

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 : Case No. 08-06-5  
REGULATIONS REWRITE: :  
COMMERCIAL ZONES: MAPPING :  
AND USE PRINCIPLES :  
----- :

Thursday  
October 23, 2008

Hearing Room 220 South  
441 4<sup>th</sup> 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 4<sup>th</sup> 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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1 P R O C E E D I N G S

2 Time: 6:38 p.m.

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

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

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

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

21 MR. GIULIONI: It is Michael  
22 Giulioni. I am a newer staff working on the

1 zoning review with the Office.

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

4 MR. GIULIONI: Giulioni.

5 ZC CHAIR HOOD: Giulioni. All  
6 right. Thought there was some relation.  
7 Okay. I think that covers everyone.

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

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

19 This is one in a series of  
20 hearings on various subjects currently under  
21 review as part of the broader review and  
22 rewrite of the zoning regulations.

1           Tonight's hearing will consider  
2           general rules applicable to commercial zones  
3           and retail requirements. Notice of that  
4           hearing was published in the D.C. Register on  
5           September 5, 2008, and copies of that  
6           announcement are available to my left on the  
7           wall near the door.

8           The hearing will be conducted in  
9           accordance with 11 DCMR 3021 as follows:

10          Preliminary matters; presentation by the  
11          Office of Planning; reports of other  
12          government agencies; report of the ANCs;  
13          organizations and persons in support;  
14          organizations and persons in opposition.

15          The following time constraints  
16          will be maintained in these hearings: ANCs,  
17          government agencies and organizations, five  
18          minutes; individuals, three minutes. The  
19          Commission intends to adhere to the time  
20          limits as strictly as possible. The  
21          Commission reserves the right to change the  
22          time limits for presentations, if necessary,

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1 and notes that no time shall be ceded.

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

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

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

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

22 Please turn off all beepers and

1 cellphones at this time so not to disrupt  
2 these proceedings.

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

6 SECRETARY SCHELLIN: No, sir.

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

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

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

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

22 I want to talk first about the

1 goals with which we started this process

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

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

7 ZC CHAIR HOOD: Okay, good. Thank  
8 you.

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

21 The input that went into our  
22 working group discussion included a multitude

1 of comprehensive plan policies, included a lot  
2 of discussion and comments from our excellent  
3 working group, and some best practices  
4 research that we did from other cities in the  
5 country.

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

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

20 Some final important  
21 considerations: This is again preliminary --  
22 intended to be general concepts. These are

1 things that are intended to be toolboxes or  
2 tools in our toolbox and organizational  
3 structures that would apply, whether we are  
4 talking about downtown or high density areas  
5 or our neighborhood commercial corridors, and  
6 then those particular working groups will take  
7 this as a starting point and use them to come  
8 up with more exact tools and standards for  
9 those particular areas.

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

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

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1 characteristics.

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

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

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

22 Now there are two main ways to go

1 about that, and in our report we recommended  
2 one of them. The first is to continue or  
3 improve on a system of ad hoc overlays.

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

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

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

21 Right now this recommendation,  
22 again, is just for us to generally recognize

1 a more locally based approach, and then we  
2 will go and talk with the downtown group and  
3 the commercial corridors group and educate  
4 people on this idea and bring some  
5 recommendations back to you for those specific  
6 areas.

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

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

21 A system that we are talking about  
22 would transfer the C-2-C -- or C-2-A on the

1 top directly over into another C-2-A zone, but  
2 instead of having a C-2-A with an overlay on  
3 it, we could just create a C-X zone with the  
4 regulations and restrictions of both, not to  
5 be called C-X but, for lack of a better term  
6 right now.

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

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

22 Either way, you have two chapters.

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

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

16 Recommendation 2 -- and we are  
17 going to stop after this one. So we will be  
18 able to talk about both recommendation 1 and  
19 2 together. Recommendation 2 involves the  
20 consolidation of use lists.

21 This is something that has come  
22 out throughout in a lot of our working groups,

1 and as a matter of fact, we have gone through  
2 with the working groups and the task force in  
3 terms of retail, institutional, industrial and  
4 arts, and every one of those has resulted in  
5 recommendations of we need to consolidate the  
6 uses in these areas.

7 We talked with you and the task  
8 force last month about bringing that subject  
9 up in the context of this hearing, because  
10 this is really the first time that -- We've  
11 had the arts hearing, but that was a little  
12 different situation, but this is the first  
13 time that we are going to talk about one of  
14 these broad subjects, retail, where we can  
15 talk about consolidating retail uses, but also  
16 then talk about how that would work for  
17 institutional and industrial; because if it is  
18 something that we decide we want to do, it is  
19 something that has to be done across the  
20 board. We can't just consolidate a retail  
21 category and then still have use lists for all  
22 of the other categories.

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1           So tonight, while the genesis of  
2 this comment has been in all of the individual  
3 working groups, we are sort of consolidating,  
4 and we want to bring up the discussion now as  
5 a general discussion of converting from use  
6 lists into broad categories of uses.

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

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

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

1           existed.

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

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

22                      So the long and short of my point

1 is that it is not what is in a name.  
2 regulating use by what they are called is  
3 somewhat an outdated concept in itself, and we  
4 need to find a way to get at the impact and  
5 controlling the number of users and the hours  
6 of operation and the size of the building  
7 rather than what it is traditionally called,  
8 because there is a huge difference between a  
9 small use and a big use of the same name.

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

17 Without something like that in the  
18 zoning code, the Zoning Administrator is  
19 forced to determine, well, does this fit into  
20 a recycling plant or a processing plant,  
21 neither of which were ever contemplated to  
22 include something like this.

1           We are talking about 1950s and  
2 Sixties definition of what a recycling plant  
3 or a processing plant is, and it becomes more  
4 complicated when one is a special exception  
5 and one is a matter of right, which they are.

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

17           So you couldn't do a yoga studio  
18 under our use list, just because it is not  
19 defined. So we could certainly go through a  
20 process of expanding our use list to 1200 uses  
21 instead of 600 uses, but our recommendation is  
22 going to be that instead we should find a

1 different way to solve these problems that I  
2 am going to get into after I describe the  
3 final problem, which is this idea of primary  
4 versus accessory.

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

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

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

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1 objectives.

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

9 So in a C-1 -- in a neighborhood  
10 zone, we could allow retail with conditions,  
11 and those conditions could be under 5,000  
12 square feet and only open from 6:00 a.m. to  
13 8:00 p.m., and conditions that make that use  
14 a neighborhood friendly use rather than  
15 calling it a grocery store, which includes  
16 everything from your neighborhood store to a  
17 Harris Teeter.

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

22 It would look something like this.

1 On the left you see a series of random uses,  
2 most of which were pulled from our code.  
3 Obviously, the yoga studio, you have heard, is  
4 not in our code, but all of these can be  
5 described in a use category of retail or  
6 service.

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

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

19 What we would like from you as  
20 part of the decision making on this would be  
21 to say, you know, yes, go ahead and design the  
22 system, and we agree with the concept that

1 this is the right direction to go. Hopefully,  
2 we have given you enough idea about how it  
3 could work in the report to give us that  
4 guidance.

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

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

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

20 This is from Mr. John Goodman. I  
21 know you responded, but it says: All Travis'  
22 responses say that OAG -- reorganize and

1 reword the retail strategies recommendations,  
2 but this is what it goes on to talk about, and  
3 I underlined it.

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

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

21 Could you -- is this pertaining  
22 to --

1 MR. PARKER: I think now is the  
2 perfect time to talk about that, actually.

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

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

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

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

22 So what we would ask you to

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

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

13 So that is how I would suggest we  
14 proceed.

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

17 Anyone want to start off? Vice  
18 Chairman?

19 COMMISSIONER MAY: Can you just  
20 repeat that again?

21 MR. PARKER: The whole thing?

22 COMMISSIONER MAY: Well, not the

1 whole thing. I am just sort of struggling  
2 with it.

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

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

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

21 COMMISSIONER MAY: Well, okay. So  
22 this is just a hearing tonight, and people are

1 objecting to what is being presented at this  
2 time. Are you suggesting that we would have  
3 a further hearing to discuss the uses?

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

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

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

1 good thing about it.

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

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

12 ZC CHAIR HOOD: Go ahead, Travis.

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

21 In terms of Mr. Goodman's  
22 comments, I think it is an issue of we need

1 conceptual approval of the direction that we  
2 are going tonight, which is fine, and then  
3 approval of the specific tactics and tools can  
4 come as a part of the commercial working  
5 group. Specifically, the commercial corridors  
6 working group wants a chance to weigh in on  
7 these tools.

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

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

19 So, clearly, there are going to be  
20 situations where people are unhappy, and OAG  
21 has sort of stepped in and so forth, but I  
22 thought we had all agreed to how we are going

1 to move forward here.

