GOVERNMENT OF THE DISTRICT OF COLUMBIA

ZONING COMMISSION

PUBLIC HEARING

IN THE MATTER OF: Case Number

COMPREHENSIVE ZONING REGULATIONS REWRITE: LOW/
MODERATE DENSITY RESIDENTIAL:

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Thursday, April 9, 2009

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

The Public Hearing of Case No. 08-06-8 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY HOOD, Chair WILLIAM WARREN KEATING, Commissioner MICHAEL TURNBULL, FAIA, Commissioner (OAC) PETER MAY, Commissioner (NPS)
OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary
ESTHER BUSHMAN, General Counsel

OFFICE OF PLANNING STAFF PRESENT:

TRAVIS PARKER

ALSO PRESENT:

GALE BLACK
JANAE GRANT
DAVID GARRISON
DWAYNE TOLIVER
NANCY MacWOOD
GARY PETERSON
CHERYL CORT
DAVID ALPERT
ALMA GATES
GEORGE CLARK
ANNE SELLIN
BARBARA ZARTMAN
GEORGE WATSON
RICHARD HINDS
MARILYN SIMON

The transcript constitutes the minutes from the Public Hearing held on April 9, 2009.
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CHAIRPERSON HOOD: This is the Public
Hearing of the Zoning Commission for the District
of Columbia for Thursday, April 9th, 2009.

My name is Anthony Hood. Joining me
are Commissioners Keating, Turnbull and May.
Also joined by Ms. Schellin, Ms. Hanousek and Ms.
Bushman, Office of Planning, Mr. Parker.

This proceeding is being recorded by
a Court Reporter and it is also webcast live. We
ask you to refrain from any disruptive noises in
the hearing room.

The subject of tonight's hearing is
Zoning Commission Case No. 08-068. This is a
request by the Office of Planning for the
Commission to review and comment on proposed
concepts for text amendments to the Zoning
Regulations.

This is one in a series of hearings on
various subject currently under review as part of
the broader review and rewrite of the Zoning
Regulations. Tonight's hearing will be considered regulations -- tonight's hearing will consider Regulations applicable to low and moderate density residential.

Notice of this hearing was published in the D.C. Register on February 20th, 2009, and copies of the announcement are available to my left on the wall near the door.

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

Preliminary matters, presentations by the Office of Planning, reports of other Government agencies, if any, report of the ANCs, organizations and persons in support, organizations and persons in opposition.

Typically what I do, I usually bring ANCs, especially if you've been identified and even if you have ANC Commissioner first, so I hope no one gets upset with that, but that's just out of respect. That's something that I do.

The following time constraints will be
maintained in these hearings. ANCs, Government agencies and organizations five minutes. Individuals three minutes. The Commission intends to adhere to the time limits as strictly as possible in order to hear the case in a reasonable period of time.

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

When presenting information to the Commission please turn on and speak into the microphone, first stating your name and home address. When you are finished speaking, please turn your microphone off so that your microphone is no longer picking up sound or background noise.

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

The staff will be available throughout the hearing to discuss procedural questions. Please turn off all beepers and cell phones at this time so not to disrupt these proceedings.

At this time, the Commission will consider any preliminary matters.

Ms. Schellin, do we have any preliminary matters?

SECRETARY SCHELLIN: No, sir, we don't.

CHAIRPERSON HOOD: No preliminary matters.

Mr. Parker, are we ready yet? Are we good to go?

MR. PARKER: We're ready to go.

CHAIRPERSON HOOD: Okay. All right. Well, Mr. Parker, I would ask that you present it in the fashion that you see necessary.
We may want to take a break in between there to ask our questions. But we'll leave that up to you.

MR. PARKER: I'll make a few stops in the middle.

Thank you very much.

CHAIRPERSON HOOD: Thank you.

MR. PARKER: Good evening, Mr. Chairman, members of the Commission. My name is Travis Parker with the D.C. Office of Planning.

Tonight we're going to talk a bit about recommendations for the zoning rewrite in terms of low and moderate density residential.

There are 14 recommendations and I'll try and go through them in a little bit of detail but as quickly as possible.

The first one is the main structural recommendation in terms of the structure of the zoning code and the key word here is customization. We had this discussion in terms of retail and you'll recall we talked a lot about, you know, making local districts, you
know, changeable and customizable so that we could have more local control and more local input into what the zoning district should be.

We noticed, you know, both in D.C. and nationally a drive for more locally characterized zoning. We see that by an increased number of overlays and an increased number of zones in general, both in D.C. and in other places in the country.

The difficulty that we have right now is that our system wasn't designed that way originally. We have basically five districts for single family and rowhouse buildings. You know, the R-1-A, R-1-B, R-2, R-3 and R-4. R-5 has a lot of rowhouse character as well, but allows more limits -- but allows more units. But the basic concept here is that we have just these five districts to describe all of the residential structures and character in our entire city that don't necessary fit into five comfortable categories.

And the result is, we've got an R-4
that's the same in Ward 1 and Ward 5 and Ward 8
and if my neighborhood which is zoned R-4 doesn't
fit the standards of R-4, there's no way for
either the Zoning Commission or me as a neighbor,
as an ANC person, to make changes to the R-4
District. The only way that we would have right
now accomplish locally based changes to the
zoning code is through the creation of a new
chapter, the creation of an overlay.

And so right now the way it works as
you are all well aware is, if I live in a R-2
District that has a 40 percent lot occupancy
coverage and my neighborhood only has homes that
are up to 30 percent. All of the homes are less
than 30 percent of my neighborhood. So, new
buildings built to 40 percent would allow for
mansionization of my neighborhood. There is no
way right now to change the R-2 in my area. The
only thing that we can do as the Office of
Planning, as ANCs and as the Zoning Commission is
coming in and write new chapters and write new
sections that sit on top of the R-2. And say,
well, we're R-2 but we're really not. We've changed these few things about our neighborhood.

And now we have two sections in the code where I as the property owner or as a future developer have to look to figure out what the rules are for how I do business in this area.

Our general proposal in terms of Recommendation 1 is just to restructure so that we don't have to write a new chapter or create a new section every time we want to do this. This is not -- again, this is just a structural change, not changing standards of any neighborhoods, not changing the policies of any neighborhoods. So, areas that are zoned R-1-B with 40 percent lot occupancy keep 40 percent lot occupancy.

But areas right now that have, you know, R-1-B plus an overlay that says 30 percent lot occupancy it's not really R-1-B. It's something else. So, let's call it something else but give it a 30 percent lot occupancy and give it its own section within the greater universe of
R-1 Districts or of single family detached districts. So, we can put all of the regulations and rules for that area in one place where -- and the map works the same way, you know. R-1-B areas stay R-1-B or whatever we decide to call them. R-1-B with/overlay just becomes R-1 something else or maybe R something else.

It's not a change in terms of what's allowed in that area. So, we're not proposing to change anybody's neighborhood through this structural change. What we're proposing is just to change the structure of the regs, an organization of the regs to try and make it simpler to make changes in the future and to give some organization and some standardization to how that's done.

So, the question came up at the last one. Well, won't this result in, you know, hundreds of zoning regulations -- zoning categories? Well, we're already there.

Right now we've got nearly 130 zoning categories. And we have more every year. It's
not a matter of -- I think we as a city have already decided that we support localization of zoning and customizing local areas for their particular needs. But right now the only way to accomplish that is to make this chart more complicated and continually add districts.

So, the basic of Recommendation 1 again. Allow local changes to the R-2, to the R-3, to the R-4 in such a way that we can describe the characteristics of those buildings in the zoning or the characteristics of what we want in that area in our zones.

And while there's a lot of ways to write and to map this and we need to work with OZ on what the best way to codify it is, the best way to picture it is as we talked about in the retail hearing as a template. Having a template for single family detached zones where we have some rules that don't change like parking. Parking would be the same throughout all the single family detailed zones.

And then you have -- you have the
standards, the height, the lot occupancy, the side yard, the rear yard that would be, you know, wet where they're set now but would be changeable in the future on a local basis.

And, again, this would not change the process for submitting changes or for coming up with changes. This doesn't say that OP is now going to come in and make changes to neighborhoods or that OP is the only one that can suggest these changes. There would be no change to how to initiate changes in the new systems from the overlay system. Right now ANCs propose overlays, community organizations propose overlays and sometimes the Comp Plan or small area plans propose overlays.

The initiation of any changes under the new system would be exactly the same.

So, one of the big benefits of this is just time. Along the top bar there you see that right now you see most of our existing neighborhood overlays are the result of a small area plan or other, you know, other area wide
planning process. That's a process that takes generally at least a year. A public review and it goes to the council. Right now those small area plans, you know, result in a bunch of statements. Things like, you know, preserve the open space in this neighborhood or lower or raise density of these areas. And what we have to do now is translate those small area plans into zoning text and write an overlay that says. All right. Here's what that means in terms of lot occupancy. And here's what that means in terms of height and FAR and go through another year process to write an overlay which then goes through the Zoning Commission approval.

If we allow for a standardization of this instead of drafting a new overlay every time and creating something from scratch we can have a template that says here are the standards along with various other tools as necessary that are at your disposal and as part of that planning process, whether it's a small area plan or other or just, you know, at the behest of an ANC or
community group, we can through that planning
process just fill in those blanks and make those
changes.

So, I guess the metaphor that we hard
recently that I really liked is all the knobs are
the same across the city by we can turn the dials
differently in local neighborhoods. And so then
we reduce the process by the amount of time that
we'd normally spend writing a new overlay section
or writing a new overlay chapter.

So, overall the goals of this change
in terms of organization of the regs is just, you
know, remove the overlapping regulations of
having an overlay in one section, an R-2 in the
other section and maybe a third overlay somewhere
else. And, I mean, that results in insuring that
both we as a staff and DCRA as the reviewers and
developers interested in building a home are
aware of all the applicable rules and regulations
for their property and for their area, reduces
the unnecessary cross referencing. It reduces
geographic-specific exceptions saying that, you
know, we found this great tool of whatever it is. Trees and slope or something else and it's applicable here only in this area. And future overlays can think about, you know, putting that same tool when they write their chapter but it's not readily available for adoption. It has to be rewritten and rethought for every neighborhood.

So, creating some tools that reduce that option and reduce, you know, an R-2 that's different in one part of the city from the other. And basically like I said before, reducing the timeframe for revising the regulations in general.

I'd like to if I could stop here because this is sort of the main structural change as opposed to all the ones that are going to come after which are individual regulation based. So, if it's all right with you, I'd love to pause for comments here?

CHAIRPERSON HOOD: Sure. We may have to just have the lights go on and off as we pause.
Any questions or comments, colleagues, on Recommendation Number 1, Create a General Template to Establish Area Use Performance Requirements?

Mr. Turnbull.

COMMISSIONER TURNBULL: Thank you, Mr. Chair.

I'm just curious on this template. Is the template some kind of a standard template just for residential in general or for each residential zone like R-1, R-2, R-3 or 4? Have you drawn a vision or --

MR. PARKER: Right. We need to -- we need to work with those on how to codify it. I mean, the vision that I picture in my head is -- is for low density -- for single-family detached templates. So, the rules for parking are the same in all single-family detached zones. And then you have the variable standards. The height, lot occupancy, etcetera. Have another one for attached which is moderate density. So, low versus moderate density. So -- so, you know,
again you have set parking standards for all the moderate density zones and you know set other things like use standards. And then the height, the lot occupancy, the FAR are -- are variable.

So, you would have a limited number of templates. And then -- which would be a chapter. A low-density chapter, for example, and then you have, you know, five, ten, twenty variations on that as -- as local neighborhoods are interested in right sizing.

COMMISSIONER TURNBULL: Yes. I was looking at your -- in your mapping where you show R-1-B --

MR. PARKER: Yes.

COMMISSIONER TURNBULL: -- and then you've got R-X which was the -- which shows an overlay then that would go through that.

You could have several of those then under R-1. You could have --

MR. PARKER: Just like we do now. We have about a dozen versions of R-1 now.

COMMISSIONER TURNBULL: Right.
So, in one standpoint you're basically trying to codify the residential and a simpler one without getting into the overlay, trying to make it so that if -- instead of going to looking at the District, whatever you're looking at the zone, then having to go and look at the overlay. You simply look at one R-1-X and you can see exactly what's covered in it.

MR. PARKER: So, all the R-1s are in one place and all the rules for all the R-1s are in one chapter.

COMMISSIONER TURNBULL: Okay. So, basically you're trying -- the overlay gets embedded into --

MR. PARKER: Exactly. Exactly.

COMMISSIONER TURNBULL: -- into the new classification?

MR. PARKER: Exactly.

COMMISSIONER TURNBULL: Okay. Thank you.

CHAIRPERSON HOOD: Commissioner May?

COMMISSIONER MAY: So, following that
say line.

You have all the R-1s or we'll call that the detached housing category.

MR. PARKER: Sure.

COMMISSIONER MAY: That template.

So, there will be a single chapter and the first chapter of it may say these are all the things that are common to every single one.

MR. PARKER: Right.

COMMISSIONER MAY: And then there are all these additional flavors --

MR. PARKER: Right.

COMMISSIONER PARKER: -- that can either -- that can be mapped or that will be mapped initially to match up more or less with what's there now.

MR. PARKER: Right.

COMMISSIONER PARKER: And then in the future a neighborhood could petition or go through some process to be able to change their flavor, if they will --

MR. PARKER: Right.
COMMISSIONER PARKER: -- or alter it to match an already existing flavor or to create their own flavor?

MR. PARKER: Bingo.

COMMISSIONER PARKER: Okay. And you were thinking how many general categories? The attached, the detached, you don't know? That's just -- -- figure out something.

MR. PARKER: Theoretically you could have the low density, moderate density, medium density and high density since we have the four categories within the Comp Plan, it could be more stratified than that.

COMMISSIONER PARKER: Okay. And in the end, we're going to have at the very lest in the beginning roughly the same number of flavors?

MR. PARKER: Roughly. Yes.

COMMISSIONER PARKER: And in the future we could have a lot more since you're going to make it so much easier?

MR. PARKER: Just like we're doing now. I mean we get more every year now. Yes.
COMMISSIONER PARKER: But you'll get them faster?

Okay. I think that's it.

COMMISSIONER KEATING: I just have a couple of quick questions.

How much time and energy do you think it will take to basically reclassify all of this into the new structure that you've proposed?

MR. PARKER: I think -- I mean, internally -- well, it needs to be done in conjunction with reclassifying. I mean, we've made a lot of recommendations across the board. We've got 20 areas like this.

My estimate right now is it's going to take six months or a year to -- to come back and put all of that into text.

COMMISSIONER KEATING: Okay. So, year from now we might be working with kind of structure to move forward.

Is this type of structure in place in other jurisdictions of the city? Or is there a model for this or is there other cities?
MR. PARKER: It's almost in place right now in our Neighborhood Commercial Overlay. That's sort of how Chapter 13 was designed which is saying. Neighborhood Commercial Overlays have this general flavor and add your own.

The problem is we've sort of continued to make stuff up as we go and that's not a problem. I mean, we want to allow that and that's something that we want to continue to allow to some extent. But standardize how it's done. Make it very clear that here are the rules you can play by. If you want to add more rules here's how that's done, rather than an ad hoc start from scratch every time.

COMMISSIONER KEATING: Okay.

CHAIRPERSON HOOD: Mr. Parker, one of the -- in some of the submissions and I'll let the people who are here testify to their own issues. But I'm reading some of the submittals that we received. And I know that eventually things are going to come together.

I'm concerned about and I'm not sure
where I saw it. This -- this recommendation is
and I think it was referred to as a blank
recommendation. I forget exactly how that was
referred to, but as we --

Well, this whole process evolves and
I really want you to say this for the record.

When things start coming together I
think the concern about things being abstract and
things taking away certain rights that we have
now as far as a special exception and all that.
As this moves along, I think we will see this
thing start coming into some type of form where
we would more understand it.

MR. PARKER: Right.

CHAIRPERSON HOOD: Is that the way
that you see it?

MR. PARKER: Absolutely. I mean
everything that comes back as Phase 2, after
we've been through this entire guidance phase,
everything that comes back at Phase 2 we'll be
working again publicly in how these things lay
out. And it's a legitimate concern.
We're not asking for preliminary and final approval of change the zoning recommendations in this way. What we're here to ask for is guidance to say yes we're with you enough to instruct you to spend six to twelve months writing it.

You know, what we're here to find out it is this a good direction for us to continue pursuing or don't waste your time anymore and stop here.

So, if it's the former, we're going to be back and we're going to be to the public and we're going to be a task force and we're going to be to you and there will be a chance to say this didn't turn out like we thought it would or it's close but, you know, redo it this way. So, this isn't even a preliminary approval. But this is a, you know, we don't mind the direction, put some more time into it.

CHAIRPERSON HOOD: And I was looking here at how long it took. I guess basically are you saying that it takes us typically 27 months
during the approval process of an overlay or are you just --

MR. PARKER: If you factor in the small area plan process and OP writing an overlay with -- with public input and then taking it through the Zoning Commission process, it's a lot more than 27. That's pretty actually -- pretty conservative.

CHAIRPERSON HOOD: There will be a lot of time going over those overlays before we see it because I do know of one that may have taken 72 months. But, okay. All right.

MR. PARKER: Right.

CHAIRPERSON HOOD: All right.

Any other questions?

Okay. Mr. Parker, we can proceed.

MR. PARKER: Fair enough.

Okay. The next -- I'll go through 2 through 8 next and then we can have questions about those. But 2 through 8 would be variable pieces within the system. So, you got your template and it says. All right. Here are the
standards within the system. Height, side yard, read yard that we're going to go through. And these things would be set close to where they are now as we can based on what our recommendations are and then would be variable components that neighborhoods could customize after that.

So, our recommendation under height is, we got very complicated ways to measure height now. We measure it by feet and by stories. And the difficulty comes in measuring it by stories. We throw a lot of unnecessary interpretation into the mix.

When you measure by stories you have to decide, you know, is that English basement a story? When is that English basement a story? Is the attic a story? When is that a story? Mezzanines? A lot of other things start coming into term when what we're really interested in is the character. And is it less than 40 feet or is it more than 40 feet or is it less than 25 feet or more than 25 feet?

So, the basic recommendation is just
measure buildings in feet rather than feet and stories.

Another problem that this solves is we're suggesting measuring it to the top of the roof as in this diagram right here. Right now we measure to the -- to the ceiling of the top floor. So, if you put a drop ceiling in, your building can go above 40 feet. If your top floor is considered an attic that can be above 40 feet.

If you want a 10 foot design feature of a parapet or anything else on the top of your building that isn't subject to height restrictions. So, we're saying let's have a rational -- a rational limitation on what the height actually is in terms of to the top of the building rather than the top of the ceiling.

Recommendation Number 3 has to do with front yards. Right now we have no option to regular front yards. And our proposal is well basically in our research of lots across the city, there is a very high percentage of buildings in the city that don't come to their
front property line. In fact, the majority of rowhouses in the city don't come to the front property line. Only about a third of the rowhouses in the city actually are built to the property line whereas we picture in our minds that most of them are.

The problem that arises is that you can have a, you know, a historic row of rowhouses. I'll take away historic because historic districts have their own reviews. But you can have an existing row of rowhouses all built along the same plane but if they're built short of the property line the person that comes in and fills in the gap can go all the way in front of the property line, five feet maybe more sticking out in front of the others.

Or, you know, in some people's mind it's not a problem but also equally bad could be to set it back 10 feet so to -- it would break up that existing pattern on the street.

So, the basic proposal is the default of front yard setbacks would be that no in-fill
lot of no future development could go further
than the furthest forward building or further
back than the furthest back building.

So, if on the screen this is a set of
houses on a theoretical block, a fifth house down
if you have an empty lot couldn't go further back
than the most left house or further forward than
the most right house. Whereas now there's is
absolutely no limitations at all on where that
house could go.

Recommendation 4 has to do with side
yards. We did a lot of research into side yards
around the city and the basic thing that we found
is, there is no consistency in side yards. Eight
foot is a great number but it has no relationship
to what's on the ground in our city that was
mostly built before 1958. And there isn't a
number that does. There's not an appropriate
number that describes what our neighborhoods look
like.

