought there was some relation.

Okay. I think that covers everyone.

This proceeding is being recorded by a court reporter. It is also webcast live. Accordingly, we must ask you to refrain from any disruptive noise or actions in the hearing room.

The subject of tonight's hearing is Zoning Commission Case Number 08-06-5. This is a request by the Office of Planning for the Commission to review and comment on proposed concepts for text amendments to the zoning regulations.

This is one in a series of hearings on various subjects currently under review as part of the broader review and rewrite of the zoning regulations.
Tonight's hearing will consider
general rules applicable to commercial zones
and retail requirements. Notice of that
hearing was published in the D.C. Register on
September 5, 2008, and copies of that
announcement are available to my left on the
wall near the door.

The hearing will be conducted in
accordance with 11 DCMR 3021 as follows:
Preliminary matters; presentation by the
Office of Planning; reports of other
government agencies; report of the ANCs;
organizations and persons in support;
organizations and persons in opposition.

The following time constraints
will be maintained in these hearings: ANCs,
government agencies and organizations, five
minutes; individuals, three minutes. The
Commission intends to adhere to the time
limits as strictly as possible. The
Commission reserves the right to change the
time limits for presentations, if necessary,
and notes that no time shall be ceded.

All persons are to fill out two
witness cards. These cards are located to my
left on the table near the door. Upon coming
forward to speak to the Commission, please
give both cards to the reporter sitting to my
right before taking a seat at the table.

When you are finished speaking,
please turn your microphone off so that your
microphone is no longer picking up sound or
background noise.

The decision of the Commission in
this case must be based exclusively on the
public record. To avoid any appearance to the
contrary, the Commission requests that persons
present not engage the members of the
Commission in conversation during any recess
or at anytime.

The staff will be available
throughout the hearing to discuss procedural
questions.

Please turn off all beepers and
cellphones at this time so not to disrupt these proceedings.

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

SECRETARY SCHELLIN: No, sir.

ZC CHAIR HOOD: Okay. We will go straight to the Office of Planning, unless my colleagues have anything. Okay, we will go straight to the Office of Planning.

MR. PARKER: We do have several slides tonight. So may we turn the lights --

ZC CHAIR HOOD: I wonder if we could maybe have somebody move the District flag. Thank you. Thank you very much. I don't know if you all can see it on that end.

MR. PARKER: Thank you. Good evening. I am Travis Parker with the D.C. Office of Planning, and we are here tonight to chat about retail uses and zones that permit retail.

I want to talk first about the
goals with which we started this process

ZC CHAIR HOOD: I'll mention this, Mr. Parker. Can we do kind of like we did -- I think there were eight recommendations.

MR. PARKER: I am going to give you a stopping point in a minute. Absolutely.

ZC CHAIR HOOD: Okay, good. Thank you.

MR. PARKER: No problem. So first our goal is to improve the opportunities for retail development in our city. The second main goal is to encourage small and local businesses and provide opportunities for those types of businesses, and then under the mantra of our overarching goals of clarity and ease of use and relevance, we are interested in simplifying the zoning code in terms of provision of retail and modernizing our standards. All of these are issues that we are going to get into as we go along.

The input that went into our working group discussion included a multitude
of comprehensive plan policies, included a lot
of discussion and comments from our excellent
working group, and some best practices
research that we did from other cities in the
country.

Our recommendations tonight
generally fall into four themes. First, we
are going to talk about the local regulation
of retail uses. Second, we are going to talk
about the organization of uses in general.
Third, we are going to talk about use
requirements and restrictions on the ground
floor in retail areas, and then finally design
standards for ground floor retail.

Things that this group will not
deal with, and that will be dealt with later,
are the bulk standards, height and density,
and the regulation of specific uses and how
that is to be done.

Some final important
considerations: This is again preliminary --
intended to be general concepts. These are
things that are intended to be toolboxes or
tools in our toolbox and organizational
structures that would apply, whether we are
talking about downtown or high density areas
or our neighborhood commercial corridors, and
then those particular working groups will take
this as a starting point and use them to come
up with more exact tools and standards for
those particular areas.

So we will refine everything that
happens here further for commercial corridors
and high density areas and downtown later in
the process, but we need to get some general
concepts out of the way, some overarching
concepts.

So I want to start with
Recommendation 1. The language I am going to
use tonight for Recommendation 1 -- it has
changed a little bit throughout, and I am
going to describe that, but the language I am
going to use tonight is to recognize the need
for local regulations based on area
characteristics.

What this means is we have seen in this city and cities around the country are seeing zoning become more local. There is more and more demand for neighborhood characteristics to rule zoning restrictions.

In other words, in the Fifties and Sixties and Seventies zoning codes were designed with citywide classifications, a C-2-A that applies that same on Connecticut Avenue and Georgia Avenue and Pennsylvania Avenue Southeast, but more and more we are seeing that zoning isn't -- or you know, those broad citywide tools aren't adequate in order to describe the specific characteristics of those individual corridors and the buildings and the uses on those corridors.

So our recommendation in general for number 1 is that we need to recognize and allow for more localized regulation of our retail and commercial zones.

Now there are two main ways to go
about that, and in our report we recommended one of them. The first is to continue or improve on a system of ad hoc overlays.

We have a system now where neighborhood commercial zones can design an overlay that basically mashes on top of the underlying zone and changes the standards of that underlying zone or supersedes the standards of the underlying zone.

The other way to go about it that I am going to explain in a little more detail tonight is to not necessarily use that concept, but actually just change the standards of the underlying zone to accomplish the same desires and the same needs for a local area.

We had in the report recommended the latter approach. We are going to ask you to not make a decision or not make a decision at this stage on that.

Right now this recommendation, again, is just for us to generally recognize
a more locally based approach, and then we will go and talk with the downtown group and the commercial corridors group and educate people on this idea and bring some recommendations back to you for those specific areas.

Either way, whether we go with overlays or underlying zoning, we need to incorporate existing protections and restrictions into whatever we do, and we need to enable more local control over the types of land use and the density for particular neighborhood areas.

So a general way that -- Right now, we have basically a system on the left where you have two commercial zones. They are both zoned C-2-A, but the one on the bottom has determined that C-2-A isn't adequate for their needs. So they currently have C-2-A and an overlay mapped over the top.

A system that we are talking about would transfer the C-2-C -- or C-2-A on the
top directly over into another C-2-A zone, but instead of having a C-2-A with an overlay on it, we could just create a C-X zone with the regulations and restrictions of both, not to be called C-X but, for lack of a better term right now.

The way this works in text is clearly for the upper zone, there is no problem, but for the lower zone with the overlay, in the C-2-A perhaps you have a 50-foot height limit, and in the overlay you have a 40-foot height limit. So you have two chapters applicable to that property with two separate standards.

Obviously, the more restrictive applies, but why are we wasting space in our zoning code and confusion of the people looking at them by listing both standards, when we can put it all in one place and say, you know, 40-foot height limit for this commercial area.

Either way, you have two chapters.
In the example on the left that we currently go in, you have a C-2-A and an overlay. Over here, you have a C-2-A and a C-X zone. So it takes the same amount of space in our zoning code, but there is less confusion for the people in this situation.

So, obviously, the remaining issues with this would be: We need more specific guidance from our commercial corridor group, our downtown group and our high density residential group, and we need to make sure that, when we set up a system that allows changes in use permission and restrictions in standards, that we allow for that to be based on local context and local public involvement.

Recommendation 2 -- and we are going to stop after this one. So we will be able to talk about both recommendation 1 and 2 together. Recommendation 2 involves the consolidation of use lists.

This is something that has come out throughout in a lot of our working groups,
and as a matter of fact, we have gone through
with the working groups and the task force in
terms of retail, institutional, industrial and
arts, and every one of those has resulted in
recommendations of we need to consolidate the
uses in these areas.

We talked with you and the task
force last month about bringing that subject
up in the context of this hearing, because
this is really the first time that -- We've
had the arts hearing, but that was a little
different situation, but this is the first
time that we are going to talk about one of
these broad subjects, retail, where we can
talk about consolidating retail uses, but also
then talk about how that would work for
institutional and industrial; because if it is
something that we decide we want to do, it is
something that has to be done across the
board. We can't just consolidate a retail
category and then still have use lists for all
of the other categories.
So tonight, while the genesis of this comment has been in all of the individual working groups, we are sort of consolidating, and we want to bring up the discussion now as a general discussion of converting from use lists into broad categories of uses.

Now some of the problems with existing use lists: We have over 600 unique uses in our zoning code right now, and the code repeats a lot. So we actually have between 1200 and 1300 uses listed out in our code right now.

That amounts to over 60 pages of document, which is over 10 percent of the bulk of our zoning regulations right now. So the biggest cut that we might be able to make in this entire process is right here.

Beyond just the size of the zoning code, some real problems with the use lists as we use them now is, first, a use list focuses on a name rather than an impact, and we rely on the names of things as they have always
existed.

My favorite example of this is, if I live in a rowhouse district on Capitol Hill or something, a church is allowed as a matter of right, whatever size, shape or impact that is. A grocery store is not allowed as a matter of right in any way, shape or form. Under the traditional idea of these things, I would very much prefer probably a small scale stone neighborhood church than a 50,000 square foot Harris Teeter, but in a world of changing business models and continuously evolving types of uses, today churches are 10,000 square foot mega-churches, and grocery stores are just as often these days, yes, organic or a neighborhood grocery.

So if I had then a choice between a mom and pop corner store that I could get sandwich or a chips or a 10,000 seat mega-church, I clearly might prefer the grocer to the church in my neighborhood.

So the long and short of my point
is that it is not what is in a name.  
regulating use by what they are called is  
somewhat an outdated concept in itself, and we  
need to find a way to get at the impact and  
controlling the number of users and the hours  
of operation and the size of the building  
rather than what it is traditionally called,  
because there is a huge difference between a  
small use and a big use of the same name.  

Another major problem is that a  
use list, no matter how much time you put into  
it, is constantly outdated. The city is right  
now dealing with new technologies in  
sustainability and green technology where  
there is a new bio-diesel processing plant  
coming into the city.  

Without something like that in the  
zoning code, the Zoning Administrator is  
forced to determine, well, does this fit into  
a recycling plant or a processing plant,  
neither of which were ever contemplated to  
include something like this.
We are talking about 1950s and Sixties definition of what a recycling plant or a processing plant is, and it becomes more complicated when one is a special exception and one is a matter of right, which they are.

Another example of this might be a yoga studio. Right now a yoga studio is not a use in our code, and it is one of the quietest, most neighborhood friendly uses that you could imagine, something that is very applicable or possible, you would think, in a C-1 Zone, but because there is no use like that, the nearest the Zoning Administrator could come was public bath or physical culture, which is first allowed in the C-2-zones.

So you couldn't do a yoga studio under our use list, just because it is not defined. So we could certainly go through a process of expanding our use list to 1200 uses instead of 600 uses, but our recommendation is going to be that instead we should find a
different way to solve these problems that I am going to get into after I describe the final problem, which is this idea of primary versus accessory.

If I have a use that has a convenience store and gas pumps, do I have a gas station with an accessory convenience or do I have a convenience store with accessory gas?

There's a 1,000 different iterations of this, but this is another problem that we can solve by consolidating things into categories, and then either allowing or disallowing categories, regardless of whether the use is primary or accessory.

Now I'll talk a little bit about how we can accomplish this. First, we would take the uses identified in our code and consolidate them into what we have now identified as about 15 -- but we are very preliminary in how that work -- categories related to how the use behaves and our policy.
objectives.

Each use would then in a zone, a C-2-A zone or a C-3-C zone, be either prohibited or allowed as a condition -- allowed with conditions or prohibited. When we talk about conditions, we are talking about things like maximum size or hours of operation or number of users.

So in a C-1 -- in a neighborhood zone, we could allow retail with conditions, and those conditions could be under 5,000 square feet and only open from 6:00 a.m. to 8:00 p.m., and conditions that make that use a neighborhood friendly use rather than calling it a grocery store, which includes everything from your neighborhood store to a Harris Teeter.

So you really get to the impacts that are going to happen as a result of that use rather than what it has traditionally been called.

It would look something like this.
On the left you see a series of random uses, most of which were pulled from our code. Obviously, the yoga studio, you have heard, is not in our code, but all of these can be described in a use category of retail or service.

In our report, you saw us lay out a preliminary list of potential use categories. We will continue to refine that as we go, but it offers us a starting point for having the discussion, both tonight and in the future.

So basically -- I mean, this would require us to continue to work on this list. We would love to have your input on it, but we are ultimately going to take this list back to the task force's language, and it will come back to you for ultimate review.

What we would like from you as part of the decision making on this would be to say, you know, yes, go ahead and design the system, and we agree with the concept that
this is the right direction to go. Hopefully, we have given you enough idea about how it could work in the report to give us that guidance.

Basically, this sort of system would allow us to minimize the impact and control the impact in a much better way than we do now, in conformance with the comp plan objectives.

This is the point, I think, that I would like to stop, because we have just had two really big issues, and the rest sort of all relate to each other. So I would be happy to stop now and answer questions.

ZC CHAIR HOOD: Okay. Thank you, Mr. Parker. Before we get into questions, let me bring this up, because it's an e-mail about a process, and I want to just -- if you can just clarify this for all of us.

This is from Mr. John Goodman. I know you responded, but it says: All Travis' responses say that OAG -- reorganize and
reword the retail strategies recommendations,
but this is what it goes on to talk about, and
I underlined it.

It said, "But OAG's rewording did
more than make stylistic changes. They have
added some new recommendations and changed
existing recommendations. OAG's versions are
substantively different from the version that
came from the working group and that was
reviewed by the task force. I don't think it
is correct to say, as the hearing notice does,
that these recommendations were reviewed by
the working group and the subject matter task
force as part of the process designed to
ensure full public participation."

Then it goes on to say: "But if
OAG can add new recommendations and
substantively change others under the auspices
of reorganization or rewording, then we
haven't made as much progress as I thought."

Could you -- is this pertaining
to --
MR. PARKER: I think now is the
perfect time to talk about that, actually.

ZC CHAIR HOOD: Why don't we do it
before we get into questions?

MR. PARKER: Yes. These two
recommendations are sort of, I think, the key
to his comments.

Recommendations Number 1 and 2, as
they were reviewed with the task force, were
basically -- Recommendation 1 was, you know,
allow more local control of the zoning
regulations, and in our report and in the
public hearing notice that became how to do
it, which our recommendation is do it with
underlying zones rather than overlays.

The second recommendation, in our
discussion with the task force, was
consolidate uses into smaller categories, but
we didn't present to them -- hadn't worked
through with them what the actual categories
might be, and we had done that in the report.

So what we would ask you to
consider and rule upon for recommendation 1 would be just that, yes, we should allow more local control of neighborhood commercial districts, but not whether that is through overlays or underlying zone. We can get to that later.

For recommendation 2, yes, we should consolidate use lists, but not an approval of our 15 that we have laid out, but rather, yes, this is the right direction, and we will give you final approval of that list at a later date.

So that is how I would suggest we proceed.

ZC CHAIR HOOD: Okay. Good. All right, thank you.

Anyone want to start off? Vice Chairman?

COMMISSIONER MAY: Can you just repeat that again?

MR. PARKER: The whole thing?

COMMISSIONER MAY: Well, not the
whole thing. I am just sort of struggling
with it.

MR. PARKER: Well, basically, the
report that you have indicates our suggested
method for accomplishing the recommendations
that we discussed with the task force. In
other words, the recommendations with the task
force were: Provide local control of retail
districts, and consolidate uses.

The report that went to you
actually said how to do that. It said, you
know, do this through underlying zones rather
than overlays, do this through these 15 or
something similar lists.

We are saying that's fine, that's
a fair statement. Let's not ask you for
approval at this time of the list or of the --
Well, certainly, unless you are ready to
speak, but at this time let's not make those
decisions but just the more general decisions.

COMMISSIONER MAY: Well, okay. So
this is just a hearing tonight, and people are
objecting to what is being presented at this
time. Are you suggesting that we would have
a further hearing to discuss the uses?

MR. PARKER: Well, the objection
hasn't been substantive to what we have
presented. The objection that I just heard
was about the process, and we are willing to
continue the process, if that is what is being
asked.

COMMISSIONER MAY: And we also
have a letter from ANC 6B in which they object
to the notification and documentation
pertaining to the case, which, to me, means
that they didn't know enough about what you
proposed in time to be able to provide
informed testimony and to have their own
commission discuss this.

ZC CHAIR HOOD: Let me just say
this. The good part about that, we have Mr.
Jarboe who is going to actually be speaking to
that effect. I don't know if Travis -- I
don't know if he can answer that, but it's the
good thing about it.

MR. PARKER: We have spoken tonight, but he will be addressing it. I won't speak for him.

