

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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 IN THE MATTER OF: :  
 :  
 COMPREHENSIVE ZONING : Case Number  
 REGULATIONS REWRITE: LOW/ : 08-06-8  
 MODERATE DENSITY RESIDENTIAL :  
 :  
 :  
 ----- :

Thursday,  
April 9, 2009

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

6:32 p.m.

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

1 Regulations. Tonight's hearing will be  
2 considered regulations -- tonight's hearing will  
3 consider Regulations applicable to low and  
4 moderate density residential.

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

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

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

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

22 The following time constraints will be

1 maintained in these hearings. ANCs, Government  
2 agencies and organizations five minutes.  
3 Individuals three minutes. The Commission  
4 intends to adhere to the time limits as strictly  
5 as possible in order to hear the case in a  
6 reasonable period of time.

7 All persons appearing before the  
8 Commission are to fill out two witness cards.  
9 These cards are located to my left on the table n  
10 ear the door. Please upon coming forward to  
11 speak to the Commission please give both cards to  
12 the reporter sitting to my right before taking a  
13 seat at the table.

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

21 The decision of the Commission in this  
22 case must be based exclusively on the public

1 record. To avoid any appearance to the contrary,  
2 the Commission requests that persons present not  
3 engage members of the Commission in conversation  
4 during any recess or any time.

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

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

11 Ms. Schellin, do we have any  
12 preliminary matters?

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

15 CHAIRPERSON HOOD: No preliminary  
16 matters.

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

19 MR. PARKER: We're ready to go.

20 CHAIRPERSON HOOD: Okay. All right.

21 Well, Mr. Parker, I would ask that you  
22 present it in the fashion that you see necessary.

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1 We may want to take a break in between there to  
2 ask our questions. But we'll leave that up to  
3 you.

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

6 Thank you very much.

7 CHAIRPERSON HOOD: Thank you.

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

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

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

17 The first one is the main structural  
18 recommendation in terms of the structure of the  
19 zoning code and the key word here is  
20 customization. We had this discussion in terms  
21 of retail and you'll recall we talked a lot  
22 about, you know, making local districts, you

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1 know, changeable and customizable so that we  
2 could have more local control and more local  
3 input into what the zoning district should be.

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

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

22 And the result is, we've got an R-4

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

10 And so right now the way it works as  
11 you are all well aware is, if I live in a R-2  
12 District that has a 40 percent lot occupancy  
13 coverage and my neighborhood only has homes that  
14 are up to 30 percent. All of the homes are less  
15 than 30 percent of my neighborhood. So, new  
16 buildings built to 40 percent would allow for  
17 mansionization of my neighborhood. There is no  
18 way right now to change the R-2 in my area. The  
19 only thing that we can do as the Office of  
20 Planning, as ANCs and as the Zoning Commission is  
21 coming in and write new chapters and write new  
22 sections that sit on top of the R-2. And say,

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1 well, we're R-2 but we're really not. We've  
2 changed these few things about our neighborhood.

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

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

17 But areas right now that have, you  
18 know, R-1-B plus an overlay that says 30 percent  
19 lot occupancy it's not really R-1-B. It's  
20 something else. So, let's call it something else  
21 but give it a 30 percent lot occupancy and give  
22 it its own section within the greater universe of

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1 R-1 Districts or of single family detached  
2 districts. So, we can put all of the regulations  
3 and rules for that area in one place where -- and  
4 the map works the same way, you know. R-1-B  
5 areas stay R-1-B or whatever we decide to call  
6 them. R-1-B with/overlay just becomes R-1  
7 something else or maybe R something else.

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

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

21 Right now we've got nearly 130 zoning  
22 categories. And we have more every year. It's

1 not a matter of -- I think we as a city have  
2 already decided that we support localization of  
3 zoning and customizing local areas for their  
4 particular needs. But right now the only way to  
5 accomplish that is to make this chart more  
6 complicated and continually add districts.

7 So, the basic of Recommendation 1  
8 again. Allow local changes to the R-2, to the R-  
9 3, to the R-4 in such a way that we can describe  
10 the characteristics of those buildings in the  
11 zoning or the characteristics of what we want in  
12 that area in our zones.

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

22 And then you have -- you have the

1 standards, the height, the lot occupancy, the  
2 side yard, the rear yard that would be, you know,  
3 wet where they're set now but would be changeable  
4 in the future on a local basis.