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

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

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

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

22 COMMISSIONER MAY: I am not trying

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

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

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

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

20 COMMISSIONER MAY: I think there  
21 will be other issues in a month. It's not  
22 going to be the one that says --

1                   VICE CHAIRMAN JEFFRIES: And then  
2 you would want to stop it then. This is my  
3 point.

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

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

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

20                   ZC CHAIR HOOD: Okay. In the  
21 spirit of keep moving, are we going to keep  
22 moving or are we going backwards?

1                   BZA CHAIR MILLER: Can I just make  
2 a comment?

3                   ZC CHAIR HOOD: Sure.

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

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

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

21                  Mr. Parker seems to be saying that  
22 individuals can have input later on. Isn't

1 that what you are saying, that the record will  
2 still be open?

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

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

20 COMMISSIONER MAY: Mr. Chairman, I  
21 am sorry. I don't want to prolong it, but I  
22 really do feel like there are certain things

1 that I need to say at this point in the  
2 process.

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

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

19 The reason I even brought that up,  
20 because I assured Mr. Goodman and the task  
21 force -- I have been informed that you have  
22 been given clarification. I will also ask on

1 the record about any confusion. Thanks for  
2 all your hard work, and I believe in keeping  
3 my word.

4 Okay, Commissioner May.

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

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

21 Anyway, the point I want to make  
22 is that I don't like starting into a process

1 like this and then having people right off the  
2 bat raising process issues. If there is some  
3 issue between the Office of Planning and the  
4 task force about how things move from the task  
5 force to the Office of Planning and then get  
6 communicated to us, I would like them to be --  
7 I would like that process to be smooth so that  
8 what comes forward doesn't come with an  
9 objection from any of these earnest and  
10 interested and hard working parties that it is  
11 not going well.

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

14 COMMISSIONER MAY: Well, that is  
15 what I heard from ANC 6B, or what I read from  
16 them. So I'm not objecting to this to the  
17 point where I want to stop and not proceed  
18 tonight. I just would hope that -- and this  
19 is for the Office of Planning -- that in the  
20 future we are not going to have these sort of  
21 process issues raised at the beginning of the  
22 discussion of a particular topic.

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1                   VICE CHAIRMAN JEFFRIES: Well,  
2                   certainly, going forward, given our  
3                   performance here tonight, you probably will,  
4                   but I hear what you are saying.

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

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

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

1 document as clear as possible.

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

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

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

21 What I have tried to do is to take  
22 these recommendations -- and also because Mr.

1 Parker and I are having ongoing discussions of  
2 sort of the broader picture. So we would  
3 introduce concepts in this proceeding that  
4 were necessary to be resolved, basically,  
5 because it is sort of tied in and it was  
6 necessary to get to those concepts generally  
7 for commercial zones, such as having a limited  
8 use list, because so much else was dependent  
9 upon ultimately your guidance there. But  
10 basically, that is how I have been viewing my  
11 role, as sort of making the document as clear,  
12 because ultimately there will be decision  
13 templates that we have been presenting to you,  
14 like for parking and for arts.

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

20 ZC CHAIR HOOD: And let me just  
21 say this without belaboring it. We want to  
22 get further into the recommendations. But I

1 agree with the process which we are doing now.  
2 I just want to make sure that the task we  
3 understand, because I don't want us to sit up  
4 here and have a hearing and something -- in  
5 case -- Mr. Bergstein mentioned, something we  
6 can't do to begin with.

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

17           So I think the only issue -- The  
18 reason I brought it up is so we can have  
19 clarification. I think legally sufficient, as  
20 Mr. Bergstein has mentioned, is fine for us to  
21 move forward. I mean, I like the way -- If we  
22 need to tweak it later on, we will.

1                   MR. PARKER:  If I could really  
2                   quickly, we may be able to solve it.  I think  
3                   the problem arises from the transition from  
4                   the task force to the Zoning Commission.  I  
5                   think we may be able to solve this by bringing  
6                   in Mr. Bergstein sooner in the process, and I  
7                   can meet with him after the working group and  
8                   before things proceed to the task force, so  
9                   what they see is what will ultimately go into  
10                  the public hearing notice.

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

15                  MR. BERGSTEIN:  That's great.  
16                  Part of the problem is that it comes to me or  
17                  I get to it so late that there is very little  
18                  time between when I'm looking at it and the  
19                  deadline for publication in order to meet the  
20                  dates.  There is not enough time for Mr.  
21                  Parker to bring any revisions back to the  
22                  working group and, certainly, we can move up

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1 the process earlier so any suggestions I might  
2 have can be reviewed and explained to them.  
3 That's just fine with me.

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

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

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

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

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

17 COMMISSIONER TURNBULL: Thank you,  
18 Mr. Chair.

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

21 COMMISSIONER MAY: Yes. No, I  
22 just want to say, what you are suggesting, I

1 think, sounds good, and I am not really  
2 advocating for a particular position about who  
3 sees what when and all that, just that by the  
4 time it gets to us, I would hope that it has  
5 been -- you know, that there has been enough  
6 discussion and that the people who want to  
7 come here and speak to us in a fully informed  
8 manner have the opportunity to do that.  
9 That's what it is about for me.

10 VICE CHAIRMAN JEFFRIES: You think  
11 they won't?

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

18 ZC CHAIR HOOD: We got you.  
19 Commissioner Turnbull.

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

22 MR. PARKER: Doing all right.

1                   COMMISSIONER TURNBULL: I know you  
2                   are trying to present this with a certain  
3                   amount of gravitas and grace. I hope we  
4                   haven't screwed things up too much.

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

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

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

21                  COMMISSIONER TURNBULL: I am just  
22                  thinking of what we define. I am looking at

1 existing neighborhoods or what we call them  
2 now, just throughout, like Cleveland Park.  
3 Are you looking at those types of --

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

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

16 What this does is this will create  
17 a process for easier application of the  
18 recommendations of a small area plan. There  
19 still needs to be a plan, and this is not  
20 something that a zoning change is going -- We  
21 aren't going to talk about, in changing over  
22 the zoning document, changing the height and

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1 bulk and uses of any particular neighborhood.

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

10 COMMISSIONER TURNBULL: Okay.

11 Thank you.

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

17 It seems to me that what is  
18 happening with the zoning regulations in  
19 general is that we are all looking at what is  
20 working and what is not working, and a lot of  
21 it, it seems, from the Office of Planning's  
22 methodology is almost like looking at it like

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1 fresh and let's do this differently and  
2 whatever.

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

13 MR. PARKER: And that is a  
14 discussion we need to have with the commercial  
15 corridors, absolutely. This is intended to be  
16 a discussion of we have a system now that has  
17 underlying zones and overlaying zones. Maybe  
18 there is a simpler way to manage the entire  
19 system, but when it comes to transitioning the  
20 overlays to that system or creating new  
21 overlays or new underlying zones, we need to  
22 have a discussion in the commercial corridor

1 working group about what specifically is  
2 working and should be carried on, what should  
3 not, and what new tools should we have.

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

10 MR. PARKER: Theoretically.

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

14 MR. PARKER: Right.

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

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1 MR. PARKER: Well, absolutely.  
2 Again, we wouldn't recommend through this  
3 process the changing of any density or use  
4 restrictions for a particular zone. The idea  
5 would be to create a system where we can  
6 transition things into a system that makes for  
7 easier moving pieces, and from there the  
8 system can work exactly like it does now.

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

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

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1 designing a new overlay.

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

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

18 I just also want to comment, just  
19 for the benefit of Zoning Commission, and the  
20 members also sit with the Board and see a lot  
21 of the cases as well -- and I said this at the  
22 task force: I think it is a great idea, what

1 you are doing with the uses and having  
2 categories instead of specific uses.

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

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

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

22 So it just -- and we can talk

1 about the uses, but I am just sort of  
2 wondering how eventually this will end up. I  
3 mean, conceptually it sounds great, but I  
4 think the devil is in the details.

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

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

17 You are right. Ultimately, as  
18 that gets created, as those neighborhoods come  
19 in and do that, there is more code, but it is  
20 going to be more whether we do it this way or  
21 whether we do it through overlays. There is  
22 going to be more chapters.

1                   VICE CHAIRMAN JEFFRIES:  Then the  
2 other question I have -- if you can go to the  
3 slide about uses.  So use categories:  Retail,  
4 service -- what were the others?

5                   MR. PARKER:  It's in our report.

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

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

19                  If we have 15, then you have a  
20 fraction of the division.  So 95 percent of  
21 the uses are going to fit clearly into one of  
22 these well defined categories, and there are

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1 cities that do this like this.

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

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

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

1 obviously.

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

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

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

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

16 MR. PARKER: Done up front how?

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

1 Administrator?

2 MR. PARKER: There can be, but --

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

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

13 VICE CHAIRMAN JEFFRIES: Okay.  
14 Thank you.

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

18 MR. PARKER: The text or the maps?

19 COMMISSIONER TURNBULL: That one.

20 MR. PARKER: All right.

21 COMMISSIONER TURNBULL: Now when  
22 you came up with that term C-X, you were

1 adding one of your templates over the basic  
2 boundary.