COMMISSIONER MAY: Well, but I am still interested in hearing what's being proposed here, because I don't feel like we -- Are we going to have a hearing for part of this and then have the opportunity for the ANCs to discuss it further, and then there is going to be another hearing?

ZC CHAIR HOOD: Go ahead, Travis.

MR. PARKER: What I propose -- In terms of Mr. Jarboe, I think, just like with all the other ones, we can leave the record open for 30 days or whatever for them to get in their comments. I think that is just an issue of them not having time to review the report that we have submitted and hear from us and respond and get that in.

In terms of Mr. Goodman's comments, I think it is an issue of we need
conceptual approval of the direction that we are going tonight, which is fine, and then approval of the specific tactics and tools can come as a part of the commercial working group. Specifically, the commercial corridors working group wants a chance to weigh in on these tools.

VICE CHAIRMAN JEFFRIES: What I am really -- I don't know why we are continually revisiting this process. I thought we were all clear about how we were moving forward. So I thought that we were looking -- This is really a discussion around concepts. Okay?

You want to get our thoughts about the overarching concepts here, and then, you know, the working groups -- Everyone is going to go back and revisit this. I mean, this is just a very fluid process.

So, clearly, there are going to be situations where people are unhappy, and OAG has sort of stepped in and so forth, but I thought we had all agreed to how we are going
to move forward here.

So I am just sort of concerned what the problem is.

ZC CHAIR HOOD: Well, don't be too concerned. My whole issue was I wanted to make sure that we address it on the record, as I stated that we would do. Mr. Parker has done that. The issue was that the task force -- we're dealing with one -- operating under one system and thinking that why do we have changes after OAG and it comes in front of us.

So we have it out there, and I would tell you, quite frankly, I am sure that there is going to be enough times for enough comment that this will happen at some point. I may not be here to see it, but it will happen at some point that a task force, people like you and I will be able to come back down and testify and do whatever.

So, Mr. May, I was kind of alluding to your process question.

COMMISSIONER MAY: I am not trying
to be the obstacle to progress here. I just
-- We are still kind of early in the process,
and while I understand that not everybody is
going to be happy all the way through it, I
would think that certain basic process things
wouldn't be an issue at this point.

We wouldn't have people raising
their hand saying that, well, we didn't get
enough notice about this, or what was said in
the working groups has not been adequately
communicated to the Commission. And it is
really just a matter of time.

I mean, if we were doing this a
month from now, these issues wouldn't be here.

VICE CHAIRMAN JEFFRIES: I
guaranty you, they would. And you should know
-- I mean, obviously, you have been dealing
with the public. There will be, if we had
waited a month. There will be some --

COMMISSIONER MAY: I think there
will be other issues in a month. It's not
going to be the one that says --
VICE CHAIRMAN JEFFRIES: And then you would want to stop it then. This is my point.

COMMISSIONER MAY: No, I'm not. I'm not trying to stop it now.

VICE CHAIRMAN JEFFRIES: But I guess my only concern here -- My only concern here is that I -- Again, we've talked about the process, and you are right, Commissioner May. It is very early in the process, and we are still trying to work out the kinks, but I really thought that we all came to a conclusion just in terms of overarching process here.

So I appreciate that the Chair has stated on the record some concerns, and we should work those out, but I just think it's a fluid process, and we should just keep moving.

ZC CHAIR HOOD: Okay. In the spirit of keep moving, are we going to keep moving or are we going backwards?
BZA CHAIR MILLER: Can I just make
a comment?

ZC CHAIR HOOD: Sure.

BZA CHAIR MILLER: I think I am
here for a variety of reasons, but one is I do
want to say that I do participate on the task
force, and the task force has been growing and
working, I think, better and better as things
have proceeded.

I think this is just a process
question. In my view, I think that we
certainly had a great opportunity at the task
force to discuss the whole use question,
consolidating uses, and also in general the
main points that are here.

I think what happened is then it
went to OAG, and OAG made some changes. I
think we just need to revisit at the task
force what happens when that happens. Then
can people have input later on?

Mr. Parker seems to be saying that
individuals can have input later on. Isn't
that what you are saying, that the record will still be open?

The task force may not meet again on this subject. I don't know, but I don't see it as a big issue here to not go forward on the hearing. I think the task force did address in general these issues pretty thoroughly.

VICE CHAIRMAN JEFFRIES: I don't hear Commissioner May saying that we should stop here. I think what I hear him saying is that he just wants to be clear about exactly what we are doing today. But I just want to make certain that I elevate the volume as it relates to being clear about the process and that it is a fluid process, and that it is going to take two steps forward, maybe a step and a half back or whatever. But I just -- So anyway --

COMMISSIONER MAY: Mr. Chairman, I am sorry. I don't want to prolong it, but I really do feel like there are certain things
that I need to say at this point in the process.

   ZC CHAIR HOOD: Okay, but let me just say this, though, and then I'll go back to you, Commissioner May.

   The reason I brought this up, because all I have is my word, and I did mention when I received this e-mail, which went to everybody, and I also am a member -- well, to some degree, a member of the task force, but now that we get into decision making, I have chosen, even though I know OAG has informed me that I can participate -- I would rather do it here as opposed to -- To me, I am not legally savvy, but I do know when there is room for error, and I'd rather be cautious and proceed cautiously, but I will say this.

   The reason I even brought that up, because I assured Mr. Goodman and the task force -- I have been informed that you have been given clarification. I will also ask on
the record about any confusion. Thanks for all your hard work, and I believe in keeping my word.

Okay, Commissioner May.

COMMISSIONER MAY: I understand that this is a fluid process and that at this point everything is very, very loosely defined, and that we are not -- we don't need to drill down into checking off all of the boxes and make sure that everything is exactly right at this moment. However, this is a marathon that we are starting here, and we are already a few steps into it.

Judging by the relative longevity of people who sit in this chair, I am probably more likely than most to be here through a lot of the process, or at least I hope so. I hope so. Anyway, we'll see. I serve at the pleasure of certain people in my administration, too.

Anyway, the point I want to make is that I don't like starting into a process
like this and then having people right off the bat raising process issues. If there is some issue between the Office of Planning and the task force about how things move from the task force to the Office of Planning and then get communicated to us, I would like them to be -- I would like that process to be smooth so that what comes forward doesn't come with an objection from any of these earnest and interested and hard working parties that it is not going well.

VICE CHAIRMAN JEFFRIES: But that is not what I am hearing.

COMMISSIONER MAY: Well, that is what I heard from ANC 6B, or what I read from them. So I'm not objecting to this to the point where I want to stop and not proceed tonight. I just would hope that -- and this is for the Office of Planning -- that in the future we are not going to have these sort of process issues raised at the beginning of the discussion of a particular topic.
VICE CHAIRMAN JEFFRIES: Well, certainly, going forward, given our performance here tonight, you probably will, but I hear what you are saying.

MR. BERGSTEIN: Can I actually ask for some guidance, because this raises an interesting question.

We should remember that we don't do set-downs for this process. Normally, what would happen is, if there was a petition brought by a citizen group like a task force or a work group, it would be submitted and put on your agenda. Then I would look at it and, if I had issues of clarity or legal sufficiency, I would bring it to you and then would say my view is this could be set a little bit better or this is redundant or you can't do this.

We are going right from task force to notice of public hearing. So I had to think about what my role was, and my role, at least as I have seen it, is to make the
document as clear as possible.

So, for example, in the case Mr. Parker brought up, the recommendation was zoning should be local, something like that. I thought to myself, would my client understand what that meant?

So I ask Mr. Parker, well, what precisely does that mean? What would go from that? Then he described it, and then I wrote it as a recommendation. I didn't add anything. I sort of tried to get down to the bottom line for you.

I could simply not look at these things. The public hearing notice could simply say that the Office of the Attorney General has not made a legal sufficiency determination, and then we go right from the working group to the D.C. Register. But that is sort of the guidance I'm looking for you to.

What I have tried to do is to take these recommendations -- and also because Mr.
Parker and I are having ongoing discussions of sort of the broader picture. So we would introduce concepts in this proceeding that were necessary to be resolved, basically, because it is sort of tied in and it was necessary to get to those concepts generally for commercial zones, such as having a limited use list, because so much else was dependent upon ultimately your guidance there. But basically, that is how I have been viewing my role, as sort of making the document as clear, because ultimately there will be decision templates that we have been presenting to you, like for parking and for arts.

A good decision template can only be good if the document it starts off with is relatively precise. So that is sort of how I have been seeing my role in this unique process.

ZC CHAIR HOOD: And let me just say this without belaboring it. We want to get further into the recommendations. But I
agree with the process which we are doing now. I just want to make sure that the task we understand, because I don't want us to sit up here and have a hearing and something -- in case -- Mr. Bergstein mentioned, something we can't do to begin with.

It's good to have that legal sufficiency, period. Unfortunately, there may be some tweaks between the task force and when it is advertised. But I really believe that we would save some time, for those of us who are going to be here for 35 years -- and I'm serious. It would save some time as opposed to advertising something that we couldn't have done anyway. That is going to cause a lot of confusion.

So I think the only issue -- The reason I brought it up is so we can have clarification. I think legally sufficient, as Mr. Bergstein has mentioned, is fine for us to move forward. I mean, I like the way -- If we need to tweak it later on, we will.
MR. PARKER: If I could really quickly, we may be able to solve it. I think the problem arises from the transition from the task force to the Zoning Commission. I think we may be able to solve this by bringing in Mr. Bergstein sooner in the process, and I can meet with him after the working group and before things proceed to the task force, so what they see is what will ultimately go into the public hearing notice.

I mean, he will still have to look at it again in case we make changes, but we will just upset the working group more than the task force.

MR. BERGSTEIN: That's great. Part of the problem is that it comes to me or I get to it so late that there is very little time between when I'm looking at it and the deadline for publication in order to meet the dates. There is not enough time for Mr. Parker to bring any revisions back to the working group and, certainly, we can move up
the process earlier so any suggestions I might have can be reviewed and explained to them. That's just fine with me.

ZC CHAIR HOOD: Okay, good. So that process which you just mentioned is where we are now.

MR. PARKER: Except for the next few that you are going to see that have already been through the task force, but eventually we will get there.

ZC CHAIR HOOD: That's where we are going to go.

MR. PARKER: That's where we are going to go.

ZC CHAIR HOOD: Okay. And let's see how that works. Commissioner Turnbull?

COMMISSIONER TURNBULL: Thank you, Mr. Chair.

ZC CHAIR HOOD: Hold on one second. Mr. May, did you finish?

COMMISSIONER MAY: Yes. No, I just want to say, what you are suggesting, I
think, sounds good, and I am not really advocating for a particular position about who sees what when and all that, just that by the time it gets to us, I would hope that it has been -- you know, that there has been enough discussion and that the people who want to come here and speak to us in a fully informed manner have the opportunity to do that. That's what it is about for me.

VICE CHAIRMAN JEFFRIES: You think they won't?

COMMISSIONER MAY: We have a letter from one of them saying that they couldn't vote on this. They are opposing it, because they did not have the time to read it or develop it or discuss it or whatever it was.

ZC CHAIR HOOD: We got you. Commissioner Turnbull.

COMMISSIONER TURNBULL: Mr. Parker, how are you holding up down there?

MR. PARKER: Doing all right.
COMMISSIONER TURNBULL: I know you are trying to present this with a certain amount of gravitas and grace. I hope we haven't screwed things up too much.

I want to ask you a question, not on process, but I wonder if you could define local control. Is this at the ANC level or do you have some other vision?

MR. PARKER: Right now, small area plans -- or, excuse me, overlays are based on small area plans. A small area plan is done, works with the neighborhood, defines the boundaries, and an overlay is created based on those boundaries.

There is no reason that same process couldn't change the underlying zoning of those same boundaries. I mean, there is no difference in what we are proposing. The only difference is where it sits in the zoning code.

COMMISSIONER TURNBULL: I am just thinking of what we define. I am looking at
existing neighborhoods or what we call them now, just throughout, like Cleveland Park. Are you looking at those types of --

MR. PARKER: Certainly. If this works in a transition from one system into another, anything with existing overlay boundaries would keep those same boundaries, and new small area plans that define boundaries of new zones would talk about those.

I mean, I've personally heard from six neighborhoods this year that wanted to look into having an overlay. It is become a more and more common request, and it will become more and more common.

What this does is this will create a process for easier application of the recommendations of a small area plan. There still needs to be a plan, and this is not something that a zoning change is going -- We aren't going to talk about, in changing over the zoning document, changing the height and
bulk and uses of any particular neighborhood.

The transition would have to take place with all of the existing requirements, but what this could do is set in place an easier system for neighborhoods, when they did come in with a small area plan, to move the pieces in their zoning district so that we could do it easier and simpler and under a set of guidelines.

COMMISSIONER TURNBULL: Okay.

Thank you.

BZA CHAIR MILLER: I would like to follow-up to start with on what Mr. Turnbull was asking about, and that is with respect to the overlays that are going to be carried over.

It seems to me that what is happening with the zoning regulations in general is that we are all looking at what is working and what is not working, and a lot of it, it seems, from the Office of Planning's methodology is almost like looking at it like
fresh and let's do this differently and whatever.

So I guess my question is: With respect to some of the overlays, does Office of Planning intend to look at those issues later with respect to what is working when, what is not working, because if there are some things that are not working in overlays, we don't necessarily want them -- In general, when we are redoing the regulations, we might not want to carry over things that aren't working.

MR. PARKER: And that is a discussion we need to have with the commercial corridors, absolutely. This is intended to be a discussion of we have a system now that has underlying zones and overlaying zones. Maybe there is a simpler way to manage the entire system, but when it comes to transitioning the overlays to that system or creating new overlays or new underlying zones, we need to have a discussion in the commercial corridor
working group about what specifically is working and should be carried on, what should not, and what new tools should we have.

BZA CHAIR MILLER: My other point on that is that, unlike the regulations in general, what you were saying is that these are going to be very local to the specific communities, Georgetown, Cleveland park or Tenley. Well, it sounds that way.

MR. PARKER: Theoretically.

BZA CHAIR MILLER: Okay, theoretically, the ones that are in existence now are, some of the commercial overlays.

MR. PARKER: Right.

BZA CHAIR MILLER: So I think it is -- I don't know if you have thought it through yet. It sounds like you started to explain to Mr. Turnbull about the small area plans, but what is the input going to be from the community? Who is going to decide? How are they going to decide? It's just something -- I think it is an important issue.
MR. PARKER: Well, absolutely.

Again, we wouldn't recommend through this process the changing of any density or use restrictions for a particular zone. The idea would be to create a system where we can transition things into a system that makes for easier moving pieces, and from there the system can work exactly like it does now.

A neighborhood that wants an overlay goes through a planning process, and there are public meetings and public discussions, and the ANC weighs in and the community group weighs in, and ultimately small area plans are approved by the Council, and the Zoning Commission approves an overlay.

We can shorten that process by taking the eight months it takes us to design an overlay and, if we have a template that allows us to move those pieces, we can say, all right, we've got this now approved plan. In a week, we can fit those moving pieces into how to change the underlying zone, rather than
designing a new overlay.

BZA CHAIR MILLER: Okay. And I just want to clarify. Part of the reason I am here is because I, as Chair of the Zoning Board, see how problems with the regulations play out and how they become litigation before us and what is confusing and what isn't, and what is divisive and what isn't.

So I won't have any say in what you do, but I am also a member of the task force, and I would say that this is kind of a piece that is laying out there, an unfinished piece, and I think that it would be great if it is looked at and then there is an understanding of what the process is going to be for the community to add overlays, subtract things that aren't working, etcetera.

I just also want to comment, just for the benefit of Zoning Commission, and the members also sit with the Board and see a lot of the cases as well -- and I said this at the task force: I think it is a great idea, what
you are doing with the uses and having categories instead of specific uses.

We have a lot of litigation over archaic uses and uses that aren't in there, and this makes a lot of sense to me. So, thank you.

VICE CHAIRMAN JEFFRIES: First of all, I would like to say that I like this concept of sort of the corridor-specific zones. This one-size-fits-all sort of categorization of the commercial corridors, I think, is probably outdated, and I think this is probably a very good way to go, although it seems just somewhat counterintuitive to creating sort of less regulation.

It seems that, if you are going to really get into a lot of specificity in terms of the various corridors, it seems like you are moving from broad to very specific, but it seems like you are going to end up having a lot more verbiage and a lot more regulations.

So it just -- and we can talk
about the uses, but I am just sort of wondering how eventually this will end up. I mean, conceptually it sounds great, but I think the devil is in the details.

MR. PARKER: I guess the answer is we are going there anyway. We can either change nothing and create four to six new overlays a year and entire new chapters of overlays or we can create a system where it becomes easier to define those moving pieces within a commercial zone.