We then looked at the space between
building sand thought because we saw that a good
portion of the neighborhoods had buildings that were set off to one side consistently down a street and that also -- there wasn't any consistency in the separation between buildings. But what we saw a great amount of consistency in across the city for detached homes was the ratio of the width of the building to the width of the lot. So, with a fairly high degree of certainty, about 70 percent is the number where houses with a fairly high degree of consistency are 70 percent as wide as their lot. So, on a 50-foot wide lot that translates to a 35 foot wide house. And there was, like I said, a high degree of consistency in that measurement across the city.

So, if we want to promote -- if our goal is to promote in-fill and new houses that fit the pattern of what we have now, a measurement like that will help us do that better because again what we saw a lot of times were -- were blocks where consistently down the street you'd have four feet side yard on the left side and 12 foot on the right side. And they were all
built together and all built in that pattern.

    Well, an in-fill house in that pattern
now wouldn't -- wouldn't be able to be built in
that format, not to mention on the 12-foot side
under the current regs, you could built a four
foot addition. But if all those houses are 70
percent of their lot width, you would not be able
to add on to the side of the houses, even at the
12 foot side because it's an aggregate and a new
house could be made to fit that pattern.

    So, it's something that provides as
much protection in terms of side yard. It is
more -- more representative of what we have now
and it's more responsive to different width of
lot. So, when you get down to 25 and 30 foot wide
lots which we have an awful lot of in the city,
you're limited with, you know, in eight foot side
yards you're limited to, you know, 16 or less
foot -- you know, 16 or 21 foot wide house. So,
it's more responsive to those situations as a
percentage. So, that's a recommendation with
side yards.
We do, you know, we don't want 70 percent to allow for zero lot line either. So, I think along with this we need to have a discussion of and the next step will be to have a public discourse on -- we should have an absolute minimum. Even if you're allowed to do a 12 and a 4, we don't want you to do a 16 and zero. So, we need to have a discussion of what the absolute minimum would be even if we go to a system like this.

Recommendation 5 has to do with courts. For everyone who isn't intimately familiar with our regulation, the court is basically defined as an area that's bounded by at least two walls and/or lot lines. So -- so, in rowhouse districts you'll see a lot of this situation here.

Right now in our code we have minimum area and -- minimum area and width requirements for courts. So, courts depending on whether they are open and closed, which is itself a tricky distinction. Have to be five or six feet wide
and have to have a certain amount of area.

The difficulty comes in that the majority of courts in our city were built before 1958 and are non-conforming which means that if—- if I own this rowhouse and want to extend the dogleg back. Want to add on in this area, I have to get a variance because I am extending a non-conforming court.

So, there is actually a perverse incentive for me to fill in what might be an historic court and what might be a court that is a pattern down the street because it doesn't require me to get a variance to just fill in my court and remove it altogether because then I don't have a non-conforming course.

So, removing the area and width requirements for courts would remove the incentive for people to fill them in and will allow additions to go back more in character with the historic pattern of the street.

So, that's the recommendation. It also removes a lot of tricky questions in terms
of what is a court niche? Whether a court is open or closed. If we don't have requirements you can keep your court. It doesn't matter whether it's open or closed or a court niche. It's just a court.

Recommendation 6 -- well, why don't I stop there and 2 through 5. Maybe we'll do three at a time and see if you have questions on those.

CHAIRPERSON HOOD: All right. Who would like to start?

COMMISSIONER MAY: I would like to suggest that we talk at least about lot occupancy because the relationship between courts and side yards and lot occupancy --

MR. PARKER: Air enough.

COMMISSIONER MAY: -- are inextricable.

MR. PARKER: Okay. I'm happy to do that.

Sorry, Sharon.

Recommendation 6, you're right. There is a lot of relationship here.
And why don't I talk about that first.

Recommendation 6-B.

Right now lot occupancy is generally defined as the footprint of a building. Basically, the building area. But in our definition of lot occupancy it also includes narrow courts and side yards or non-conforming courts or side yards. So, courts that are less than six feet. Courts and side yards basically that are less than five or six feet wide count in lot occupancy.

So, what this results in is when there are houses that are at or above the allowed lot occupancy limit, they would normally require a variance to have an addition. But since that non-conforming court or side yard already counts in the lot occupancy, they can fill those in without getting a variance. So, this would remove that option for people to fill in non-conforming side yards and courts without getting a variance because we're saying that would not be counted in lot occupancy so filling it in would
add to your lot occupancy and require you to get that variance.

    Now, I'll step back to 6-A which is sort of a new concept.

    Our city right now and one thing that we found is that the way that our city is laid out with our diagonal avenues crisis-crossing the city is that lot occupancy is not a good representation of what we've got on the ground. We have, you know, very consistent neighborhoods that range from, you know, 20 to 80 percent lot occupancy within a block or two.

    Now, we don't have a better system in mind in terms of ways to regulate building size necessarily in residential areas. But if we again go back to our goal of allowing development that is consistent with the historic pattern or, you know, with the pattern on the street, what we found is a lot of situations like this and actually on this entire map the footprint of nearly all of these buildings obviously with the exception of some down here and a couple in here
are the same. I mean, these are wider and not as long. These are a little longer and narrower but there's a high degree in this area of consistency in terms of the footprint of the buildings. But an incredible variety of consistency in the lot occupancy. Just on this lot here we go from about a 40 percent lot occupancy down in this end to 95 percent on this end. And these are consistent set of rowhouses along this block.

So, in other words if -- if one of these lots was empty or if we wanted to, you know, tear down and put up a new building on one of these lots, right now that would require a variance for lot occupancy because all of these from about here on up are above our 60 percent lot occupancy. But we don't necessarily want on this end for a half size building. And basically you couldn't build a buildable house on 60 percent of one of these lots.

And what we've actually seen is, I think, the number is 20 percent of all of the variances that we've seen over the last eight
years have been for lot occupancy on sub-standard lots.

And it's the result of people not trying to build more than what the neighbors have or further back than what the neighbor has but trying to building exactly what is on the block and exactly in this pattern but these lots here are already over 60 while these here are under 60.

So, again, we're not trying to allow a lot more than what's there or even necessarily as much as what's there. But allow a minimum footprint.

So, you'd retain the lot occupancy measure but where your lot is well below the standard lot size for that area, you would be allowed a minimum -- a minimum footprint even if it took you over your lot occupancy.

And this recommendation relates directly into the rear yard. The rear yard recommendation is exactly the same. We're saying, keep the existing rear yard standard but
exactly like the lot occupancy. Where you have
this situation, it doesn't make sense to require
a 20-foot rear yard where it's not possible to
put it.

So, if building along this existing
line puts these people at, you know, a two-foot
rear yard here, but doesn't give them anymore
than what is determined in this neighborhood to
be the normal or even less than normal -- a
liveable footprint, then we don't need those
people to come in to get a variance to building
what is deemed appropriate or deemed the
character of the neighborhood.

But these people obviously still have
to meet their 20 foot rear yard. So, the lot
occupancy, rear yard recommendations are tied
closely together.

And I'll stop there.

CHAIRPERSON HOOD: All right. Is that
a good stopping point?

MR. PARKER: Yes.

CHAIRPERSON HOOD: All right. Thanks.
You want to start off, Commissioner May?

COMMISSIONER MAY: This whole range that we just discussed I think is the area where your -- I think you're hitting on some -- some useful points. I think the idea of how you measure roof is reasonable.

The question of doing away with stories as a way of measuring. I want to probe that a little bit because it seems to me that stories -- well, I'm sorry. Let me back up for a second.

When you talk about height, you know, when you showed that diagram what it demonstrates pretty clearly is what you're looking at is -- is the perceived height or the, you know, the kind of average height, if you will. And when you have that little partial roof and, you know, the one on the far right and you show that you measured of the top of that point. I think that makes sense because that really is the perceived height of the building.
But when you do away with the stories it opens the door for, you know, squeezing the floors, pulling the basement further out or the cellar up into being a basement. And so you go from -- from two stories to three stories and three stories to four stories or something like that. And that has a lot to do with the perception of the height of the block. And I'm wondering why you're suggesting that that's no longer an important point when you've made such a strong gesture toward perception of height with, you know, where you measure to?

MR. PARKER: Well, I don't know that I agree with you necessarily that if all these buildings are 40 feet tall that if one of them is -- crams four stories in there and the others are three stories, that you're going to perceive that as much as you would a difference in the actual height.

I guess the problem is, it raises a lot more problems than it solves. Is that we have case after case where we have people
actually cramming five stories in because the basement is just below the limit that we've set that counts as a basement rather than a story. And, you know, you drop the ceiling on the top floor and it becomes an attic rather than a top story. So, there's so many loopholes and questionable practices that come about and the calls the Zoning Administrator had to make to determine what is a story and what's not, that it's really not worth trying to keep somebody from forcing themselves to live in nine-foot stories in order to get that fourth story.

MR. PARKER: Well, okay. What that points me to is something that I seem to sense in some of the other solutions that you're suggesting which is that, you know, the problem is those situations where the system is being gamed by, you know, people having a, you know, a three foot nine distance from the measuring point to the top of the ceiling to the cellar.

MR. PARKER: Right.

COMMISSIONER MAY: Or three eleven
whatever it is, whatever the limit is. And they
call it a cellar. And, you now, the attic
whatever came into play there.

It seems to me that it might make more
sense to try to solve those problems a little bit
more clearly. I mean, the reason why people
define -- one of the reasons why people define
cellar that way or define that bottom floor is
because the cellar doesn't count in the FAR and
in some zones that makes a difference.

COMMISSIONER MAY: Sure.

MR. PARKER: Okay. So, you know, we
need a zoning regulation that says very clearly
that, you know, a cellar maybe is counted toward
the FAR or at some fraction.

COMMISSIONER MAY: I guess my argument
back would be. I think this might be an issue
with -- I think the reason this is an issue now
and the reason stories are counted so closely and
measured so, you know, trickily, are that all of
our residential districts allow 40 feet right now
and most of our residential homes are well below
So, if you can get -- if you can sneak in five stories, you don't have to worry about the 40 foot measure because you're worried about the story measure. The story measure is more restrictive than the foot measure right now.

I think the number one change that will come to neighborhoods as a result of this system in allowing more flexibility for neighborhoods to change their system will be height. And I think the number one thing that will happen is that neighborhoods will say, we're 25 foot across the board, enough with the pop-ups. Let's set our height at 25 feet.

And once that gets more in line it's less important to regulate the storage because there's only so much you can cram into 25 feet or 30 feet or 35 feet. It's when you say three stories and 40 feet that you get games played with how many stories because you can fill a lot more than three stories and 40 feet. Especially if everything above the ceiling of the top one
doesn't count.

COMMISSIONER MAY: I would just register my continuing concern that when, you know, by getting rid of the story requirement you, you know, you raise the spectra that that's going to push people -- push developers into another undesirable direction which is they are going to try to cram in as many stories as possible and you're going to see lots of houses with seven foot six ceilings on the inside because that's the building code minimum. You know, instead of the nine foot stories, ten foot stories that we have now.

So, I'm real careful about that. I mean, I'm real concerned about that and I would want to see that the new regulation addresses the foot problem in all of these circumstances. And I'm not sure that the story issue is the root problem.

The -- on the front yard thing the only observation I have is that, you know, you show that sort of circumstances where they're
kind of all over the place and with that kind of
a diagram that makes sense using the existing
homes as a range. But I think that what might
happen more frequently or certainly happens very
frequently in rowhouse neighborhoods is that you
have, you know, a row of everybody who is on the
property line and then one house that's 25 feet
back. So, you've got a zero to 25 range there.
And I'm not sure that you really want to open the
door for that kind of range if you're going to
start regulating that.

MR. PARKER: What do you suggest?

COMMISSIONER MAY: Well, I mean, you
know, you throw out the highest and the lowest
and the two in between. You know, or maybe it's
a deviation from a mean or something like that.

MR. PARKER: The situation you talk
about is actually the reason why we stayed away
from what a lot of cities do which is the
average. A lot of cities force you to go to
average. Well, if they're all built in a line
except for one, then the new house has to built a
couple of feet back. So, that's why we went with this instead of that. But, yes. Our thought was if there's already one 25 feet back then it's hard for us to tell the next person.

COMMISSIONER MAY: I mean, there's got to be some other kind of calculation that gets you the desired result because I don't think, you know -- and if you're dealing with a rowhouse, as soon as you're more than a food back it starts to look funny.

MR. PARKER: Right.

COMMISSIONER MAY: Side yards. I'm not sold at all on this idea of just doing the average. I recognize that there is the problem in that the side yards and a non-conforming side yard, non-conforming court added to the lot occupancy. And that's clearly an issue and you have a house that's, you know, an existing house that's got, you know, a couple of three foot side yards and you're not at a 40 percent lot occupancy limit. I mean, it really binds you in ways that are -- that are a problem.
But I think that there's a certain --
you know, we seem to have forgotten something
about the genesis or what I have come to
appreciate as the genesis of the current
regulations when it comes to attached housing
which is the 18 foot lot -- wide lot and a 100
foot deep. That was kind of the model. I
understand that that model doesn't happen very
often.

MR. PARKER: Right.

COMMISSIONER MAY: But it happens more
frequently. It's not like it never happens. It
definitely does happen. And there was a certain
period of time where it happened with greater
frequency like certain developers found that that
was the sensible size.

So what I think the genesis of some of
the side yard requirements or at least one of the
ideas behind it is that, you know, you have this
row of 18 foot wide houses and you come to the
end of a row and you're now butting up against
the next, you know, the row on the next block
turning the corner. Their rear yards and their rear yards are limited to only 20 feet or 25 feet whatever it is. Probably 20 because they're probably in R-4 neighborhood. And the desire there is to have that full eight foot side yard so that you're not pushing up too close to those 20 foot rear yards.

And the reason why there's a 40 percent lot occupancy on that house with a side yard is, you know, do the math. You add eight foot to your standard 18. You got a 26 foot wide lot, 100 feet deep, 40 percent lot occupancy gives you about the same building footprint you have next store and the rest of the row.

So, there's a model that's behind that that seems to have been lost. And I understanding wanting to have a certain established relationship and regularity. But I don't see a need at this moment to try to rewrite the zoning regulations to suddenly make every house out there conforming. And -- or conforming enough so that they don't need to get relief if
they want to build, you know, a 30 foot edition on the back.

MR. PARKER: I guess the number one thing that we learned in doing all of our research on what the building stock of this city looks like and how the Lewis Plan came to be is that the Lewis Plan was largely built on wishful thinking. I mean, it was built on here's what we'd love it to look like. But it doesn't and it didn't. There are 18 by 100 foot lots out there but there's the vast minority.

And, you know, Lewis designed a great system for how things should look is they were built from scratch and he used a lot of averages across the city as his standards. But what an average does is it makes 50 percent of the buildings non-conforming. And that's what we saw across the board whether it was lot occupancy or side yard or lot width or lot area, Lewis picked an average of what the buildings were across the city and made that the standard. And it just doesn't work for a city as varied as ours.
COMMISSIONER MAY: I can understand that but I don't think that what you're trying to do to solve that, this series of calculations and manipulations of the current regulations are really going to solve that. I mean, let's take for example the idea of taking, you know, let's go back to my other example where you have the 40 percent lot occupancy because they're semi-detached. Okay.

Well, now that person has a 60 percent lot occupancy under the new rules. That means that they can built, you know, their house that much deeper. Right? They can add 50 percent on to their house.

MR. PARKER: What are you saying are the new rules?

COMMISSIONER MAY: Well, oh, you're right. If you were to change the rules on lot occupancy as you have in your report --

MR. PARKER: Right.

COMMISSIONER MAY: -- and allow a semi-detached house that was 60 percent lot
occupancy --

MR. PARKER: Or allow all houses to
have a 50 percent lot occupancy or 40. We're
saying -- you're saying that having different
standards is the problem.

COMMISSIONER MAY: I'm saying that
once you have -- you know, when you have a
different physical condition, there may be, you
know, a reason why you want to have a side yard
on a given side.

MR. PARKER: Right.

COMMISSIONER MAY: And then when you
do that, you don't compensate that home which
already has a larger lot with more density. I
mean, again, take that example. You've got a 60
percent -- you got a 40 percent lot occupancy
because you have the side yard and now you're
going to make that house, you know, allow that
person to make their house 50 percent deeper than
the one next to it. Matter of right.

MR. PARKER: And if that situation
existed with any frequency, we wouldn't be
recommending this but it doesn't. There's no --
there is no normal in D.C. And there -- I mean,
there's not a -- even a consistent --

COMMISSIONER MAY: I don't believe
that's totally true. I mean, I'm not saying
it's, you know, 30 percent of the situation, but
I know that when we get very large PUDs in here
they're all designed with those side yards in
mind.

MR. PARKER: Sure.

COMMISSIONER MAY: Right? It's all --
it fits that model, except for ones by a certain
designer or developer which have no rear yards
either. But I just -- I think that too much is
being tossed out for what seems like an argument
that well, we're making it too hard for people to
build out their property or we're having too many
variance cases related to this.

I mean, 20 percent of lot occupancy or
variances or lot occupancy. You know, I'm not
sure that that -- that really is a concern. I
don't know if it is or it isn't, I mean, except
for the fact that it's, you know, our process for
dealing with variances is cumbersome.

    MR. PARKER: Right.

    COMMISSIONER MAY: And maybe our
decisionmaking on variances is inconsistent. I
don't know. But those are things that I would
want to try to address. I mean, I want to try to
make the process easier, but I'm not ready to
just throw away some of these restrictions. I
would want to do away with the things that are
causing bad results. We don't want to have the
side yards, you know, the counting of the non-
compliant side yard or courtyard into the lot
occupancy driving people to fill in those non-
compliant side yards.

Then, again, I don't want to
necessarily say that if you got a two-foot side
yard that it's okay for you to keep going back at
two feet. Because I don't think that's a good
circumstance either. I know you recognize the
fact that there has to be some kind of minimum
there.
So, you know, I think that needs to be there. But I just -- I don't -- I think that need to be convinced further that these are, you know, the sensible steps to make or that they're not going to wind up creating these other circumstances that people will work around.

MR. PARKER: Okay.

COMMISSIONER MAY: And, you know, I think that when it does come to -- I don't want to be just totally negative.

I think the idea of having a minimum building size -- minimum acceptable building size. I think that's a very good idea.

MR. PARKER: Okay.

COMMISSIONER MAY: And think it does address some of those circumstances where, you know, you have the -- you know, you have -- you have things like the drawing that you showed where, you know, the lots get narrower and it makes sense to have some minimum building footprint.

The things that -- well, I'll just
stop there. I think that's a good idea and it
does address some of the concerns that we have
and I think that that's -- that's the right kind
of approach to address some of these things
rather than just kind of giving up on -- on some
of the principles of having, you know, descent
size side yards and so on.

MR. PARKER: So, if I can rephrase
what you're saying from my notes.

The two recommendations that you are
expressing concern about are 4-A and 6-C?

COMMISSIONER MAY: I didn't number
them in my head.

MR. PARKER: Fair enough.

COMMISSIONER MAY: 4A and 6C.

MR. PARKER: 4-A is the building lots
with ratio percentage rather than a side yard and
6-C is that there should be one lot occupancy per
zone rather than two.

COMMISSIONER MAY: Yes. I'm not sure
it was limited to that but I'll look at it more
carefully while my colleagues are asking
questions.

Thank you.

COMMISSIONER TURNBULL: Let me go back to the height issue.

Do you see -- I guess getting back to what Commissioner May had -- try and go down the same line.

Do you see working with the building code to define things as what a story is?

MR. PARKER: No. I see being able to avoid that issue altogether. If we don't have a story limitation, we don't have to -- like right now we have a lot of trouble with attics and cellars and basements and mezzanines because we have a story limit.

COMMISSIONER TURNBULL: No. I'm not talking about a limit. But what -- how high is a story? Or what's the minimum for a story?

MR. PARKER: I guess my point is. We don't need to define that if we don't have a limit on stories. We don't have to define story at all.
COMMISSIONER TURNBULL: Okay.

On your diagram on the front yards, the maximum, the minimum. Is the -- is the line before the cash line the very lowest line, is that the property line?