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

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

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

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

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

22 COMMISSIONER TURNBULL: Is that

1 all on the one template or is there a series  
2 of templates?

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

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

16 COMMISSIONER TURNBULL: So that is  
17 no longer C-X. That is something, C-Y or C-X-  
18 2?

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

21 COMMISSIONER TURNBULL: Okay. I'm  
22 just seeing that, if you have this C-X but

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1 there are variations of this, subcategories of  
2 C-X then. Does that -- I mean, you are just  
3 saying that they are changing, that they don't  
4 want 50 feet, they want 40 feet. They don't  
5 want this. They don't want that. So it is a  
6 variation of this C-X that someone else had.

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

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

19 MR. PARKER: Well, you do right  
20 now.

21 VICE CHAIRMAN JEFFRIES: You are  
22 going off on my question, my initial question.

1 MR. PARKER: We have over 120  
2 combinations right now. Our zoning map is a  
3 mess right now.

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

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

8 COMMISSIONER TURNBULL: But it is  
9 still complicated. Okay.

10 VICE CHAIRMAN JEFFRIES: Simpler,  
11 but it will --

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

15 COMMISSIONER MAY: Managing the  
16 mess.

17 MR. PARKER: It's managing the  
18 mess.

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

22 MR. PARKER: We are certainly

1 going to work with OZ to make everything -- I  
2 mean, a system where you put in your property  
3 address, and what you can do on your property  
4 pops up or you put in your zone, and what you  
5 can do pops up. So, certainly, an interactive  
6 system could be part of what comes out of  
7 this.

8 COMMISSIONER TURNBULL: Okay.

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

20 This is one city, you know. So  
21 there really should be sort of a baseline that  
22 is consistent throughout all of these zones,

1 so that you know you are in Washington, D.C.

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

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

9 VICE CHAIRMAN JEFFRIES: I'm  
10 talking about things of that sort, too. I'm  
11 not talking about just the envelope things.  
12 So I mean ground floor to ceiling. So if  
13 somebody wants their -- Cleveland park wants  
14 12 feet, and then the rest of the place wants  
15 14 height, I think we might get into some  
16 issues, because there are some overriding city  
17 initiatives that really supersede community  
18 issues. I just want to put that on the  
19 record.

20 ZC CHAIR HOOD: You know, I keep  
21 hearing about Cleveland Park. Is there  
22 something I'm missing?

1 MR. PARKER: My apology.

2 COMMISSIONER MAY: All right. Is  
3 have been struggling with trying to understand  
4 how this really -- this local control and  
5 customization the zoning map is in some way a  
6 simplification, and what it is, is it is not  
7 really a simplification. It is, as we said  
8 before, managing the maps or managing the  
9 complications. It is simplifying it, though,  
10 in terms of how it is constructed, what gets  
11 mapped.

12 MR. PARKER: It simplifies both  
13 the process for creating and mapping and  
14 ideally the usability. So rather than looking  
15 in two chapters and comparing them for what is  
16 most restrictive, you just look in one place.

17 COMMISSIONER MAY: Okay. So the  
18 other thing I was trying to -- I was  
19 struggling with was structurally what that  
20 really meant, what you really meant by  
21 templates. But the parallel that jumped up  
22 for me was that this is like customizing cars.

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1 I mean, you know, you have your subcompact and  
2 your compact and your midsize and your full  
3 size and your whatever up the chain, and  
4 within each of those models there are lots of  
5 alternatives that you have to choose to get  
6 your version.

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

12 MR. PARKER: I love that. I  
13 think, yeah, you can picture it something like  
14 now we have C-1, C-2, C-3, but something like  
15 some sort of neighborhood, retail or  
16 commercial, some sort of commercial corridor,  
17 retail, some medium density and some downtown  
18 or high density, and yes, these are your  
19 general categories, and we will set out some  
20 basic standards for those. Then, yeah, you  
21 can customize that within for Georgetown or  
22 Petworth or your individual neighborhood.

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1                   COMMISSIONER MAY: On a certain  
2 level, it makes it simpler and easier for the  
3 individual or the person who is concerned with  
4 one or two or three properties. But when it  
5 comes to the Zoning Commission or the BZA's  
6 ability to understand this, it isn't going to  
7 get any easier.

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

15                   They will have A through --  
16 standards A through G, and the numbers will  
17 change, but they will all -- You will be able  
18 to look right on the sheet and say, all right,  
19 these are the standards for this neighborhood,  
20 and the set of standards will be the same for  
21 each neighborhood. Just the numbers can  
22 change. Does that make sense?

1                   COMMISSIONER MAY: Yes, I guess  
2                   so, although again, you know, it is not going  
3                   to be the sort of thing where you open up the  
4                   case file for the first time and look at what  
5                   the zone is, and you automatically know, yeah,  
6                   C-2-A, it's 50 feet, it's 2.5 FAR, whatever it  
7                   is. I'm sure I cited those all wrong.

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

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

20                 MR. PARKER: Yes, we have greatly  
21                 reduced our problem with parking, but can you  
22                 describe the problem a little bit more?

1                   COMMISSIONER MAY: Well, I didn't  
2 know I would have to come up with an example.

3                   All right. A bowling alley is  
4 going to have a certain level of parking  
5 requirement.

6                   MR. PARKER: Okay.

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

10                  MR. PARKER: Okay.

11                  COMMISSIONER MAY: So how do you  
12 reconcile those things?

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

18                  COMMISSIONER        MAY: Not  
19 necessarily. In fact, probably not at all in  
20 terms of its footprint. I mean, think about  
21 it. You know, think about it in terms of  
22 building code sorts of ideas.

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1           In a theater, you can have  
2 something like seven square feet per person or  
3 10 square feet per person for code purposes.  
4 You know, a bowling alley is going to be,  
5 what, 200 square feet per person or 100 square  
6 feet per person, and each person -- each  
7 quantity of people translate to a vehicle  
8 somehow.

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

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

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

19           MR. PARKER: Fair enough.

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

22           I am very interested in a primary

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

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

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

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

22 So in other words, it doesn't

1 matter, and the Zoning Administrator doesn't  
2 have to decide which one is accessory and  
3 which one is primary. If a retail component  
4 has to meet conditions, that business has to  
5 meet those retail conditions. If automobile  
6 related is allowed but under conditions, they  
7 have to meet those conditions.

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

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

14 MR. PARKER: Right.

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

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

22 An accessory use traditionally is

1 one that is not permitted in the zone  
2 district, but is nevertheless allowed, because  
3 it is deemed to be customary incidental to it.

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

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

20 MR. PARKER: That's fair, and we  
21 could still go back to a traditional -- I  
22 guess the point is we have moved significantly

1 away from what you describe as a traditional  
2 idea of accessory and primary in a lot of the  
3 BZA fights and Zoning Commission fights that  
4 have happened on this.

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

11 ZC CHAIR HOOD: Okay. Anymore  
12 questions?

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

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

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

22 MR. PARKER: We got five more

1 recommendations to go through.

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

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

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

21 Could you just elaborate? An  
22 enforcement nightmare is actually -- out of

1 everything she wrote for number 2, enforcement  
2 nightmare is an issue, because if we don't  
3 have any enforcement, it's no good. Can you  
4 just --

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

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

17 VICE CHAIRMAN JEFFRIES: Besides  
18 Portland?

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

21 VICE CHAIRMAN JEFFRIES: Because  
22 you have been mentioning it a lot.

1                   MR. PARKER: Yes, because that's  
2 the one I remember.

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

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

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

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

22                   I guess what I am anticipating is

1 that, instead of going to two places, what you  
2 are saying, we would just go to one place, and  
3 all the regulations applying to that specific  
4 -- not all maybe, but most of them, instead of  
5 overlay plus the underlying district, it would  
6 be in one place.

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

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

13 BZA CHAIR MILLER: I don't know.

14 VICE CHAIRMAN JEFFRIES: Yes.  
15 That's all.

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

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

22 ZC CHAIR HOOD: Thank you.

1 MR. PARKER: So these two  
2 recommendations sort of set the general  
3 framework for how retail uses could work.

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

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

18 The first one would be to allow  
19 floor space caps within retail areas, and this  
20 is, if you have a historic or a small scale  
21 retail area or commercial neighborhood, you  
22 could limit the size of retail stores to 5,000

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1 or 15,000 or 30,000 square feet, depending on  
2 the size of your area, to avoid inconsistent  
3 consolidation of many lots or a big box in an  
4 area that is otherwise very small scale.

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

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

16 So this could be another tool that  
17 is available. A commercial district could  
18 require 30 or 50 or 70 percent of the ground  
19 floor use along a certain street to be  
20 available for retail uses, and this is a way  
21 to ensure continuity of retail uses along a  
22 commercial strip.

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1                   Another tool that could be  
2 available is to place limitations on certain  
3 types of inconsistent uses. You see this in,  
4 again, Cleveland park, for example, where they  
5 placed limitations on the number of  
6 restaurants in their area. You see it in Mt.  
7 Vernon where they place limitation on the  
8 number of banks.