We are going to have more local regulations, whether we do it the traditional way or whether we do a new way. What we talking about is creating a system where it is simpler to make those transitions.

You are right. Ultimately, as that gets created, as those neighborhoods come in and do that, there is more code, but it is going to be more whether we do it this way or whether we do it through overlays. There is going to be more chapters.
VICE CHAIRMAN JEFFRIES: Then the other question I have -- if you can go to the slide about uses. So use categories: Retail, service -- what were the others?

MR. PARKER: It's in our report.

VICE CHAIRMAN JEFFRIES: And the question I have is: If a particular applicant is trying to figure out sort of where they fit -- I mean, is this going to put a lot more pressure on the Zoning Administrator? What is the process by which one determines which use category they are going to be in?

MR. PARKER: This puts, actually, a lot less pressure on, because right now you've got 600 uses, and every time a use falls in between one of those, you are going to have to decide whether it fits into use 579 or 580 right now.

If we have 15, then you have a fraction of the division. So 95 percent of the uses are going to fit clearly into one of these well defined categories, and there are
cities that do this like this.

What they do is then, for uses that the Zoning Administrator does have to make a determination, you have a set of characteristic questions they go through. Portland does this where they have their dozen or 20 uses, and they are fairly well defined and fairly distinct, and 95 percent of the time it is easy to tell if something is retail or if it is office. But if there is some question, they have a series of questions that the Zoning Administrator asks to help him put it in a category.

Ultimately, it is a Zoning Administrator decision, and there will be a lot less of them with 15 choices than 600.

VICE CHAIRMAN JEFFRIES; So for a particular use, there might be a series of questions that will lead the applicant to, okay, this is what you are and where you should be categorized. Still, I mean, the burden is on the applicant to make the case,
obviously.

MR. PARKER: No. Well, 95 percent of everything will fall into one of these clear definitions. Either they sell something tangible on site -- they are retail.

VICE CHAIRMAN JEFFRIES: I'm talking about the five percent.

MR. PARKER: Yes, the five percent. Then the applicant requests a determination of the Zoning Administrator, and the Zoning Administrator makes that determination based on questions that he asks himself or he asks the applicant.

VICE CHAIRMAN JEFFRIES: Why couldn't that be done up front?

MR. PARKER: Done up front how?

VICE CHAIRMAN JEFFRIES: In terms of the five percent. If there is some question, why can't there be a series of questions for the applicant to make a determination where they would fit in, rather than having to go through the Zoning
Administrator?

MR. PARKER: There can be, but --

VICE CHAIRMAN JEFFRIES: I'm just throwing that out.

MR. PARKER: Yes. But if there is some question -- I mean, if it gets to the point where there is a question, the Zoning Administrator has to decide. It's either obvious which category it fits in or it is not, and for those rare cases where it might not be, then the Zoning Administrator probably has to weigh in.

VICE CHAIRMAN JEFFRIES: Okay.

Thank you.

COMMISSIONER TURNBULL: Mr. Parker, I wonder if you could go back to the one slide where you showed the C-X.

MR. PARKER: The text or the maps?

COMMISSIONER TURNBULL: That one.

MR. PARKER: All right.

COMMISSIONER TURNBULL: Now when you came up with that term C-X, you were
adding one of your templates over the basic boundary.

MR. PARKER: Yes. Basically, you've got area overlay X for neighborhood X, and the underlying C-2-A zone. Let's say this is the H Street overlay. So you've got C-2-A and H Street overlay right here. Then you've got a H Street zone.

COMMISSIONER TURNBULL: But aren't you -- You don't really have the overlay anymore per se.

MR. PARKER: Correct. That's exactly the point.

COMMISSIONER TURNBULL: So now you have a series of templates, whether it is retail --

MR. PARKER: You have one template, and this is how a commercial district lays out, and the template has a set of moving pieces in it, uses permitted, FAR, height, etcetera, etcetera, etcetera.

COMMISSIONER TURNBULL: Is that
all on the one template or is there a series
of templates?

MR. PARKER: Well, a template is
an example. There is one -- This is a
template. This is how commercial districts
lay out, and then commercial district X comes
in and fills in those blanks and says this is
the regulation that we want for our commercial
area.

So Cleveland Park comes in and
says we don't want 50-foot buildings like C-2-
A has; we want 40-foot buildings, and we want
to limit restaurants, and we want these. So
we put these in place, how this neighborhood
lays out.

COMMISSIONER TURNBULL: So that is
no longer C-X. That is something, C-Y or C-X-
2?

MR. PARKER: Yes. The X was not
intended to be a name.

COMMISSIONER TURNBULL: Okay. I'm
just seeing that, if you have this C-X but
there are variations of this, subcategories of C-X then. Does that -- I mean, you are just saying that they are changing, that they don't want 50 feet, they want 40 feet. They don't want this. They don't want that. So it is a variation of this C-X that someone else had.

MR. PARKER: Let's put it this way. So Cleveland park is C-X. H Street is C-Y. Georgia Avenue is C-Z. I mean, the name isn't important. The important thing is, instead of Georgia Overlay, there is a Georgia zone.

COMMISSIONER TURNBULL: Right. No, I'm not trying to make this complicated. I just would hate to look at a zoning map or something that says C-A, C-B, C-C or -- I mean, are we going to have an infinite number of zones?

MR. PARKER: Well, you do right now.

VICE CHAIRMAN JEFFRIES: You are going off on my question, my initial question.
MR. PARKER: We have over 120 combinations right now. Our zoning map is a mess right now.

COMMISSIONER TURNBULL: And you are saying you are going to simplify it?

MR. PARKER: We are going to make it easier to use.

COMMISSIONER TURNBULL: But it is still complicated. Okay.

VICE CHAIRMAN JEFFRIES: Simpler, but it will --

MR. PARKER: The map is going to get messier whether we change this or not, is what I am saying.

COMMISSIONER MAY: Managing the mess.

MR. PARKER: It's managing the mess.

COMMISSIONER TURNBULL: Can we have an interactive map that we can put our finger on?

MR. PARKER: We are certainly
going to work with OZ to make everything -- I mean, a system where you put in your property address, and what you can do on your property pops up or you put in your zone, and what you can do pops up. So, certainly, an interactive system could be part of what comes out of this.

COMMISSIONER TURNBULL: Okay.

VICE CHAIRMAN JEFFRIES: You know, I am -- and I'm sorry. I think Commissioner May was about to ask a question. But quickly, you know, I think it is wonderful. I hate to say this, but Chicago, you know, is just a large town of lots of different communities, neighborhoods and so forth, and a lot of them are very distinctive. But I do hope that underlying all of these various zones we are talking about there is going to be some commonality.

This is one city, you know. So there really should be sort of a baseline that is consistent throughout all of these zones,
so that you know you are in Washington, D.C.

    I'm pretty certain that you guys
will be on that page, but I just wanted to say
that.

    MR. PARKER: Of course. You are
going to measure height the same way every
zone. I mean, there will be non-moving
pieces.

    VICE CHAIRMAN JEFFRIES: I'm
talking about things of that sort, too. I'm
not talking about just the envelope things.
So I mean ground floor to ceiling. So if
somebody wants their -- Cleveland park wants
12 feet, and then the rest of the place wants
14 height, I think we might get into some
issues, because there are some overriding city
initiatives that really supersede community
issues. I just want to put that on the
record.

    ZC CHAIR HOOD: You know, I keep
hearing about Cleveland Park. Is there
something I'm missing?
MR. PARKER: My apology.

COMMISSIONER MAY: All right. Is

have been struggling with trying to understand

how this really -- this local control and

customization the zoning map is in some way a

simplification, and what it is, is it is not

really a simplification. It is, as we said

before, managing the maps or managing the

complications. It is simplifying it, though,

in terms of how it is constructed, what gets

mapped.

MR. PARKER: It simplifies both

the process for creating and mapping and

ideally the usability. So rather than looking

in two chapters and comparing them for what is

most restrictive, you just look in one place.

COMMISSIONER MAY: Okay. So the

other thing I was trying to -- I was

struggling with was structurally what that

really meant, what you really meant by

templates. But the parallel that jumped up

for me was that this is like customizing cars.
I mean, you know, you have your subcompact and your compact and your midsize and your full size and your whatever up the chain, and within each of those models there are lots of alternatives that you have to choose to get your version.

In the process of mapping it, you make all of those choices, including design standards like, you know, what kind of hubcaps and what color and any of those sorts of things that are more aesthetic in nature.

MR. PARKER: I love that. I think, yeah, you can picture it something like now we have C-1, C-2, C-3, but something like some sort of neighborhood, retail or commercial, some sort of commercial corridor, retail, some medium density and some downtown or high density, and yes, these are your general categories, and we will set out some basic standards for those. Then, yeah, you can customize that within for Georgetown or Petworth or your individual neighborhood.
COMMISSIONER MAY: On a certain level, it makes it simpler and easier for the individual or the person who is concerned with one or two or three properties. But when it comes to the Zoning Commission or the BZA's ability to understand this, it isn't going to get any easier.

MR. PARKER: Yes and no. There will be -- So neighborhood X might have a 35-foot height limit, and neighborhood Y will have a 45-foot height limit, but they will all have a height limit, and they will all have -- So they will all have the same series of standards.

They will have A through -- standards A through G, and the numbers will change, but they will all -- You will be able to look right on the sheet and say, all right, these are the standards for this neighborhood, and the set of standards will be the same for each neighborhood. Just the numbers can change. Does that make sense?
COMMISSIONER MAY: Yes, I guess so, although again, you know, it is not going to be the sort of thing where you open up the case file for the first time and look at what the zone is, and you automatically know, yeah, C-2-A, it's 50 feet, it's 2.5 FAR, whatever it is. I'm sure I cited those all wrong.

There is a certain base level of understanding that we carry into this that you won't have, but I think it is inevitable, as you say.

All right. On the unique uses versus these broader categories, how do you deal with the requirements that get associated with some of those uses? I imagine that within these 15 categories you might have widely varying requirements for something like parking. How do you address that, other than trying to do away with parking minimums?

MR. PARKER: Yes, we have greatly reduced our problem with parking, but can you describe the problem a little bit more?
COMMISSIONER MAY: Well, I didn't know I would have to come up with an example. All right. A bowling alley is going to have a certain level of parking requirement.

MR. PARKER: Okay.

COMMISSIONER MAY: A theater of the same size is going to need a lot more parking.

MR. PARKER: Okay.

COMMISSIONER MAY: So how do you reconcile those things?

MR. PARKER: Well, I guess the question is does it. Do you have a theater the same size? A theater needs more parking than a bowling alley, but a theater is several times the size of a bowling alley.

COMMISSIONER MAY: Not necessarily. In fact, probably not at all in terms of its footprint. I mean, think about it. You know, think about it in terms of building code sorts of ideas.
In a theater, you can have something like seven square feet per person or 10 square feet per person for code purposes. You know, a bowling alley is going to be, what, 200 square feet per person or 100 square feet per person, and each person -- each quantity of people translate to a vehicle somehow.

MR. PARKER: That is something that we -- I mean, it is something that is a lot easier to justify for office or retail service. I hadn't considered some of these like entertainment.

Yes, that is something that we will look further into, unless you are willing to drop parking minimums.

COMMISSIONER MAY: I think for things like theaters there is a certain --

MR. PARKER: Fair enough.

COMMISSIONER MAY: -- a certain requirement we are never going to get around.

I am very interested in a primary
versus accessory use. I don't know what to
say about it, only that I think that is
potentially a sticky issue, and I guess maybe
it is going to come down to the same sort of
Q&A for the Zoning Administrator to determine
primary versus accessory, or is it just going
to be --

MR. PARKER: Actually -- and I
didn't get to explain that. Yes, let me
explain that, what I mean by that.

Let's go back to the example of
the convenience store with gas pumps. Right
now, the Zoning Administrator has to decide
whether it is a gas station or a convenience
store.

Under a system like this, you have
-- The Administrator sees that, and that
comprises uses of both retail and automobile
related. So if either one of those is
prohibited in a zone, they can't do that
portion of the business.

So in other words, it doesn't
matter, and the Zoning Administrator doesn't have to decide which one is accessory and which one is primary. If a retail component has to meet conditions, that business has to meet those retail conditions. If automobile related is allowed but under conditions, they have to meet those conditions.

So the same could be applied for, in a residential district, a church with a bookstore. If --

COMMISSIONER MAY: So you are essentially trying to make the difference moot.

MR. PARKER: Right.

COMMISSIONER MAY: Which wouldn't be a problem except if it is the sort of thing where you have primary use as a theater, which has an exceptional parking requirement.

MR. BERGSTEIN: Can I just say one thing in terms of accessory uses, because this is an important distinction.

An accessory use traditionally is
one that is not permitted in the zone
district, but is nevertheless allowed, because
it is deemed to be customary incidental to it.

So for example, if I have an
apartment house and it has a rental office, an
office is not permitted in a residence zone,
but a rental office could be seen as a valid
accessory use, because it is not permitted but
is allowed because it is incidental and
subordinate.

The example that Mr. Parker is
giving is that either if the uses are
permitted or they are not. If it is
permitted, then it doesn't matter how much of
a building it occupies. But I believe under
the scenario, if the use is not permitted in
the zone district, it cannot be permitted as
accessory use, even if it is incidental and
customary to that use.

MR. PARKER: That's fair, and we
could still go back to a traditional -- I
guess the point is we have moved significantly
away from what you describe as a traditional idea of accessory and primary in a lot of the BZA fights and Zoning Commission fights that have happened on this.

I think we could totally move back to something like that where, if there is something that is subordinate and necessary to the operation of it, it could be included as an accessory use, and define that better than it is defined now.

ZC CHAIR HOOD: Okay. Anymore questions?

VICE CHAIRMAN JEFFRIES: This is a hearing. Correct? We are going to be hearing?

ZC CHAIR HOOD: Yes. I had to think. I was trying to figure out what we were doing. You're right, this is a hearing.

VICE CHAIRMAN JEFFRIES: This is a hearing. We would like to hear from people eventually.

MR. PARKER: We got five more
recommendations to go through.

    ZC CHAIR HOOD: Yes, we do. But
let me just ask this just right quick. I had
a little time while I was sitting here, and I
read Mrs. Simon from Friendship Neighborhood
Association, and she mentions -- We were
talking about the consolidation of the uses,
and she mentioned -- I'm paraphrasing; I'll
only read two or three lines. So I may not be
doing justice for it.

    It says the consolidation of use
list proposed would make it difficult to
distinguish different types of uses that would
be appropriate for different areas in the
comprehensive plan general policy map. There
is some more to it, but let me go on. This is
the part that is interesting to me.

    "Further, in its implementation it
is unlikely to be simpler and is likely to
become an enforcement nightmare."

    Could you just elaborate? An
enforcement nightmare is actually -- out of
everything she wrote for number 2, enforcement
nightmare is an issue, because if we don't
have any enforcement, it's no good. Can you
just --

MR. PARKER: I'll tell you what we
did for talking about parking minimums and
maximums. We went to the cities that had done
it, and we have had them send in letters to
you.

Portland has a system a lot like
this of uses, and other cities that we have
talked to that love their system of usage and
have had no problems with it. We will do our
best to have some letters sent in to you from
the cities that have this system and really
enjoy it.

VICE CHAIRMAN JEFFRIES: Besides
Portland?

MR. PARKER: That's the only one I
remember off the top of my head.

VICE CHAIRMAN JEFFRIES: Because
you have been mentioning it a lot.
MR. PARKER: Yes, because that's the one I remember.

ZC CHAIR HOOD: Okay. Any other questions on recommendation 1 and 2?

BZA CHAIR MILLER: Just quickly. I just wanted to follow up on Mr. Bergstein's comment about accessory and incidental, because that does come up in our hearings. As of now, if a use is that, it is a matter of right. So you would want to be careful, if you were to all of a sudden make it a variance or something.

MR. PARKER: We certainly need a better definition there, because right now up to 50 percent is -- I think we need a stronger definition of that, certainly.

BZA CHAIR MILLER: And one other comment or question about what Mr. May said about he didn't think it would be easier for the BZA or whatever, the new methodology versus the old.

I guess what I am anticipating is
that, instead of going to two places, what you are saying, we would just go to one place, and all the regulations applying to that specific -- not all maybe, but most of them, instead of overlay plus the underlying district, it would be in one place.

So, therefore, it seems like it would be easier for the BZA and the public, and there would be less disagreement as to how to reconcile two different provisions.

VICE CHAIRMAN JEFFRIES: It will just be a big place, though.

BZA CHAIR MILLER: I don't know.

VICE CHAIRMAN JEFFRIES: Yes.

That's all.

ZC CHAIR HOOD: Okay. Any other questions. You want to do two at a time?

MR. PARKER: Well, actually, the next five pretty much go together. So I think we can do all five and we will just -- we will make it through.