MR. PARKER: Yes. The solid line at the bottom.

COMMISSIONER TURNBULL: That's the property line.

And are you -- I guess this is going to become an overlay question whether they're going to set or it could be one of those tools that -- I mean, are we allowing total flexibility on this or how do you see allowing a maximum and a minimum from -- I mean, if there -- if you're looking at a street where they're all up to the property line.

MR. PARKER: Right. And that's just it.

If you say that this is the standard and they're all at the property line, then the property line is the only place you build because
you can't be any further back that the furthest back house. So, if they're all at the property line you have to build at the property line.

COMMISSIONER TURNBULL: Okay.

MR. PARKER: So, I guess -- yes.

We're not saying set a minimum and a maximum in a number of feet. We're saying you have to build between the furthest forward and the furthest back house. And so if they're all in a line, you have to build along that line.

COMMISSIONER TURNBULL: Okay. Fair enough.

On the side yard issue. You were talking about an average?

MR. PARKER: No. A percentage.

COMMISSIONER TURNBULL: About a percentage I should say. Is there a minimum that comes out of that? I mean, Commissioner May pointed out you go to the one residential unit that's got a two foot side yard.

MR. PARKER: Right. That's kind of what I said. I think there has to be and we
recognize that there has to be a minimum just
because you don't want to allow a zero lot line
and --

   COMMISSIONER TURNBULL: Right.

   MR. PARKER: -- and you don't want to
allow, you know, a six inch or one foot that
people can't use. We need to have a discourse
about what that -- what that minimum is. But
having it at eight feet minimum where we're at
now doesn't allow for the consistent --

   COMMISSIONER TURNBULL: Consistent --
so somewhere maybe four or whatever. Yes. We
need a dialogue on --

   MR. PARKER: Exactly.

   COMMISSIONER TURNBULL: -- what makes
sense on that.

When we get into the building are and
the lot occupancy and I know, I've seen a lot of
these cases. I've sat on enough cases on BZA
where people want to put a garage in their lot
and there's already existing garages. I'm
thinking of up in the Capitol Hill area and
technically they don't meet that requirement because if you figure a car is 9 by 18 you got to have that required space and a garage just doesn't make it. It's like you're two feet over the limit so you -- and we did something last year to allow a little bit more flexibility with the regs. But it still have instances where you're going to get a shorter read yard that you can put your garage.

How is this going to work with those kind of cases?

MR. PARKER: Well, we do have a recommendation coming up on accessory buildings. And I can hold and talk bout that there.

COMMISSIONER MAY: That will also come back down then into lot occupancy.

MR. PARKER: Yes. Do you want me to talk about that.

Basically, the recommendation for accessory buildings is if we assume that you like this idea of a minimum lot size -- or minimum footprint when you have very small substandard
lots, then those buildings when they're built are going to be over the lot occupancy.

And right now lot occupancy encompasses your right for your building and your accessory. So, if you're over lot occupancy on your building you can't have an accessory.

So, we're saying in those situations where you allow a footprint, a minimum footprint that's higher than the lot occupancy and if there's still room, we also need to allow for a matter of right minimum accessory dwelling.

Now, you're only -- you know, we could define that as one car, 9 by 18 or whatever the appropriate size of a minimum accessory dwelling building is and then the only way you could go bigger than that is if you have adequate space within your 60 percent lot occupancy.

Does that make sense? So, the same way as you're allowed a minimum square foot house and the only way you can go bigger than that is to stay within 60 percent lot occupancy. Again, you're going to have a minimum size accessory
building. The only way you can go bigger than
that is also if you have space within your total
lot occupancy.

COMMISSIONER TURNBULL: So, do you see
people still going for a variance on issues?

MR. PARKER: Absolutely. Just --

COMMISSIONER TURNBULL: I mean, it
solves certain things but I mean I think you're
still --

MR. PARKER: We're not going to get
rid of variances.

COMMISSIONER TURNBULL: I was looking
at your -- the site plan you had with the
garages. I mean, the angled street. You know,
some of them aren't going to have garages. It's
just impossible. And obviously some have and
some of these places you could see already have a
structure in it.

MR. PARKER: Right.

COMMISSIONER TURNBULL: And some are
going to be tighter like up on those -- the
second row of houses from the top there. They
jog by the alley you can see where someone is
going to have it and someone is not -- could come
close --

MR. PARKER: Right.

COMMISSIONER TURNBULL: -- and there's
still going to be a variance coming before us.

Before the BZA anyways.

MR. PARKER: Well, depending on
whether if they want to build it bigger than what
we determine as the matter of right essentially.
So, we're saying in maybe -- oh, my pointer is
not working. Maybe I just don't know how to work
a pointer.

So, take these buildings right here.
So, these are all, you know, at 40 to 50 percent
lot occupancy. So, they have room within their
lot occupancy to put a garage here. These people
don't. These people are at, you know, 60 percent
right now. So, they don't have room within their
lot occupancy to -- so, we're saying just like
with minimum footprint, you have a minimum
accessory building rights. And you can put a
one-car garage or whatever we determine is the appropriate for this neighborhood. And, again, this is flexible standard. So, we can determine in a neighborhood that it's nonappropriate.

But if we determine that at say 20 by 9 garage is appropriate, you'd be allowed a 20 by 9 garage here. Now, the only way you can go bigger than that is if you have adequate lot occupancy to accommodate it.

COMMISSIONER TURNBULL: Okay. Thank you.

COMMISSIONER KEATING: Now, I'm confused.

Now, let me start with height.

On the story issue, let me ask a question. The building code says minimum is 7'6", right, for ceiling height?

MR. PARKER: I don't know.

COMMISSIONER MAY: Yes.

COMMISSIONER KEATING: Okay. So, as long as that standard is there you're not going to have a 10-story building in a 40-foot --
MR. PARKER: Good point.

COMMISSIONER KEATING: So, you'd have a five-story building at most in the 40-foot limited height. Okay.

So, the height issue doesn't both as much.

COMMISSIONER MAY: A really lousy five-story --

COMMISSIONER KEATING: A lousy five-story building. But, you know, I suspect the market might determine whether or not someone will actually build that because no one -- if it's lousy they won't buy it.

COMMISSIONER MAY: Well, you know, a lot of people buy what I would define as lousy housing now.

COMMISSIONER KEATING: So, I think the market forces will come to bear to some of this. You know, maybe to correct any problems with the actual zoning.

I think we're -- I applaud the effort here because it seems like the underlying
principle is to try to streamline the process. Right. And limit the number of variances and in some -- in some way, shape or form make this process easier for the public to move through -- reduce the number of resources requires to get through the process. And these are all --

MR. PARKER: Not just that but really just to allow what is there now to be build again. Allow in-fill development to match with there now which our current code doesn't do.

COMMISSIONER KEATING: Okay. He's smart.

Not, this lot occupancy, so it's 20 percent of variances are related to lot occupancy. Is that the largest group of --

MR. PARKER: It is.

COMMISSIONER KEATING: -- variances by far?

MR. PARKER: It is.

COMMISSIONER KEATING: Okay.

I guess I kind of -- I was following along and until if you go back to your lot
occupancy slide. And kind of the -- trying to follow the recommendation. I'm wondering if ultimately we'll end up with fewer requests for variances or not with this change.

And I look at -- I look at the lots that are, you know, the 50-foot lots we're talking about where you know your lot occupancy now is high and so you need variances. It seems to me you're still going to need variances anyway to kind of build there. I guess --

MR. PARKER: No. I mean, the thought is like right now we see a lot of variances for--

COMMISSIONER KEATING: Right.

MR. PARKER: -- lots like this.

COMMISSIONER KEATING: Right.

MR. PARKER: Like we saw, you know, I think we've had several this year already on 600 foot lots or 550 square foot lots. And you can't build a home on 60 percent of that.

COMMISSIONER KEATING: Right.

MR. PARKER: You have to build a home on the whole thing or as close as you can design
to be. So, we're really down to two points.

We can either make somebody -- force somebody to get a variance to do anything on that property or recognize that there's a minimum building size that we need to allow period because lot occupancy kicks in. Or a minimum -- maybe even a minimum lot size up to 800 feet. You know, what I'm saying that there's some lots that we either take away all their potential period or we decide what we're going to allow.

COMMISSIONER KEATING: So, in a particular zone there would be a building size set regardless of lot occupancy?

MR. PARKER: Right. So, say 800 square foot footprint and I'm throwing this number out there. I don't have any pre-determined -- I don't even have research in my head. But say 800 square feet is, you know, that 90 percent of the buildings in this area are greater than 800 square foot footprint. So, we'd say. All right. In this zone your minimum footprint is -- your matter of right footprint,
let's not say minimum. Matter of right footprint is 800 square feet. So, if you want to build up to an 800 square foot home you don't have to worry about lot occupancy. But if you want to go at 801 you have to be below 60 percent lot occupancy.

COMMISSIONER KEATING: Okay.

MR. PARKER: Okay.

COMMISSIONER KEATING: Now I get it. Okay.

And then I know coming back to accessory buildings but you were saying accessory buildings would be outside of that.

MR. PARKER: If you do that -- if you take that step on lot occupancy and take the smaller lots out of it, then you take away the right for accessory dwellings on those lots and so our recommendation for accessory dwellings is sort of the corollary that comes from a minimum footprint. Then you have to provide a minimum accessory building.

COMMISSIONER KEATING: Okay. All
right. I'm starting to get it.

CHAIRPERSON HOOD: Okay. Mr. Parker, I have a quick question. This is a hearing and I know that when we do deliberations we'll have time probably to come back and we'll probably be revisiting some of the issues that we have.

But I wanted to look at minimum and maximum setbacks. And I guess when I look at this, this may not be the best example. But when I look at this I think about some other regulations that we have now. I'm just trying to figure out on down the line how is that going to affect case in point. Under the special exception we talk about light and air. Light and air and any impacts to the surrounding area. But -- and I'm basically talking about infill. If we do an infill project and I think you alluded to that. I'm not sure if you alluded to it under Recommendation Number 3 or not on the front yards. But how is that going to come into play with the regulation that exists? And even more than that aren't we taking away -- aren't we
taking away neighborhood input. And I understand we're trying to streamline. And maybe my question -- I see you frown. Maybe it's not clear. Maybe I'm mixing everything together. But aren't we taking away some neighborhood impact?

We're trying to streamline and we're talking about --

MR. PARKER: Front yards?

CHAIRPERSON HOOD: Yes.

MR. PARKER: No. This would actually be a new regulations that doesn't exist now. So, right now if this lot is empty you can put your house as far back or as far forward as you want. And there's no front yard -- as long as you stay out of your rear yard you can put your house wherever you want, you know, vertically on this lot.

What we're saying is, if you've got, you know, a fairly consistent row of houses here you don't want somebody setting their house clear back here maybe. Or you don't want them coming all the way out to the property line when
everybody else is set back 10 feet.

So, this is actually creating a new
regulation that would put some limits on where
you can set that house based on where the other
houses are there now. And if people wanted to g
outside of those limits they'd have to come for
the variance.

So, on this particular recommendation
we're actually talking more regulation, more
potential for variances and more potential for
community input.

CHAIRPERSON HOOD: Let's do just the
opposite.

MR. PARKER: All right.

CHAIRPERSON HOOD: Say I'm doing an
infill project.

MR. PARKER: Yes.

CHAIRPERSON HOOD: The one furthest to
the left. I'm already existing.

MR. PARKER: You're already existing.

Okay.

CHAIRPERSON HOOD: The third one, the
third row, now that's me coming in there. The one in the middle. The second one.

MR. PARKER: Okay.

CHAIRPERSON HOOD: Now, the person to the left, I seem to be blind. I have a very upset new neighbor.

MR. PARKER: Right. I guess I'm not understanding. Right now there's no limitations on where you can put this house front to back. You could put it all the way up here, stay out of their way. You could put it all the way back here stay out of the way or you could put it right up against them. There's no neighborhood input. There is zero neighborhood input right now, period, about where you put your house.

COMMISSIONER MAY: Can I jump in for just a second?

Mr. Chairman, are you maybe suggesting that what could happen in these sort of circumstances is that rather than be aligned with the entire block that maybe you should be dealing with immediately adjacent properties? I mean,
because I mean I can see that. If you were the second house in and you built that, you might upset the first house because you're -- you know, you're pushing so much further out to the street.

CHAIRPERSON HOOD: You know --

COMMISSIONER MAY: I'm just -- I'm not saying that's good or bad. I'm just curious about what might be --

CHAIRPERSON HOOD: I'm be quite honest. I'm not sure. I'm just sitting here thinking about all the BZA hearings that they won't have to have or will have or I just don't know.

But one thing about this whole process and I'll say this is I believe we have to start something. The one thing that I think that this Commission has the same thing we did with our planning. We would petition the Office of Planning. If it does not work, I may not be here but I think the Zoning Commission should make any changes necessary. If this process -- if this whole process if there's a piece that needs to be
corrected. I don't know. I'm just sitting here thinking in lieu to that situation. Yes. You're right. We probably need to look at that also.

But I mean, how would that affect another -- another one of our regulations? But as Mr. Parker said, and I really didn't -- maybe I don't catch it. Maybe I'm not onto some of those cases that he's saying there's nothing in the regulation now. I just -- I just know the infill could potentially be a big issue. At least the way I see it. I don't know.

The other thing, 4-A. I'm not really sure how we're doing that side yard. Again, I go back to infill.

MR. PARKER: Right.

CHAIRPERSON HOOD: If things are not centered on either side, the front, the back now, in new construction, infill again. I guess -- are we taking into consideration as we do these recommendations and I'm not sure how exactly getting the distance here for this side yard and recommendation for a, you know, I'm not sure.
MR. PARKER: I guess I would -- too.

This -- this recommendation is based on infill.

This recommendation is based on being able to
build what is there now. And in a lot of the
city in the R-1 districts, this would result in
more side yard than they have now. I mean, fir
anything above 50 feet in lot width this is going
to result in more side yards.

In neighborhoods with 30 and 25 foot
wide lots, it's going to result in less side
yard, but that's what's there now. We don't have
a lot of existing 25 and 30 foot wide lots with
eight foot on each side. It just doesn't -- it
wasn't built that way. They were built with six-
foot side yards of four-foot side yards. And
this would take into account the wide variety of
lot width that we have in the city and not to
mention take into account the heavy incidents of
offset houses that we have where houses are
offset in the same pattern going down the street.

So, this is all about infill and
allows people to build in the patterns that
Washington, D.C. has now rather than the ones that were imposed in '58.

CHAIRPERSON HOOD: So, what are we doing? We're taking a center point of the structure and then we're trying to center it?

MR. PARKER: No. It has nothing to do with centering. In fact, that's the -- you have to get an aggregate. So, your side yards have to be equal to 30 percent of the lot width. So, if you have a 100 foot wide lot you have to have a total of 30 feet of side yards. And you could do that in 10 and 20 or in 5 and 25 and in 15 and 15.

On a 50 foot lot you have to have a total of 15 feet of side yards and you can do that in 8 and 7 or you could do that in 5 and 10. That's the point. The point is that that's the way our city is laid out now is that we have a lot of consistency and that is the width of our houses compared to the width of our lots in all of our zone -- in all of our single family zones. That is the pattern on the ground.
CHAIRPERSON HOOD: Okay.

MR. PARKER: And that's what would allow infill to match what's on the ground.

CHAIRPERSON HOOD: Right. I have a few more -- I will ask this though.

When we get ready to do this for discussion, I would ask that we bring that slide back. I mean, this is unusual.

MR. PARKER: Not a problem.

CHAIRPERSON HOOD: If we talk to it and we do our little -- what's that the worksheet we call it? Because we may have some questions. I want -- I want -- I have a few more but I will reserve that this evening because I want to hear from the public.

COMMISSIONER MAY: Mr. Chairman, can I just ask a couple of real quick ones.

CHAIRPERSON HOOD: Okay. And let me say after this -- after this round we're going to be on six-minute rounds and I've asked -- and the reason I want to do this. We're going to have an opportunity. I want to make sure we hear from
the public before 10:00.

MR. PARKER: Sure.

COMMISSIONER MAY: I'm just curious about the -- if you considered the minimum building footprint in relationship to a PUD? Because if we're establishing that you can have a minimum building footprint of, you know, 18 by 40 or something like that, I mean theoretically in a PUD that means that you can have block sizes that size. You know, your lots would only be 40 feet deep. And then, you know, just sort of cram them in and then there's no relief necessary. And so there's no --

MR. PARKER: Right. Right. PUDs are a whole different beast. And not that we see a lot of R-1 through R-4 PUDs. But we could certainly set up rules for how those would work.

COMMISSIONER MAY: Yes. I think you'd have to. I think you need to determine that and I think you need to -- well, PUDs are another whole discussion.

I'm also not -- I'll just note that
I'm not convinced about just doing away with court minimums because I think that may be what we need to do is revise them but not necessarily give them up entirely. And then I'm going to be really curious about the minimum size for the minimum or the maximum allowable accessory building. You know, how big that could be when, you know, you don't have much rear yard. And if it's going to fill up the whole rear yard are you still entitled to it? But I'll save that for when we actually start discussing that.

MR. PARKER: Yes. I mean, I've introduced -- I've said everything I need to say but --

CHAIRPERSON HOOD: Any other questions?

Okay. Mr. Parker, we can proceed.

And, colleagues, we're going to be on six-minute rounds the next time so I'm sure the public wants us to hear them.

MR. PARKER: Recommendation 8 doesn't change anything. Basically what this is saying
is make a -- you know, where we have that template and we add the list of things that neighborhoods can change, the height and the lot occupancy and the rear yard, make the number of units one of those things.

So, R-1 -- R-1 stays at one unit but or say R-4 stays at two units. But if neighborhood A says you know what we want to be R-4 building standards but only allow one unit, then that's something that they can propose to do or if they want allow three units. So, it doesn't change anything. We aren't suggesting changing anything but make that a standard that's customizable along with height and bulk and everything else.

Recommendation 9 basically right now we have different lot standards for different types of lot and that seems to be the appropriate way to go about it, to go about setting lot-size standards. We are -- don't know if I checked this language.

Basically right now we have our
subdivision requirements in our districts. So, if we want to create a new lot in the R-2 District you go in the R-2 District and you look what that -- what size lots you can create based on what size -- what type of house you're building. And we're saying that differentiating it by the type of house is appropriate, but if I want to build in the R-2 District on a pre-58 lot, I have to get a variance to do so.

And, again, we're faced with that choice. We have a lot of pre-58 lots that don't meet our lot standard. We have a lot of 25 foot lots in this city in, your know, R-1 and R-2 zones. So, we have a choice. We can either take away all right to develop on those properties without getting a variance or basically say these are pre-58 lots. They exist now. They will always continue to exist and they're rightfully there. Those lots are buildable but maintain our standards for creating new lots.

So, we have subdivision standards. If we want to create new lots you have to abide by
those but you don't have to get a variance to build on a lot that's already there that doesn't meet those standards.

And this is the one I already talked about. Again, this is the -- if we do the matter of right footprint for lot occupancy, we need to do a matter of right accessory building. And if there are questions I can come back and address those.

Recommendation 11, Building Use. This is just the follow up to the discussion that we had on uses in general. And the guidance that you gave us to examine a system of use categories rather than an exhaustive list of uses. And the next step to that is in terms of residential neighborhoods defining where our maximum are for all those categories. Right now we allow home occupations in our residential zones and we have a list of eight or nine things if you're a telemarketer or a typesetter or an arts and crafts person, you meet one of those definitions.

We're talking about taking away that
list and saying. Now how do we define where we draw the cap on these non-residential uses in residential zones? And we can pull from our existing home occupation. So, if we have a category for offices the limit on offices in residential zones could be, you know, 25 percent of the house and own-occupied and no signage. All the existing standards that we use for home occupations.

The point is we need to set -- we need to have a public discourse about what baseline should be. As we move the categories as you're given us guidance to do, we need to have a baseline for what are the limits on office uses and services uses and retail uses in that zone?