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

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

22                   Another tool available would be,

1 of course, to have design requirements for the  
2 retail along your street front. So the  
3 neighborhood commercial is now a designated  
4 street. For H Street overlay, that is H  
5 Street. For Cleveland Park, again it is  
6 Connecticut.

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

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

22 The final tool, general tool, that

1 we would recommend sort of relates back to  
2 that minimum entry space, but neighborhoods  
3 could apply a standard of required  
4 adaptability.

5 So there would be a potential --  
6 If you wanted to build a large retail space,  
7 you would have to leave the potential for that  
8 space to be divided into smaller segments by  
9 future tenants and future users.

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

17 Let me show you some examples.  
18 This is an example on 7th Street, a Radio  
19 Shack that has two -- The Radio Shack is on  
20 both sides of this bay, but there is an  
21 obvious place to separate, an obvious  
22 availability for a second entrance, so that if

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1 the Radio Shack left, this could be two  
2 smaller individual spaces.

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

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

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

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

22 Are you saying -- In terms of

1 flexibility on the storefronts, are you saying  
2 effectively you need to put doors in or --

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

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

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

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

16 VICE CHAIRPERSON JEFFRIES: There  
17 are doors there?

18 MR. PARKER: What's that?

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

21 MR. PARKER: They are potential  
22 doors. I don't think they are actual doors

1 right now. Mike might know. He took the  
2 picture.

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

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

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

20 I don't know how else you are  
21 going to create the so called flexibility you  
22 are talking about for the bays.

1                   MR. GIULIONI: We are jumping  
2 ahead, but I guess where this -- part of where  
3 this idea came from, number one, was the  
4 members of the working group who suggested  
5 that we need to be able to adapt to economic  
6 change. So that's the basis.

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

9                   VICE CHAIRMAN JEFFRIES: Indiana?

10                  MR. GIULIONI: Yes, South Bend,  
11 actually.

12                  VICE CHAIRMAN JEFFRIES: South  
13 Bend?

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

21                  This is again a concept, and we  
22 sort of want to introduce it and talk to some

1 architects and some other retail spec  
2 developers and say, well, how would we do  
3 this. You know, it is an idea that we think  
4 we want to basically protect and make sure  
5 that, where there are instances in new  
6 development, that we have the flexibility to  
7 adapt to economic change.

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

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

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

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

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

22 COMMISSIONER TURNBULL: I mean,

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

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

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

17 COMMISSIONER TURNBULL: All I am  
18 saying is that it is only about two feet high.  
19 An owner, if he wants to rent that space to  
20 smaller people, could still remodel it. It's  
21 a little bit more money than just having a  
22 glass storefront.

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1                   COMMISSIONER MAY: And the stone  
2                   is an inch thick, and somebody parks the wrong  
3                   way, you could have an accidental door there.  
4                   I mean, it's really not that substantive is,  
5                   I guess, what it comes down to in this  
6                   circumstance, although I think that there are  
7                   probably circumstances where it could happen.  
8                   I think it is much less likely in modern  
9                   construction techniques, but it is -- I think  
10                  where you are more likely to run into issues  
11                  is where you have slopes and things like that,  
12                  and that is where the deeper retail spaces  
13                  become a necessity, because you can't have the  
14                  step down or the step up.

15                  VICE CHAIRMAN JEFFRIES: And you  
16                  have a lot of that in Columbia Heights. We  
17                  have a lot of elevation there.

18                  So am I clear? Am I to understand  
19                  that we are getting some best practices from  
20                  South Bend, Indiana, because I lived there for  
21                  four years. I'm giving you a hard time.

22                  MR. GIULIONI: Okay.

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

7                   VICE CHAIRPERSON JEFFRIES: It's  
8 not Giuliani?

9                   MR. GIULIONI: Right. Yes.

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

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

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

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

22                  Any ANCs? I know we have Mr.

1 Jarboe. Any other ANC commissioners? Any  
2 others? Okay. Well, we will start with Mr.  
3 Jarboe, the only ANC commissioner, and then we  
4 will go to the list.

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

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

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

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

20 Let me raise a more general  
21 process issue on that, though. As  
22 Commissioner Jeffries and, I think, everyone

1 else said, this is a very fluid process.  
2 Going into our ANC meeting, we did have three  
3 documents. The last one we got just a few  
4 days before the meeting.

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

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

19 So there is a process problem  
20 here. Now the Office of Planning has been  
21 very generous in its time of coming out to our  
22 ANC, both Mr. Parker and Ms. Steingasser. It

1 is physically impossible to do that in a  
2 month, all the ANCs. There simply is not  
3 enough days of the month to come out to all  
4 the ANCs to do that.

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

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

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1 quite know how we do that.

2 Let me make one substantive -- if  
3 we can do the 30-day keeping the record open,  
4 that would be fine. Our full meeting is the  
5 11th. November 11th is when we would have our  
6 next full ANC meeting. So we could get you a  
7 set of recommendations after that.

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

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

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

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1 fight over in liquor issues.

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

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

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

21 So personally, I like the idea of  
22 consolidating and getting it out of 20

1 different places where you have to look. I  
2 had trouble with that, looking in the zoning  
3 code and figuring out, okay, what applies  
4 where and the cross-referencing and that sort  
5 of stuff. But I think we need to find a way  
6 in that to keep some of that granularity where  
7 we have actually figured out that some of  
8 these uses, while they may be under a same  
9 category -- and there is no -- you know,  
10 scientists will tell you there is no perfect  
11 taxonomy; there's always some problems here  
12 and there. But how we figure out we maintain  
13 some of that granularity within those larger  
14 categories.

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

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

21 VICE CHAIRMAN JEFFRIES: Yes. Mr.  
22 Parker, could you just respond a little bit to

1 the Commissioner's question, because from what  
2 I understand in terms of his concern about  
3 granularity, some of that would be addressed  
4 in the corridor-specific zones. Even around  
5 the uses -- I mean, I know he is talking about  
6 uses, but in terms of dealing with what's the  
7 difference between this and this, couldn't  
8 some of that sort of be set forth in these  
9 various templates that you are looking at?

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

17 What you call it doesn't make its  
18 impacts. So instead, we say, okay, that is a  
19 food service use, and the conditions on food  
20 service uses are hours of operation and number  
21 of people coming in and out or capacity or  
22 whatever it is we are concerned. Those are

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1 the conditions that we put on that use, rather  
2 than saying, if we decide to call it a  
3 nightclub, it's allowed, and if we decide to  
4 call it a bar, it's not.

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

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

17 MR. JARBOE: The concern I have  
18 about that is that with a set of uses -- and  
19 I understand a rose by any other name would  
20 smell as sweet, and so you don't want to get  
21 hung up on the name, but the names often  
22 become shorthand for the impact.

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1           For example, we know what the  
2           impact of a fast food restaurant is, and we  
3           use that label, fast food restaurant, to  
4           convey all those impacts. So without that  
5           label, if we have to sit down and every time  
6           go through each of the impacts, I worry a  
7           little bit that, instead of simplifying -- You  
8           know, we simplify horizontally, and we end up  
9           increasing the complexity vertically, or vice  
10          versa. So we have to sit down and say every  
11          time, okay, how many people are going to come  
12          here? What is the trash?

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

17                 Frankly, just thinking at the home  
18          occupation permit, we have a set of impact  
19          questions as well. So something that goes on  
20          that, but I think there are some relatively  
21          defined uses already that we kind of all  
22          understand what they are, and maybe you can do

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1 big categories with a few. Under this one, if  
2 it is a -- I think I want to go back to the  
3 museum/art gallery type thing, you know.

4 If it is a museum, it is a matter  
5 of right in this category of entertainment,  
6 but you have to do -- if it does X, Y and Z.  
7 If it's a strip club, then it's not.

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

20 I think, again, it is going to be  
21 pretty voluminous, but it sounds to me, and I  
22 think the Office of Planning is going to have

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1 to spend a lot of time with a lot of different  
2 groups really getting people comfortable with  
3 this very different document; because I'm just  
4 -- I am hearing that the Office of Planning is  
5 addressing some of your concerns.

6 Perhaps I am missing something  
7 here.

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

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

18 VICE CHAIRMAN JEFFRIES: Right.

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

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1 up too much.

2 VICE CHAIRMAN JEFFRIES: Don't  
3 open that up.

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

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

8 ZC CHAIR HOOD: Okay, Commissioner  
9 May.

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

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

21 MR. PARKER: They would be, but --

22 COMMISSIONER MAY: And then there

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1 are other things that, as we customize the  
2 template, we take our mid-size sedan and we  
3 start to throw in the options, in that putting  
4 in the options we put in the controls that  
5 would prevent the onerous impacts that are  
6 associated with a fast food restaurant under  
7 control in some fashion.