ZC CHAIR HOOD: Thank you.
MR. PARKER: So these two recommendations sort of set the general framework for how retail uses could work.

The next five are some general tools that we feel could be in the toolbox for commercial zones. What this means is these are not things that we as the city or you as the Zoning Administrator -- or Zoning Commission would say these are now applicable in all commercial zones.

These are things, most of which are currently sued somewhere in the city on an ad hoc basis again, but that we feel could be set up in the template as choices for commercial areas to use, if they liked this tool or if they felt this tool was appropriate for their neighborhood.

The first one would be to allow floor space caps within retail areas, and this is, if you have a historic or a small scale retail area or commercial neighborhood, you could limit the size of retail stores to 5,000
or 15,000 or 30,000 square feet, depending on the size of your area, to avoid inconsistent consolidation of many lots or a big box in an area that is otherwise very small scale.

The cap would, of course, be relative to that local area and would only be implemented in, again, very unique cases, but would be a potential tool to have available for neighborhoods.

Another potential tool would be allow the requirement of a minimum percentage of retail on the ground floor. We see this a lot now with requirements in, say, the arts overlay that 50 percent of the ground floor be retail.

So this could be another tool that is available. A commercial district could require 30 or 50 or 70 percent of the ground floor use along a certain street to be available for retail uses, and this is a way to ensure continuity of retail uses along a commercial strip.
Another tool that could be available is to place limitations on certain types of inconsistent uses. You see this in, again, Cleveland park, for example, where they placed limitations on the number of restaurants in their area. You see it in Mt. Vernon where they place limitation on the number of banks.

Again, you could do this with the category. The categories still allow limitation on the type of use that you are interested in. So the food service type would fit that category or for banks it is really the idea of services uses, uses that close at five o'clock and don't promote a vibrant streetscape.

So you could accomplish the goals by limiting a certain category of uses to a small percentage of your retail area, depending on the needs of your particular retail area.

Another tool available would be,
of course, to have design requirements for the retail along your street front. So the neighborhood commercial is now a designated street. For H Street overlay, that is H Street. For Cleveland Park, again it is Connecticut.

So you would designate the commercial strip in your commercial corridor and could implement design standards, and the basic package of tools would include minimum ceiling height -- 14 feet is the standard, I believe -- requirements for active window and retail space, minimum distance between access points, and I am going to talk a little bit more about that in the next recommendation, or the limitations of residential lobby offices to the benefit of retail spaces.

So these could be somewhat standardized, but could be applied where they are needed, and somewhat relative to the zone that they are in.

The final tool, general tool, that
we would recommend sort of relates back to that minimum entry space, but neighborhoods could apply a standard of required adaptability.

So there would be a potential --

If you wanted to build a large retail space, you would have to leave the potential for that space to be divided into smaller segments by future tenants and future users.

This is something that the majority of retailers already do. It is something that anybody who builds a retail on spec certainly builds a space that can be divided in different ways, but it is something that certainly could be a requirement in districts to avoid certain situations.

Let me show you some examples.

This is an example on 7th Street, a Radio Shack that has two -- The Radio Shack is on both sides of this bay, but there is an obvious place to separate, an obvious availability for a second entrance, so that if
the Radio Shack left, this could be two smaller individual spaces.

DC USA did the same thing. This is one large retail space, but they have a series of potential splits in bays and potential entrances along the street frontage.

This is an example on H Street of something that is not so good. It is a large unrented retail space with one primary entrance, and there is cement barriers and false windows along the rest. So there is no opportunity to have additional entrances or to split the space in additional ways.

So if you can't get a tenant to fill this entire space, there is no option for smaller scale and local retail businesses to fill this store.

VICE CHAIRPERSON JEFFRIES: Excuse me, Mr. Travis. So what you are saying here -- Did I say Mr. Travis? Mr. Parker, I'm sorry. Sorry, Mr. Parker.

Are you saying -- In terms of
flexibility on the storefronts, are you saying effectively you need to put doors in or --

MR. PARKER: We wouldn't go that far, although a lot -- The examples that we showed did that, put false doors here.

VICE CHAIRPERSON JEFFRIES: So this is good but old. Okay?

MR. PARKER: Yes, this is an older building where it was designed this way for two stores, but clearly can be used as one.

This was designed as all one space, but they clearly left the possibility, and like I said, people who build retail for spec will do this. They will make it available to be split.

VICE CHAIRPERSON JEFFRIES: There are doors there?

MR. PARKER: What's that?

VICE CHAIRPERSON JEFFRIES: Aren't those doors, potential doors?

MR. PARKER: They are potential doors. I don't think they are actual doors
right now. Mike might know. He took the picture.

MR. GIULIONI: They are actual doors. I think they have just sort of --
Along that frontage, they have left that, as I think I would do, left it as it is to show people the potential that, hey, you could rent a smaller scale space in this area.

They have a variety of bay sizes throughout the project, but this is as you exist the Metro. It's right there, and they have some smaller uses going in now.

VICE CHAIRMAN JEFFRIES: This is my neighborhood. I just wanted to -- In terms of making a case of having a storefront that is flexible to provide for the possibility of multi-tenanting, I understand it. But it seems to me that effectively what you are saying is that you need to put doors in.

I don't know how else you are going to create the so called flexibility you are talking about for the bays.
MR. GIULIONI: We are jumping ahead, but I guess where this -- part of where this idea came from, number one, was the members of the working group who suggested that we need to be able to adapt to economic change. So that's the basis.

I worked as an economic development specialist in Indiana, and I --

VICE CHAIRMAN JEFFRIES: Indiana?

MR. GIULIONI: Yes, South Bend, actually.

VICE CHAIRMAN JEFFRIES: South Bend?

MR. GIULIONI: Yes. We actually built our own spec space, the Redevelopment Commission did, and in that context they actually put false frontages where sometimes it was filled in, and you could simply pop out the window. There was fixed columns, but then you were unable to put a door in.

This is again a concept, and we sort of want to introduce it and talk to some
architects and some other retail spec
developers and say, well, how would we do
this. You know, it is an idea that we think
we want to basically protect and make sure
that, where there are instances in new
development, that we have the flexibility to
adapt to economic change.

MR. PARKER: The short answer is a
door wouldn't be required, but you couldn't
preclude the possibility to put one in.

VICE CHAIRMAN JEFFRIES: Right.
Okay, that's fine. I'm sorry. I just sort of
got in there.

MR. PARKER: No. That's actually
the end of our presentation.

COMMISSIONER TURNBULL: You know,
even on your bad example - I mean, that's a
fairly regular storefront that could be
removed.

MR. PARKER: Do you want to talk
to this?

COMMISSIONER TURNBULL: I mean,
you've got -- I don't know what the bottom is. The bottom could be marble at the very -- But if I want to sell that space, I could easily take out that storefront and put a door in, and then separate meter those spaces. It looks like it is a fairly regular column spacing.

I mean, it is a little bit more money than just having a door there, but if I want to rent that space, I can still open that up.

MR. GIULIONI: Well, there are actual -- Excuse me. There are actual like marble concrete bays at the base. It isn't actually right -- The windows don't go right down to the ground level, but you could --

COMMISSIONER TURNBULL: All I am saying is that it is only about two feet high. An owner, if he wants to rent that space to smaller people, could still remodel it. It's a little bit more money than just having a glass storefront.
COMMISSIONER MAY: And the stone is an inch thick, and somebody parks the wrong way, you could have an accidental door there. I mean, it's really not that substantive is, I guess, what it comes down to in this circumstance, although I think that there are probably circumstances where it could happen. I think it is much less likely in modern construction techniques, but it is -- I think where you are more likely to run into issues is where you have slopes and things like that, and that is where the deeper retail spaces become a necessity, because you can't have the step down or the step up.

VICE CHAIRMAN JEFFRIES: And you have a lot of that in Columbia Heights. We have a lot of elevation there. So am I clear? Am I to understand that we are getting some best practices from South Bend, Indiana, because I lived there for four years. I'm giving you a hard time.

MR. GIULIONI: Okay.
ZC CHAIR HOOD: Okay. Any follow-up questions on the last few recommendations? Okay. Well, I want to thank you, Mr. Parker, and let me see if I get this right -- Giuliano? Giulioni. Okay. Well, you just keep correcting me.

VICE CHAIRPERSON JEFFRIES: It's not Giuliani?

MR. GIULIONI: Right. Yes.

ZC CHAIR HOOD: Could you tell me what your name is one more time?

MR. GIULIONI: It's Giulioni, like pepperoni.

ZC CHAIR HOOD: Oh, okay. Now I can get it. Help us out here. We were actually just stalling until we get the list. We didn't stall long enough.

All right. Well, thank you, Office of Planning. We will -- Once we get the list, we will -- I can do this off the top of my head, I think.

Any ANCs? I know we have Mr.
Jarboe. Any other ANC commissioners? Any others? Okay. Well, we will start with Mr. Jarboe, the only ANC commissioner, and then we will go to the list.

MR. JARBOE: Thank you, Mr. Chairman. For the record, my name is Kenan Jarboe. I am Vice Chair of ANC 6B.

I want to raise just quickly one process issue, and then one substantive comment.

The process issue has to do with the letter that we sent you asking for a delay for this hearing.

I think our process, our immediate process issue would be handled, as I discussed with Mr. Parker, if we could simply keep the record open and allow the ANC to have a submittal after our next ANC meeting, if the Commission would indulge us on that.

Let me raise a more general process issue on that, though. As Commissioner Jeffries and, I think, everyone
else said, this is a very fluid process. Going into our ANC meeting, we did have three documents. The last one we got just a few days before the meeting.

We had the set-down. We had the retail group's report, and then we had this latest set of recommendations. Now we are getting a slightly different set of recommendations or suggestions from Mr. Parker, and that is kind of -- The problem we have at the ANC level is trying to figure out -- It's not so much having the document. It is having the explanation.

Frankly, I would have wished I had all ANC commissioners here to listen to the discussion that you've just had, because are the same type of questions that we would be asking at the ANC level.

So there is a process problem here. Now the Office of Planning has been very generous in its time of coming out to our ANC, both Mr. Parker and Ms. Steingasser. It
is physically impossible to do that in a month, all the ANCs. There simply is not enough days of the month to come out to all the ANCs to do that.

So in part, we are stuck in a process where this is the public hearing, and I don't know how we get out of that. Maybe we have to do something where the working groups have other public hearings, so Mr. Parker isn't running to meetings every night of the week trying to explain it.

As I say, what we had is we had the documents. We didn't have the explanation that we just got tonight. Now I feel relatively comfortable going back to my fellow commissioners and telling them what I hope, without too many errors -- and we will talk about whether you need to come out or not -- telling them what I just heard, and then we can make an informed set of recommendations back to you. But I think we need to work out something in that process as well, and I don't
quite know how we do that.

Let me make one substantive -- if we can do the 30-day keeping the record open, that would be fine. Our full meeting is the 11th. November 11th is when we would have our next full ANC meeting. So we could get you a set of recommendations after that.

Let me make just one quick substantive comment, and I have to do this in my personal capacity as an ANC commissioner, because, obviously, the ANC itself hasn't voted on that.

I am very concerned about the categorization and the list of uses, and it gets back to the point, I think, that Commissioner May was getting at, which is the granularity here.

If you have very general categories, you lose a lot of granularity in the information. As Chairman Miller knows, that is a lot of what we fight over at the BZA and, in fact, for the ANCs that is what we
fight over in liquor issues.

So we are always trying to figure out are you a bar, are you a restaurant, are you a nightclub, and those are three very different impacts on the neighborhood. So we have that same problem here with those categories.

Is a gun store the same as a toy store? You guys have worked on that. I don't know how many hours we spent trying to figure out the difference between a fast food restaurant and a restaurant, if you remember that fight.

It was very difficult, and that is probably one of the reasons why you want to try to deal with this, but it was very important, because we all had the gut feel that the neighborhood impact of a fast food establishment was different from the neighborhood impact of a sit-down restaurant.

So personally, I like the idea of consolidating and getting it out of
different places where you have to look. I had trouble with that, looking in the zoning code and figuring out, okay, what applies where and the cross-referencing and that sort of stuff. But I think we need to find a way in that to keep some of that granularity where we have actually figured out that some of these uses, while they may be under a same category -- and there is no -- you know, scientists will tell you there is no perfect taxonomy; there's always some problems here and there. But how we figure out we maintain some of that granularity within those larger categories.

I think that is something that the Office of Planning and the Zoning Commission is going to have to work on.

ZC CHAIR HOOD: All right, thank you, Commissioner Jarboe. Do we have any questions?

VICE CHAIRMAN JEFFRIES: Yes. Mr. Parker, could you just respond a little bit to
the Commissioner's question, because from what I understand in terms of his concern about granularity, some of that would be addressed in the corridor-specific zones. Even around the uses -- I mean, I know he is talking about uses, but in terms of dealing with what's the difference between this and this, couldn't some of that sort of be set forth in these various templates that you are looking at?

MR. PARKER: Basically, the strategy here is to address the impacts. So in other words, if a use comes to ANC 6B, it is going to have a set of impacts, and it is not going to matter whether they determine that it is a bar or a nightclub or something else.

What you call it doesn't make its impacts. So instead, we say, okay, that is a food service use, and the conditions on food service uses are hours of operation and number of people coming in and out or capacity or whatever it is we are concerned. Those are
the conditions that we put on that use, rather
than saying, if we decide to call it a
nightclub, it's allowed, and if we decide to
call it a bar, it's not.

VICE CHAIRMAN JEFFRIES: It just
sounds, based on my understanding of what the
Office of Planning is saying, you are going to
get to the same place. I mean, you are going
to be able to tailor -- Again, I think it is
going to be voluminous, but it seems that,
based on a particular commercial corridor, the
community will be able to really bear down on
sort of what the impacts are going to be,
whether it is a bar or restaurant or whatever.

That is my understanding. I just
want to make certain.

MR. JARBOE: The concern I have
about that is that with a set of uses -- and
I understand a rose by any other name would
smell as sweet, and so you don't want to get
hung up on the name, but the names often
become shorthand for the impact.
For example, we know what the impact of a fast food restaurant is, and we use that label, fast food restaurant, to convey all those impacts. So without that label, if we have to sit down and every time go through each of the impacts, I worry a little bit that, instead of simplifying -- You know, we simplify horizontally, and we end up increasing the complexity vertically, or vice versa. So we have to sit down and say every time, okay, how many people are going to come here? What is the trash?

Now maybe you can answer this in that list of questions and criteria that the Zoning Administrator will have, of checking off these things. How many people?

Frankly, just thinking at the home occupation permit, we have a set of impact questions as well. So something that goes on that, but I think there are some relatively defined uses already that we kind of all understand what they are, and maybe you can do
big categories with a few. Under this one, if it is a -- I think I want to go back to the museum/art gallery type thing, you know.

If it is a museum, it is a matter of right in this category of entertainment, but you have to do -- if it does X, Y and Z.

If it's a strip club, then it's not.

VICE CHAIRMAN JEFFRIES; It sounds to me that this is going to be a real paradigm shift in terms of -- because what I hear you saying, looks like -- I mean, that is how we have always sort of approached the regs and how we have interpreted them and so forth, but it sounds to me that -- because what you are saying, it seems that some of this is going to be addressed in these various templates or these corridor-specific zones, and you are going to have a chance to really tailor this thing.

I think, again, it is going to be pretty voluminous, but it sounds to me, and I think the Office of Planning is going to have
to spend a lot of time with a lot of different groups really getting people comfortable with this very different document; because I'm just -- I am hearing that the Office of Planning is addressing some of your concerns.

Perhaps I am missing something here.

MR. JARBOE: I think you are right that they are getting there, but there is another level that we are going to have to work through.

Just for the record, 6B has been very happy about changing the paradigm. We have been pushing for the form based codes on the reservation 13. So we are used to that. It's just let's not throw out all the things that we have that work.

VICE CHAIRMAN JEFFRIES: Right.

MR. JARBOE: Frankly, if the Zoning Commission wants to go to a form based code system, this kind of sounds like a halfway there, and maybe -- I won't open that
up too much.

VICE CHAIRMAN JEFFRIES: Don't open that up.

MR. JARBOE: But I just throw it out there.

VICE CHAIRMAN JEFFRIES: We don't want to become -- Well, I won't say that.

ZC CHAIR HOOD: Okay, Commissioner May.

COMMISSIONER MAY: Yes. I wanted to follow up on this distinction, because I didn't get the sense that necessarily some of these differing impacts within the broad categories of use are necessarily going to be addressed.

So I guess, take the case of the restaurant versus a fast food restaurant. I'm wondering, are they treated any differently in terms of the categories? I mean, they would be in the same category, right?