Number 12 should be familiar to you. You've got a Zoning Commission case or had a Zoning Commission text amendment case on the use of institutional buildings. Basically the recommendation here is to adopt the results of that case in terms of allowing adaptive reuse of historic buildings in residential zones.
Recommendation 13. Where you allow -- in zones that allow more than one unit so let's start with the R-4. Two units are allowed in R-4. Right now your only option is to do both of those units in the main structure. If you have a carriage house you can only use that for a garage or for storage, sometimes for an artist studio. But we're saying if you're allowed two units on the lot in order to promote adaptive reuse of these carriage houses and of the like, you could do the second unit in the -- in the carriage house or in the accessory building.

This doesn't allow you a right to a third unit but what this does is say where in districts that allow more than two, they no longer have to both be in the same building.

And finally this is really just a clean up and people have pointed out correctly that this recommendation probably did belong with loading. But it came up in terms of our historic preservation discussion and those ended up with our residential because they had more to do with
residential than anywhere else.

        But a couple of years ago you updated
the parking regulations in terms of waivers for
historic buildings. And when the waiver did not
apply to additions and this would propose that we
match that for loading. So, we didn't at the
time update the loading provisions for additions
to historic structures. And so this was to do
that and to have some requirements for -- loading
requirements for additions to historic structures
above certain limitations --above 50 percent
limitations.

        And that's -- that is the rest of the
recommendations so I'll open it up for questions.

        CHAIRPERSON HOOD: Okay. Thank you,
Mr. Parker.

        We're going to start off with six
minute rounds and, colleagues, we will go to
another found. But the reason why we want to do
the clock is so to be cognizant of our time as we
are asking our questions.

        If you don't finish in the first six,
we'll do another six.

Who would like to start off?

Go ahead, Commissioner May, you?

COMMISSIONER MAY: Sure.

CHAIRPERSON HOOD: You're the man to

start off tonight.

COMMISSIONER MAY: No problem. And I

will keep it under six.

For the accessory buildings, again, I
guess just so I understand this. We would
establish some sort of minimum dimension that
would be allowed and so long as they physically
fit on the site, you could have a house and an
accessory building and make it be practically
touching so as the minimum was acceptable.

MR. PARKER: Yes. And that brings up
a good point. We could have a minimum separation
between them as well. But --

COMMISSIONER MAY: I think that that's
-- I mean, that is something that ought to be
considered and I'm not sure what it is. I mean,
I certainly know of circumstances where the lots
are smaller than that but I'm not sure that we
want to open the door for everything.

I think that the circumstances, again,
this is the -- what are we trying to fix here?
We're trying to fix a situation where you got a
row of garages in the back and everybody is, you
know, and none of them are actually technically
compliant. And the one person whose garage fell
down or got taken down, you know, 30 years ago,
they can't put one back up. So, that's the sort
of circumstance or they never had one in the back
but everybody else has them.

And I think that that's -- there ought
to be some way to fine tune it so that that's
what we're dealing with rather than creating
problematic accessory buildings in some of these
yards that are too small.

Did you look at all or are you going
to tie this into the relationship of such an
accessory building to the alley? I mean, you
got a ten-foot alley. You can't have a direct in
parking space. Right?
MR. PARKER: Well, we'd have to maintain. I think there's 12 foot from the center line. Right. Right now.

COMMISSIONER MAY: And so you would still have to comply with that or something like that?

MR. PARKER: Yes.

COMMISSIONER MAY: Okay. And then what about the height of accessory buildings?

MR. PARKER: We haven't recommended any change right now.

COMMISSIONER MAY: Did you discuss it at all because I imagine it would be, I mean, everybody loves these two-story carriage houses. Right?

MR. PARKER: Now, that's a good point. And I don't recall off the top of my head whether we did have discussions on that. We are talking in sustainability and some of the recommendations that you'll see soon about accessory dwelling units and allowing in certain case, you know, residential use in those. So, it may be
disappropriate to start looking at second stories
but we haven't done that yet.

COMMISSIONER MAY: Yes.

MR. PARKER: Okay.

COMMISSIONER MAY: -- I'm very

surprised to hear that it hasn't come up already

as a topic but I'd be interested in hearing what

you have to say. And I think that was it for me.

CHAIRPERSON HOOD: All right.

The clock must work wonders. You know

I couldn't pass that up. Okay.

Commissioner Turnbull.

COMMISSIONER TURNBULL: Thank you, Mr.

Chair.

On your Recommendation Number 8,

Density.

MR. PARKER: Yes.

COMMISSIONER TURNBULL: Are you

basically looking at R-3 and above?

MR. PARKER: No. Everything. I mean,

again, this is not to change anything. To say

when we make that template and when we make that
template for attached buildings or detached zones and we have that list of things that can be changed by a local neighborhood, that that list should include unit density or the number of units that's allowed.

COMMISSIONER TURNBULL: I'm just thinking so if you have an R-1 --

MR. PARISI: Right. That number would be set at 1. But if --

COMMISSIONER TURNBULL: I was just saying if you have a single family detached home --

MR. PARKER: Right.

COMMISSIONER TURNBULL: -- could that become a duplex then, the two homes?

MR. PARKER: Well, I guess -- I guess the point is that -- that single -- let's say the R-1 Districts have their own template and their limit is set at one, but neighborhood "X" is interested in having -- they have -- maybe their Mt. Pleasant sides have the big mansion houses and they're interested in being able to have two
units in each house. So, they can go through a public process and propose a change and come to the Zoning Commission to say, our limit should be two units per lot rather than one.

COMMISSIONER TURNBULL: So, then would there be a map amendment that would show that?

MR. PARKER: Yes, the same. Yes. It goes back to that customization zone. The same way that if a neighborhood wanted to change their height from 40 feet to 30 feet, there would be a public process just like there is with overlays to define what area we're talking about and what changes need to happen in that area that would have its own designation then. And, yes. The same -- one of the things that could be changed is the number of units.

COMMISSIONER TURNBULL: Okay. I was just curious. I -- when I first looked at it I thought you were mainly talking about from R-3 and above.

MR. PARKER: I see that's where it would be most applicable.
COMMISSIONER TURNBULL: Okay. Thank you.

CHAIRPERSON HOOD: Let's just ask about Recommendation Number 11, Building Use.

I think you mentioned the baseline. We talked about how much office use would be permitted in a residential area and I think you mentioned some parameters. No signs. You called off a few things. Parking also. You know, all those things would be the caveat I guess of the building use -- of office use of the residential zone. Is that typically what you're saying?

MR. PARKER: I called out the ones that are there now. Like we have home occupation allowed in residential zones and we have a bunch of limits on that. And we could adopt those as--you've already given us guidance to come up with categories of uses rather than these long exhaustive lists.

And so if one of the categories is office, we need to define -- this recommendation is just reminding us that we need to define what
the limits are on that category and residential zones.

CHAIRPERSON HOOD: When you say limits. Let me understand.

MR. PARKER: Impact limits. Like --

CHAIRPERSON HOOD: Parking.

MR. PARKER: Parking is one -- exactly. And, you know, size can be a limit. Hours of operation can be a limit. Number of people in and out.

CHAIRPERSON HOOD: Businesses. Okay.

MR. PARKER: Exactly. And so we have all these limits right now on how big home occupations can be. Those can be our limits on what you can do for an office in a residential zone, for example.

CHAIRPERSON HOOD: And this would be customized to a specific neighborhood?

MR. PARKER: Well, we certainly need to start out somewhere and we need to start out with -- and it would be customizable certainly.

CHAIRPERSON HOOD: Okay.
So, in the beginning there's going to be a lot of work for somebody. I guess --

MR. PARKER: Okay.

CHAIRPERSON HOOD: All right. Okay.

I'll move on.

Any other questions. Thank you.

Any other questions? Okay. Not hearing nay, let me see.

Do we have the list?

Do we have any ANC Commissioners present?

If you could just raise your hands so I can see. I don't have the list in front of me. I'm going to ask -- well, we're going to do the honor system.

The first four that were here early would you come forward and begin because I don't have the list in front of me yet.

We got six mics. Okay. Well, I saw six hands, but come on up ANC Commissioners and those who are representing the ANCs so we can get started.
And I hope the other public don't mind me calling the ANC Commissioners up. We all work hard, but they ran for office.

Also, Mr. Lawson has joined us from the Office of Planning. And has been with us.

More hands than that for ANC Commissioners. Okay.

Ms. Schellin is getting the list. I'm going to start to my left. Okay. Young lady to my left, if you can start and introduce yourself and begin your testimony.

COMMISSIONER BLACK: Good evening. My name is Gale Black. And I'm an ANC Commissioner in 4-A. And that covers the neighborhoods of Crestwood, Colonial Village, North Portal, Shepherd Park and with me is Dwayne Toliver who is also in 4-A.

I actually I thought this was going to be more of a presentation tonight so we were coming to listen. But I can tell you that we raised -- we had the notice of the meeting and at our ANC we let it be known that there's an
interest in attending and we got the consensus from the -- those who were present at our meeting that this was an important issue for us.

We are in R-1 zone pretty much. R-1, R-2 and I can tell you my belief is that infill will be a very strong issue for us. How you do it? Because it will impact light, noise and in communities that were developed, they were developed with staggering of the building so that we don't have this interference.

Right now we are able to develop our lots without having to go through variances. And in an R-1 zone we can occupy 40 percent. When you change that, you're going to cut down on the green space. At least that's what I believe.

Accessory apartments I'm sure will be something that we would like to hear more as to what that plan is because we had a house that had to be taken down because it wasn't complying with the current laws. And so instead of bringing consistency you might actually be inviting a whole lot of people who get the idea, well. My
neighbor changed something so now I can.

And I can tell you the need for parking is not the same in Crestwood as in Adams Morgan. And you -- we need to be considering that.

The number of units on the ground probably is not consistent with the law and to the Comp Plan and so it seems to be that we're rewarding those who have made exceptions.

I passed a house at 13th and Spring today which is far -- it's about three feet from the street and the rest of the rowhouses are setback. So, if we go by the idea if there's one there now, all can do it, you will have D.C. looking like Baltimore, I suspect.

I would just say that I'm pretty certain that we will want to weigh in later with more information as we listen to what's going on but when you say there's no normal in D.C. I can tell you there is a normal for Crestwood. And it's -- it's a lot of green space and a lot of homes and people who are able to comply with the
existing rules which we understand.

So, I -- I want to raise concerns and I'll turn it over to my colleague, Dwayne Toliver.

CHAIRPERSON HOOD: Let me -- let me -- we're going to do this from -- I'll go with Commissioner Grant and this young and we'll come up to Mr. Toliver, unless you all had a presentation you were doing together. And I don't --

UNIDENTIFIED PERSON: No, sir.

CHAIRPERSON HOOD: Okay.

Work with me. We'll come back to you.

COMMISSIONER TOLIVER: Yes, sir.

COMMISSIONER GRANT: Good evening Chairman Hood and the staff of Zoning and some of the BZA and OP.

My name is Janae Grant. I am -- also I'm the Vice Chair of ANC 5-A but more importantly I come before you as a Commissioner for 5-A-11 in the Woodridge area. And we
definitely wanted to weigh in on this.

While I did particularly participate in the working group session for the low/moderate density group, there are some concerns.

My overall focus is on the vacant lots of infills. But specifically in the R-1-B zone simply put my constituents that I represent are not in favor of additional homes or other usages other than those normally associated for a homeowner to build upon.

While keeping the curb and characteristics of the neighborhood is very important to us, thus a front yard setback be maintained is understood and appreciated.

Likewise, we support the side and rear yard that though maybe currently non-conforming, it is still well intended and implied.

However, while the provisions are extended to the historic district let it be known that in non-historic districts that conversion of a detached single family home for multiple uses or for separate families is not readily accepted
or desired, just because some of the property
lines may be blurred.

Furthermore, we don't want conversions
of the detached single-family homes in our area.
If a new customizable zones applies for such a
distortion of their neighborhood character, so be
it. But in the Woodridge area, not so.

To allow for minimum right of building
footprint regardless of lot size seems harmless.
However, the potential danger exists or what
could be exploited off of those vacant lots that
are of substandard size that would then have a
minimum matter of right to build upon. this
should not necessarily be the inverted solution
for more housing or increased homes. When we
allow for infills or vacant lots to be built upon
in an existing mature neighborhood it definitely
changes the characteristics and imposes further
neighborhood impacts.

Regarding customized zones, a lot of
these will be particularly in residential zones.
Can residents then apply for a customized zone to
protect their characteristics of their neighborhood in advance? And in essence, is this the alternative to becoming a historic district for convenient protection?

Simply put, instead of having developers coming forth to initiate some of these localized areas or even a couple of blocks to initiate -- to become a customized zone, how would then -- we want -- we are in favor of the choice though. We would hope that the protection for or against will be practiced and enforced.

For example, that the Recommendation 13, that should really be for a customized zone.

And then lastly, my suggestion for lots really should be that for community garden usage space and not that we feel that all lots have to be build upon just because the space exists.

Thank you, Chairman Hood, and all those --

CHAIRPERSON HOOD: Thank you very much. Do we have your submission?
COMMISSIONER GRANT: No. I will get it to you.

CHAIRPERSON HOOD: Okay.

COMMISSIONER GRANT: I will get it to you.

CHAIRPERSON HOOD: Okay. Thank you. Commissioner?

You want to turn your microphone.

COMMISSIONER GARRISON: Good evening.

My name is David Garrison. I'm the Chairperson of ANC 6-B.

Our Commission area covers the southern half of Capitol Hill from East Capitol Street down to the Freeway and from the Capitol complex to the river.

And I appreciate this opportunity to testify on this issue this evening.

I should begin by repeating an earlier request that our Commission made to this Commission and the Office of Planning.

Last fall we received a proposed amendments to the retail section of the code only
a few weeks before the Zoning Commission's hearing, thus making it impossible for us to properly review the proposal through our normal committee process followed by discussion at a regularly -- at our regular monthly Commission meeting.

As a result, we were forced to oppose that proposal outright strictly on process grounds and ask for additional time.

We're in somewhat the same position tonight. We reviewed OP's proposal on this topic. We received it I should say only a few weeks ago. The best we could muster was to organize a discussion of the proposal at our regular planning and zoning committee meeting Tuesday night and we appreciate Travis coming out to help us with that discussion.

But our regular Commission meeting is not until next Tuesday. So, my comments this evening are on behalf of our planning and zoning committee and don't yet represent the full commission's view. We won't be able to ascertain
those until next week.

So, again, we respectfully ask the Zoning Commission and the Office of Planning to provide longer periods of review by ANCs so that we can give you a proposal the serious and thoughtful review they merit and give you our complete judgment in a timely fashion.

Moving on to the substance of the proposal, I want to make a general comment and then a couple of specific ones.

In a way similar to our comments last fall on the substance of the retail code revisions proposal, our Commission is open to the idea of having a more flexible code and one hopes a more efficient management and sensible code as concerns low and moderate density residential issues.

Our problem is that we find it difficult to fully comprehend how the new -- how the proposed new flexibility would actually work.

As you well know, organizing and initiating a zoning regime is a complicated task.
This is especially true in the sort of historic district our Commission has with all the vagaries presented by odd shaped lots and older homes, many of which were constructed long before the codes we now use were enacted.

As a result of this uncertainty, as we attempt to understand how OPs vision might play out in real time, my colleagues and wary of plunging head first into this approach without more time and expertise being provided to scoping out how the proposed new flexibility might actually be utilized in, for example, the Capitol Hill historic district.

In contemplating this challenge we would note for the Zoning Commission that taking advantage of the proposed new flexibility, would require constructing a new overall scheme that worked for the entire historic district, an area that encompasses parts of three ANCs.

I know the Zoning Commission prides itself on reaching consensus quickly with little dispute or controversy. I shudder at the thought
of the amount of work, time and stress that would accompany an attempt to reach consensus on the residential code among three entirely separate independently elected Advisory Neighborhood Commissions.

As a result, adoption of OP's proposal here would likely result in the revised baseline residential code becoming de facto, the default base from which we would all need to work without realistic prospect for a more tailored scheme arising to take its place. Thus it seems to use that the offered flexibility in OP's proposal may well be illusory. We really want more specificity and clarity in what might arise under this approach before we fully sign on for the ride.

Because it seems to us that the baseline set forth in OPs proposal is likely to be the real world under this approach we want to -- we also want to identify a couple of areas in the document that are particularly troublesome.

Section 7 on rear yards and building
depth for rowhouses would permit rowhouses in
certain circumstances to be extended all or most
of the way to the back line of the property.

As you know, we have a number of oddly
shaped blocks throughout Capitol Hill, made so
most often because of the intersection of right
angle and diagonal streets. These triangular
shaped blocks create some blocks on the narrow
end of the block that permit only relatively
small house footprints. That is the reality of
our neighborhood. Indeed it results in some
number of relatively less expensive houses and
some number of relatively expensive houses due to
the smallness of the permitted footprint.

As a general rule, our Commission is
adverse to agreeing a scheme that would allow
residential structures in these situations to
ignore the current 20-foot minimum setback on the
back -- on the rear yard and expand that right to
the back line.

Our Commission prefers and continues
to prefer that some minimum useable backyard be
required in these situations.

We are also concerned about the implications of Section 11 on accessory buildings. Especially as regards Recommendation 13 that would permit and indeed we think encourage the conversion of accessory structures such as the garages and carriage houses -- such as garages and carriage houses into dwelling units.

Again, as a general rule our Commission is opposed to the displacement of residential units in rear accessory structures on the Hill, particularly within the historic district. Our considered view is that our neighborhood is by and large a sufficiently thickly settled area. With the exception of some specific spots near transit stops and other transportation hubs, we do not support the idea that Capitol Hill needs to bulk up. Rather, we remind the Zoning Commission that the exercise in which you and OP are now engaged is to implement the revised Comprehensive Plan.
And on this point, Section 1607.2 of the Comp Plan finds that "The Hill is already one of the densest communities of the District of Columbia." Recommendation 13, if approved, would quickly alter that status and thus in our view is not consistent with the Comprehensive Plan. It should be dropped from the proposal.

Thank you for your attention.

CHAIRPERSON HOOD: Thank you.

Commissioner?

COMMISSIONER TOLIVER: Good evening.

Yes.

My name is Dwayne Toliver. I'm the ANC Commissioner for 4-A-02 which is Shepherd Park.

Not to be redundant but our Commission had an inadequate opportunity to actually review the proposals that are set forth here today. But we would welcome the opportunity to have OP come to our meetings and to fully explain the impact of this.

There are just a few things that I
wanted to point out.

First, it's imperative that we maintain the current residential character of our communities. Some of the changes that are proposed would adversely affect that and which would adversely affect our constituents.

With respect of the first proposal. My major concern is that there's a lack of specificity as to what would be within the general template and we would be more interested to see exactly what that would involve in order for us to be fully apprised of what possible zoning changes there could be.

There's also some proposed developments along Georgia Avenue which would significant be impacted by the proposals. Specifically, there's the Beacon of -- Beacon of Light which is intending to construct a large development along Georgia Avenue. And that would be very significant to those members. They're not my constituents but they would very much impact our Commission.
With respect to the second proposal. The maximum heights appear fair and reasonable. They do appear to have taken into consideration the fact that taking the height up to the top of the building as opposed to just the floors makes it a lot more reasonable. But we're wondering how that would impact the existing owners? Would everyone then decide that they're going to pump up their home to the height of their neighbor which could then end up with a see-saw effect of the homes which would be, in my view, would be adversely impacting the quality of the neighborhood and the character.

The third area with respect to the front yard setbacks. Those setbacks are a little bit troubling because in our community they're a little more uniform. There are homes that are -- where the front yard is closer to the street than the backyard. But it might be as drastic as what would be possible under the proposal.

With respect to the side yards, there will be a lot of concern if you could, for
example, have a five-foot setback on one side and a 15-foot setback on the other side. The neighbor that's closest to that is actually then looking into your kitchen or looking into your bedroom or looking right into your home. Five feet is not much and if you allow both say to have two dwellings that five -- ten feet apart, that's not in keeping with the character particularly in our ANC -- in our Commission, excuse me.

With respect to item 7. I've got to echo some of the comments from my other colleague about the possibility of row homes going much further back. At this point that would possibly create a very disproportionate view within the communities and, again, we'd have to see more information on that. But if I could -- just a few more minutes? Thank you.