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

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

22 COMMISSIONER MAY: Okay, that's

1 fine for me. I didn't quite get what you were  
2 saying. I thought it was that somehow there  
3 was going to be an explicit -- you know,  
4 within our customized zone, there was going to  
5 be a further differentiation that says, okay,  
6 fast food restaurants are okay, and  
7 restaurants are not okay or the other way  
8 around. But, no, it's the impact. It's those  
9 conditions that make a fast food restaurant a  
10 fast food restaurant might make it illegal  
11 within a zone.

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

19 COMMISSIONER MAY: Right. Okay.

20 ZC CHAIR HOOD: Any other  
21 questions?

22 BZA CHAIR MILLER: I have a

1 question. Are you going to still have a  
2 definition of fast food restaurant?

3 MR. PARKER: No, absolutely not.  
4 Again, we --

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

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

17 It is a matter of determining what  
18 impacts we don't want in that neighborhood,  
19 and if we want things closed at ten o'clock or  
20 if we want to limit the capacity of it or if  
21 we want -- These are the things we can  
22 regulate with conditions rather than

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1 determining whether it is called a fast food  
2 restaurant or a restaurant.

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

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

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

21 Well, let me correct that, and I  
22 will scratch the check-off, and we will start

1 with the opponents. Ms. Zartman, we will  
2 still call you to the table.

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

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

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

18 Okay, who is going to get the  
19 five? Okay, Mr. Espenschied. He is going to  
20 talk longer. So you will get the five, Mr.  
21 Espenschied, and Mr. Idelson, you get the  
22 three. But let me go by the list.

1 Do I have everybody who is here to  
2 testify tonight in opposition? I have one  
3 other person who is not on my list.

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

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

22 MR. IDELSON: I am George Idelson.

1 I am President of the Cleveland Park Citizens  
2 Association. With me is Peter Espenschied,  
3 First Vice President and Chair of our Land Use  
4 Committee.

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

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

22 This is a game changer, and so

1 given the schedule and venue change, I appeal  
2 to you, Zoning Commission, to withhold  
3 judgment on the overlay issue, including  
4 concept, until the commercial corridor group  
5 meets.

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

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

19 ZC CHAIR HOOD: Thank you.

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

22 MR. ESPENSCHIED: Well, before

1 going into the substantive matter, I just  
2 wanted to make a quick reference to the  
3 process issue that was discussed at the  
4 beginning of this meeting.

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

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

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

22 The strategy would replace the

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

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

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

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

21 Also, one of several problems with  
22 a defined use list is that it ignores the fact

1 that, to some extent, the lists are  
2 prescriptive rather than restrictive, a matter  
3 that I don't think is addressed by either the  
4 explicit or implicit thinking of OP's  
5 proposal.

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

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

18 All over the zoning regulations,  
19 there are references in one section to  
20 provisions that are subject to provisions in  
21 another section. The notion that it is  
22 automatically more workable to have everything

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1 in one place perhaps sounds good, but it  
2 isn't.

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

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

17 This misleading simple replacement  
18 process is just what would be done if overlay  
19 zones are replaced by single location  
20 commercial zones, because all of the  
21 requirements of the commercial zone that are  
22 the same from one zone to another would be

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1 repeated, replicated, and to what avail? To  
2 save turning from one page to another?

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

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

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

17 MR. ESPENSCHIED: Okay. So I was  
18 saying that there are many more neighborhoods  
19 than there have been interest expressed in  
20 overlay districts, and this proposal raises  
21 the issue of whether OP would impose its  
22 prescribed constraints on all those other

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1 neighborhoods, too.

2 OP is paying lip service to local  
3 control, but the reality of the proposed  
4 system is really rather unfriendly to the  
5 concept of local control.

6 I think that will do. Thank you.

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

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

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

22 The language in the OP report for

1           tonight seems to say that all such language  
2           will be written at one time, later.

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

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

19                        We believe it is unnecessary,  
20           counterproductive, confusing, ill founded --  
21           shall I go on? We have been trying to get  
22           some daylight between OP and this stand-alone

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1 concept for nearly two years.

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

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

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

19 Second, it would take years to  
20 create all these variations, all of which  
21 would be subject to legal challenge on  
22 individual grounds, since they would all be

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1 new precedents.

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

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

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

19 There will be appeals and  
20 challenges, meaning that perhaps a decade of  
21 instability will be the price of this so  
22 called simpler and more straightforward

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1 system.

2 A number of communities were, it  
3 has been said, in the process of seeking  
4 approvals for overlays. OP would not consider  
5 new overlays because of this new zoning  
6 review. Those communities would not have the  
7 benefit of OP's promise not to, quote, "remove  
8 or weaken the protections and regulations in  
9 place through existing overlays."

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

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

22 On the matter of consolidation of

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1 use lists, we would much prefer fixing the  
2 problems with the existing use lists rather  
3 than consolidating them to the point where the  
4 zoning authorities will have little guidance  
5 about distinctions.

6 How are you going to be able to  
7 say that a particular use will be  
8 unacceptable, harmful, if it fits one of those  
9 15 definitions? You will be without any of  
10 the granularity that was just addressed to  
11 make the distinction.

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

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

21 Under recommendation 2 but not  
22 called out as a recommendation is the

1 extension of new, undifferentiated zones to  
2 the remaining use zones. OP, quote, "would  
3 recommend that the Zoning Commission also  
4 consider the following proposed categories of  
5 noncommercial uses: Residential;  
6 institutional --

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

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

15 The last group of subjects that  
16 you heard about, I think, are problematical in  
17 the particular, not necessarily in the  
18 general. So the concepts may be subject to  
19 improvement, but the first two issues are very  
20 big, very powerful, and very destabilizing  
21 matters that I hope we will all have many  
22 occasions to discuss.

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1           Your recommendations from the  
2 parking group have been described as  
3 decisions, not as advice given, not as policy  
4 direction. None of the distinctions or  
5 suggested changes you recommended are in the  
6 notice to the members of the task force. It  
7 is simply that you approve the Office of  
8 Planning regulations.

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

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

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

21           MR. SPALDING: Chairman Hood, you  
22 will be glad to hear that I will not be going

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1 overtime.

2 I am Phil Spalding. I live at  
3 1929 13th Street, Northwest. I am a  
4 commissioner with ANC-1B. I did bring this  
5 issue to the Commission, but we did not have  
6 a quorum in October. So I am here as an  
7 individual.

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

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

21 So I will go back and find the  
22 paperwork on the larger issues, and do hope

1 that you leave the record open so that I can  
2 submit something on that as well.

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

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

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

15 We find several of the  
16 recommendations to be most troublesome and, in  
17 some instances, inconsistent with the clear  
18 language of the comprehensive plan, including  
19 the recommendation to replace the existing  
20 commercial zone districts and overlays with  
21 stand-alone districts, the consolidation of  
22 the use lists into approximately five

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1 categories, the design standards, particularly  
2 the minimum clear ceiling height and the  
3 requirement that large ground floor retail  
4 sites be built to be structurally adaptable to  
5 smaller tenants.

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

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

20 If the distinctions are  
21 maintained, the proposed stand-alone districts  
22 will require OP to define hundreds of

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1 different districts to maintain the  
2 granularity that is necessary within each  
3 stand-alone district.

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

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

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

22 For example, the generalized

1 policy map has neighborhood commercial  
2 centers, multi-neighborhood commercial  
3 centers, and regional centers, each  
4 characterized by different types of  
5 businesses. The OP proposal would consolidate  
6 the commercial categories. So the zoning  
7 regulations would not be consistent with the  
8 generalized policy map.

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

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

22 On the surface, OP's

1 recommendation may seem to be simpler, but it  
2 is not consistent with the comprehensive plan  
3 and does not provide the type of  
4 predictability that is necessary.

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

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

21 Similarly, we have concern with  
22 other design standards, and we strongly oppose

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1 granting any bonus height based on a  
2 requirement that there be 14-foot clear  
3 ceiling heights.

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

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

16 Thank you.

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

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1 Ms. Hargrove?

2 MS. HARGROVE: I thought it was.  
3 I'm sorry. Thank you.

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

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

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

21 Special districts were started in  
22 New York, and the recommendation to Dr. Lewis

1 of years ago, who was Chairman of this  
2 Commission, was that we establish something  
3 here very similar to that, and it was agreed  
4 that we would set up what we have set up here  
5 now by way of overlays. But in recent years,  
6 we have been very, very much discouraged from  
7 using the overlay device, and that was so for  
8 my neighborhood, which has asked about it  
9 several times. I think that is very  
10 unfortunate.

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

20 It was a very extensive thing, of  
21 which there was an analysis made of how much  
22 land should be used for commercial uses and

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1 what kinds were needed, especially. This was  
2 a crisis at that time, because there was a  
3 recognition that retail had gone down  
4 drastically in relation to the Census data  
5 which showed very clearly that middle income  
6 families had left to the suburbs.

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

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

21 How much institutional growth do  
22 we really want in the city? A small amount or

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1 a larger amount? that has not been resolved  
2 either. So to just think we can just go about  
3 tinkering with little individual areas alone  
4 seems to me to be a fallacy, if we have any  
5 overall principles.