MR. PARKER: They would be, but --

COMMISSIONER MAY: And then there
are other things that, as we customize the
template, we take our mid-size sedan and we
start to throw in the options, in that putting
in the options we put in the controls that
would prevent the onerous impacts that are
associated with a fast food restaurant under
control in some fashion.

MR. PARKER: Bingo. So let's say
C-3-C, you know, downtown high density, you
allow a food service category without any
restrictions at all. But in the C-2-A, you
allow food category restrictions, and you
create the same -- You know, we could pull the
same restrictions that we have in the
definition of fast food versus restaurant and
say, if you pay before -- you know, the
condition is you must pay after you eat.

So you can get the exact same
things into a list of conditions that apply to
this zone as you could, and just cut 60 pages
out of the zoning document.

COMMISSIONER MAY: Okay, that's
fine for me. I didn't quite get what you were saying. I thought it was that somehow there was going to be an explicit -- you know, within our customized zone, there was going to be a further differentiation that says, okay, fast food restaurants are okay, and restaurants are not okay or the other way around. But, no, it's the impact. It's those conditions that make a fast food restaurant a fast food restaurant might make it illegal within a zone.

VICE CHAIRMAN JEFFRIES: I was just really addressing his word granularity, in terms of just getting -- you know, that corridor specific zones were going to somehow address some of that and some of the impacts of some of the uses on that particular corridor.

COMMISSIONER MAY: Right. Okay.

ZC CHAIR HOOD: Any other questions?

BZA CHAIR MILLER: I have a
question. Are you going to still have a
definition of fast food restaurant?

MR. PARKER: No, absolutely not.

Again, we --

BZA CHAIR MILLER: No, I understood how that might not be regulation
specifically governing it, but we are used to
a definition part.

MR. PARKER: You don't have -- You
would have 15 categories, again, or 16 or 20
or 25, and again we don't necessarily know
what a fast food restaurant is. We know the
impact of McDonald's, but is a Cosi or a
Starbucks a fast food restaurant of the same
vein, and it is not a matter of determining
what we want to call it.

It is a matter of determining what
impacts we don't want in that neighborhood,
and if we want things closed at ten o'clock or
if we want to limit the capacity of it or if
we want -- These are the things we can
regulate with conditions rather than
determining whether it is called a fast food restaurant or a restaurant.

ZC CHAIR HOOD: Any other questions? We all straight? Okay, let's --
I want to thank you, too, Vice Chair Jarboe, and I also want to thank those who are getting ready to come up. I want to do that, just in case I forget on the back end.

You all have sat here listening to us for almost -- a little shy of two hours. So I appreciate your indulgence, and now we hear from the public. Thank you again, Vice Chair Jarboe.

We have one person who is in between, so I guess both a proponent and an opponent. So I am going to call Ms. Barbara Zartman up for Committee 100 first. So you are not a proponent? Well, I must be -- I better get some glasses. Oh, it's an error? Okay.

Well, let me correct that, and I will scratch the check-off, and we will start
with the opponents. Ms. Zartman, we will
still call you to the table.

VICE CHAIRMAN JEFFRIES: We have
been seeing so much of her. Isn't it great?

ZC CHAIR HOOD: Yes. Mr. George
Idelson, if you can come forward. We have Ms.
Zartman and Mr. Spalding. Ms. Simon --
everyone else is an opponent -- Ms. Hargrove,
and let's see if we can get Mr. Espenschied,
who is already at the table.

Let's see if we can get him at the
table, because I want to go in order, Ms.
Espenschied. Oh, you all speaking together?
You're dividing your five minutes, two and a
half? If you want five and three, you get
more time, but if you want to do two and a
half, it's up to you.

Okay, who is going to get the
five? Okay, Mr. Espenschied. He is going to
talk longer. So you will get the five, Mr.
Espenschied, and Mr. Idelson, you get the
three. But let me go by the list.
Do I have everybody who is here to testify tonight in opposition? I have one other person who is not on my list.

What I will do, we will hear from this panel. I was trying to get everybody at one time, but obviously not. So what we will do, I have everyone who signed in up at the table. So what we will do, we will begin with Mr. Idelson, and then in this order: Mr. Idelson, Ms. Zartman -- wait a minute, you two are doing something together? But your presentation, is it together? Does it have to be in sequence? Okay. Ms. Zartman, the rest of you all don't mind if we just do that in sequence? Okay.

We will start with Mr. Idelson and Mr. Espenschied, than Ms. Zartman, Mr. Spalding, Ms. Simon and Ms. Hargrove, in that order. So, Mr. Idelson, you may begin. You have three minutes, and Mr. Espenschied will have five.

MR. IDELSON: I am George Idelson.
I am President of the Cleveland Park Citizens Association. With me is Peter Espenschied, First Vice President and Chair of our Land Use Committee.

When I testified at a zoning roundtable last year, I described our city as the sum of its neighborhoods, each with its own personality. At the time, I was struck by how many others said pretty much the same thing, and how much they valued the overlay as the way to preserve that personality. But now the Office of Planning wants to pull up the overlay by its roots and plant it in another pot.

Many of us wonder why. Indeed, if OP had stuck to its original plan, designating the commercial corridors working group for overlays, and had OP not shifted the corridor group meeting date from last month to next spring, I suspect the outcome might have been quite different.

This is a game changer, and so
given the schedule and venue change, I appeal
to you, Zoning Commission, to withhold
judgment on the overlay issue, including
concept, until the commercial corridor group
meets.

I appeal to OP to strike from its
recommendations the sentence that reads, in
effect, that the commercial corridors, medium
and high density commercial and downtown
working groups would be expected to be guided
by these recommendations for all future zoning
designations and regulations for the
individual areas.

Finally, as President of a
citizens organization, I have seen the
divisions that arise when zoning issues come
up. I dread opening up this can of worms once
more. Let this sleeping dog lie. Thank you.

ZC CHAIR HOOD: Thank you.

MR. IDELSON: Peter, why don't you
take it from there.

MR. ESPENSCHIED: Well, before
going into the substantive matter, I just
wanted to make a quick reference to the
process issue that was discussed at the
beginning of this meeting.

I submit that there is a simple
matter of process that arises from the fact
that the focus and conduct of this hearing has
evolved such that the ANCs of the city really
have not received the effective notice of 30
business days in advance, as required by the
ANC law of 2000, and I hope the Commission
will take a look at that matter.

Now we have great concern about
the whole thrust of the Office of Planning's
October 10 memo on retail strategy as it
refers to the overlay, overlay districts.

It really is a plan to fix
something that isn't broken. That is hardly
the only thing. It is a plan to do a massive
overhaul of a system, commercial overlay
districts, that at long last is working well.

The strategy would replace the
overlays with a new system of zoning which is represented as a accomplishing the goal of the overlay, but in a simpler manner, but it really would not accomplish those goals and would not be simpler but far more complex.

The overall direction seems to be informed by, I would say, a compulsive objection to the messiness of urban sociology, a discomfort with the subtle or particular differences between one neighborhood and another.

Why does one neighborhood want to prohibit conversion of second story residences to commercial use, and another doesn't but wants not to allow fast food establishments?

The Zoning Commission shouldn't have to get into psychoanalyzing these nuances, but should, as it does now, accept the nuanced differences expressed in the different overlays.

Also, one of several problems with a defined use list is that it ignores the fact
that, to some extent, the lists are
prescriptive rather than restrictive, a matter
that I don't think is addressed by either the
explicit or implicit thinking of OP's
proposal.

It is clear that the imposition of
comprehensive zoning as the container of
contents now found in an overlay text will
make future improvement or updating a more
rigid process, at least from the community's
point of view. Because of the tropism toward
uniformity, this would in general be a top
down rather than community based process.

Now the idea that compacting the
overlays with underlying zoning would simplify
because you don't have to look in two places
really seems not to have been thought through.

All over the zoning regulations,
there are references in one section to
provisions that are subject to provisions in
another section. The notion that it is
automatically more workable to have everything
in one place perhaps sounds good, but it isn't.

The basic reason it isn't so is that the reason one section refers to another is that the referred provisions don't have to be repeated over and over in every provision to which they apply.

If there are 40 references to Section ABC in various places in the zoning code, there is a good reason why one does not want to have it instead written out in full in every place where it applies. To do that would monumentally increase the volume of the code, would also pyramid the frequency of clerical and ministerial errors, and that increases the occasions for litigation.

This misleading simple replacement process is just what would be done if overlay zones are replaced by single location commercial zones, because all of the requirements of the commercial zone that are the same from one zone to another would be
repeated, replicated, and to what avail? To save turning from one page to another?

If we have 100 neighborhoods, are we going to repeat the boilerplate zone verbiage in 100 places?

In many neighborhoods there is little concern with the issues that have evoked commercial overlay districts. After all, right now we have only, I believe, six and interest expressed by perhaps another six to a dozen.

ZC CHAIR HOOD: Mr. Espenschied, what I want to do, and I'm going to have to do this with everybody, but I am going to do the same thing. I am going to give you another minute to summarize and make your conclusion.

MR. ESPENSCHIED: Okay. So I was saying that there are many more neighborhoods than there have been interest expressed in overlay districts, and this proposal raises the issue of whether OP would impose its prescribed constraints on all those other
OP is paying lip service to local control, but the reality of the proposed system is really rather unfriendly to the concept of local control.

I think that will do. Thank you.

ZC CHAIR HOOD: Again, if everybody will just hold their seat, we may have some questions. Ms. Zartman?

MS. ZARTMAN: Thank you, Mr. Chairman, and in light of the start of your discussions, I'm looking at something that was prepared before I ever got here.

The Committee of 100 would welcome clarification about some process questions. At the last Zoning Commission meeting to consider parking policy, we were left with the impression that task force members and interested others would be able to see draft regulatory language before it became an advertised proposed action by the Commission.

The language in the OP report for
tonight seems to say that all such language
will be written at one time, later.

   In this evening's case, any number
of OP recommendations would limit what could
be done at future meetings of the working
groups on downtown and on commercial
corridors. As we note under recommendation
number 2, this could potentially extend to all
noncommercial zones as well.

   With regard to recommendation
number 1 -- and I am pleased to hear that this
has changed somewhat from what was advertised
in your public hearing notice -- replace
existing commercial zone districts and
overlays with stand-alone districts. We
strongly oppose this, as we have other
proposed special purpose stand-alone
districts.

   We believe it is unnecessary,
counterproductive, confusing, ill founded --
shall I go on? We have been trying to get
some daylight between OP and this stand-alone
concept for nearly two years.

Let me add some more reasons for
the Commission and the BZA's consideration. Across the city, there may be perhaps more
than 200 separate communities, neighborhoods
identified by the Office of Planning in the
last administration.

Is it possibly under consideration
that you would learn to master the zones for
all 200 neighborhoods and the differentiations
among them? There might be different
commercial provisions, different residential
provisions, different institutional
provisions.

Then, of course, you would have
the possibility that there could be a stand-
alone arts district, as has been recommended,
on top of that.

Second, it would take years to
create all these variations, all of which
would be subject to legal challenge on
individual grounds, since they would all be
new precedents.

The case precedent for existing regulations would be of little use. No two communities would be able to share a challenge to a BZA, ZC or Zoning Administrator interpretation or share in a search for administrative relief.

Third, the Zoning Commission, the BZA, and the Zoning Administrator would have to deal with these hundreds of individual zoning packages and their settled distinctions.

Fourth, the destabilizing effect of this upheaval would put commercial and residential properties alike on very shaky grounds for years after the myriad districts have finally designed. By whom, it has never been said.

There will be appeals and challenges, meaning that perhaps a decade of instability will be the price of this so called simpler and more straightforward
A number of communities were, it has been said, in the process of seeking approvals for overlays. OP would not consider new overlays because of this new zoning review. Those communities would not have the benefit of OP's promise not to, quote, "remove or weaken the protections and regulations in place through existing overlays."

Most fundamentally, overlays are desired by neighborhoods, as are comprehensible based zones. The comprehensive plan called for updates, clarification and correction of the existing zoning regs. Instead, OP has engaged in this program of throwing babies with bath water.

It was opposed then. It was opposed during the roundtables that preceded this entire project. It is opposed now. I believe it will be very strongly opposed if it is put before the public.

On the matter of consolidation of
use lists, we would much prefer fixing the problems with the existing use lists rather than consolidating them to the point where the zoning authorities will have little guidance about distinctions.

How are you going to be able to say that a particular use will be unacceptable, harmful, if it fits one of those 15 definitions? You will be without any of the granularity that was just addressed to make the distinction.

There would also be questions about equal protection of different entities with this very broad series of categories.

Even granting that a great deal of work needs to be done to sort out OP's recommendations, the fact that even these Op reports include confusion about which uses go into which categories suggests that this may be so helpful after all.

Under recommendation 2 but not called out as a recommendation is the
extension of new, undifferentiated zones to the remaining use zones. OP, quote, "would recommend that the Zoning Commission also consider the following proposed categories of noncommercial uses: Residential; institutional --

ZC CHAIR HOOD: Ms. Zartman, I am going to give you another minute, if you can give us your closing thoughts.

MS. ZARTMAN: -- industrial; and local government. As you will see from my prepared text, there is still another category of uses that are proposed, including one that is on public space.

The last group of subjects that you heard about, I think, are problematical in the particular, not necessarily in the general. So the concepts may be subject to improvement, but the first two issues are very big, very powerful, and very destabilizing matters that I hope we will all have many occasions to discuss.
Your recommendations from the parking group have been described as decisions, not as advice given, not as policy direction. None of the distinctions or suggested changes you recommended are in the notice to the members of the task force. It is simply that you approve the Office of Planning regulations.

ZC CHAIR HOOD: Okay. We will make our comments. Mr. Spalding.

VICE CHAIRMAN JEFFRIES: Excuse me, and before we go on, the Chair is being very generous. But during your testimonies, if you can just sort of stay focused on the time, that would be appreciated.

ZC CHAIR HOOD: Well, since we started, everybody has to get -- You know, one thing about it, I believe in across the board being fair. If you go over, I have to give you a minute, like I gave everybody else.

MR. SPALDING: Chairman Hood, you will be glad to hear that I will not be going
I am Phil Spalding. I live at 1929 13th Street, Northwest. I am a commissioner with ANC-1B. I did bring this issue to the Commission, but we did not have a quorum in October. So I am here as an individual.

I am also just going to rest on the prepared statement that I provided you. One difficulty may be that I don't think I have received all of the paperwork. The conversation this evening is at a different level.

I think all that I was basing my comments on were the draft report of the working group, which is all that I had personally located. So my comments are very singular and very granular, way down at talking about very specific individual kinds of uses in a community.

So I will go back and find the paperwork on the larger issues, and do hope
that you leave the record open so that I can submit something on that as well.

ZC CHAIR HOOD: Thank you, Commissioner Spalding. Ms. Simon.

MS. SIMON: Thank you. My name is Marilyn Simon, and I am speaking on behalf of Friendship Neighborhood Association.

The recommendations in the public hearing notice and the OP hearing report go far beyond the scope of the associated working group, and these recommendations could limit the options available to the working groups to deal with the commercial and residential zones.

We find several of the recommendations to be most troublesome and, in some instances, inconsistent with the clear language of the comprehensive plan, including the recommendation to replace the existing commercial zone districts and overlays with stand-alone districts, the consolidation of the use lists into approximately five
categories, the design standards, particularly
the minimum clear ceiling height and the
requirement that large ground floor retail
sites be built to be structurally adaptable to
smaller tenants.

OP's recommendation to replace the
existing commercial districts and overlays
with stand-alone districts is troubling. The
existing commercial zone districts are
important in helping define heights and
densities and uses associated with the
designations in the comprehensive plan future
land use map.

Currently, the future land use map
shows geographic areas associated with land
uses such as moderate density commercial, and
one or two of the existing zones correspond to
each of these categories. These distinctions
need to be maintained.

If the distinctions are
maintained, the proposed stand-alone districts
will require OP to define hundreds of
different districts to maintain the
granularity that is necessary within each stand-alone district.

Some areas such as Friendship Heights include several zoning districts, so that heights and densities and intensity of use step down as you move from the Metro to the low density residential neighborhood.

We are also concerned that the templates proposed for the stand-alone districts may lack the necessary granularity and eliminate important zoning tools to provide our neighborhoods with the kind of predictability that they expect from our zoning regulations.

Second, the consolidation of use lists proposed would make it difficult to establish different types of uses that could be appropriate for different zones on the comprehensive plan generalized land use policy map.

For example, the generalized
policy map has neighborhood commercial centers, multi-neighborhood commercial centers, and regional centers, each characterized by different types of businesses. The OP proposal would consolidate the commercial categories. So the zoning regulations would not be consistent with the generalized policy map.