But one of the most troubling are the accessory structures because it's really unclear as to how that will work. There are some homes that have accessory structures that are not immediately -- they're not abutting the property
and there are some that may be a matter of a few feet and there are some at the end of the yard. And those carriage houses are a major concern because there's a home on Holly Street that we believe had illegally built home where they told the zoning and DCRA that there was actually a two-car garage that they bumped up to two stories. And all the neighbors in the community know it was a one-car garage that they just expanded out. And DCRA has taken no action. Zoning has taken no action despite our requests and complaints. So, that would be a particular concern because, for example, my home has a 12,000 square foot lot. I could build a second home on it and my neighbors would probably be upset. But under these regulations, maybe I should be quiet on that issue.

Thank you.

CHAIRPERSON HOOD: All right. So, I guess we want to tailor it on -- let me ask. Do we have any questions for the ANC Commissioners?
COMMISSIONER MAY: Yes. With regard to Commissioner Garrison's testimony. I made a mess of my paper, sorry.

I guess with -- it was one of the last points here on accessory buildings and conversion move. Accessory structures such as garages and carriage houses into dwelling units.

Is this because you're concerned that that possibility will exist at all or that it would be part of the base zoning? Because I had thought that that kind of a conversion could be one of those optional things that gets applied to a zone or not. That it's one of those flavors that's variable. And I'll ask the question --

COMMISSIONER TOLIVER: Our understanding and in the discussion we had the other night with OP staff is that the way this is -- the way the baseline is set in this proposal it would, in effect, permit and we think encourage houses that do not yet have a second unit to go ahead and convert that carriage house.
The carriage into a carriage house or residential structure to get the two. This would enable that process to the extent to which that is the likely result, that is something we do not want to have as a general proposition in the historic district on Capitol Hill.

COMMISSIONER MAY: I guess in some cases it's a double whammy because you wind up taking away something that was parking in the process.

COMMISSIONER TOLIVER: There's a whole myriad--

COMMISSIONER MAY: Adding a parking user.

COMMISSIONER TOLIVER: Right. And also as difficult problems arise as you add density to these existing situations and that a general proposition is not the way we want to go.

COMMISSIONER MAY: Well, I guess, Travis, do you want to field that question? I had thought that maybe this could be a, you know, what I've been calling a flavor that gets added
or gets customized by the particular neighborhood.

MR. PARKER: It can. We proposed it as -- thinking of it as the default. But there's no reason that it couldn't -- the existing situation couldn't be involved and this could be a potential flavor. Yes.

COMMISSIONER MAY: That may be true with a lot of other areas as we think about it. I didn't think about it as we were going over every point but there probably, you know, we have to be very careful, I guess, and try to figure what is really in the base.

MR. PARKER: Right. I guess the point anything about how something is measured is intended to be universal and what you measure too like the height measurement to roof, that's how you measure height and then you can set it at 40 or 30. So -- so, we're going to argue strongly that we have a consistent way to measure things and consistent rules on what you can and can't do but then you can customize the number.
COMMISSIONER MAY: So, going back to--
I'm taking us off in a different direction.
Sorry. And maybe you should start the clock.
No.
But there are some things that we
would, you know, we could decide theoretically
whether or not to measure. For example, we could
decide that we do in fact want to include stories
as something that want to measure but then a
neighborhood could opt for having no restriction
or restricting it to two, three, four or five.

MR. PARKER: Yes.

COMMISSIONER MAY: Okay.
CHAIRPERSON HOOD: Anymore questions?
Commissioner Turnbull?

COMMISSIONER TURNBULL: Thank you, Mr.
Chair.
I guess I've got a question but it's
kind of a -- I'd like to bring the Office of
Planning in on this. I think it makes it much
more fun.
But talking about the side yards. Mr. Toliver brought it up. This slipping and sliding the averaging of that bring up a good point. If you're five feet on one side and fifteen on another and there -- if the neighbor on the other side of the fifteen feet has got ten feet, you got 25 feet between the homes, and on the other side you've only got ten so you got a privacy issue on one and a luxury on the other unit.

MR. PARKER: I guess -- I guess ultimately we have to decide what we want. We have -- we have blocks in the city that follow that pattern where every house is five feet on one and fifteen on the other. So that consistently there is twenty feet between them.

COMMISSIONER TURNBULL: Right.

MR. PARKER: Now, what we're proposing would allow somebody to fit in that pattern. But you're right. It would allow somebody to go the other way and put ten feet between them on this side and forty feet between them on the other side. It would allow them to do that as well.
So, we have to decide, do we want to allow them to fit in the pattern on -- and leave the opportunity open that they'll blow it and go the wrong way and screw everything up or do we want to force them to go to the middle of the lot and automatically wreck the pattern? We're guaranteed that we'll have a certain separation on either side, but they can't fit in the pattern without a variance.

So, it's a policy decision. We can go either way, but we're recommending allow them to meet the pattern.

How much trust do you have?

COMMISSIONER TURNBULL: I'd rather be the bad guy. I have to make them follow a pattern, I guess.

No. It's going to be a conundrum that we're going to have to face no matter how you look at it.

MR. PARKER: Right.

COMMISSIONER TURNBULL: But I'd rather go with the regularity than --
The other thing I want to ask you about is, and I guess it's a -- maybe I don't now if my colleagues have it too, but I think it's Mr. Toliver that had said. The lack of specificity has hampered us sometimes at looking at when you have a template --

MR. PARKER: Right.

COMMISSIONER TURNBULL: -- and you start adding these things. And I know we're not there yet.

MR. PARKER: Right.

COMMISSIONER TURNBULL: But I think it is difficult for a lot of the public to totally understand how these things are fitting in so that they can get a clear picture --

MR. PARKER: Right.

COMMISSIONER TURNBULL: -- of --

MR. PARKER: I certainly understand that. We hear that all the time and that's a very fair comment.

I guess it's another -- it's another issue where we have a choice. You can either --
you know, we, the Office of Planning could go away for two years and come back with a document and say what do you think of it? Or we can all be a part of making it. And we chose, we'll all be a part of making it. Well, there's going to be this two years where nobody knows what it looks like.

So, that's the choice we take to make a very open process in formulating this but it's messy getting there.

COMMISSIONER TURNBULL: No. And I think we all want the involvement. I think the community wants the involvement. But I think at some point in time, we may want to put up some examples or theoretical examples and show exactly how it would fit in different neighborhoods. I know we're not there yet, but I think it's going to -- there's still going to be some very basic questions that are going to keep coming back to us until we can actually throw something up on the wall and say here's what's going to happen.

MR. PARKER: And one option could be,
I mean, we're about to get to the end of our land use specific working groups. Once we wrap up commercial corridors and medium height into residential mix, we'll have -- we'll have done all the land use ones and maybe we take a break before we get into the administrative ones like PUD and Zoning Commission and spend some time putting some of this into text.

Maybe we take a break in the working groups and come back and put some of what we've done -- put some more work into what we've done and bring back to you the text. And then pick up working groups next year.

COMMISSIONER TURNBULL: Okay.

MR. PARKER: I mean, there's options to move the schedule around.

COMMISSIONER TURNBULL: Yes.

Thank you.

CHAIRPERSON HOOD: That sounds good to me.

Let me just say -- Travis -- excuse me, Mr. Parker. As you know, when the concerns
come up through this process as we share the
oversight in front of the Chairman and the
Council, that we tweak it. And Mr. Garrison
mentioned that he asked us to do something once
before. And obviously we hadn't done it. And he
mentions that they only had a few weeks before
the Zoning Commission had to go over this
proposal.

Is there anyway we can rectify that?
I don't know what a few weeks is. A few weeks
could be either two or could be eight.

COMMISSIONER GARRISON: In this
particular case, the memo from Mr. Parkers was
dated the 18th of March. So, we had our
committee meeting just a couple of days ago so we
were -- the balance of March and then the first
couple of days of April. And it didn't provide
us with a sufficient -- we need -- we have a
month's cycle, this like many of the other ANCs
which include setting the docket and having a
committee meeting and having the full ANC make a
judgment. And that takes a little bit of time.
And that's just the way we do our business and you guys see the results of that all the time on the BZA cases. The process. And there we have a routine and you notify us in advance. We have sufficient time. We complete our process. We get our comments to you in plenty of time for you to receive them in your sequence. And that works fine.

On this particular stuff, it's a whole different deal and we don't seem to have the same sort of understanding and it makes it very difficult and we aren't able to be as thoughtful with you as we would like to be. Just like you, we take our job very seriously. We try to do a good job and --

CHAIRPERSON HOOD: I know that.

COMMISSIONER GARRISON: And we get very frustrated when we don't have a chance to complete the exercise in time for you to -- to have our comments.

CHAIRPERSON HOOD: Okay. Keeping in the spirit with the comments that I made at the
oversight hearing, Mr. Parker, let's try to work on that. I don't know what we can do. Let's try to --

MR. PARKER: Sure.

CHAIRPERSON HOOD: -- close that gap. I don't want Commissioner Garrison to come back and say the third time that he asked us to try and do something. So, let's see if we can do that.

And, again, I appreciate, Commissioner Garrison, you being patient with us, with this whole process. It's fluid and it moves as we go along, but we're trying to improve it. So, we'll see what we can do to try to accommodate that.

COMMISSIONER GARRISON: Thank you.

MR. PARKER: If I can follow Mr. Garrison.

The public notice is still coming in adequate time. It's the follow-up report that needs to be sooner.

COMMISSIONER TOLIVER: Well, in this case the specifics of the recommendation which in
the end were contained in your memorandum and that was your intention obviously to have that be the document that was the operative.

MR. PARKER: Right.

COMMISSIONER TOLIVER: There was an earlier document but as we discussed the other night, it was changed by the time it got to your memo.

So, for our purposes, we need to focus on the thing that is the operative decision memo and that's what drives us as it should.

MR. PARKER: Right. Okay.

CHAIRPERSON HOOD: Ms. Grant, do you have a question?

COMMISSIONER GRANT: Yes. I do.

I know that since you didn't have my testimony to read along side with you. I did want to raise one with OP about the customized zones.

You know, is this our alternative for historic districts?

MR. PARKER: Is this an alternative to
COMMISSIONER GRANT: For the protection? Like I said, because you didn't have the privy of my testimony before to read along side. But I was trying to say in this timeframe was just that I see the customized zones to be an alternative to historic districts and can one apply, you know, for that level of protection to, I guess, keep the characteristics of the house -- I mean, of the neighborhood and the community before it then becomes where someone wants a change and we then are altered to that?

MR. PARKER: I think in some ways it is exactly that. And for example, I'll go back to my height example.

Right now, all of our R-1 through R-4 districts allow 40 feet in height. But a lot of our historic districts are 25 feet, you know, two stories high. So, this would offer an opportunity to make some 25 foot zones. We don't have any now.

And so that's the sort of thing that
could be done with this rather than trying to get
a district to prevent pop-ups going up to 40
feet. This could be used for that.

COMMISSIONER GRANT: And they'll be
the right protection and enforcement for a
customized zone. Correct?

MR. PARKER: The same as there is in
any other zone.

CHAIRPERSON HOOD: Any questions from
the Commission?

Oh, okay. Let me go to -- I guess
you're all out of ANC Commissioner -- okay.

Commissioner Toliver?

COMMISSIONER TOLIVER: Yes. Just one
point of clarification.

With respect to the heights in the
event that you allow the maximum height, say it's
whatever, 40 feet. The residents sought to go in
for a variance in order to say put a roof top
terrace up which are popular like in the downtown
areas and some other residential areas.

So, if you say, for example, you're
going to bump up your home to meet that 40 foot, then you can still have a roof top terrace. That's one of the concerns that I guess some of the community might have where people might have roof top parties in their homes or, you know, a portion of the home designated as a terrace.

Would that be possible under the proposal?

MR. PARKER: That is certainly a problem right now. Like right now, not only is the terrace not count towards your 40 feet but everything from the ceiling up doesn't count towards your 40 feet. So, this would got a lot further to make everything from the roof down.

We'd have to -- we haven't actually put any thought into what could be above that 40 feet or not. And certainly we could write it in either way. But, yes. That's definitely getting into the details where we need some guidance whether we should go down that road.

CHAIRPERSON HOOD: And Commissioner Toliver said that his ANC hadn't had a chance.
Mrs. Schellin, how long do we normally leave the record open?

SECRETARY SCHELLIN: It's really up to the Commission but I that what we've been doing is two weeks I think.

CHAIRPERSON HOOD: Will that give you -- since you brought it up, I wanted to make sure that and I know, I think, Commissioner Garrison.

What about a month? Would that give you a chance to -- your ANC a ;chance to review it and provide comments, you know, Commissioner?

COMMISSIONER TOLIVER: A month would be helpful. We just had our meeting this past Tuesday. And so --

CHAIRPERSON HOOD: You're going to need the month.

COMMISSIONER TOLIVER: Be an opportunity to meet with you, maybe have a special meeting and then at that particular meeting carve out an opportunity for you to come the first Tuesday. Actually, if all the ANCs ask that you may be very busy.
But that would be very helpful.

SECRETARY SCHELLIN: And I believe, Chairman Hood, there was another question of another ANC that would like to have three weeks so I think a month would be -- would allow them--

CHAIRPERSON HOOD: So, to be safe we need to start think. We need to at least say five weeks.

So, the ANC Commissions can meet because they only meet once a month. Okay.

All right. Any other questions?

I want to thank you all for your testimony. We appreciate you coming down.

I have one more ANC Commissioner. Any other ANC Commissioners? I'm going to ask Ms. MacWood if she would come up. And I was taken whether you're a proponent or opponent if you're an ANC Commissioner.

And, Ms. MacWood, I understand your request so we're going to go ahead and -- all that I would ask is that you let us know when you move over to your comments alone. Sure. I want
you to do -- no. I want you -- you can do it all
right at the table.

And then I'll get to the lists in
front of me.

Any other ANC Commissioners? Okay.

Ms. MacWood, if you could let us know,
again, when you stop. Okay.

Are you going to be reading from the
letter or you have something different?

COMMISSIONER MACWOOD: Good evening,
Mr. Chairman. I'm Nancy MacWood. I represent
ANC 3-C-09.

And I've been authorized to testify on
behalf of ANC 3-C, which unanimously passed a
resolution regarding the low moderate density
residential recommendations.

Our message is brief. After reviewing
the recommendations and attempting to determine
how they would be implemented in the various
residential zone districts within our boundaries,
we came to the conclusion that we did not have
sufficient information to draw any conclusions.
Since we are concerned that our residents understand the potential impacts, pro and con, we request that the Zoning Commission seek additional detail from the Office of Planning on how each recommendation would be implemented in each residential zone district that meets the definition of lower or moderate density.

In addition we request that the record remain open so that ANC 3-C would have time to review and comment on any new materials supplied by the Office of Planning.

And that concludes my testimony on behalf of the ANC.

Okay. Changing hats now.

I'm a member of the Zoning Regulations Rewrite Task Force and was a member of the Comprehensive Plan Task Force.

And I'm testifying on the basis of my participation in the rezoning process.

I want to use my three minutes, Mr. Chairman, to urge you to consider how these
proposed recommendations will alter the predictable nature of zoning and to question why some of them are being promoted.

These are very complicated and far-reaching recommendations so I also urge the Zoning Commission to schedule another hearing if you seek additional information from the Office of Planning.

In general, these recommendations devise ways to provide more building in low and moderate residential zones.

The Comprehensive Plan policies used as foundation to change area and use requirements don't actually support the broad implementation of these recommendations. Policy LU211 calls for maintaining a variety of residential types ranging from low density to high density, multi-family mixed use types, excuse me. Multi-family, mixed use neighborhoods.

The second sentence which wasn't included in the report states that the positive elements that create the identity and character
of each neighborhood should be preserved and
enhanced in the future.

    Action H15B under the housing element
has a second sentence.

    Any changes to existing regulation
should be structured to insure minimal impacts on
surrounding uses in neighborhoods.

    The focus of this effort should be in
developing process for neighborhoods that want to
encourage new uses or more liberal area
requirements to do so. To impose such changes on
all neighborhoods is not warranted and I don't
believe it is supported by the Comprehensive
Plan.

    The zoning standards that draw a line
in the sand between permissible and impermissible
impacts concerning privacy, light and air,
retention and management of trees and plants,
noise and the expectation of peace and quiet
should not be changed to provide less protection
from impacts unless a neighborhood asserts to a
public participatory process that it seeks to do
that.

I want to put just a couple of comments on specific recommendations.

Recommendation 4 turns predictability on its head. The residents currently understand what they can and cannot do regarding the siding of a principal building on their property and most importantly neighbors know what is allowed on neighboring properties.

If a neighbor wants to push the envelope of what's allowed, there is a public process with specific standards to evaluate whether a proposal is wise and fair. The Office of Planning wants to eliminate that process in most cases.

I hope you will consider this recommendation in terms of both infill construction and additions.

CHAIRPERSON HOOD: If you would hit the highlights of each one of your remaining recommendations.

COMMISSIONER MACWOOD: Sure.
Recommendation 4-B should be amended to prohibit additions that continue a side yard of less than some reasonable minimum.

In my view a neighbor's expectation based on current zoning, the desirability of light and air and vegetation suggests that continuing side yards of less than five feet introduces impacts that are significant.

Recommendation 11 would usher in a transformation of residential neighborhood character and would blur the line between residential and commercial zones.

It will come as a shocking surprise to residents if the Zoning Commission allows categories of uses heretofore either prohibited or regulated by special except as a matter of right uses.

I don't believe Comp Plan supports this change. When you probe OP about how this would work, you learn a neighborhood would not be able to refine or restrict the basic package or template. For example, if the neighborhood only
wanted corner grocery stores but no other type of retail, they couldn't limit the introduction of commercial uses into the neighborhood in this way.

The customized and contemplated here is only to further liberalize the package, not to restrict the package.

I urge the Zoning Commission to ask the Office of Planning to more accurately link each of these recommendations to the Comp Plan. But in addition I urge the Zoning Commission to follow the path created by the Comp Plan by insuring that any changes in the regulations insure neighborhood character and minimally impact surrounding uses and neighborhoods.

Thank you very much, Mr. Chairman.

CHAIRPERSON HOOD: Thank you very much.

Any questions, colleagues, of Commissioner MacWood? Any questions?

Okay. Thank you very much.

And we have your testimony. I know
you didn't get a chance to read it all, but we
have your testimony.

And let's go to the list. I have
proponents and Ms. Gates is good. She's a
proponent and opponent, I think from what I see

Let me start with Mr. Peterson who is
a proponent from the -- he's a task force member.

Also David Alpert, Pro D.C.

Cheryl Cort, Coalition for Smarter
Growth.

And do I have anyone else here who is
in support?

Anyone else in support?

Okay. We'll begin with Mr. Peterson.

MR. PETERSON: Thank you, Mr.

Chairman.

I'm Gary Peterson. I'm a member of
the Zoning Review Task Force. I just would like
to go over these.

First of all, I think what's been
presented to us will let us have a zoning code
that's more flexible, will allow for more zoning
districts with any kind of luck should be easier
and cleaner to use.

And another thing I support is doing
away with the overlay districts. We have a
number of them and they can get kind of messy.
So, I think that's a good idea.

As to the template, I share the
cconcerns of many of you -- many of the people who
have testified and I would like to see a sample
of one. I'm not a trained planner and I have
trouble envisioning how it would look. And so --
but I -- if I understand it, I think it's a good
idea. But I still have some reservations about
it.

I think the height proposal makes
sense. The front yard proposal at least from my
experience on Capitol Hill, we have properties
all over the map on this, but generally people
are at the property line.

The things that I really support are
the provisions for side yards and court widths.
I support not being able to fill them in and also support being able to extend them. And I also think as a quid pro quo for that then they shouldn't be counted against the lot occupancy figures. I think that just makes sense.

One of the things that, I guess, Chairman Garrison and I are going to have to talk about is the use of accessory buildings. I know that we in the past have supported that in Ward 6, but what I'm talking about is existing carriage houses, the two-story carriage houses allowing their adaptive reuse as residential. And the reason I want that or propose that is we're ending up with demolition by neglect of those structures because there really no other use except parking on the first floor and people throw stuff in there to store but there's no incentive to maintain those buildings at the level that they should be maintained.