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

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

18 So, one of the big benefits of this is  
19 just time. Along the top bar there you see that  
20 right now you see most of our existing  
21 neighborhood overlays are the result of a small  
22 area plan or other, you know, other area wide

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1 planning process. That's a process that takes  
2 generally at least a year. A public review and  
3 it goes to the council. Right now those small  
4 area plans, you know, result in a bunch of  
5 statements. Things like, you know, preserve the  
6 open space in this neighborhood or lower or raise  
7 density of these areas. And what we have to do  
8 now is translate those small area plans into  
9 zoning text and write an overlay that says. All  
10 right. Here's what that means in terms of lot  
11 occupancy. And here's what that means in terms  
12 of height and FAR and go through another year  
13 process to write an overlay which then goes  
14 through the Zoning Commission approval.

15 If we allow for a standardization of  
16 this instead of drafting a new overlay every time  
17 and creating something from scratch we can have a  
18 template that says here are the standards along  
19 with various other tools as necessary that are at  
20 your disposal and as part of that planning  
21 process, whether it's a small area plan or other  
22 or just, you know, at the behest of an ANC or

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1 community group, we can through that planning  
2 process just fill in those blanks and make those  
3 changes.

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

11 So, overall the goals of this change  
12 in terms of organization of the regs is just, you  
13 know, remove the overlapping regulations of  
14 having an overlay in one section, an R-2 in the  
15 other section and maybe a third overlay somewhere  
16 else. And, I mean, that results in insuring that  
17 both we as a staff and DCRA as the reviewers and  
18 developers interested in building a home are  
19 aware of all the applicable rules and regulations  
20 for their property and for their area, reduces  
21 the unnecessary cross referencing. It reduces  
22 geographic-specific exceptions saying that, you

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1 know, we found this great tool of whatever it is.  
2 Trees and slope or something else and it's  
3 applicable here only in this area. And future  
4 overlays can think about, you know, putting that  
5 same tool when they write their chapter but it's  
6 not readily available for adoption. It has to be  
7 rewritten and rethought for every neighborhood.

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

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

20 CHAIRPERSON HOOD: Sure. We may have  
21 to just have the lights go on and off as we  
22 pause.

1                   Any questions or comments, colleagues,  
2                   on Recommendation Number 1, Create a General  
3                   Template to Establish Area Use Performance  
4                   Requirements?

5                   Mr. Turnbull.

6                   COMMISSIONER TURNBULL: Thank you, Mr.  
7                   Chair.

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

13                  MR. PARKER: Right. We need to -- we  
14                  need to work with those on how to codify it. I  
15                  mean, the vision that I picture in my head is --  
16                  is for low density -- for single-family detached  
17                  templates. So, the rules for parking are the  
18                  same in all single-family detached zones. And  
19                  then you have the variable standards. The  
20                  height, lot occupancy, etcetera. Have another  
21                  one for attached which is moderate density. So,  
22                  low versus moderate density. So -- so, you know,

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1 again you have set parking standards for all the  
2 moderate density zones and you know set other  
3 things like use standards. And then the height,  
4 the lot occupancy, the FAR are -- are variable.

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

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

14 MR. PARKER: Yes.

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

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

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

22 COMMISSIONER TURNBULL: Right.

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

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

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

15           MR. PARKER: Exactly. Exactly.

16           COMMISSIONER TURNBULL: -- into the  
17 new classification?

18           MR. PARKER: Exactly.

19           COMMISSIONER TURNBULL: Okay. Thank  
20 you.

21           CHAIRPERSON HOOD: Commissioner May?

22           COMMISSIONER MAY: So, following that

1 say line.

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

4 MR. PARKER: Sure.

5 COMMISSIONER MAY: That template.

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

9 MR. PARKER: Right.

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

12 MR. PARKER: Right.

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

17 MR. PARKER: Right.

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

22 MR. PARKER: Right.

1                   COMMISSIONER PARKER: -- or alter it  
2 to match an already existing flavor or to create  
3 their own flavor?

4                   MR. PARKER: Bingo.

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

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

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

17                   MR. PARKER: Roughly. Yes.

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

21                   MR. PARKER: Just like we're doing  
22 now. I mean we get more every year now. Yes.

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1                   COMMISSIONER PARKER: But you'll get  
2 them faster?

3                   Okay. I think that's it.

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

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

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

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

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

20                   Is this type of structure in place in  
21 other jurisdictions of the city? Or is there a  
22 model for this or is there other cities?

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1 MR. PARKER: It's almost in place  
2 right now in our Neighborhood Commercial Overlay.  
3 That's sort of how Chapter 13 was designed which  
4 is saying. Neighborhood Commercial Overlays have  
5 this general flavor and add your own.