They propose a number of very broad categories. The neighborhood, multi-neighborhood and regional centers are separately mapped on the policy map, but the description of these types of areas include businesses that fall into most of the categories on OP's list, but the comprehensive plan distinguishes between the different uses within the very broad categories.

Lists of uses are essential for providing clarity for distinguishing between the types of uses that are appropriate in the different zones.

On the surface, OP's
recommendation may seem to be simpler, but it is not consistent with the comprehensive plan and does not provide the type of predictability that is necessary.

Further, as was said before, in its implementation it is unlikely to be simpler and is likely to become an enforcement nightmare, as it is going to be difficult after a project is completed to control the conditions that OP proposes. In other words, can the Zoning Administrator go back and determine have they kept up with all the different variables, like the hours of use, the number of people that come in and out, etcetera?

We are also concerned about establishing design standards such as the 14-foot clear ceiling heights on the first floor, since that can create an undesirable and a natural uniformity in our facades.

Similarly, we have concern with other design standards, and we strongly oppose
granting any bonus height based on a
requirement that there be 14-foot clear
ceiling heights.

Heights and densities should be
set to the appropriate levels, and for
regional centers they are limited by the
comprehensive plan to that which is
appropriate to the scale and function of the
adjoining communities.

Inclusion in the zoning
regulations of a variety of bonus heights and
densities makes it difficult to maintain the
necessary predictability of the type of
development that will come in and to maintain
the consistency with the comprehensive plan.

Thank you.

ZC CHAIR HOOD: Okay, thank you
very much. Now, Ms. Hargrove, I notice on
here you have opponent, but it has "assume" in
parentheses. You assume that you are an
opponent? Oh, okay, just trying to make sure
I understand. Okay, is your microphone on,
Ms. Hargrove?

MS. HARGROVE: I thought it was.

I'm sorry. Thank you.

I am going to not repeat some of the things that have been said, although I concur with much of it, about the worry, in particular, of Item Number 1.

My community has been greatly disturbed that what they thought would be a zoning rewrite in terms of improving the zoning regulations has turned into the nightmare of removing its basic architecture, which we are very fond of and feel it can be modified in various ways.

If we want more specificity, we could create more zones. If we want to see a zoning map that gives us a clear delineation of the basic architecture of our city, we can do that. As to the former, having worked in New York, I can tell you that works very well.

Special districts were started in New York, and the recommendation to Dr. Lewis
of years ago, who was Chairman of this Commission, was that we establish something here very similar to that, and it was agreed that we would set up what we have set up here now by way of overlays. But in recent years, we have been very, very much discouraged from using the overlay device, and that was so for my neighborhood, which has asked about it several times. I think that is very unfortunate.

The other thing I wanted to mention that is of great concern is, while we deal with these 100 or 200 individualized neighborhoods, whether we have some overriding standards which should be applicable citywide. That is a real, real worry, because for example, in the 1970s when the city rewrote the zoning codes here and for the commercial zones, it took several years.

It was a very extensive thing, of which there was an analysis made of how much land should be used for commercial uses and
what kinds were needed, especially. This was 
a crisis at that time, because there was a 
recognition that retail had gone down 
drastically in relation to the Census data 
which showed very clearly that middle income 
families had left to the suburbs.

So now we are trying to turn the 
clock back to get more people living in the 
city, and thinking that we can create a new 
kind of zoning without dealing with some of 
the individualized nature of the physical 
environment that we have and the needs of the 
neighborhoods in a broader sense.

We need to know where we are going 
to need our public facilities, among other 
things, how many of them should be located in 
commercial zones. Surprisingly, we do have 
schools located in commercial zones right now. 
How many of these kinds of public facilities 
are needed?

How much institutional growth do 
we really want in the city? A small amount or
a larger amount? that has not been resolved either. So to just think we can just go about tinkering with little individual areas alone seems to me to be a fallacy, if we have any overall principles.

The other worry in my neighborhood that was expressed by one person with whom I discussed this was that we have a heavy concentration of ABC licenses.

We would set in motion a situation in which we would be stuck with them rather than control them better by virtue of not taking that bull by the horn really well in terms of having some overall standards that one neighborhood is not supposed to have too much institutional, another one is not supposed to have too much ABC, and whatever use that is too great that would need to be controlled. We need to be fair about all the neighborhoods in the city, and that is a legitimate concern.

The macro standards issue, I would
hope, would be part of this, and I would hope also that we could make a request that the city would further explicate how this system would work.

I, too, am very puzzled about how we would manage with number 2, which is to set up a new system for uses. Somebody brought up an ABC issue tonight. I forget which one of you gentlemen or women did. But in any event, the ABC issue is particularly important, because it is defined in the ABC law.

There are various categories in the law. You know, nightclubs are distinguishable between restaurants, and restaurants are distinguishable between street liquor stores and that sort of thing.

I think there are probably other examples of that that we would find if we looked into the code.

Similarly, if you want to talk about occupancy of premises, the building code determines what the occupancy of premises is
going to be, at least to a degree, because of the fire code regulations.

So there are all kinds of things like that, that are involved when you go into this kind of thing.

The final thing I would say, to try to amplify on things that other people have said very well, is that I think there is a real worry about what to do, for example, in historic districts, if you talk about design standards.

The city, as I understand it, because they have already done it for several, have already created some design -- not standards so much as recommendations for historic districts. They have created these standards for at least three of them.

The idea that you would go in and say it's okay to have these huge high ceilings, you know, in areas like that would be ludicrous, if the bulk of the properties that are so designated are historic and are
deemed contributing.

Beyond that, I would hate for our city to turn into what the suburbs are like.

My husband teases me, because when I go to the suburbs sometimes when I am trying to find something, I will say, well, that's close to the yellow house or you'll find it, because it's sort of in the middle of all those big buildings. Everything looks alike. I mean it is all synonymous. There is no identify of a neighborhood at all in some of these areas.

I thank you very much, but let's keep our identity.

ZC CHAIR HOOD: Okay. If you needed some more time, you have a minute.

MS. HARGROVE: Well, I'll skip some of the rest of it, because I was trying to get some of the big points. Not sure that I did that very well, but I would hope that we would be careful about design standards.

I hope you will forgive me if I say this. I don't think of you as a design
board, and I really don't think of the Planning Office quite yet as being a design entity. So I think we have to be careful about that.

I did come from New York where there was a very strong -- when I worked there, a very strong design component. That doesn't come overnight. That comes with really professional people who have worked at it for years, and I just think we have to be really careful if we go in that direction.

ZC CHAIR HOOD: Okay. Thank you. Thank this panel very much.

I have a few -- well, one clarification. Mr. Espenschied, you spoke about the notice. I just want to clarify. The ANC notice, the public hearing notice, was sent to the ANCs as required.

I will tell you the reason I know, because my ANC -- they know exactly when I am going to be here dealing with ZRR stuff, and it was just mentioned to me last night: You
won't come to the banquet, because I know you
all have a ZRR hearing. So that's adequate
notice.

I am sure, if my ANC starts
telling me they know my schedule better than
I do, then I know that it has been properly
noticed.

MR. ESPENSCHIED: May I respond?

ZC CHAIR HOOD: Sure.

MR. ESPENSCHIED: My complaint was
not that there was no notice. What I was
focusing on was that there had been a sort of
evolving understanding of what this hearing
was going to be about, and I think that that
effective notice didn't occur.

Yes, we all knew that there was
going to be a hearing tonight, but as
originally conceived it wasn't -- well, it
wasn't, in fact, what it has been. I think
that's a fair complaint, but it is subjective.

So I leave the rest to you.

ZC CHAIR HOOD: Okay. But
apparently, it was communicated and clarified,

I believe. Am I correct?

MR. ESPENSCHIED: I'm not close to
that. So I don't know about any subsequent
clarifications.

ZC CHAIR HOOD: Maybe somebody can
help me. Mr. Parker, was that clarified, what
exactly the substance of the hearing was for
tonight? I believe it was clarified.

MR. ESPENSCHIED; Not 40 days ago.

MR. PARKER: To repeat, the zoning
working group and the task force looked at a
certain set of language, and what was
advertised to the ANCs evolved from that.
That language that was advertised to the ANCs
is the same that was presented in the report
and was the language that we came here to
discuss.

As the result of some complaints
about that change between task force and
public hearing notice -- I mean, we are more
than willing to postpone a decision on overlay
versus non-overlay and on what the particular use groups would be until a later date. I think that constitutes the majority of the change in the wording between task force and public hearing notice.

ZC CHAIR HOOD: You know, I'm looking at this whole thing, and first let me just say this. I'm getting kind of troubled about this process question, but as the Vice Chair mentioned, it is fluid. Changes can be made.

The issue about whether it's overlay or what-not -- you know, all those things, I think we would understand the community is working on one set of -- well, they are dealing with one set of issues but, you know, I see this whole thing. This whole thing may change three years from now, you know. That's just the way it is.

Once we do our conceptual approval, things may change. I mean, what we are talking about today, two years from now we
may be talking about something totally
different. But I think what we do need to do
is start. I think we need to start.
We might not always agree. We
probably won't agree at the end, but I think
from what I am seeing, we will probably be
closer together. So I just wanted to say
that.
Let me also -- Ms. Zartman, you
mentioned -- I wrote it down somewhere.
Anyway, you mentioned the process you thought
from what happened at the parking the other
night.
I think that was text, right?
You are going to see that -- We have given --
The Commission has given OAG the authority to
work with the task force on text. Right? So
I'm wasn't clear on your statement when you
started off.
MS. HARGROVE: At one point, there
was a proposal that the Commission should wait
until it publishes proposed action, and then
the Commission realized that that would be very late, and in the informal discussion after your session I thought we were told that we would be able to see the draft language. There was some back and forth between Alan and Travis in terms of what could be authorized for distribution. I think you and I even joked about I would need to have it in time to be able to share potential changes we would recommend with my board.

ZC CHAIR HOOD: We are still on target. I mean --

MS. HARGROVE: The Office of Planning report indicates that all of the language will be written at one time. I hope that is not the case.

ZC CHAIR HOOD: I thought we had an agreement. Mr. Parker, can you help us?

MR. PARKER: Yes.

ZC CHAIR HOOD: I'm getting confused now myself.

MR. PARKER: Parking and loading -
- those can be stand-alone chapters. When you
give us your guidance on those, we will go
write you a parking chapter and a loading
chapter, and we will bring it back to you.

There is not going to be a retail
guidance chapter. That is going to be
guidance for continuing work in the process.
Everything after loading, we are going to have
to write it together, because it is all
interrelated. It is all tied together. I
think that's where we are at.

ZC CHAIR HOOD: Yes, but also what
did we say about height? Have we done that?
I'm getting confused.

MR. PARKER: Height we had
originally talked about writing as a separate
chapter. I think it was Barbara herself who
recommended that maybe that should be tied
together with other chapters, and I think I
agree that height -- we should make a
determination later whether we do it like it
is now, whether it is mentioned in each zone
or whether we have a separate height chapter.
   So I think we are proposing to
   wait and write height into the text along with
   everything else.

   ZC CHAIR HOOD: And here is why.
   This goes back to what Commissioner May -- You
   know, we are going to disagree through the
   process, but at some point as we do these,
   enough of these, we should be coming closer
   together, not further apart.

   That's kind of what I'm looking
   for, and I don't know if that is in line with
   what you were saying, Commissioner. I'm
   willing to go out for a little while into the
   water, but I don't want to keep on going and
   start sinking.

   VICE CHAIRMAN JEFFRIES: Are you
   talking about process here?

   ZC CHAIR HOOD: Process, yes. And
   as we formulate this, you know, it may take us
   four or five hearings to get a way as a
   process, and everybody is on board. We may
not always agree, but I don't want us to do four or five hearings and then we come up with 20 hearings, and then we are right back at the first hearing when nobody is agreeing, we are all apart, the process is still messed up.

We need to start coming together.

MS. HARGROVE: They would have to find room for us at the new St. Elizabeth's.

ZC CHAIR HOOD: They already got my room.

VICE CHAIRMAN JEFFRIES: To me, as long as there is a sense of transparency and -- I mean, clearly, there needs to be consistency in terms of how we are doing things, and I agree with you, Mr. Chair, that I think in time this is all going to be crystal clear. But I do think, as long as there is transparency and there is outreach and the various groups, commissions, feel comfortable that they have had an opportunity to sort of review these things -- I mean, this is going on two tracks.
One is process, and then to substance, I believe, what we are dealing with here, and these are pretty large issues. Mr. Chair, if I could just go and have a couple of questions?

ZC CHAIR HOOD: Okay. One more last question for Mr. Espenschied, and then I'll come to you, Vice Chair.

Mr. Espenschied, you mentioned about the overlay. Let me ask this, because I heard Cleveland park mentioned so much tonight.

How is the neighborhood commercial overlay working in Cleveland Park?

MR. ESPENSCHIED: You're asking how well it's working?

ZC CHAIR HOOD: Yes, how well it's working.

MR. ESPENSCHIED: Well, this is a good time to ask that, because it had started to be working recently. The current Zoning Administrator has been working at it to make
sure he understands it. He does, and has done the counts, which are the critical item in making an overlay work, because certainly not the only important ingredient, but the sort of big one is the percentage limitations, which mean that in order to know whether you can allow an entity to come in one place, you've got to know what you've already got.

That has been a difficulty, and it seems to have discouraged people for a while, because they thought it was, frankly, more complicated than it is.

It has turned out, once they really set to it, that it is not very complicated, and the Zoning Administrator has done a count.

There is one technical glitch, which we are presently discussing with him, but in principle it is a working system, and I think that is true in the other two overlays that are in our ANC.

As you know, overlays started in
this ANC, and three of them are there, and so
we are getting a good perspective on how well
they work. They are doing fine.

ZC CHAIR HOOD: You said it just
started working, though, recently. The Zoning
Administrator is trying --

MR. ESPENSCHIED: Well, yes, the
effort to enforce them, to use them actually
only started fairly recently. They lay there
dormant, you might say, and there were a lot
of complaints, mostly from people who weren't
looking closely at it, and now that is past
history.

ZC CHAIR HOOD: Okay. Vice
Chairman?

VICE CHAIRMAN JEFFRIES: Yes.
Actually, my question is for OP in response to
Ms. Zartman and Ms. Hargrove's questions about
-- I mean concern about 200 districts.

How many corridor-specific zones
do you actually see? I mean potentially.

MR. PARKER: I don't know. As I
mentioned, this year I have personally heard
of something on the order of about six
requests for overlays, some of those
residential, some of those commercial. But
even if it is two or three a year, that
doesn't add up to -- It takes a while to add
up to hundreds.

Again, I see a transition where in
the interim C-2-A standards become C-2-A
standards, and the existing overlays
transition into their existing overlay
standards.

In other words, the difference
that we are describing here is only one in how
easy it is to maneuver and to use the zoning
regulations. It is not a difference in the
planning process. So neighborhoods still come
in and request changes and go through a
planning process, and come to you to have
their zoning changed.

It is just a matter of what the
chapters look like in the code.
VICE CHAIRMAN JEFFRIES: But we are not looking at the potential of having zoning regulations where we have like 200 zones.

MR. PARKER: If we wait another 50 years to update our code, maybe we do have 200.

VICE CHAIRMAN JEFFRIES: In terms of because what is being represented are the overlays that that represent.

MR. PARKER: I'm saying, whether we do it this way or whether we continue the existing process, we will have the same number of zones, because we are going to either have overlay zones or changed local zones.

Either way, we are not going to have more zones under one category or the other.

VICE CHAIRMAN JEFFRIES: Okay. I am going to just set up a situation here between you and Ms. Zartman, because Ms. Zartman has been talking about the stand-alone
districts for a while now, and I've been reading it, and I just -- So just -- You've said it several times, but in just probably a different language, what is your just opposition, strong opposition, to the stand-alone districts?

MS. ZARTMAN: If I didn't get adequately in my statement, I am going to try again.

VICE CHAIRMAN JEFFRIES: Without all the other. I just want to focus right there.

MS. ZARTMAN: The stand-alone district would replace zoning systems that seem to work and that people understand. When you take away that fundamental building block of real estate use, you destabilize communities.

It may be that you are going to come to something that you think is going to be better in the future, but in the interim you've got a neighborhood that doesn't know
what you are planning for, neighborhoods that
have not necessarily been treated very well by
various administrations, and they tend to find
themselves at the end of the line on
improvements and other things.

So I think, if you are going to
take away what C-2-A zoning is or what R-3 or
R-4 zoning is, and you tell people what we are
going to design in its place is something that
is specific to your community and it is going
to represent all that you want in your
community, I think that's a bad promise.

I don't think it is going to come.

I think, as I said, you are going to
destabilize the real estate community. People
aren't going to put capital at risk in a
system that is evolutionary over a period of
many years.

VICE CHAIRMAN JEFFRIES: How is
that different from overlays?