And so I have always supported
reusing those as residential, not changing the number of units per lot and also requiring one parking spot be maintained in that. So, there's a couple of example. My written testimony covers the whole gamut of OP's proposals.

CHAIRPERSON HOOD: Ms. Cort -- Mr. Peterson, let me ask. Are you finished? Do you have a few more things you want to say because I've been given --

MR. PETERSON: No. That's all right. I think that's fine.

Thank you.

CHAIRPERSON HOOD: Ms. Cort.

MS. CORT: Thank you, Chairman Hood. My name is Cheryl Cort. I'm with the Coalition for Smarter Growth and I participated in the low and moderate density residential work group and also actually was on the Comprehensive Plan Task Force.

I want to say that I'm really impressed with the detailed and thoughtful analysis that was done by the staff. I think
that it helped to demonstrate the clear images of how the 1958 zoning code is not really serving our city very well and really undermines the historic building lot and block patterns of the city. And I appreciate the careful analysis that has put forth an alternate approach for zoning to provide a much clearer, more consistent application and to really be able to conserve the character of our low and moderate density neighborhoods.

As an alternative to the overlay process, I actually wrote a commercial example here and I withdraw that and I would like to actually use the example of the Deanwood Plan.

Deanwood basically -- I participated in the Deanwood Task Force and in the residential zones we have houses every which way because there are no front yard requirements. There's a lot of corrections that need to be made in order to protect the consistency of residential blocks and so we need tools to do that and the Deanwood plan says we need tools to do that.
And I that what's being proposed here is to get at that in terms of how we can protect neighborhood character that is more consistent.

It's odd that we don't have front yard regulations and I certainly have witnessed that in my neighborhood where you have a consistent porches all the way along and then you have a building built way up to the property line. And clearly we need to address it.

I think that actually it is very thoughtful in how -- how it is addressed in here. And I agree actually with a comment made that we need to assess where we've had problems with sort of breaking kind of the logical street wall.

But residential development patterns actually have some variance to them. So, we shouldn't think that it's always necessarily one line for an entire block.

And so I think that the modest amount of variability is appropriate but there's certainly a lot of examples of very jarring contrasts that are really inappropriate.
I wanted to -- I'll just make a -- you know, I could use my own 100 year rowhouse as an example related to lot occupancy and rear yard setbacks.

The blocks that are shown with the sort of diagonal -- the diagonal street. I live on one of those blocks and my backyard is maybe 10 feet. The rear yard setback is somewhere in-- I live in R-5-B. Your rear yard setback is somewhere in the -- I think in the neighborhood of 15 feet.

Everything about my 100-year rowhouse is non-conforming. So, it burned down tomorrow, I wouldn't be able to rebuild it.

My neighbors' house is closer to that point and so they have an even smaller yard and it goes down to a -- to basically a building that's very similar in size to my building. But basically it's 100 percent lot occupancy. Whereas, on the other end of the block, they -- you know, they're 60 or 50 percent lot occupancy.

And so I think that what has been
proposed here really addresses this problem of outlawing our historic fabric and so I just want to strongly support this approach. It's saying there should be sort of a minimum footprint. And I think actually my house is probably about a 400 square foot footprint.

And so I appreciate the sensitivity and sort of context -- recognizing the context for historic -- historic buildings and blocks in our city. And the 1958 zoning code outlaws most of those. And so I think it's -- it's very important to move forward with this. I think it's very much the right direction.

Regarding the question of non-residential uses in residential zones, you know, I can give you an example of a corner store that is on the way to my friend's house. It's in a residential district and it was a really nice little corner store. But then it closed and they were trying to renovate it and then it just went on and it's been closed for a couple of years.

And so I'm concerned that that's a non-conforming
use, that it will go away. And so I do support coming in -- recognizing that what we should be regulating is the performance of these uses in terms of their impacts on the neighbors rather than necessarily the use itself in terms of home occupations. And so I really support the direction of Recommendation 10.

And so in general I'm very appreciative of the analysis and careful sort of crafting of a zoning code that's going to much better respond and support our historic neighborhood fabric.

And I just want to make one point. It wasn't -- FAR wasn't mentioned in this and I actually think it's not a very helpful term. Tell me how big, how high, where should the building be placed? How does it relate to its neighbor? FAR is a dimentionalist measure that has no -- it doesn't tell me anything about the quality of the building, how it relates to its neighbors. And so I actually think it's an arbitrary and actually unuseful
measure that I think we should drop basically.

Thank you.

CHAIRPERSON HOOD: Thank you. Mr. Alpert.

MR. ALPERT: Thank you very much, Mr. Chairman and Members of the Commission.

My name is David Alpert. I run the website, Greater Greater Washington, which covers issues of land use and transportation in the District of Columbia. And I also run the advocacy organization, Pro DC, which organizes around important public processes including our zoning rewrite.

You have my prepared testimony but I wanted to respond to some of the specific questions that some of you and some of the ANC Commissioners had raised.

In general, I support this proposal and I really appreciate the hard work that the Office of Planning has put into craft this.

Zoning is a very confusing topic as we can clearly see from the many questions and
comments.

Several times during this process I participated in the working group on this subject area as well as attend various community meetings.

I've been surprised at various times to hear a neighbor speak vehemently against this proposal but then make an argument, a criticism of it that's actually a point the Office of Planning had just made in favor of the same proposal. I believe that many people misunderstand this proposal. And might believe that it takes away important rules when in fact it simply adds choice.

This plan gives neighborhoods greater choice. They can agree to have more or fewer dwellings per building or lower or higher heights than they do under the current zoning code with that flexibility.

But having a choice does not obligate a neighborhood to take advantage of that choice. The ANC Commissioner from Crestwood, I believe,
said that they do not want to allow more dwellings per building. However, just because they feel that way does not mean that other neighborhoods might want that choice.

Let's not mistake flexibility for overpermissiveness.

I also want to reiterate what other people have said about the buildings with unusual setbacks which I've been calling pop-outs and these are a problem on many blocks outside of our historic districts.

A single modern building can stick out and destruct a whole row and does in several places. There's no zoning rule today to prohibit this and I welcome OP adding rules for these pop-outs.

To a question that I think Chairman Hood asked. I e-mailed Mr. Parker to clarify whether if a block has one house that projects farther out from all of the others or farther back, whether the zoning code would require -- would allow anyone to build that far out or that
far back no matter what. And if I understood
correctly what he said, I believe that while
neighborhoods might allow buildings to go as far
out as an existing building, they don't have to
do that. They could choose to require all of the
buildings to line up even if there's a non-
conforming building already.

So, I think that's an important point
to make in terms of the way that is worded.

I don't know, maybe that answers that
question that you were asking before.

I also support the shift from static
lists of permitted and prohibited uses to the
regulation based on impacts. I live in a
residential zone and a residential block and I
definitely would not significantly increased
amounts of noise, trash, rodents that might
result from some types of commercial activity on
my street.

However, if commercial activities
could take place without creating those negative
side effects, I would support those. We should
enable some neighborhoods serving commercial or institutional uses in our residential districts where they would be contextually appropriate, beneficial to the public and minimal in their impacts.

This proposal would help our neighborhoods improve and evolve while protecting existing residents as well.

The Office of Planning has conducted many meetings on this process and even delayed this report to further studies and issues that opponents have raised. I believe they work remarkably hard to create a zoning model that is strongly deferential to the needs of existing residents and existing neighborhoods, but while also adding the flexibility that we need for our 21st century city.

Thank you very much.

CHAIRPERSON HOOD: Thank you very much.

Any questions?

Mr. Turnbull?
COMMISSIONER TURNBULL: Thank you, Mr. Chair.

I just want to get back to Mr. Peterson. I don't think he had a chance to finish his comment. But you were talking about carriage houses -- existing carriage houses in the Capitol Hill area. And basically you were in favor of keeping those and developing those as either residential. But I think -- you never said it, but I'm assuming but your opposed to new carriage house --

MR. PETERSON: That is correct and actually about 15 years ago CHAMPS, Capitol Hill Merchants Organization and the Capitol Hill Restoration Society did a study of how many of these there actually area. And there's less than 100 so we're not talking frankly about that many additional units. And we had actually proposed the zoning amendment to allow that, that died a death somewhere in the process because a lot of other neighborhoods opposed it.

COMMISSIONER TURNBULL: Okay. I just
wanted to --

MR. PETERSON: Right.

COMMISSIONER TURNBULL: -- clarify your point.

Thank you.

COMMISSIONER MAY: Okay. Thanks.

The Chairman asked me to continue so thank you very much unless we have any further questions for this panel.

No. Okay.

Now, we're looking at persons in opposition.

Alma Gates, George Clark and Ann Sellin.

Ms. Gates, you can start whenever you're ready.

MS. GATES: Good evening Members of the Commission.

My name is Alma Gates. I was a member of the working group.

As a starting point for discussion of new zoning strategies and concepts OP highlights
the Comprehensive Plan's main goals for residential areas, protection of existing neighborhood character and promotion of conforming infill.

However, what is being proposed appears to promote the destabilization of existing neighborhoods, recommends a new maximum building footprint in lieu of lot occupancy, proposes matter of right construction on substandard lots, removed required uniform side yards, eliminates light and air, proposes rear yard accessory residential space and trades the customization of zones for the unique overlays that currently provide protection for established residential neighborhoods.

These are some of the concerns the work group consistently attempted but obviously failed to persuade the young OP staff to reconsider, thus making their disclaimers appropriate and necessary.

OP is proposing to replace the seven existing low and modern residential zones with a
limitless number of customized zones. The number of existing map zones districts throughout the city will increase as numerous new zones are created.

The complexity of what is being proposed really isn't an improvement over what currently exists, will not improve the relevance, clarity and needs of use of the zoning code, equates to spot-zoning and will eventually lead to an extensive remapping of the city.

Matter of right and increased density are the recurring themes of the low to moderate density residential recommendations. In its report OP cites since 2001 nearly 20 percent of all variance cases included relief for lot occupancy in the R-1 to R-5-B zones.

As these variance requests would become matter of right under this proposal, the Zoning Commission must be mindful of the immediate neighbors who would be denied an opportunity for input when the obvious impact is to their property, it's value and their quality
of life.

Further, using this matter of right scenario what is to prevent creative developers from purposely creating substandard lots that would allow more density and a great return on their investment.

Requiring the placement of homes along the front building restriction line may provide a neater more uniform look to residential streets. However, a provision for corner lots needs to be included in Recommendation 3. While much attention was paid to assuring a uniform front yard setback, side yards did not fare as well.

Home would no longer be protected by a rigid side yard and setback, but would be subject to a minimum side yard standard.

As the Commission will recall in the recent Canal Park case, a number of the side yard setbacks were well under what is currently required including one that was less than one foot. This allows more overall massing, increased density and impervious surface
coverage, omit light and air and lowers the bar in terms of zoning standards.

As one work group member put it, how would you get your Supercam through a three-foot wide opening?

The broad categories of uses being proposed as special exceptions for residential zones, even with strictly enforced performance measures and baseline limits would lead to destabilization and a change in neighborhood character.

Finally, the recommendation to allow a second residential structure on the same lot in those zones that allow two or more units would insure a new revenue stream for the property owner, converting existing or constructing new garages along an alley will create a new class of alley dwellers who will place increased demands on already strained utility delivery as well as the Washington Aqueduct in Blue Plains. And put more cars on the street.

The Comprehensive Plan's goal for
protecting neighborhood character is not met by these proposed changes.

In short time the Commission will be presented with a recommendation of the sustainability work group. To consider these two segments in isolation is a disservice to residential property owners as both segments promote much denser residential areas.

Those of us who represent neighborhood and community groups owe our constituents an honest appraisal of what is being proposed by the Office of Planning and the message is. The new low to moderate residential zoning proposals do not protect their interest and should not move forward.

Thank you.

CHAIRPERSON HOOD: Thank you.

Mr. Clark.

MR. CLARK: Thank you, Mr. Chairman. My name is George Clark. I'm pleased to testify here tonight on behalf of the Federation of Citizens Associations of D.C. I'm
also a member of the Zoning Review Task Force and
have participated actively in those meetings and
those of the work groups, including the one for
this hearing.

When I testified before this
Commission on June 21, 2007, at one of its
roundtables on the rewrite of the zoning
regulations and when I testified at the Council
many times in support of getting the funds for it
I never imagined what would take place. I
thought we would actually concentrate on the
problems with the regulations. Instead we have
embarked upon a rewrite for the sake of
rewriting. There is no better example of that
than the proposal before you tonight.

And let me say that once again the
Office of Planning has misrepresented the process
that led to this session. I was at all but one
of the working group sessions. I can tell you
that there was no consensus that the existing
regulations are inadequate. That's a quote. In
fact, the consensus whether there were 10 or 25
persons in attendance were that OP was going to bar and had not considered the effects of what it was proposing.

The consensus of the working group was that OP was trying to fix what wasn't broken and ignoring what did need fixing. OP chose to ignore that consensus to impose its own vision of a far denser city in every neighborhood.

In the pretense of consensus carried over to the task force meeting on this subject. That evening everyone on the task force who spoke from developers to professionals to activists to government representatives said the same thing. How would this work in practice and will it make working with the regulations any easier?

The task force said, we don't see how this can work in the real world even if you assume it's a good idea which we aren't ready to do. There was more than consensus on this. It was unanimous.

OP was very honest in its response. They said, we haven't tried to figure out how to
write this and the task force said, well, why
don't you try to figure it out and then come back
to us? OP said, sure. We will. Days later they
issued the notice that we're here on tonight
without doing that.

And they say they want to make it
simply. What they propose is that on each side
of each block in the city you might have
different zoning. Talk about making it easy to
figure out the zoning everywhere. Spot-zoning?
Who has ever heard of that? OP has also
recommended that all retail and moderate
commercial uses be allowed as of right except for
one or two as yet undefined noxious uses anywhere
in any residential neighborhood. For some
reason, OP and I have chosen the same example to
show what they mean.

A dry cleaner. OP says they should
have these everywhere. Maybe one to a block. I
say, are you kidding?

OP's idea for at least 132 different
residential zones before going block by block
means that this Commission will have to become familiar with each of them and their principles decided one may not be applicable to another. And the same goes for those developers and homeowners who are promised simplicity.

Height is something that I agree on. Where we should measure height to. The thing I haven't been able to get to an answer is where are we going to measure height from? And that's been a big issue before this Commission. It's the first reason I ever appeared in front of the BZA was on that.

And I'll tell you with the proposal that we have to eliminate stories, I can add 40 feet to my house because of where you would measure the height from because I have the alternative measuring it from the curb. And my house is 40 feet below the curb. I could 40 feet on top of it unless we count stories.

So, there are things that we ought to be thinking about and I'm glad we picked up on that.
OP has offered no reason to change standard zoning terms like side yards and rear yards. And by the way on side yards the sustainability group recommendation to the Office of Planning is three foot minimum. We've been bantering about five and four and ten in this hearing. Three feet is what they say there.

And what we're getting are things that are because OP doesn't like them, because they're not the latest rage. I don't know. It says we should encourage expanding nonconformities, even though a cargo principle of zoning is that you eliminate them. It says, let's build on substandard lots. There are many of those at 900 or 1,000 feet in my neighborhood that have been consolidated for tax purposes. But they're still separate lots. Under this proposal, we can have two houses on the R-1-A area. That's what we would have under the OP proposal here.

This doesn't preserve neighborhood character. OP recommends allowing residential accessory units of a very large size on every
lot. They have cut back a little bit on this on
the sustainability group. But what's the basis
for this? It was a report by a consultant that
there are 125 such units in Aspen, Colorado,
built for seasonal use. Apparently, OP has
forgotten or never knew that alley dwellings are
one of the reasons D.C. was an early adopter of
zoning regulations.

Having lived in D.C. for the best and
worst of times, I would hate to see OP kill the
goose that has laid the golden eggs for our city,
our vibrant neighborhoods for the sake of
implementing an experimental planning course, but
that's exactly what's happening.

CHAIRPERSON HOOD: Thank you very
much, Mr. Clark.

Ms. Sellin.

Can you turn your microphone on?

Okay. And identify yourself.

MS. SELLIN: My name is Anne Sellin.

I'm testifying for the Residential Action
Coalition, a citizens group founded 28 years ago
which focuses on planning, housing and preservation issues in the Dupont Circle neighborhood.

The proposals of the planning officer, an exercise to radically change the zoning regulations. It's citizens who bought houses or condominiums relying on our regulations for their safety and comfort could be betrayed by the city if these proposals were passed. They satisfied expectations of basic normal protections and would lead to an increase in building densities, would destroy more of the green space supporting the green canopy which citizens are trying to re-establish, would threaten privacy, diminish light and air and drastically eliminate the line between commercial and residential areas.

The result could be the elimination of hundreds or thousands of square feet of existing housing and the disruptive interjection of retail and office establishments in residential neighborhoods.

Conversely, retail areas that need
reinforcement could be serious undermined.

Customized zones with templates really aren't necessary. Other overlays appropriate to their specific areas could be listed in the zoning regulations adjacent to the areas they apply to in order to make them user-friendly.

There's no reason to have zones applicable to just one tiny area of the city. We need more zones and they should probably be created. For instance, the Comprehensive Plan mandates the creation of an R-5-1 and an R-5-2 zone. Highly desirable goal and they can be applied in several areas.

As to use performance requirements these would likely be vague and unenforceable. Now and for many years enforcement has been negligible. The more variables enforcement personnel have to deal with, the less likely anything will be enforced.

The proposals 4 through 10 are provisions that increase matter of right, lot occupancy and density by the reduction of courts,
backyards. It also allows garages and adjunct
buildings to exceed lot occupancy and swallow
backyards. This diminishes privacy, light and
air and ignores the desirability to preserve the
environment, open green space and trees.

    Interjecting commercial and retail
uses in residential areas is the most pernicious
proposal of all and appears to be a ruse to
circumvent the height limit regulations. In the
height limit sessions it was suggested that any
block face having a store would be considered
commercial for height limit purposes, even though
it was almost all residential, thus increasing
the height of a block front and creating dysjunct
variations of height on either sides of the
block. This is totally ridiculous.

    Increased uses should not be allowed
to proliferate in any residential neighborhood
and is contrary to H13-A of the Comprehensive
Plan which says. Make necessary changes to
preserve rowhouses as single family units to
conserve the city's inventory of housing for
larger households and LU213, recognizing the importance of balancing goals to increase housing supply and expand neighborhood commerce with parallel goals to protect neighborhood character, preserve historic resources and restore the environment.

In Dupont Circle we have art galleries, embassies, nonprofits and other uses that deaden these properties because of the absence of full-time neighbors who care about their blocks and the community. These places are staffed by people who frequently don't live in the city.

In a number of cases, the workers in these commercial places park with impunity in the front yards which are publicly owned space. Despite decades of entreaties from citizen's groups and our ANC, the police almost never ticket these commercial malefactors. The result if paved front yards and the ugly clutter of cars parked on them.

In many R-4 areas, we have ample
services near by on commercial streets some of which have empty stores. These strips run between residential areas every few blocks. Fourteenth, Seventeenth, Eighteenth Street, Connecticut Avenue, part of P and Q. There are plenty of stores and services within walking distance.

Retail and commercial establishments inevitably lead to a change in the character of buildings with facade changes and signs. Just look at the commercial areas of Connecticut Avenue above Dupont Circle. Or Georgia Avenue or 18th Street and Adams Morgan where historic rowhouses have been commercialized, altered and sometimes mutilated.

This is contrary to LU238 of the Comprehensive Plan that mandates. Reduce the number of nonconforming uses in residential areas, particularly those uses that generate noise, truck traffic, odors, air and water pollution and other adverse effects. Virtually all retail stores bring truck traffic.
Neighborhood groceries generate trash, rats and have late hours that disturb residents. The despoiling of residential districts by retail and commercial uses would disasterously impact the quality of life of residents and lead to the elimination of neighbors and housing. It could also result in poor upkeep of properties and the decline of neighborhoods.

I'm from Houston, a city without zoning and grew up in a neighborhood which declined precipitously after commercial uses intruded.

And the permission of alley dwellings. In instances this would violate the Comprehensive Plan policy LU2113, flag lots. "Generally discourage the use of flag lots which are lots with little or no street frontage, accessed by a driveway, easement or narrow strip of land and typically located to the rear of another lot by subdividing residential property.