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

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

22 The macro standards issue, I would

1 hope, would be part of this, and I would hope  
2 also that we could make a request that the  
3 city would further explicate how this system  
4 would work.

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

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

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

20 Similarly, if you want to talk  
21 about occupancy of premises, the building code  
22 determines what the occupancy of premises is

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1 going to be, at least to a degree, because of  
2 the fire code regulations.

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

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

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

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

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1 deemed contributing.

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

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

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

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

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

21 I hope you will forgive me if I  
22 say this. I don't think of you as a design

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1 board, and I really don't think of the  
2 Planning Office quite yet as being a design  
3 entity. So I think we have to be careful  
4 about that.

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

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

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

19 I will tell you the reason I know,  
20 because my ANC -- they know exactly when I am  
21 going to be here dealing with ZRR stuff, and  
22 it was just mentioned to me last night: You

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1 won't come to the banquet, because I know you  
2 all have a ZRR hearing. So that's adequate  
3 notice.

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

8 MR. ESPENSCHIED: May I respond?

9 ZC CHAIR HOOD: Sure.

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

16 Yes, we all knew that there was  
17 going to be a hearing tonight, but as  
18 originally conceived it wasn't -- well, it  
19 wasn't, in fact, what it has been. I think  
20 that's a fair complaint, but it is subjective.  
21 So I leave the rest to you.

22 ZC CHAIR HOOD: Okay. But

1           apparently, it was communicated and clarified,  
2           I believe. Am I correct?

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

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

10                      MR. ESPENSCHIED; Not 40 days ago.

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

19                      As the result of some complaints  
20           about that change between task force and  
21           public hearing notice -- I mean, we are more  
22           than willing to postpone a decision on overlay

1 versus non-overlay and on what the particular  
2 use groups would be until a later date. I  
3 think that constitutes the majority of the  
4 change in the wording between task force and  
5 public hearing notice.

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

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

20 Once we do our conceptual  
21 approval, things may change. I mean, what we  
22 are talking about today, two years from now we

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1 may be talking about something totally  
2 different. But I think what we do need to do  
3 is start. I think we need to start.

4 We might not always agree. We  
5 probably won't agree at the end, but I think  
6 from what I am seeing, we will probably be  
7 closer together. So I just wanted to say  
8 that.

9 Let me also -- Ms. Zartman, you  
10 mentioned -- I wrote it down somewhere.  
11 Anyway, you mentioned the process you thought  
12 from what happened at the parking the other  
13 night.

14 I think that was text, right?  
15 You are going to see that -- We have given --  
16 The Commission has given OAG the authority to  
17 work with the task force on text. Right? So  
18 I'm wasn't clear on your statement when you  
19 started off.

20 MS. HARGROVE: At one point, there  
21 was a proposal that the Commission should wait  
22 until it publishes proposed action, and then

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1 the Commission realized that that would be  
2 very late, and in the informal discussion  
3 after your session I thought we were told that  
4 we would be able to see the draft language.

5 There was some back and forth  
6 between Alan and Travis in terms of what could  
7 be authorized for distribution. I think you  
8 and I even joked about I would need to have it  
9 in time to be able to share potential changes  
10 we would recommend with my board.

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

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

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

19 MR. PARKER: Yes.

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

22 MR. PARKER: Parking and loading -

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1 - those can be stand-alone chapters. When you  
2 give us your guidance on those, we will go  
3 write you a parking chapter and a loading  
4 chapter, and we will bring it back to you.

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

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

15 MR. PARKER: Height we had  
16 originally talked about writing as a separate  
17 chapter. I think it was Barbara herself who  
18 recommended that maybe that should be tied  
19 together with other chapters, and I think I  
20 agree that height -- we should make a  
21 determination later whether we do it like it  
22 is now, whether it is mentioned in each zone

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1 or whether we have a separate height chapter.

2 So I think we are proposing to  
3 wait and write height into the text along with  
4 everything else.

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

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

17 VICE CHAIRMAN JEFFRIES: Are you  
18 talking about process here?

19 ZC CHAIR HOOD: Process, yes. And  
20 as we formulate this, you know, it may take us  
21 four or five hearings to get a way as a  
22 process, and everybody is on board. We may

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1 not always agree, but I don't want us to do  
2 four or five hearings and then we come up with  
3 20 hearings, and then we are right back at the  
4 first hearing when nobody is agreeing, we are  
5 all apart, the process is still messed up.

6 We need to start coming together.

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

9 ZC CHAIR HOOD: They already got  
10 my room.

11 VICE CHAIRMAN JEFFRIES: To me, as  
12 long as there is a sense of transparency and  
13 -- I mean, clearly, there needs to be  
14 consistency in terms of how we are doing  
15 things, and I agree with you, Mr. Chair, that  
16 I think in time this is all going to be  
17 crystal clear. But I do think, as long as  
18 there is transparency and there is outreach  
19 and the various groups, commissions, feel  
20 comfortable that they have had an opportunity  
21 to sort of review these things -- I mean, this  
22 is going on two tracks.

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1           One is process, and then to  
2 substance, I believe, what we are dealing with  
3 here, and these are pretty large issues.

4           Mr. Chair, if I could just go and  
5 have a couple of questions?

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

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

13           How is the neighborhood commercial  
14 overlay working in Cleveland Park?

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

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

19           MR. ESPENSCHIED: Well, this is a  
20 good time to ask that, because it had started  
21 to be working recently. The current Zoning  
22 Administrator has been working at it to make

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1       sure he understands it. He does, and has done  
2       the counts, which are the critical item in  
3       making an overlay work, because certainly not  
4       the only important ingredient, but the sort of  
5       big one is the percentage limitations, which  
6       mean that in order to know whether you can  
7       allow an entity to come in one place, you've  
8       got to know what you've already got.

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

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

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

22                As you know, overlays started in

1 this ANC, and three of them are there, and so  
2 we are getting a good perspective on how well  
3 they work. They are doing fine.

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

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

14 ZC CHAIR HOOD: Okay. Vice  
15 Chairman?

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

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

22 MR. PARKER: I don't know. As I

1 mentioned, this year I have personally heard  
2 of something on the order of about six  
3 requests for overlays, some of those  
4 residential, some of those commercial. But  
5 even if it is two or three a year, that  
6 doesn't add up to -- It takes a while to add  
7 up to hundreds.

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

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

21           It is just a matter of what the  
22 chapters look like in the code.

1           VICE CHAIRMAN JEFFRIES: But we  
2 are not looking at the potential of having  
3 zoning regulations where we have like 200  
4 zones.

5           MR. PARKER: If we wait another 50  
6 years to update our code, maybe we do have  
7 200.

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

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

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

19          VICE CHAIRMAN JEFFRIES: Okay. I  
20 am going to just set up a situation here  
21 between you and Ms. Zartman, because Ms.  
22 Zartman has been talking about the stand-alone

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1 districts for a while now, and I've been  
2 reading it, and I just -- So just -- You've  
3 said it several times, but in just probably a  
4 different language, what is your just  
5 opposition, strong opposition, to the stand-  
6 alone districts?

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

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

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

19 It may be that you are going to  
20 come to something that you think is going to  
21 be better in the future, but in the interim  
22 you've got a neighborhood that doesn't know

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1 what you are planning for, neighborhoods that  
2 have not necessarily been treated very well by  
3 various administrations, and they tend to find  
4 themselves at the end of the line on  
5 improvements and other things.

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

13 I don't think it is going to come.  
14 I think, as I said, you are going to  
15 destabilize the real estate community. People  
16 aren't going to put capital at risk in a  
17 system that is evolutionary over a period of  
18 many years.

19 VICE CHAIRMAN JEFFRIES: How is  
20 that different from overlays?

21 MS. ZARTMAN: Well, overlays are  
22 fairly limited. You've still got your base

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1 zoning that is going to be the same C-2-A, C-  
2 3, R-5.

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

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

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

20 MS. ZARTMAN: On historical, on  
21 political. I joked with Travis when we first  
22 talked about this. I said, you tell me that

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1 we are going to have Georgetown specific  
2 zoning and that we are going to design it.  
3 Well, if that "we" is the citizens association  
4 and the ANC and the business association,  
5 that's one thing. But if it is going to be  
6 Paul Cone and Richard Levey and Anthony  
7 Lenaise and Herb Miller, that's going to  
8 produce a very different outcome, and you  
9 can't tell me who is going to be sitting at  
10 the table.

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

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

21 MS. ZARTMAN: Not in my lifetime.

22 VICE CHAIRMAN JEFFRIES: Not in

1 your lifetime. Okay. Let me move to -- I  
2 just want to just sort of try to highlight  
3 this.