MS. ZARTMAN: Well, overlays are
fairly limited. You've still got your base
zoning that is going to be the same C-2-A, C-3, R-5.

VICE CHAIRMAN JEFFRIES: If it is superimposed over it or overlays, that can also destabilize value and so forth.

MS. ZARTMAN: And that you are free to try to change. But to sweep away all of zoning as we know it, all residential zoning, to put it in the context that most people deal with, if you are not going to have the distinctions among residential zones that you now know, but you are going to have something that is promised to you as 14th street residential and you are going to get to design what is in it, I think that is an empty promise.

VICE CHAIRMAN JEFFRIES: And you think it is an empty promise based on historical?

MS. ZARTMAN: On historical, on political. I joked with Travis when we first talked about this. I said, you tell me that
we are going to have Georgetown specific zoning and that we are going to design it. Well, if that "we" is the citizens association and the ANC and the business association, that's one thing. But if it is going to be Paul Cone and Richard Levey and Anthony Lenaise and Herb Miller, that's going to produce a very different outcome, and you can't tell me who is going to be sitting at the table.

I might be willing to scrap the current zoning for a process that I really believed in, but I don't see that reasonably being produced by what we are looking at now.

VICE CHAIRMAN JEFFRIES: So your concerns -- What I am hearing, you are really concerned about the process of this. Obviously, there's historicals, but there is a way that you could get your arms around this, but you are just not --

MS. ZARTMAN: Not in my lifetime.

VICE CHAIRMAN JEFFRIES: Not in
your lifetime. Okay. Let me move to -- I just want to just sort of try to highlight this.

So, Mr. Parker, can you just respond?

MR. PARKER: I think the miscommunication or the -- I think the issue here is the assumption that the Office of Planning is going to set new standards for neighborhoods, and that isn't our intent or what our proposal is.

Our proposal is to create a new system for neighborhoods to change their own, and not to change the process through which that happens at all. There would still be a public planning process. There would still be a small area plan where necessary. There would still be council approval, zoning commission approval, but to change the way in which that is implemented from creating and designing a unique overlay to sit on top of that, that may or may not look like all the
other overlays, to creating a system where we, OP, can go in and say, okay, you want 50-foot buildings; let's change the standard from 40 to 50, and you want a limitation on restaurants. So we will slide that in right here.

So we have a set of -- We have a Chinese menu, if you will, of here are the moving pieces in C-2-A zone, and now instead of starting from scratch and creating an overlay and mashing it on top of the C-2 zone, we can much more quickly and efficiently implement the small area plan guidance or the local planning process guidance into that area.

So it is not a matter of wiping the C-2-A slate clean across the city. It is saying we will create this system, and everything that is C-2-A zoning now and 50 feet and 2.5 FAR is still 50 feet and 2.5 FAR, but if this neighborhood comes in with a small area plan, we can easily maneuver the pieces
that they want maneuvered without creating an overlay to mash on top of C-2-A zoning.

    COMMISSIONER MAY: If I could follow onto that, going back to the analogy of the automobile, what we are starting out with is new cars for everybody. Right? So the C-2-A, instead of using that old, beat-up C-2-A, you get a new version of that that is a little bit more clearly written and resolves conflicts and those sorts of things.

    So everybody starts with that, and then the neighborhoods that already have overlays get their version of the new C-2-A customized to fit their needs, and then other neighborhoods, as they see the need or as the problems arise, whatever it is that drives them to want to customize their car, they get to talk to -- I mean, go through the planning process, choose the options, and implement it.

    MR. PARKER: Correct.

    VICE CHAIRMAN JEFFRIES: And how is that different than -- I mean, I know
overlays over baseline district, but how is that any different, quite frankly, than what we have now?

MR. PARKER: There are two ways that we see it. First, the ease and standardization of implementation. So it is easier for us to implement what a community wants in their neighborhood, and it is more standardized. We don't have to start from -- reinvent the wheel every time an overlay is created and create the list of uses for that neighborhood and create new design standards that are just -- We have a template to start with saying, well, here are the design standards that are -- you know, let's tweak the numbers and, you know, tweak whether entrances should be 20 feet or 30 feet, but you have an option to put entrance requirements.

So we have a starting point for every neighborhood. So the implementation is easier, and then ultimately, and with any
luck, the administration is easier in that you
don't have to compare between the C-2-A and
the overlay X to see, for the standard that
you are looking for, which is more
restrictive. You just have one chapter, and
you look right there, and you know what your
standards are.

VICE CHAIRMAN JEFFRIES: Ms.
Zartman, I'll give you one last response.

MS. ZARTMAN: Mr. Parker answered
a question you didn't ask. You asked did they
actually foresee 200 zones, and he told you
how many overlays were likely to come in.

We have identified more than 200
communities who ought to be treated equally,
and you are not going to be able to handle 200
community zone designs, and if you take away
the uniformity of the current underlying zones
we have, you really put those communities who
may not have the clout to find their way to
this table -- and they are going to be,
unfortunately, at the risk of people who are
more adept at maneuvering land use matters.

I just think that's wrong.

COMMISSIONER MAY: But you are not
taking that away from them. It's not like you
un-zoning everything.

MS. ZARTMAN: Yes, I'm -- The
public hearing notice for tonight's meeting
said replace existing zones and overlays.

COMMISSIONER MAY: Right, but what
is going to happen is there is going to be a
new version of the old C-2-A that is the
standard across the city, and it is going to
be new in the sense that it is more or less
the same requirements; it's just trying to
iron out some of the conflicts and issues and
structuring it so that it works with the rest
of the structure of the zoning code and works
with the uses as categories instead of uses as
uses, and those sorts of things.

So it is essentially -- I think
the point, if I may jump in here, because now
that I understand better what is going on --
Whatever you could build now in an existing C-2-A zone, you are still going to be able to build pretty much the same thing under the new one.

It is not going to be C-2-A according to Anthony Lenaise or anything like that. It is going to be the same old C-2-A, but if you are in a neighborhood where you want something different, you can go through the process and, instead of getting an overlay in a C-2-A, you wind up with a customized C-2-A.

MS. ZARTMAN: But we are not going to have C-2-A continue. You are going to have Cleveland Park C.

COMMISSIONER MAY: You are going to have C-2-A. There is going to be -- You've identified 200 communities. Right?

MS. ZARTMAN: Right. OP has.

COMMISSIONER MAY: All right. And there are how many overlay zones now? Six?

MS. ZARTMAN: I don't know.

COMMISSIONER MAY: Well, even if
there are 10, it is not 200. Right? Fifteen?
Whatever it is.

VICE CHAIRMAN JEFFRIES: It might
come to that, though.

COMMISSIONER MAY: Well, but the
point is that -- You know, okay, say there are
20. That means that there are going to be 20
customized C-2-As, and then there are going to
be 180 standard C-2-As, and that is what will
happen once the new zoning regulations take
effect.

MS. ZARTMAN: I don't believe that
is what the paper says.

COMMISSIONER MAY: Well, I think
that is what the intention is, is it not?

VICE CHAIRMAN JEFFRIES: That is
what I understand. I mean -- I think
Commissioner May said that is my understanding
about what we are listening to today. What is
your understanding?

MS. SIMON: May I say so, because
reading the advertisement it looks like
replacing the architecture --

ZC CHAIR HOOD: Let's look at the advertising.

MS. SIMON: Right here. It's right there -- with a new system which would be individualized zones, each of which would have an X number or whatever, and there are only 26, I think, in the alphabetic code. But it did seem like an endless thing.

It is rather interesting, in view of the Act itself, which does have a specification that there should be a uniformity, if you have a particular zone, wherever it is placed across the city.

So even when we did the overlay zones for the first time, that issue came up, and we decided that since at least you are keeping the underlying framework -- I can look on a map, and if I decide tomorrow that I want to move to a C-1 zone -- I don't live near one; so I just use that as an example -- that I could see it on the map.
Even if there is an overlay, I know that there are some C-1 zones out there that I could move to. We are going to have an incredibly complex system to try to figure out.

Now I may be wrong, Mr. May, but that is the way I read it, and that's the way everyone I've talked to read it.

COMMISSIONER MAY: Okay, but I think that that is what -- I mean, why we are discussing it here and now is because it really doesn't matter so much what is on this particular piece of paper. What is going to matter is what gets put into the regulations when they get written, and what we are trying to do is understand all these issues so that, when we come to our upcoming decision making, we give the Office of Planning the appropriate guidance.

I think that what we have talked about here and what I just talked about in terms of the 180 standard C-2-As and then
there are 20 customized C-2-As, that is the intention, regardless of what is on the piece of paper. I think that is what the intention is, and I think that that is -- It is incumbent on the Office of Planning to make that clear in future pieces of paper.

VICE CHAIRMAN JEFFRIES: And move away from a sheet of paper, from the announcement -- and I know that is difficult. Based on what you have heard today, you are still in the same place. Just pretend that you didn't look at the advertisement. Are you still in the same place?

MS. ZARTMAN: I think Mr. Parker's words at the beginning of the OP presentation were welcome words, because he indicated he is -- OP is considering an alternative to elimination of the current zones.

ZC CHAIR HOOD: I want you to tell me where it is on there.

MS. ZARTMAN: It is on page 2, Item 1: Replace existing commercial zone
ZC CHAIR HOOD: Oh, okay.

MR. PARKER: If I may, I completely understand -- If that word on the second line, "are" -- So right now it says replace existing districts and overlays with districts in which use and area restrictions are tailored to the needs of specific and contiguous -- If that would be changed to "can be tailored" --

So: Replace existing commercial districts and overlays with stand-alone districts in which uses and area restricts can be tailored to the needs of specific.

Does that get closer to what I've described? So instead of saying that we are going to go around immediately and tailor all the zones, we are replacing it with something that is tailorable.
MS. ZARTMAN: Sure. Permit existing commercial zones and districts-- Permit, not require.

MR. PARKER: Fair enough. But replace a system of commercial districts and overlays with just a commercial district system that is tailorable in the way that overlays are tailorable. Fair enough?

COMMISSIONER TURNBULL: Mr. Parker, as we go down the road, and this is different from the stand-alone chapters we've talked about, as we get -- and we have gone through more areas. Are you planning to meet with some of the overlay areas and show a model document of what this would look like?

MR. PARKER: There is a lot of work to do. There is going to be a whole commercial corridor working group.

COMMISSIONER TURNBULL: Right.

MR. PARKER: To fill in all this stuff -- like we've just got some broad principles that this is going to be in one
document, but there is a lot of work to do
about what that means, and we are going to
have a whole working group.

COMMISSIONER TURNBULL: And it
sounds like we are not going to be solving
this particular chapter anytime soon. But I'm
wondering, as we go down the road, to ease the
concerns -- I mean I think people are going to
want to see a proposal of what this may look
like.

MR. PARKER: And that is why I
said at the beginning of the meeting, if it
would make everyone in the room more
comfortable for you just to say, for now
design us a system that localizes things, and
we will come back later and decide whether
that involves overlays or not, that's fine.

OP is convinced that the system we
have designed is the most efficient way to do
it, but we don't need you to make a decision
on that tonight, if it makes everyone more
comfortable, that we can decide that later.
VICE CHAIRMAN JEFFRIES: The other thing that I wanted to add here -- and maybe I missed it in terms of best practices -- relates to this particular -- this business of what you are presenting in terms of how to categorize.

You've been sharing that in the working group in terms of how Portland is doing it and so forth and so on. You have been --

MR. PARKER: Well, there's two things there. Yes, every working group we do best practice research, and we share how -- like for this one, we talked about how they encourage retail. I mean, the best practices were particular retail.

You made another point there, though, about the use categorizations, and that is something that has come up in all of our working groups and has been an individual discussion in the industrial, institutional and retail.
That is what we talked about last month, about instead of having that discussion four times, five times, let's just have it here today. So that involves some more broad zoning regulations-wide research where we talked with OAG.

If we are going to have a broader discussion, we need to see how cities do it more broadly. So in each of our individual working groups, we have talked about best practices for retail or for institutions, but we haven't had a working group or a discussion about the broad impacts of categorization of uses. Did that at all answer your question?

VICE CHAIRMAN JEFFRIES: I'm just -- Again, obviously, you are talking about change here, and everyone is afraid of change, although I hope we can get over that November 4th. But I think that -- Sorry, I shouldn't have said that. But I guess, given that we are talking about change here -- I mean, you know, a system by which people are comfortable
-- that you are not creating something that is very, very different, but something that has been done for years and years in many other cities, and this is how it has worked, and they are happy with it, and so forth, so that people are getting comfortable with what you are putting forward.

I think that Commissioner May did a very good job in terms of trying to lay out, in terms of talking about the car and parts and customizing and so forth, and I think that is helpful. I think, to some degree, you know, that could be helpful in terms of really talking with people about how this looks, because it is something that is very fearful.

What I heard from Ms. Zartman, obviously, from a lot of history, is that she has heard these words before, and they don't always come to fruition.

MS. ZARTMAN: Well, and I think this is an economy in which, I think, destabilization is particularly unwelcome.
COMMISSIONER MAY: Can I just say one thing about it. In terms of the best practices discussion, one of the things that, I think, that struck me in the testimony -- I think it was Ms. Zartman who said it -- as the transition from where we are into a customizable zone -- I imagine that the other cities that have these customized districts had to transition to it, that they didn't -- You know, when they first wrote their zoning regs 50 or 100 years ago, they were more like our current ones.

So they had to make transitions. So if there is any knowledge or information about what their experience was, it might be helpful in giving people some comfort as we approach that transition.

MR. PARKER: We will see what we can find.

ZC CHAIR HOOD: Okay. Chairman Miller?

BZA CHAIR MILLER: And it may be
somewhat repetitive. I hope not too much.

But if Office of Planning is giving this more
thought -- I mean, basically, what I hear, and
I think giving more thought to, is the issue
of predictability, which we have now, which
everyone knows the districts and the overlays,
versus the improvements that you think would
result. Is it worth it?

It might be. I don't know. Then
I still have -- and then there is the
philosophical question about uniformity versus
tailoring to individual communities. Is that
a good thing to encourage or not, because it
sounds like this makes it easier, because you
could just change one thing instead of overlay
-- seems to be a whole bunch of things.

MR. PARKER: Right.

BZA CHAIR MILLER: So I can see
that that is the point of it. My basic
question is -- and I haven't seen it. When I
got involved in zoning, all the overlays were
already in place.
So I don't know how this actually works out in the communities. You know, who gets to -- As Ms. Zartman said, who gets to -- How is this decision made what is going to happen to that particular community, and I think that can be dicey, but it can be democratic. I don't know, but I think it is something that needs to be thought through a little bit before it is thrown into action, and how can it be undone, if you do this experiment and then it doesn't work?

So those are my comments.

ZC CHAIR HOOD: Okay. Any other questions? With that, we are going to move ahead, because I saw someone's hand. I'm sorry. Either that means we need to speed up -- No, it was actually somebody in the audience. Any other comments? Okay, and then we are going to cut it off.

Let me see. Any other questions? Can you keep your comments very brief? We want to hear from those -- I'm seeing some
gestures, and we want to hear from those in
the audience also. Okay, go right ahead.

MR. ESPENSCHIED: I'm sorry. I
didn't understand that.

ZC CHAIR HOOD: Just go right
ahead.

MR. ESPENSCHIED: I wanted to
respond to especially what Mr. Jeffries was
asking about before.

The matter of the destabilization:
One big problem that comes up as a result of
the dialogue tonight is the open-endedness of
it, that if you put in a new system, you will
be continuing to put it in into the indefinite
future, and the problems that arise from that
transition become long term, perhaps very long
term problems.

I think that you should be asking
about the trade-off. In other words, if this
new system is accepted with regard to
overlays, what is the benefit of it?

We can clearly see downsides. That
is, there would be confusion, transition problems, and so on. We do have a working system, and contrary to this simplicity argument, we have a situation where somebody who is wondering what to do can look at the overlay, see the five or six exceptions that it makes to the underlying zoning.

There is perfectly good clarity there, but if you have an individually tailored zone for that place, you have a potentially more complicated situation, because you can't compare it automatically to any other place. It is what it is, and it is all by itself.

That leads to one other point, which is precedent. If you have decisions by BZA or litigation with regard to something in one of these individual zones, precedent that is established potentially applies nowhere else.

So you are starting over every time you have a question or litigation in
another different zone; whereas, at the present time, if you are in C-2-A, you know what the C-2-A rules are, and they have been worked out.

ZC CHAIR HOOD: Mr. Espenschied, let me do this. Is that responding to your question?

VICE CHAIRMAN JEFFRIES: No.

ZC CHAIR HOOD: Is this helpful?

If not, I'm going to need to cut you off, Mr. Espenschied.

VICE CHAIRMAN JEFFRIES: It's helpful.