The Zoning Commission should not set these proposals down for a hearing. The changes
The proposed would lead to a loss of existing houses, the weakening of our commercial districts, adverse environmental effects resulting in the loss of trees and green space, as well as the commercialization of residential neighborhoods. This should not be the policy of Washington.

CHAIRPERSON HOOD: Thank you very much.

Any questions, colleagues, of this panel?

I wanted to talk. Ms. Gates, I have a quick question. I think I underlined it. You mentioned that we should not -- we should be talking about this and also sustainability at the same time. Why did you say -- I think I know, but I'm going to ask you.

Why did you say that?

MS. GATES: I'm sorry, Chairman Hood. I couldn't hear the beginning of it.
CHAIRPERSON HOOD: Oh, I'm sorry.
I think in the testimony you said we should be talking about low to moderate density and the sustainability at the same time and not in isolation.
Why did you say that?
MS. GATES: Oh, we should be looking at the findings of those groups because I think there's such overlap in almost every area, environmental lot size, uses, etcetera.
CHAIRPERSON HOOD: Okay. Thank you.
And, Mr. Clark, you mentioned about I think the exact words. Going to rewrite for the sake of rewriting.
Let me ask this. If we saw more examples like today I think the issue about the template. If we were able to visually see that and kind of get a roll map of exactly where we may end up, would that be more helpful? Would you still make the statement that we're just rewriting this to be rewriting it?
MR. CLARK: I think it's probably
true, Mr. Chairman, but I for one was willing to be open to the prospect of trying to put things all in a different kind of a template.

COMMISSIONER MAY: Can yo move your microphone forward a little bit.

CHAIRPERSON HOOD: What happens is --

COMMISSIONER MAY: The microphone is right over --

MR. CLARK: I'm sorry.

COMMISSIONER MAY: It goes right over my head. Push the microphone forward. More please. No, away from you.

MR. CLARK: That's what I was doing.

COMMISSIONER MAY: Yes. More. Thank you.

CHAIRPERSON HOOD: It's not that we don't want to hear you, it's just that --

MR. CLARK: I know. You don't have any problem hearing me anyway. I know you never have.

But the -- I don't believe that the mere fact of having some kind of a template is
improper or is not something that could work. I was open to that prospect during the course of the working group meetings.

When we came to the end of it we asked, how is this going to work? And the answer was basically we hope it will. I mean, that's where we are. We don't know if it will work. We haven't tried to make it work. And what made the point to me was when professionals in the field and when developers said the same thing. Well, we're not sure how this would work. And OP's answer was, well, we don't if it would work either. And so you're point of can we do it? Can we look at it and see if it would work before we have it come out for public comment was where we thought we were going. And it didn't come out that way. Instead, we're here tonight.

CHAIRPERSON HOOD: Okay. Mr. Parker, can you help us with that?

I mean, because I'm looking and Ms. Schellin actually wrote the schedule on Mr. Clark's testimony. But I think he brings up some
valid points. And actually one of the points he
brought up was one of the issues that I think
Commissioner May mentioned earlier about fixing
the existing problems.

    MR. PARKER: Right.

    CHAIRPERSON HOOD: But I don't know if
the existing problems overwhelm what we're trying
to fix in the whole -- in this whole piece. I
don't now. Anyway.

    MR. CLARK: And let me say, Mr. Hood,
that in the course of this there have been at
least two meetings where many of us have met with
the Office of Planning to talk about these
recommendations and about things that we though
could be fixed or should be fixed.

    And we talked about that at
considerable length and I think it's fair to say
is the result of that very little if anything was
done. So, we have tried to work behind the
scenes to try to get some changes done.

    I really think that what I'm saying is
kind of what you're saying. And say, well, how
do we know how this is going to work and look"?
And the answer is, we all said the same thing.
How do we know how it's going to work and look?
And OP's answer was, we think it will be okay,
but we don't know. We haven't tried to put it
together in writing to see if it will work.

CHAIRPERSON HOOD: But you know, Mr. Clark --

MR. CLARK: We're talking about an
abstract problem.

CHAIRPERSON HOOD: Right. And I
understand that but personally I'm the type of
person I'll try to go as far as I can until I
just get to a point, this is just not going to
work and I'm sure my staff and my job will tell
you the same thing. Try to get it to a point and
if it doesn't work we turn around and go back.

But I think the task group and I'm
feeling for the task force because you all meet
two or three hours every other month and you're
putting a lot of time in it. And, you know, we
all want to get to the end. And I think the
Chairman of the Council even said it to us at the oversight hearing. We don't want to get to a point where we have a whole lot of unhappy folks and we end up in the same place we are. And that's why I want to talk to Mr. Parker.

When I'm leaning towards making these changes, I just don't want to waste a whole lot of folks time, you know, that's kind of where we all are.

MR. PARKER: And that's why we're here, absolutely. I mean, it's a discussion I had earlier. It's not a matter of whether this will work but how. And there are multiple ways to codify something like this, multiple ways to map it, multiple ways to put it in code. We've got a lot of experts on our staff in terms of writing zoning code and we can do that. It's a matter of coming to you and saying. Should we spend six months of our time doing that or can -- should we have an open discussion about is this the right path to be going down?

We can and will with your guidance.
bring you text to show you how this will work and then we can have another discussion about did this do the trick? And was this the right decision that we made? And if not, then we go back and we start over.

But it's a matter of we need your participation in that process or we're, you know, just going to go out -- we just go out and write it and then you follow up at the end.

So, it's not a matter of whether it can work. It's how -- you know, among multiple ways to codify it, how it would be codified and we need to work closely with OZ in that.

But what we're looking for here is. Is this the type of system that would be appropriate for D.C., for our complicated set of neighborhoods and our complicated set of issues? And if so, go OP and now show us all task force, Zoning Commission, everyone what the best way to codify this would be and what it would look like when it's done.

We did meet with the working group.
We met with the task force. We needed to meet with you as well. I mean, otherwise you're not a part of this process.

CHAIRPERSON HOOD: So I guess -- I'm not going to belabor, but I guess there's no -- no fix to the issues because I think, Mr. Clark, this is not the first time you've raised this. I think you raised it in front of us. I think you raised it in front of the Chairman of the Council about this process. And it seems like -- do you think it would make it better as we go down the line? Maybe we'll be able to see it a little better? I'm just asking.

MR. CLARK: Well, the answer is, on this particular issue on the low and moderate residential, I think that it's really kind of a tipping point right here. And a judgment is, do we need to fix these things which I'm not sure anybody has identified yet are broken. I mean, I think that's really the key.

Do we need to fix things that aren't broken? I mean, we've got enough things that are
broken that we want to fix. But do we need to
fix things that aren't broken by changing
completely the system that we use to regulate low
and moderate density residential?

CHAIRPERSON HOOD: Okay. On the same
token, what I'm hearing from and I'm just trying
to think this thing through.

On the same token what I'm hearing
from Mr. Parker, the Office of Planning, the
reason that you all even created this whole
process, the task force, well, definitely bring
it to the Commission, was to get buy-in and give
people the opportunity to participate in the
process.

I guess then from what I heard from
Mr. Clark at one of the task force meetings, it
was unanimous. Was any of what the task force
discussed put into this recommendation? And some
of it I --

MR. PARKER: I think that what Mr.
Clark is saying is that the task force and
rightly so said we'd love to see how this works.
We'd love to see an example. We'd love to see the codification of this and how it's going to look in text. And that's absolutely fair and absolutely true and that is the next step for us to do. But we had the -- you know, we presented these ideas to the task force. There's no reason not to present the same ideas to you and the next step is we go away and we write it. But you need your opportunity to also say. You know what? Maybe Recommendation 7 is not right, drop that one. And drop Recommendation 11, write it in this way.

So, we've got comments from the working group. We got comments from the task force. We're here to get your comments --

CHAIRPERSON HOOD: And you're going to give us a chance.

MR. PARKER: And then we go back and we write it.

CHAIRPERSON HOOD: All right.

Can we agree on that, Mr. -- he's giving us a chance now.
MR. CLARK: Well, I certainly had no problem with the people who are going to decide it having a chance to consider it. But, in fact, one of the purposes of the task force was to be a little bit of a filter on this too. And that's what we were trying to do. We were saying, maybe this will be great. Maybe it won't be great. Give us a chance to look at it to try to filter some of it out so that we can present something that was a little more concrete to you.

CHAIRPERSON HOOD: I got you.

Commissioner Keating?

COMMISSIONER KEATING: Thank you. I just had a quick -- was there a report that came out from the task force itself of what the task force concluded?

MR. CLARK: There was not a report.

CHAIRPERSON HOOD: Okay.

MR. PARKER: Yes. The task force is an advisory body. I mean, we present to the task force. We collect their opinions and I hope I have in the comment document that I attached, I
faithfully rendered them to you. So, we collect the comments and we certainly make changes where we can. But, again, the main comment was. This might work, we want to see it. And that's where I'm saying that's six months -- that's -- you know, the process that we have to go and hide in our offices and spend six months designing it. And we'd like to get everyone's, if not buy-in, at least understanding first.

COMMISSIONER KEATING: Just one quick structural question.

Is there a reason why all 14 of these were put together?

MR. PARKER: These recommendations?

COMMISSIONER KEATING: Yes.

MR. PARKER: These are recommendations that deal with --

COMMISSIONER KEATING: Deal with --

MR. PARKER: -- low and moderate density.

COMMISSIONER KEATING: -- low and moderate density?
MR. PARKER: Yes. Now, some of these did come from our discussions. You'll notice we never had a hearing on historic structures. What we found is that our discussion from our historic structures working group was almost -- almost totally based around low and moderate density residential issues and so we tied those in. So, you'll notice some historic strain in a couple of them.

MS. SELLIN: Mr. Hood?

One of the problems is these task forces are all top down. We're presented with a preconceived list of things to deal with and we're not particularly listened to when we bring up other problems. And they can be ignored. Just as an example, one problem is the building over of windows that are on a property line. In L'Enfant City if you have the side of a building with windows on the property line, the vacant lot next door, they can just build over your windows and we've had this happen. But that was not addressed. This is just one example.
And a lot of the things that are addressed in this are not really problems. There are problems. But they're not being looked at.

CHAIRPERSON HOOD: I don't know if we're going to solve that problem. But I just am in the belief that as we get to the language. And I will tell you, Mr. parker, I'm glad you just didn't write a book without hearing our input. Because I think you might have had more problems you brought the book back.

MR. PARKER: It's not easy this way either.

CHAIRPERSON HOOD: Right. Right. I understand. But I think as we get closer to start realizing some language and stuff. I think it may ease up a little bit. Now, I don't want to go out on a limb and -- by repeat and going to say that. But I'm just hoping we're getting to that point as we evolve down this road.

I don't know if that will help anybody, ease anybody's concern or not, but let's see what happens.
All right.

Thank you all for your testimony. I appreciate it.


And is there anyone else in opposition that would like to testify tonight?

Okay. With that, this will be our last panel.

We'll start with Ms. Zartman.

MS. ZARTMAN: Thank you, Mr. Chairman. Is this on balance or is this one okay?

CHAIRPERSON HOOD: That's actually Commissioner May and Commissioner Jeffries' problems. The other three we don't have that problem.

MS. ZARTMAN: Oh, well.

Thank you for the opportunity to testify about recommendations from the Office of
Planning with regard to low and moderate density residential areas on behalf of the Committee of 100 on the Federal City.

As was voiced in the last panel, we can't agree with OP's sense that there was broad support for its proposal. While votes are not taken, the preponderance of comments at meetings have offered concern or disagreement with many, many proposals.

My written statement is a recitation of some of the problems we believe are plaguing what is now called zoning re-engineering. The baby we believe has been thrown out with the bath.

Residential zones as we now know them are to be abandoned in favor of new individual stand-alone zones for all communities. Adams Morgan will have its own zone as would Woodley Park and others. Overlays would be abandoned in favor of a package of provisions for each of these specific zones.

Inquires about who would sit at the
table during these decisions, how boundaries
would be set, how disagreements would be settled,
what limits would apply, how enforcement would
occur, all were met with the same replies. We
don't know, we're still working on that. Wait
for the regulatory language. That doesn't help.

To say to a group meeting around a
table, well, your community will make this
determination, doesn't tell me whether that my
community is absentee landlords, property owners,
renters, transient residents of the community,
the business association, our citizens'
association, our ANC? And until we have a sense
of who is being empowered by these proposals I
think we're going to be very, very frustrated
because receptivity will be based very much on
the trust relationship that is or isn't in
existence.

The uses as has been proposed will no
longer be specific. I agree with everyone that
the current list of uses permitted, prohibited
and conditional needs a lot of work and maybe it
needs to be scheduled for a periodic updating. But the new categorical regulation of uses is we believe very troubling and will result in great confusion, a great deal of unhappiness. You know, we joke about the distinction between the personal services of your family dentists and a recreational masseuse. And gone will be the voice of the ANCs, of community groups, of neighbors. The Office of Planning will make these decisions on our behalf. And quite honestly, I don't know that there is the level of trust based on the experience many communities have had with PUDs, with campus plans, with small area plans, to empower the Office of Planning to do that on our behalf. We believe the voice of a community needs to be heard.

I can go through more specifics, alley dwellings, expanded garages, carriage houses are to be allowed of right, though no particulars about health and safety issues are offered. Appropriateness of dwellings on narrow alleys and their import on adjoining and nearby dwellings,
not addressed.

The front setback standards can't be established without resolving with DDOT the use of public parking, the space in front of residences that is tended by residents but owned by the city. This term stems from the creation of parks probably under Boss Shepherd's regime, maintained by the public rather than the Government and it has nothing to do with vehicular parking.

It is not counted, however, in lot coverage. And as currently framed by OP there would be huge inequities for homes that have no public parking space in front as opposed to those who do.

Side yards should not be reduced beyond current provisions and I hope as time runs out you will ask me why the change to R-3 zoning is so powerful in neighborhoods like the one I live in.

HPRB Review is critically important to maintaining historic districts' character and
integrity. The provisions of front, side and rear setbacks are critically important to these areas and HPRB cannot be precluded from exercising its responsibility under the Act. All OP proposals should be carefully reviewed for their impact on the independence assured to HPRB and its Federal counterparts.

I would like to offer one bit of positive news for you, however.

As everyone has been saying they want to know what this would look like. The Office of Planning has come to the Georgetown community and asked if we would be willing to sit down and work out how the provisions that are being proposed would be applied in the Georgetown community. We readily said yes and that process will begin next Friday.

I would ask that you not offer policy direction until that process has played out and the consequences drawn from the experience can be before you to consider in terms of impact in real life, in a real place with real people.
Thank you. I'd be happy to answer any questions, including that one about R-3.

CHAIRPERSON HOOD: Thank you, Ms. Zartman.

We'll go to Mr. Watson.

MR. WATSON: I'm George Watson, President of the Wesley Heights Historical Society and a non-commissioned member of the Zoning Committee of ANC-3D.

I've lived in the same house in Wesley Heights in far northwest Washington for 40 years. My testimony today is mainly on behalf of the historical society rather than the ANC-3D. I will focus on the importance of the two zoning overlays in ANC-3B in preserving our neighborhoods from uncontrolled overdevelopment and preserving the liveability and environmental values of our glorious communities.

Wesley Heights is an upscale 1920s to 1930s Miller-led development just south of American University, consisting of some 525 single-family detached homes in R-1-A and R-1-B
zones with large yards and landscaped streets.

The Miller Company left many of the trees intact when they built the homes and the tree cover persists to this day.

Most of the homes are two-story structures. Front yard setbacks were originally generous providing pleasant streetscapes.

The Wesley Heights homes are an eclectic mix of styles, mostly colonials, English/French style cottages and tutor houses with wood, shingle, stucco, brick and stone facades.

One hundred and thirty of the homes were designed by Architect Gordon E. McNeill and lot landscaping was in the hands of John, III, providing a control for the initial appearance of the subdivision that continued for almost 50 years.

In the mid-1980s, however, there was a state of development in Wesley Heights when two adjoining R-B-1 lots with modest shingle homes on Klingle Street were purchased by a developer and
immediately demolished. In their place two very
large brick mirror-image railroad car like tall
homes went up changing forever the streetscape of
that block of Klingle Street.

A block away on Cathedral Avenue where
I live, another developer snapped up a large size
garden of a flagship property. It happened to be
a Miller family owned property and infilled it
with a large three-story townhouse like
structure.

Shortly after selling the new home for
megabucks, the same developer bought a half acre
corner lot, also a Miller family home with a
diagonally placed low tutor house and lifted it
up and turned it 45 degrees so that it faced
Cathedral Avenue.

On the newly created corner subdivided
corner lot he built a tall red brick three-story
home. What had once been a marvelous park-like
corner with three well setback, diagonally
situated houses with large open front yard
gardens and a tricking stream, became less
peaceful and inviting.

A group of neighbors formed the Wesley Heights Historical Society to put together a plan for preserving our neighborhood and trying to prevent permanent alteration. We consider historic designation but unlike Georgetown and Cleveland Park we found no unanimity among the homeowners. We did succeed, however, in convincing a majority of those homeowners to support the Wesley Heights Overlay District. It was adopted by the Zoning Commission in 1992. The overlay called for a reduction of lot structure footprint from 40 to 30 percent, a limitation of floor area ration to control bulk of buildings and a unique block by block average front yard setback to preserve streetscapes.

These are all simply stated in the zoning code. We did, however, overlook one aspect of the front yard setback provision. Namely, for corner lots as Alma Gates mentioned earlier, we should have made them subject to the same front yard setbacks on both sides of the
corner. There has already been one egregious new
corner lot home placement with an eight-foot
setback fronting 20 foot plus -- fronting a 20-
foot setback streetscape.

The society has kept a watchful eye
for add-ons and new structures in the
neighborhood and has attempted through
interactions with ANC 3-B and the zoning office
to see that both the provisions of the overlay
and the underlying zoning code have been enforced
in a fair and even-handed way that allows
homeowners to make modest improvements to their
property and yet preserves the open and inviting
wooded and garden environment.

We've had some successes and some
disappointments. A developer bought a quarter
acre side yard on 44th Street and began pouring
concrete walls for a new infill townhouse about
10 feet from the street. In the name of the
society I brought this to the attention of ANC 3-
D and the chair immediately send the developer a
tear down that wall letter pointing out the --
the WHOD infraction.

The next day the developer's bulldozers demolished the wall, put up a new facade cited in conformity with the overlay.

Another developer on a large steeply sloping parkside lot on Dexter Street -- Dexter Terrace wanted a flat backyard overlooking Acclamation Park. He built a 30-foot high rampart wall --

CHAIRPERSON HOOD: Mr. Watson, I'm giving everybody a little more time.

MR. WATSON: Yes.

CHAIRPERSON HOOD: I'm looking at what you have left and it won't be fair to everybody else. I'm trying to make sure our meeting is fair. If you can hit your high point and let's end it with that.

MR. WATSON: But what I want to bring to your attention is that the zoning overlay has worked in Wesley Heights. And we have gone after abuses of the zoning overlay and the neighborhood supports it and the main thing I want to
emphasize is that our neighbors and others throughout this city have worked hard to establish and enforce these neighborhood overlays that are tailored to local conditions and environments.

These individual neighborhoods of varying characters are what has made our city so diverse and liveable. We hope that you will not sacrifice this diversity for overall zoning homogeneity in the District.

Thank you.

CHAIRPERSON HOOD: Thank you very much.

Mr. Hinds -- Richard Hinds.

MR. HINDS: Thank you.

I'm Richard Hinds, a member of the Citizens Association of Georgetown who has authorized me to present their opposition to you to most, but not all, of the proposals that are before you.

The reason for our opposition is that Georgetown is a historic district and I think
that my comments may also apply to other historic
districts and certainly mirror some of the
comments you've already heard from
representatives of the historic districts.

Just as a major point and the basis
for our strong opposition to many of the
proposals that are before you, historic districts
have a totally different focus from the Office of
Planning. In historic districts the focus is on
preservation. Preservation of historic
structures, preservation of the green areas
around those structures that exist and to permit
those structures to have the integrity as
historic buildings of having the green space
around them that they've had for hundreds of
years or at least in many cases for decades.