4 So, Mr. Parker, can you just  
5 respond?

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

12 Our proposal is to create a new  
13 system for neighborhoods to change their own,  
14 and not to change the process through which  
15 that happens at all. There would still be a  
16 public planning process. There would still be  
17 a small area plan where necessary. There  
18 would still be council approval, zoning  
19 commission approval, but to change the way in  
20 which that is implemented from creating and  
21 designing a unique overlay to sit on top of  
22 that, that may or may not look like all the

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1 other overlays, to creating a system where we,  
2 OP, can go in and say, okay, you want 50-foot  
3 buildings; let's change the standard from 40  
4 to 50, and you want a limitation on  
5 restaurants. So we will slide that in right  
6 here.

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

16 So it is not a matter of wiping  
17 the C-2-A slate clean across the city. It is  
18 saying we will create this system, and  
19 everything that is C-2-A zoning now and 50  
20 feet and 2.5 FAR is still 50 feet and 2.5 FAR,  
21 but if this neighborhood comes in with a small  
22 area plan, we can easily maneuver the pieces

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1 that they want maneuvered without creating an  
2 overlay to mash on top of C-2-A zoning.

3 COMMISSIONER MAY: If I could  
4 follow onto that, going back to the analogy of  
5 the automobile, what we are starting out with  
6 is new cars for everybody. Right? So the C-  
7 2-A, instead of using that old, beat-up C-2-A,  
8 you get a new version of that that is a little  
9 bit more clearly written and resolves  
10 conflicts and those sorts of things.

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

20 MR. PARKER: Correct.

21 VICE CHAIRMAN JEFFRIES: And how  
22 is that different than -- I mean, I know

1 overlays over baseline district, but how is  
2 that any different, quite frankly, than what  
3 we have now?

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

20 So we have a starting point for  
21 every neighborhood. So the implementation is  
22 easier, and then ultimately, and with any

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1 luck, the administration is easier in that you  
2 don't have to compare between the C-2-A and  
3 the overlay X to see, for the standard that  
4 you are looking for, which is more  
5 restrictive. You just have one chapter, and  
6 you look right there, and you know what your  
7 standards are.

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

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

14 We have identified more than 200  
15 communities who ought to be treated equally,  
16 and you are not going to be able to handle 200  
17 community zone designs, and if you take away  
18 the uniformity of the current underlying zones  
19 we have, you really put those communities who  
20 may not have the clout to find their way to  
21 this table -- and they are going to be,  
22 unfortunately, at the risk of people who are

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1 more adept at maneuvering land use matters.

2 I just think that's wrong.

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

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

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

20 So it is essentially -- I think  
21 the point, if I may jump in here, because now  
22 that I understand better what is going on --

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1           Whatever you could build now in an existing C-  
2           2-A zone, you are still going to be able to  
3           build pretty much the same thing under the new  
4           one.

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

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

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

19                    MS. ZARTMAN: Right. OP has.

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

22                    MS. ZARTMAN: I don't know.

                    COMMISSIONER MAY: Well, even if

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1           there are 10, it is not 200. Right? Fifteen?  
2           Whatever it is.

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

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

12                      MS. ZARTMAN; I don't believe that  
13          is what the paper says.

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

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

21                      MS. SIMON: May I say so, because  
22          reading the advertisement it looks like

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1 replacing the architecture --

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

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

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

15 So even when we did the overlay  
16 zones for the first time, that issue came up,  
17 and we decided that since at least you are  
18 keeping the underlying framework -- I can look  
19 on a map, and if I decide tomorrow that I want  
20 to move to a C-1 zone -- I don't live near  
21 one; so I just use that as an example -- that  
22 I could see it on the map.

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1           Even if there is an overlay, I  
2 know that there are some C-1 zones out there  
3 that I could move to. We are going to have an  
4 incredibly complex system to try to figure  
5 out.

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

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

20           I think that what we have talked  
21 about here and what I just talked about in  
22 terms of the 180 standard C-2-As and then

1 there are 20 customized C-2-As, that is the  
2 intention, regardless of what is on the piece  
3 of paper. I think that is what the intention  
4 is, and I think that that is -- It is  
5 incumbent on the Office of Planning to make  
6 that clear in future pieces of paper.

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

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

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

21 MS. ZARTMAN: It is on page 2,  
22 Item 1: Replace existing commercial zone

1 districts and overlays with stand-alone  
2 districts in which the uses and area  
3 restrictions are tailored to the needs of  
4 specific and contiguous geographic areas.

5 ZC CHAIR HOOD: Oh, okay.

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

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

18 Does that get closer to what I've  
19 described? So instead of saying that we are  
20 going to go around immediately and tailor all  
21 the zones, we are replacing it with something  
22 that is tailorable.

1 MS. ZARTMAN: Sure. Permit  
2 existing commercial zones and districts--  
3 Permit, not require.

4 MR. PARKER; Fair enough. But  
5 replace a system of commercial districts and  
6 overlays with just a commercial district  
7 system that is tailorable in the way that  
8 overlays are tailorable. Fair enough?

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

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

19 COMMISSIONER TURNBULL: Right.

20 MR. PARKER: To fill in all this  
21 stuff -- like we've just got some broad  
22 principles that this is going to be in one

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1 document, but there is a lot of work to do  
2 about what that means, and we are going to  
3 have a whole working group.

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

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

18 OP is convinced that the system we  
19 have designed is the most efficient way to do  
20 it, but we don't need you to make a decision  
21 on that tonight, if it makes everyone more  
22 comfortable, that we can decide that later.

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1                   VICE CHAIRMAN JEFFRIES:  The other  
2                   thing that I wanted to add here -- and maybe  
3                   I missed it in terms of best practices --  
4                   relates to this particular -- this business of  
5                   what you are presenting in terms of how to  
6                   categorize.

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

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

17                  You made another point there,  
18                  though, about the use categorizations, and  
19                  that is something that has come up in all of  
20                  our working groups and has been an individual  
21                  discussion in the industrial, institutional  
22                  and retail.

1           That is what we talked about last  
2 month, about instead of having that discussion  
3 four times, five times, let's just have it  
4 here today. So that involves some more broad  
5 zoning regulations-wide research where we  
6 talked with OAG.

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

15           VICE CHAIRMAN JEFFRIES: I'm just  
16 -- Again, obviously, you are talking about  
17 change here, and everyone is afraid of change,  
18 although I hope we can get over that November  
19 4th. But I think that -- Sorry, I shouldn't  
20 have said that. But I guess, given that we  
21 are talking about change here -- I mean, you  
22 know, a system by which people are comfortable

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1 -- that you are not creating something that is  
2 very, very different, but something that has  
3 been done for years and years in many other  
4 cities, and this is how it has worked, and  
5 they are happy with it, and so forth, so that  
6 people are getting comfortable with what you  
7 are putting forward.

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

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

20 MS. ZARTMAN: Well, and I think  
21 this is an economy in which, I think,  
22 destabilization is particularly unwelcome.

1                   COMMISSIONER MAY: Can I just say  
2 one thing about it. In terms of the best  
3 practices discussion, one of the things that,  
4 I think, that struck me in the testimony -- I  
5 think it was Ms. Zartman who said it -- as the  
6 transition from where we are into a  
7 customizable zone -- I imagine that the other  
8 cities that have these customized districts  
9 had to transition to it, that they didn't --  
10 You know, when they first wrote their zoning  
11 regs 50 or 100 years ago, they were more like  
12 our current ones.

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

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

20                   ZC CHAIR HOOD: Okay. Chairman  
21 Miller?

22                   BZA CHAIR MILLER: And it may be

1 somewhat repetitive. I hope not too much.  
2 But if Office of Planning is giving this more  
3 thought -- I mean, basically, what I hear, and  
4 I think giving more thought to, is the issue  
5 of predictability, which we have now, which  
6 everyone knows the districts and the overlays,  
7 versus the improvements that you think would  
8 result. Is it worth it?

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

17           MR. PARKER: Right.

18           BZA CHAIR MILLER: So I can see  
19 that that is the point of it. My basic  
20 question is -- and I haven't seen it. When I  
21 got involved in zoning, all the overlays were  
22 already in place.

1           So I don't know how this actually  
2 works out in the communities. You know, who  
3 gets to -- As Ms. Zartman said, who gets to --  
4 How is this decision made what is going to  
5 happen to that particular community, and I  
6 think that can be dicey, but it can be  
7 democratic. I don't know, but I think it is  
8 something that needs to be thought through a  
9 little bit before it is thrown into action,  
10 and how can it be undone, if you do this  
11 experiment and then it doesn't work?

12           So those are my comments.

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

20           Let me see. Any other questions?  
21 Can you keep your comments very brief? We  
22 want to hear from those -- I'm seeing some

1 gestures, and we want to hear from those in  
2 the audience also. Okay, go right ahead.

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

5 ZC CHAIR HOOD: Just go right  
6 ahead.

7 MR. ESPENSCHIED; I wanted to  
8 respond to especially what Mr. Jeffries was  
9 asking about before.

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

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

22 We can clearly see downsides. That

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

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

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

21 So you are starting over every  
22 time you have a question or litigation in

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1 another different zone; whereas, at the  
2 present time, if you are in C-2-A, you know  
3 what the C-2-A rules are, and they have been  
4 worked out.