ZC CHAIR HOOD: Okay. Well, you can keep going then.

MR. ESPENSCHIED: Well, okay. You know where you are with regard to the underlying zoning, because that has all been the subject of -- It has a history. The overlay is specific overlays, and you need only to look at those. They are nicely separated by being an overlay. They
create certain exceptions or certain additional requirements, but they are very few and very limited. They are not mixed in with some new zoning. Okay?

ZC CHAIR HOOD: Okay. Any other questions? I want to really thank this panel. We appreciate the dialogue, and I want to make sure that we get the rest of the folks who want to testify to come right on up.

Sir, I saw your hand up. Obviously, you may need to leave, but I want to make sure we get you in, because I don't want you to get too restless. I want to get you taken care of.

I want to thank you all for coming down. If I can get everyone else who would like to testify to come up, sir, I am going to begin with you. Anytime a man raises his hand, he's ready. If you can have a seat. I actually don't have a list. Mr. Idelson?

MR. IDELSON: Just one brief statement to make, if I may, really brief.
You know, overlays come down to uses at the commercial level. It's come down to uses and percentages, really finite things. Are we going to pick them up bodily and transplant them into this new system? Probably not.

That means we are going to renegotiate them. Neighborhoods don't make these decisions. People do. Are we going to set up arbitration courts to really reopen this can of worms wherever we do this? I predict it will be really a horrible experience.

ZC CHAIR HOOD: Okay, thank you very much. Okay, normally I would let the young lady go first. But, sir, if you -- I really appreciate you being patient with us. Okay, somebody can go.

Anyone else want to testify tonight? Okay, this is going to be the last panel. Can you turn your microphone on? We want to make sure we get your comments on the

When I woke up this morning, I looked out the window and realized that there was $1 billion worth of construction projects targeted within a quarter of a mile of where I live.

This morning I looked out the window. I look across the roofs of three family three-story houses, family houses with lawns and backyards. In five years I am going to be looking at an eight-story building, probably the back of it.

What I want to talk about tonight is community control. I am sorry I don't have a prepared statement, but I am an organizational psychologist, and I've probably sat in 100 meetings like this. In fact, this kind of reminds me of the user group sitting
in front of the IT department.

Our concern here tonight is not the simplicity of the organization of the zoning structure. That is your problem. Our concern is community control, and we are feeling very, very threatened, not only by this wholesale change that other people have spoken much more articulately than I can about, but about the process as I have seen it so far evolve.

We have 10 construction projects. Not one -- Not one of those construction projects plans to follow the small area plan or the comprehensive plan. Each one of them is applying for, and will get if EYA is an example, a PUD.

ZC CHAIR HOOD: We don't want to talk about any specific case.

MR. PELOQUIN: Of course, you don't.

ZC CHAIR HOOD: Well, we don't want to talk -- Well, let me just say this.
Anything in front of us, we cannot sit here
and allow testimony outside of the realm of
that hearing. So work with us, and we will
work with you. If not, I am going to have to
cut it off.

MR. PELQUIN: Very good. Thank
you.

ZC CHAIR HOOD: Okay, have you
finished?

MR. PELQUIN: No.

ZC CHAIR HOOD: You can go right
ahead. Keep going, but just please don't talk
about a case.

MR. PELQUIN: Very well.

Community control is enhanced by granularity,
and it is reduced by aggregation. What we are
talking about doing here is aggregating the
control of the zoning at the community level.

So the decisions can be made
easily by zoning boards and by planning
commissions, and that deteriorates the quality
of control at the community level.
As I said, I am an organizational psych. I've seen it happen before. This is, plain and simple, not intentionally -- I believe you are all well intentioned people, but it is a power grab by an organization to enhance its own control.

Give this control to the community. Keep it the way it is. It is working. If you have 200 overlays, so what. Is that more work for you? Probably. So what?

By the way, all of this talking about how Portland is so happy -- Yeah, I believe the zoning board is happy. Let's ask the people how they are happy. I don't think so. Thank you very much.

ZC CHAIR HOOD: Thank you very much. We may have some questions for you, if you would like to stay and answer some.

Young lady, if you can just identify yourself.

MS. TYLER: Yes. Can you hear me
okay?

ZC CHAIR HOOD: Yes.

MS. TYLER: Hi. My name is Ruth Tyler, and thank you for having this hearing, because had you not had this hearing, I would not have learned an awful lot of information tonight, and I did hear you say that your ANC did get the information out.

Unfortunately, it didn't occur in my neighborhood. So I want to know how can you get on the working group so you can learn things that are going on.

VICE CHAIRMAN JEFFRIES: What neighborhood, by the way?

MS. TYLER: Oh, I was going to tell you. I am in 5-A. I am on Lawrence Street right over at 9th and Lawrence Street, Northeast.

ZC CHAIR HOOD: I was at your 5-A meeting last night, and they are in trouble.

Okay, we are going to work it out. I live in Ward 5 also. We are going to get them.
MS. TYLER: What I wanted to know is: In listening to all the use categories, what will happen if you happen to live in the area where the category has been changed? Will there be something grandfathered in or do we have to move out of the community?

That would be a concern of mine, because if it is by the book and the way that things have been going, we are in trouble. But I am assuming there will be something taken care of.

The other thing -- See, I'm almost finished. Of the five categories, I noticed they are specifically to everything except my concern. If you know where I live at, you will know that the high density would kill me as an individual.

Right now, low density is giving me a fit, because I can't move my car to go to a doctor's appointment. I can't move my car to go to the grocery store and come back. From eight o'clock in the morning until 8:30
at night, everybody except who live in that neighborhood is there.

The reason is I would like to find out -- There is a street at 11th and M where it has specific language which would eliminate some of my concerns. They have it between like ten and two, residents only. That would be very helpful for ours.

I go to the grocery store and have to literally carry it, and I'm not a helpless person, but it is not fair. That is what I would like to see language put in that would take care, and I would have a beautiful neighborhood. Not very many houses, but a lot of people.

How do you know the people don't live there? On weekends, I can move my car up and down the street with no concern. On Sunday night, because of where I am located, a lot of people go over there and stay and, therefore, I have to wait until they move for me to around the corner or wherever I have to
go, just to get a parking space.

I think something should be addressed. So if you rezone mine to just say commercial use, I may as well start looking to move out of the city, because, number one, we have a single family dwelling area, and I am happy with that. But if you are going to work with us, I will be very happy to work with you all and resolve the issues that pertain to the residents, not the commercial people.

Not that I am not for change, because I really am, but in this instance I am not, because we aren't getting information. And I thank you.

ZC CHAIR HOOD: Okay, thank you. I saw you joined us. If you would go ahead. You are an individual. Introduce yourself.

MS. YAHIR: I'm sorry. I didn't register, but there is one issue that didn't come up.

ZC CHAIR HOOD: Would you identify yourself?
MS. YAHR: I sure will. But there is one point that didn't come up that I would like to make.

ZC CHAIR HOOD: Could you identify yourself?

MS. YAHR: I am Linda Yahr. I also live on Lawrence Street, N.E. This is sort of a Lawrence Street cabal here testifying for you.

The issue that I would like to put on the table here is that we are currently a residential -- completely residential district. We are now having a commercial district clapped onto us.

Because we have always been a residential district, we haven't had an overlay. We haven't needed an overlay, but now that we are going to have commercial coming into our neighborhood, into our immediate neighborhood, we need more citizen control over it.

We have actually just recently
learned about the whole overlay opportunity, because, really, it hasn't been applicable to our neighborhood before. We got excited about it, and then all of a sudden we heard that it might be taken away from us.

So we are concerned about how to retain sufficient homeowner and resident control without this opportunity. And that's what I have to say.

ZC CHAIR HOOD: Okay. I thank you very much. Let me just say to the three of you, obviously, everyone is in ANC 5A. I would encourage you to go to your ANC 5A meetings. They meet the fourth Wednesday. If you are not in ANC 5A, just find out what ANC you are in, because last night --

MS. YAHR: We are in 5C.

ZC CHAIR HOOD: You are in 5C. Okay. You are in 5A. Okay. Maybe that's where I got it from, but I don't know when -- I think 5C meets the second Tuesday. You know when it meets? Okay. But 5A meets -- They
just met last night. I was at the meeting. They meet the fourth Wednesday of every month, and you have some very good commissioners in 5A and 5C, from my experience.

So I'm familiar with the Bloomingdale communities. I am familiar with the Brookland community. I live in Woodridge, and I'm the President of Woodridge Civic Association. So I know how it is to maintain the character of the residential, and I leave you that point.

I think this Commission and Board members also take that under consideration. But be as it may, let me just ask, anyone have any questions of this panel? Chair Miller, a comment?

BZA CHAIR MILLER: I just want to make a couple of responses, first to Mr. Peloquin.

I guess it wasn't evident tonight, and I don't know if you will take my word for it, but this is a long ongoing process about
improving the regulations, not for the ease --
not necessarily for the ease of Board members,
but actually for the public to be able to use
and understand the regulations more easily,
and for them to promote positive things in the
city, you know, either protection of
residential properties or promotion of retail,
where appropriate.

This is one little piece of the
whole process, and that really is the goal.

Then I also want to say, Ms.
Tyler, you asked about how can you get
involved. I just would like to refer you to
these two gentlemen down here, Mr. Parker and
Mr. -- I'll see if I can pronounce it right --
Giulioni.

There are still working groups
going on. There is a whole task force that is
involved, but the public can get involved in
working groups, and they can also answer
questions for you about your own specific
community. But I can also, I think, fairly
assure you that whatever we are doing is not
going to change the right that you have to be
where you are based on the current law. So
you don't have to be afraid of that.

Let me see if there was one other
thing. Oh, you know, you kind of come into
the process today as a hearing or whatever.
We are not really talking about a rezoning.
We are really talking about the regulations as
a whole, and Office of Planning has been
looking at different cities, best practices,
and coming back with ideas that the Zoning
Commission might want to think about to make
changes, but that is what the process is
about.

MR. PELOQUIN: may I ask a
question? I seriously suggest -- free
consulting -- that someone consider slowly and
carefully before they commit words to paper,
because all of this was engendered by a
misunderstanding caused by the imprecise
language on a document.
ZC CHAIR HOOD: Your point is very well taken, very well taken.

Mr. Parker, I will ask this as we move on. We have heard a number of concerns and, as Mr. Peloquin mentioned, there was some confusion as he mentioned what was on paper. But I also heard a lot of concern here tonight.

I think, with the Office of Planning working with the advocates -- I'm going to call them all advocates, not just the task force but all the advocates who have probably been out here a lot longer than I have. Where there is room for us -- I would encourage where there is room for Office of Planning to try to ease and try to make sure the confusion is to a minimum.

Now I do understand that we are not all going to agree. As the Vice Chairman said, we may be here -- and I go back to what Commissioner May said also. That gap should be coming closer together. It should be
coming closer together for process, not necessarily agreeing, because as you can see, once in a while my colleagues and I -- we don't always agree. That's very seldom, though.

So I wouldn't expect for everybody to come in, the roses and the flowers, the music is playing, and everybody is on one accord. I don't expect for that, but I do expect for the process to be well understood.

Again, as my colleagues say -- I'm going to use his words -- it's fluid, and to me I know it's a work in progress. So where we can close that gap, let's all try to do that.

MR. PARKER: And totally understood, and let me just say we've got a 90 percent good process here. We will continue to tweak it to try and avoid misunderstandings and miscommunications. But one thing I have to keep stressing is we went into this process knowing that we weren't just presenting a
complete set of ideas for reaction.

    This is a process of back and forth and continually evolving ideas. It is going to be messy, and there is going to be substantive changes as we come to you, as we go to the task force.

    So the process -- We are nearly there, and we will make sure that it is as flawless as we can, but there is always going to be questions about the substance in front of you.

VICE CHAIRMAN JEFFRIES: And I think I am going to speak on behalf of the Zoning Commission. I think you are doing a Herculean task here. I mean, this is just an absolute -- I mean, to attack a document such as this and really -- I mean, it sounds like there are some communication issues that are going to come up over the process, but this is a huge undertaking.

    So I think you've gotten off to a very good start, given what we know about
communities and resistance to change and even
listening for change. I think we all
understand that. So I just wanted to make
certain that you don't walk out of here today
thinking that you guys aren't doing a great
job. I think you are doing a great job.

ZC CHAIR HOOD: Normally, I don't
let anybody speak on behalf of me, but I will
ditto. I will ditto what the Vice Chairman
said, and I will concur with his comments.

Okay, let's --

COMMISSIONER TURNBULL: Mr. Chair,
could I add? I just wanted to get back. I
just got three points.

At the end of recommendation 1 and
2, we had a break, and I asked a question:
What's the definition of local control? That
still keeps coming back.

I think at some point in time, I
think everyone is confused as to who is at the
steering wheel. I think a lot of people are
worried about whether it is developers. Is it
going to be the ANC? Is it community associations?

I think we need some kind of definition. It is supposedly the -- It's the way it is now, but I think a lot of people don't understand the way it is now, and I think you may need to just clear that up for some people.

The second thing is could we get a copy of your PowerPoint presentation, and do you think that the next time you could give it to us ahead of time so we can make notes on it?

MR. PARKER: I can do my best.

Sure.

COMMISSIONER TURNBULL: Good.

Thank you.

BZA CHAIR MILLER: Can I just ask one more question of Office of Planning?

ZC CHAIR HOOD: Chair Miller?

BZA CHAIR MILLER: And it is a substantive one on the use question, which I
said I supported the concept of going in the
direction of broader categories because of my
experience with all the uses that become
outdated. But after hearing testimony
tonight, I am just wondering if you can
address some of the concerns like the
difference, if you just do food services and
you don't separate some of those that have
been found to have adverse impacts on the
community more than others, such as bars and
fast food versus restaurants or whatever.

Why aren't the impacts kind of
like separated? Just glancing at your report
also, I saw something like accommodation of
food services put together, and I'm wondering
why is that? Why is a hotel put in with a
restaurant or something like that?

Okay, thank you.

ZC CHAIR HOOD: All right. You
waited all night. We will wait and hear from
you.

MS. TYLER: How can we get a copy
of his report, since I have never seen it or
heard of it in its entirety until tonight. is
it possible?

ZC CHAIR HOOD: It is in the -- We
have a record -- Don't we have a record?
Okay, we have a record. You can come down to
the Office of Zoning -- Oh, we have a copy for
you now.

MS. TYLER: Thank you.

ZC CHAIR HOOD: Okay. Let me go
over -- Okay, we need two copies.

MR. PARKER: I only have the one.

ZC CHAIR HOOD: If I didn't write
all over mine, I would give it to you. Do we
have another extra copy? We can make a coy
later.

All right. So while they are
working on the copies, let me just go over the
schedule for this particular case.

The record will be open until 3:00
p.m. on November 24th. Office of Planning
will have until December 2nd to file responses
to that, if there are any or if you choose to
do so.

Then also on December 8th is our
public meeting for December. The Zoning
Commission -- we will have a dialogue and give
direction. Doesn't mean that this is it, but
we will give direction to the Office of
Planning on December 8th at 6:30.

If anyone needs any additional
information, you can check with the Office of
Zoning, Ms. Sharon Schellin or Ms. Donna
Hanousek, during normal business hours.

Okay. With that --

MR. PARKER: For my information
and very quickly, we will respond to the
comments that come in, but I have an
incomplete list of things you may have asked
for.

I've got from Ms. Miller a further
discussion of uses and how we granulate that,
and from Mr. Turnbull a discussion of the
process for making zoning changes on a local
basis. Were there other items that we should be returning to you?

VICE CHAIRMAN JEFFRIES: Best practices, yes. If you could just give a little bit -- It might be nice to do a matrix of some sort. I don't know, but something that really walks us through best practices, particularly as it relates to the stand-alone versus the overlay, that piece of it, because I just want to get comfortable there.

BZA CHAIR MILLER: And making changes on a local basis -- that goes to the whole who is making the decision and how they are making it to adapt the pieces that they would add.

MR. PARKER: Bingo. Thank you.

ZC CHAIR HOOD: Okay.

BZA CHAIR MILLER: Will you also compare it to the present system, with the overlay, because there was a lot of concern about what people thought was going to change.

I don't want to say too much more,
but one of the things you did say was -- one
was you could just add one thing instead of 10
to make a whole overlay, but is anything else
going to change, if you could let us know.
Thank you. Sorry.

ZC CHAIR HOOD: No problem. Okay,
anything else? We are all on the same page?
Ms. Schellin, is there anything
else?

SECRETARY SCHELLIN: Nothing else.

ZC CHAIR HOOD: Okay. I want to
thank everyone for sticking with us tonight.
We appreciate your participation, and this
hearing is adjourned.

(Whereupon, the foregoing matter
went off the record at 9:41 p.m.)