We are, therefore, diametrically
opposed I think in concept to what the Office of
Planning is proposing which is to push down and
since there's no exception for historic districts
that would cover historic districts, matter of
right development to the maximum extent possible.
I mean, the classic example is the small substandard lot where you get to build a house of some substantial dimensions that's going to be basically as big as what's -- big as your neighbor's house and then if there's any green space left in that lot, you get to be able to build another structure which can be also a residential structure. That is -- that is, you know, a -- a total change in approach to Georgetown which just, you know, is unacceptable.

The existing procedures under the existing law work in Georgetown. It is very difficult to build on a small to because of all the restrictions you have to face. If someone wants to build on a small lot in Georgetown, they have to come before this body and explain why they should be allowed to do it. Why they need a special exception.

That is the opposite of the matter of right type of approach that is being proposed. And we think that it just doesn't work in Georgetown. We doubt that it works in any
So, if we're talking about what needs to be done here. I think one thing that needs to be done is basically to cut out historic districts from this entire process because it's not taking their unique characteristics into account. They are just different. We're trying to preserve. We're not trying to develop. We're trying to oppose development that would change the historic character of the District.

Let me give you one other example. I like others here are struggling to understand exactly how these modules would work in which there's a set number of requirements for residential districts and then there's these overlays that, not called overlays, but that -- flavors that would permit them to be changed.

At Georgetown it is true has corner stores and we treasure those corner stores. We think that they're great to have that kind of convenience in the community. But it exists.

What we're really concerned about is
that creating a situation that would mirror that would require us to permit not only the 7/11 we have, but a 7/11 on every corner. That's not what we want. We feel that this has to be done block by block, project by project. I mean, that's a slow and deliberate way to do it, but if you want to preserve the integrity of historic Georgetown, that's the way you're going to have to do it.

We cannot just replace that kind of an approach with this approach that well, if we're going to have some commercial uses we have to have them in some kind of logical manner. We can't just have what exists. We have to have them where other people might want them in their block. And that kind of zoning to us just, you know, would require extensive resources. We don't have the resources or the finances to engage in the kind of extensive work that would be required to come up with that kind of thing.

Now, I have to tell you as Barbara Zartman pointed out, we have agreed to explore
with the Office of Planning what they're proposing to try to get a better feel for it because we actually think that what they are actually trying to do is to try and replicate Georgetown in other areas of the city so that we do have mixed use, you do have corner stores. And we understand that. But we're very concerned about what that whole process means to Georgetown. And basically we think it shouldn't -- it shouldn't -- what we have now should not be changed because it deals with our unique situation in a way that is satisfactory.

Thank you.

CHAIRPERSON HOOD: Thank you.

Ms. Simon.

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

Zoning regulations have a critical role as a contract between the citizens of the District and their government. A contract which protects homeowners and businesses that have
invested in the District and its neighborhoods.

Homeowners have relied on protections provided by the zoning regulations when they chose to live and invest in the District's neighborhoods.

These regulations have provided homeowners in our low and moderate density neighborhoods with predictability about the development. They would be allowed in their neighborhood and in the zones near their neighborhood.

Many of OP's recommendations for load and moderate density residential zones threaten that critical predictability. The basis with some recommendations OP considered examples where special exceptions or variances were required and devised a broad definition of matter of right development where those particular projects would not require zoning review.

In doing so, OP has swept many other potential projects into the matter of right category. Projects which should be reviewed
which might have a negative impact and would have
not have been approved by the BZA or this
Commission.

Recommendations in this section would
change the uses allowed as a matter of right in
low and moderate density zones allowing as a
matter of right some nonresidential uses which
currently are not allowed or would require review
as a special exception or variance.

Even though Friendship Heights is not
a historic district we feel that we need the same
types of protections that neighborhoods like
Georgetown need and these uses should not be
matter of right in our area.

There are also recommendations which
allow a minimum footprint as a matter of right
regardless of lot size and occupancy, allow
matter of right construction on substandard
existing lots, increasing lot occupancy beyond
the current limits and for rowhouses allow matter
of right minimum building depths even on shallow
lots increasing lot occupancy and in some
instances reducing or eliminating the rear yard requirement.

These recommendations can dramatically increase the size of buildings allowed on small sides and eliminate the review of these buildings to determine whether they will have a negative impact on neighboring homes.

The recommendations on side yards seem to be based on a unique example but homeowners would not be certain about whether a new building next door to their house will have an adequate side yard affecting their contract for adequate light and air.

These specious proposals which remove predictability about neighboring uses as well as the scale of new buildings and placement of new buildings in low and moderate density residential zones are compounded by some of OPs recommendations in other sections of the zoning rewrite that will change the uses allowed in low and moderate density residential zones and the type of development allowed in zones near low and
For example, in the campus and institutional section, OP recommended institutional uses such as day care centers or CBRFs below some is yet to be determined size for each zone be allowed as a matter of right in residential zones.

This will have an obvious impact on neighbors and there could be clusters of these types of uses in the neighborhood. The recommendation in the mapping and use principle section to consolidate use lists removes the necessary granularity required to distinguish uses which are appropriate for different areas and the consolidation of use lists and substitution of an undefined, unworkable and unenforceable system of use controls make these recommendations to extend nonresidential uses into residential zones even more problematic.

In a recent working group session, OP announced TOD zones will be defined to be all nonresidential or high density residential areas
within a half a mile of every Metro station in D.C. Open the option of adding low and modest density land to the TOD zones in the future.

While they stated that some of the parameters of the TOD zones could be customized for different Metro stations, there will be no minimum parking requirements for any uses, residential, commercial or institutional in an TOD zones. This recommendation ignores the Comprehensive Plan and valid concerns about spillover parking in low and moderate density residential neighborhoods near Metro stations and will have a destabilizing effect on many of the District's neighborhoods.

A common theme for many of the recommendations in the low and moderate density residential section is to increase the amount of development that will be allowed on any lot and to change the regulations to allow matter of right development on small lots that currently would not be buildable or would require zoning flexibility. This is done without consideration
for the impact of these changes will have on light and air and on the character and stability of our residential neighborhoods.

Thank you very much.

CHAIRPERSON HOOD: Thank you very much.

Let me ask Ms. Zartman if you could tell us the impact it would have in an R-3 zone in your neighborhood? I think that's the question you asked, you prompted us two or three times to ask you so we're going to ask you.

MS. ZARTMAN: But I didn't ask for extra minutes.

There's a special quality to the R-3 zone in that it accommodates two very different types of structures. Rowhouses and detached or semi-detached homes.

Rowhouses have a lot occupancy of 60 percent. The detached and semi-detached have lot occupancy of 40 percent as you know.

There has been a problem with developers, other, putting the equivalent of a
trellis to connect their detached or semi-detached home to the property line and enhance their position by 50 percent. Suddenly go from 40 percent to 60 percent lot occupancy and it's not so that they can build a rowhouse. It's usually so that they can have additional lot coverage to put a deck in the back, to put an addition in the back, that they would not otherwise be entitled to have.

There can be arguments on one side or the other about which is equitable. But I assure you, changing the established zoning under a community like Georgetown or Anacostia would not be a good thing to do without certainly a lot more explanation. We have had more cases involving the Citizens Association of Georgetown in trying to protect one neighbor from another who suddenly decides McMansion to be had with the aid of a little trellis, which has a terrible impact on an existing house.

And we had two cases going at one time so it's -- it's not a rare occurrence and, in
fact, the case where the BZA decided that you cannot eliminate a side yard which is what you would do if you claimed you were creating a rowhouse was a case that involved a nonhistoric district property that was just a bad use of land. It had bad impacts on neighboring properties. It meant that the adjoining neighbor had 18 inches of space in his side yard. It was nonconforming too.

And that's the space he had to deal with the siding on his house with any kind of access. That was his problem because they exercised what has been traditional and something you could do in Washington. We think it's very hurtful and we really think -- and we've gone back and forth on this provision and honestly until two weeks ago thought we had successfully made our case. But in the OP report, that conversion factor is back alive. It's not in the public hearing notice, but it is in the OP report. And I think it would be a serious mistake with very real consequences in not only
Georgetown but elsewhere.

CHAIRPERSON HOOD: On that same note, I notice Mr. Hinds and Ms. Zartman also mentioned they're doing a pilot program. Mr. Parker, a pilot program with some of the regulations I think, how they would actually work in Georgetown?

How long do you expect that could take and why did we do another neighborhood also maybe a neighborhood in Ward 8?

MR. PARKER: Well, I mean, nothing -- this is not to implement or to create. We're going to go talk with Georgetown about the systems would work with them, what they're existing building stock looks like and how a Georgetown zone or a customized zone for Georgetown could work better for them.

This is not to implement anything in Georgetown before this is written obviously. But theoretically they could be the first to come in and there's no reason a Ward 8 neighborhood wouldn't -- wouldn't along right with that.
CHAIRPERSON HOOD: And the reason I say that because we have two distinct areas and I think we would cover a lot more if we give some variation.

I'm not sure how all that is going to work. It would be interesting to hear some feedback of how that works.

Ms. Zartman also had a request -- I think it was Ms. Zartman or Mr. Hinds. One of them had a request that we not proceed until we, I guess, get the findings of that exercise. And how long is that going to take?

MR. PARKER: Well, I mean, we're talking now about a preliminary exercise. Again, just like this largely conceptual. This would be largely conceptual because again we haven't -- we don't have text yet. And so we can't finish that exercise until we have text. But we can get to a point where under this conceptual structure here's what it could look like and we can have that discussion with Georgetown. That doesn't mean that when we write out the text that is
exactly what it is going to look like. And
that's the step that follows. That's the step
that's going to take us some time.

CHAIRPERSON HOOD: So, we're not
talking about anything short term that we can
hold this process up and wait for?

MR. PARKER: No. In the short term
we're going to have to have some conceptual
discussions with Georgetown. And the longer term
that can turn into an actual district. But once
we've written the structure for everybody. Once
we're written the text and come back to the
public and to you and everybody to say, here's
the document that you've been waiting for.

CHAIRPERSON HOOD: And it also give
you all a chance, I guess, to kind of see how
this thing is going to evolve. I've heard
everybody say we don't know, but it also gives
you more of a way to realize exactly what we're
trying to do.

MR. PARKER: Some real world examples,
absolutely.
CHAIRPERSON HOOD: Okay.

COMMISSIONER TURNBULL: So, is this
the -- I guess from the way you were talking I
thought this might be the sample we were looking
at. But this isn't going to be the sample then
really?

MR. PARKER: No. I have a feeling
that this may be the first implementation once --
onece we have some text. But ultimately
everything has to wait until we have a text
amendment in place, until we've actually changed
the zoning code. Everything has to wait for
that. But I have a feeling that we can have some
good conceptual talks and then ultimately if
these changes are made, this might be the first
customized zone.

COMMISSIONER TURNBULL: You know you
have to regain Ms. Zartman's trust. She made a
very good point that she's not very happy with
this.

MR. PARKER: I am certain that by the
end of this process we get a favorable
recommendation out of Ms. Zartman.

COMMISSIONER TURNBULL: Okay. That's something.

MS. ZARTMAN: How much money were you putting down?

CHAIRPERSON HOOD: Can you keep us abreast of that whole process --

MR. PARKER: Sure. Sure.

CHAIRPERSON HOOD: -- as it evolves and goes along?

COMMISSIONER TURNBULL: Are you proffering something here to the community or is this an amenity package here?

CHAIRPERSON HOOD: Okay. Mr. Turnbull. Okay.

Anybody else?

Commissioner May.

COMMISSIONER MAY: Yes. I wanted to ask Ms. Zartman about the question about the side yard cases that you were talking about.

When they're building these trellises or whatever they do to fill in the side yard does
it actually wind up attaching to the house next door or does it end at the lot line?

    MS. ZARTMAN: Not necessarily attaching at all. Depends on what the structure is at the property line.

    COMMISSIONER MAY: I thought that was resolved years ago that a -- and I was on the case at the BZA where a -- a free-standing wall is what you -- you know, is the factor here. If you have a free-standing wall you have to have a side yard. Doesn't matter. You can -- I mean, if you build out to the end of your property, it does not make it a rowhouse. You have to actually attach to something because then it would no longer be a free-standing wall.

    MS. ZARTMAN: Unfortunately, in one case, the Zoning Administrator found otherwise and the clock had run so that we couldn't appeal that decision. In the other there was a lively debate before the BZA about whether this was, in fact, moving the side yard that was required.

    COMMISSIONER MAY: Well, I would hope
that we resolve this question once and for all in the regulations. Because I'm, you know. I'm very, very clear on what a side yard is and a rowhouse is not a house that's goes lot line to lot line. It actually attaches to something.

CHAIRPERSON HOOD: Turn your mic on.

MR. PARKER: The problem is that our code defines a rowhouse as a building that goes lot line to lot line, whether or not it is attached to anything.

COMMISSIONER MAY: But a side yard is defined as it attaches to the definition of having a free-standing wall. If you have a free-standing wall. It doesn't matter whether it's on a lot line or not. If you have a free-standing wall, there has to be a side yard.

MR. PARKER: There is a section. Not in the definition of side yard, but there is a section that says. Yes. That you cannot build up to the lot line unless you are attaching to another home. That has been deemed in certain cases to be in conflict with the --
COMMISSIONER MAY: I hope that we resolve that.

MR. PARKER: Absolutely. Absolutely.

COMMISSIONER MAY: And I think that the overriding principle here is that if it's a free-standing wall there has to be a side yard. That's where I come down on that.

MR. PARKER: Okay.

COMMISSIONER MAY: I guess I would like to ask Mr. Hinds.

You know, you made the statement about the minimum size or a or the minimize size of a building footprint of some substantial dimension. And what's a substantial dimension?

MR. HINDS: Well, our understanding is that they would look at the average size of houses in Georgetown which, of course, are all over the map. But the average would be a substantial house and that --

COMMISSIONER MAY: Okay. Well, I think that's a mistake in assumption. Everything that I've pictured up to this point was what's --
you know, what's kind of the minimum to make a
workable house or what might fill out the end of
a row. I didn't imagine that it was going to be,
you know -- I mean, when you say substantial
dimension, I'm picturing things that could be
much bigger and the reason I ask the question is
that I think that as this process moves forward,
what we need to have input on is what's the right
size for something like that. And not just, no.
This should never be. Because I think there is a
useful purpose for something -- for that kind of
a provision and it would be helpful to understand
what people think, you know, if a useful -- is a
reasonable dimension for a minimum building.
Because you don't want to, I mean, would you
prefer that a property simply become, you know,
unbuildable as a result?

MR. HINDS: Yes.

COMMISSIONER MAY: Well, that's not
always practical because -- because the way. I
mean, even the way it is right now. If you have
a theoretically unbuildable lot that's grounds
for -- I mean, that's one of your prongs on the variance test.

MR. HINDS: Sure.

COMMISSIONER MAY: So, you're already -- the door is already open to get something in there and it may not be what you want. So, why don't you define what you want up front?

MR. HINDS: What we really want I think is more of a process question.

We are not opposed to the existing procedures for building on a small lot. But those procedures require a careful process which looks at that particular lot and what is exactly going to happen on that lot and its impact on the neighborhood, its impact on the historic integrity of Georgetown and the block. I mean, that is something that is looked at very carefully when it's looked at lot by lot.

When it's looked at by, you can on any body in Georgetown if there's enough space, build this minimum sized house, whatever it is, and if there's anymore space you can build another
minimum size accessory building. That to us is going in the wrong direction. It's not going in the direction in the historic district of preservation of green space that exists.

That green space actually serves an important function just sitting there.

COMMISSIONER MAY: I think one of the things that's happening is that -- that some of these ideas are being aired out in the context of kind of theoretical examples and we all then take those theoretical examples in our head and apply them to, you know, the circumstances that we're familiar with within the neighborhoods. And, you know, can imagine either things that might work or things that might not.

And I guess what I would -- I would hope would come out of this process is some attempt to try and reconcile those circumstances with the intention and, you know, boil it down to what is the intention. The intention is to try to make -- to establish some minimums so that the, you know, there is perhaps a little bit more
regularity to what happens when you have these smaller size lots. And I think there are ways to sculpt what the Office of Planning is trying to do based on prior experience that may actually result in a favorable outcome and actually addresses some of the problems so you don't have to go out there and fight it out with the BZA every time. Maybe it's already written into the regs that this is what you can do and it's a little bit clearer. Or maybe it's written into the regs what -- what the BZA can -- can do even within their authority. Right? Which is another thing because right now as soon as you pass the test, God knows what they can do. I mean, they can do just about anything they want.

MR. HINDS: There's no question that some greater clarity would be helpful here. But we still remain very concerned when we see the words "matter of right" and we don't see the word that there's going to be any hearing where the public can be heard to express their views about this particular development.
COMMISSIONER MAY: Okay.

MR. HINDS: There is some melding here that we keep the procedure, but we give more clarity on what is generally considered acceptable.

COMMISSIONER MAY: Right. But I do think there probably are some circumstances where the procedure may not be -- the public -- the special exception or the variance procedure may not actually be necessary. But there are going to be some circumstances where you can say. Well, you know, generally speaking it's, you know, it's going to be okay to allow somebody to, you know, extend their nonconforming side yard, you know. They don't have a lot occupancy issue but, you know, their side yard is only four feet. So, maybe they can go, you know, go back 10 feet, fill out their maximum lot occupancy and not have a nonconforming setback. I mean, there are definitely things that I would think we could find that are not going to be a problem.

MR. HINDS: And those thing happen all
the time. That's 20 percent of your cases I understand.

COMMISSIONER MAY: Right. But happening without a special exception process or without the variance process. And I think those are the --

MR. HINDS: That process could be -- could be reformed and improved so that --

COMMISSIONER MAY: Well, I think that's going to happen too. That's another hearing at some point. Right?

MR. HINDS: Where we don't have any say at all where the public who is impacted --

COMMISSIONER MAY: Yes. Well, I mean --

MR. HINDS: -- that's where we get concerned.

COMMISSIONER MAY: Understandably, but I think that the objective is to try to figure out where that might happen as well as figure out what we can't happen.

Thanks.
CHAIRPERSON HOOD: Well, matter of right has been a problem -- well, not a problem but an issue for me before I got on the Zoning Commission.

Anyway, let me -- first. Any other questions or comments? Okay.

I want to thank this panel. We appreciate you coming out and providing testimony.

Colleagues, does anyone have anything else we want to mention to the Office of Planning before we come back and deliberate? At a later date, not tonight. Definitely at a later date.

Okay. Do you want to add anything?

Anything you want to see?

Commissioner Keating? Commissioner Turnbull? Sharon?

Okay. Let's do this.

Sharon has been so nice to give me a schedule. We're going to leave the record open as requested for six weeks which will take us to May the 21st and then we're going to give the
Office of Planning two weeks if they choose to respond to anything that we left the record open for.

SECRETARY SCHELLIN: It's not quite two weeks.

CHAIRPERSON HOOD: Oh.

SECRETARY SCHELLIN: It's just -- it's just that one week would give them over Memorial Day. So, I thought we'd give them until the following Monday.

CHAIRPERSON HOOD: So, from the 21st to the --

SECRETARY SCHELLIN: So, it doesn't quite give them two weeks.

CHAIRPERSON HOOD: The Office of Planning's report needs to be back in June the 1st.

SECRETARY SCHELLIN: June 1st.

CHAIRPERSON HOOD: Okay. One week and a day or two. And then we're going to try to take this up at our meeting on June the 8th. And I would ask that the presentation with any
changes come back -- accompany you when you come back when we start doing out -- go through our worksheet.

MR. PARKER: So, June 8th is the decision?

CHAIRPERSON HOOD: June 8th is when we're going to deal with it at our meeting. But if you're going to respond to anything, you need to have that in by June the 1st.

And the record, of course, is open to the public until May the 21st.

Do I have that right, Ms. Schellin?

All right. Is there anything else?

SECRETARY SCHELLIN: That's it.

CHAIRPERSON HOOD: All right. I want to thank everyone for their participation on this hearing night. And this hearing is adjourned.

(Whereupon, the above matter was concluded at 10:13 p.m.)