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

8 VICE CHAIRMAN JEFFRIES: No.

9 ZC CHAIR HOOD: Is this helpful?  
10 If not, I'm going to need to cut you off, Mr.  
11 Espenschied.

12 VICE CHAIRMAN JEFFRIES: It's  
13 helpful.

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

16 MR. ESPENSCHIED: Well, okay. You  
17 know where you are with regard to the  
18 underlying zoning, because that has all been  
19 the subject of -- It has a history.

20 The overlay is specific overlays,  
21 and you need only to look at those. They are  
22 nicely separated by being an overlay. They

1 create certain exceptions or certain  
2 additional requirements, but they are very few  
3 and very limited. They are not mixed in with  
4 some new zoning. Okay?

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

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

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

21 MR. IDELSON: Just one brief  
22 statement to make, if I may, really brief.

1           You know, overlays come down to  
2 uses at the commercial level. It's come down  
3 to uses and percentages, really finite things.  
4 Are we going to pick them up bodily and  
5 transplant them into this new system?  
6 Probably not.

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

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

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

1 record.

2 MR. PELOQUIN: How do you do? My  
3 name is Jerome Peloquin. I live at 717  
4 Lawrence Street, N.E., Washington, D.C.,  
5 Brookland.

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

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

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

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1 in front of the IT department.

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

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

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

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

21 ZC CHAIR HOOD: Well, we don't  
22 want to talk -- Well, let me just say this.

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1 Anything in front of us, we cannot sit here  
2 and allow testimony outside of the realm of  
3 that hearing. So work with us, and we will  
4 work with you. If not, I am going to have to  
5 cut it off.

6 MR. PELOQUIN: Very good. Thank  
7 you.

8 ZC CHAIR HOOD: Okay, have you  
9 finished?

10 MR. PELOQUIN: No.

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

14 MR. PELOQUIN: Very well.  
15 Community control is enhanced by granularity,  
16 and it is reduced by aggregation. What we are  
17 talking about doing here is aggregating the  
18 control of the zoning at the community level.

19 So the decisions can be made  
20 easily by zoning boards and by planning  
21 commissions, and that deteriorates the quality  
22 of control at the community level.

1           As I said, I am an organizational  
2 psych. I've seen it happen before. This is,  
3 plain and simple, not intentionally -- I  
4 believe you are all well intentioned people,  
5 but it is a power grab by an organization to  
6 enhance its own control.

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

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

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

20           Young lady, if you can just  
21 identify yourself.

22           MS. TYLER: Yes. Can you hear me

1           okay?

2                           ZC CHAIR HOOD:   Yes.

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

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

13                          VICE CHAIRMAN JEFFRIES:  What  
14          neighborhood, by the way?

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

19                          ZC CHAIR HOOD:  I was at your 5-A  
20          meeting last night, and they are in trouble.  
21          Okay, we are going to work it out.  I live in  
22          Ward 5 also.  We are going to get them.

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1 MS. TYLER: What I wanted to know  
2 is: In listening to all the use categories,  
3 what will happen if you happen to live in the  
4 area where the category has been changed?  
5 Will there be something grandfathered in or do  
6 we have to move out of the community?

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

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

18 Right now, low density is giving  
19 me a fit, because I can't move my car to go to  
20 a doctor's appointment. I can't move my car  
21 to go to the grocery store and come back.  
22 From eight o'clock in the morning until 8:30

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1 at night, everybody except who live in that  
2 neighborhood is there.

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

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

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

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1 go, just to get a parking space.

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

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

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

18 MS. YAHR: I'm sorry. I didn't  
19 register, but there is one issue that didn't  
20 come up.

21 ZC CHAIR HOOD: Would you identify  
22 yourself?

1 MS. YAHR: I sure will. But there  
2 is one point that didn't come up that I would  
3 like to make.

4 ZC CHAIR HOOD: Could you identify  
5 yourself?

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

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

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

22 We have actually just recently

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

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

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

17 MS. YAHR: We are in 5C.

18 ZC CHAIR HOOD: You are in 5C.  
19 Okay. You are in 5A. Okay. Maybe that's  
20 where I got it from, but I don't know when --  
21 I think 5C meets the second Tuesday. You know  
22 when it meets? Okay. But 5A meets -- They

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1 just met last night. I was at the meeting.  
2 They meet the fourth Wednesday of every month,  
3 and you have some very good commissioners in  
4 5A and 5C, from my experience.

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

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

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

20 I guess it wasn't evident tonight,  
21 and I don't know if you will take my word for  
22 it, but this is a long ongoing process about

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1 improving the regulations, not for the ease --  
2 not necessarily for the ease of Board members,  
3 but actually for the public to be able to use  
4 and understand the regulations more easily,  
5 and for them to promote positive things in the  
6 city, you know, either protection of  
7 residential properties or promotion of retail,  
8 where appropriate.

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

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

17 There are still working groups  
18 going on. There is a whole task force that is  
19 involved, but the public can get involved in  
20 working groups, and they can also answer  
21 questions for you about your own specific  
22 community. But I can also, I think, fairly

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1           assure you that whatever we are doing is not  
2           going to change the right that you have to be  
3           where you are based on the current law. So  
4           you don't have to be afraid of that.

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

16                       MR. PELOQUIN: may I ask a  
17          question? I seriously suggest -- free  
18          consulting -- that someone consider slowly and  
19          carefully before they commit words to paper,  
20          because all of this was engendered by a  
21          misunderstanding caused by the imprecise  
22          language on a document.

1                   ZC CHAIR HOOD: Your point is very  
2 well taken, very well taken.

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

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

18                   Now I do understand that we are  
19 not all going to agree. As the Vice Chairman  
20 said, we may be here -- and I go back to what  
21 Commissioner May said also. That gap should  
22 be coming closer together. It should be

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1 coming closer together for process, not  
2 necessarily agreeing, because as you can see,  
3 once in a while my colleagues and I -- we  
4 don't always agree. That's very seldom,  
5 though.

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

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

16 MR. PARKER: And totally  
17 understood, and let me just say we've got a 90  
18 percent good process here. We will continue  
19 to tweak it to try and avoid misunderstandings  
20 and miscommunications. But one thing I have  
21 to keep stressing is we went into this process  
22 knowing that we weren't just presenting a

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1 complete set of ideas for reaction.

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

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

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

21 So I think you've gotten off to a  
22 very good start, given what we know about

1 communities and resistance to change and even  
2 listening for change. I think we all  
3 understand that. So I just wanted to make  
4 certain that you don't walk out of here today  
5 thinking that you guys aren't doing a great  
6 job. I think you are doing a great job.

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

11 Okay, let's --

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

15 At the end of recommendation 1 and  
16 2, we had a break, and I asked a question:  
17 What's the definition of local control? That  
18 still keeps coming back.

19 I think at some point in time, I  
20 think everyone is confused as to who is at the  
21 steering wheel. I think a lot of people are  
22 worried about whether it is developers. Is it

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1 going to be the ANC? Is it community  
2 associations?

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

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

14 MR. PARKER: I can do my best.  
15 Sure.

16 COMMISSIONER TURNBULL: Good.  
17 Thank you.

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

20 ZC CHAIR HOOD: Chair Miller?

21 BZA CHAIR MILLER: And it is a  
22 substantive one on the use question, which I

1 said I supported the concept of going in the  
2 direction of broader categories because of my  
3 experience with all the uses that become  
4 outdated. But after hearing testimony  
5 tonight, I am just wondering if you can  
6 address some of the concerns like the  
7 difference, if you just do food services and  
8 you don't separate some of those that have  
9 been found to have adverse impacts on the  
10 community more than others, such as bars and  
11 fast food versus restaurants or whatever.

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

18 Okay, thank you.

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

22 MS. TYLER: How can we get a copy

1 of his report, since I have never seen it or  
2 heard of it in its entirety until tonight. is  
3 it possible?

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

9 MS. TYLER: Thank you.

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

12 MR. PARKER: I only have the one.

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

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

20 The record will be open until 3:00  
21 p.m. on November 24th. Office of Planning  
22 will have until December 2nd to file responses

1 to that, if there are any or if you choose to  
2 do so.

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

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

13 Okay. With that --

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

19 I've got from Ms. Miller a further  
20 discussion of uses and how we granulate that,  
21 and from Mr. Turnbull a discussion of the  
22 process for making zoning changes on a local

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1 basis. Were there other items that we should  
2 be returning to you?

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

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

16 MR. PARKER: Bingo. Thank you.

17 ZC CHAIR HOOD: Okay.

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

22 I don't want to say too much more,

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1 but one of the things you did say was -- one  
2 was you could just add one thing instead of 10  
3 to make a whole overlay, but is anything else  
4 going to change, if you could let us know.  
5 Thank you. Sorry.

6 ZC CHAIR HOOD: No problem. Okay,  
7 anything else? We are all on the same page?

8 Ms. Schellin, is there anything  
9 else?

10 SECRETARY SCHELLIN: Nothing else.

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

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

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22