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

15 COMMISSIONER KEATING: Okay.

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

22 I'm concerned about and I'm not sure

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1 where I saw it. This -- this recommendation is  
2 and I think it was referred to as a blank  
3 recommendation. I forget exactly how that was  
4 referred to, but as we --

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

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

14 MR. PARKER: Right.

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

17 MR. PARKER: Absolutely. I mean  
18 everything that comes back as Phase 2, after  
19 we've been through this entire guidance phase,  
20 everything that comes back at Phase 2 we'll be  
21 working again publicly in how these things lay  
22 out. And it's a legitimate concern.

1           We're not asking for preliminary and  
2 final approval of change the zoning  
3 recommendations in this way. What we're here to  
4 ask for is guidance to say yes we're with you  
5 enough to instruct you to spend six to twelve  
6 months writing it.

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

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

20           CHAIRPERSON HOOD: And I was looking  
21 here at how long it took. I guess basically are  
22 you saying that it takes us typically 27 months

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1 during the approval process of an overlay or are  
2 you just --

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

9 CHAIRPERSON HOOD: There will be a lot  
10 of time going over those overlays before we see  
11 it because I do know of one that may have taken  
12 72 months. But, okay. All right.

13 MR. PARKER: Right.

14 CHAIRPERSON HOOD: All right.

15 Any other questions?

16 Okay. Mr. Parker, we can proceed.

17 MR. PARKER: Fair enough.

18 Okay. The next -- I'll go through 2  
19 through 8 next and then we can have questions  
20 about those. But 2 through 8 would be variable  
21 pieces within the system. So, you got your  
22 template and it says. All right. Here are the

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1 standards within the system. Height, side yard,  
2 rear yard that we're going to go through. And  
3 these things would be set close to where they are  
4 now as we can based on what our recommendations  
5 are and then would be variable components that  
6 neighborhoods could customize after that.

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

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

22 So, the basic recommendation is just

1 measure buildings in feet rather than feet and  
2 stories.

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

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

17 Recommendation Number 3 has to do with  
18 front yards. Right now we have no option to  
19 regular front yards. And our proposal is well  
20 basically in our research of lots across the  
21 city, there is a very high percentage of  
22 buildings in the city that don't come to their

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1 front property line. In fact, the majority of  
2 rowhouses in the city don't come to the front  
3 property line. Only about a third of the  
4 rowhouses in the city actually are built to the  
5 property line whereas we picture in our minds  
6 that most of them area.

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

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

21 So, the basic proposal is the default  
22 of front yard setbacks would be that no in-fill

1 lot of no future development could go further  
2 than the furthest forward building or further  
3 back than the furthest back building.

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

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

21 We then looked at the space between  
22 building sand thought because we saw that a good

1 portion of a the neighborhoods had buildings that  
2 were set off to one side consistently down a  
3 street and that also -- there wasn't any  
4 consistency in the separation between buildings.  
5 But what we saw a great amount of consistency in  
6 across the city for detached homes was the ratio  
7 of the width of the building to the width of the  
8 lot. So, with a fairly high degree of certainty,  
9 about 70 percent is the number where houses with  
10 a fairly high degree of consistency are 70  
11 percent as wide as their lot. So, on a 50-foot  
12 wide lot that translates to a 35 foot wide house.  
13 And there was, like I said, a high degree of  
14 consistency in that measurement across the city.

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

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1 built together and all built in that pattern.

2 Well, an in-fill house in that pattern  
3 now wouldn't -- wouldn't be able to be built in  
4 that format, not to mention on the 12-foot side  
5 under the current regs, you could built a four  
6 foot addition. But if all those houses are 70  
7 percent of their lot width, you would not be able  
8 to add on to the side of the houses, even at the  
9 12 foot side because it's an aggregate and a new  
10 house could be made to fit that pattern.

11 So, it's something that provides as  
12 much protection in terms of side yard. It is  
13 more -- more representative of what we have now  
14 and it's more responsive to different width of  
15 lot. So, when you get down to 25 and 30 foot wide  
16 lots which we have an awful lot of in the city,  
17 you're limited with, you know, in eight foot side  
18 yards you're limited to, you know, 16 or less  
19 foot -- you know, 16 or 21 foot wide house. So,  
20 it's more responsive to those situations as a  
21 percentage. So, that's a recommendation with  
22 side yards.

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1           We do, you know, we don't want 70  
2 percent to allow for zero lot line either. So, I  
3 think along with this we need to have a  
4 discussion of and the next step will be to have a  
5 public discourse on -- we should have an absolute  
6 minimum. Even if you're allowed to do a 12 and a  
7 4, we don't want you to do a 16 and zero. So, we  
8 need to have a discussion of what the absolute  
9 minimum would be even if we go to a system like  
10 this.

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

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

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1 and have to have a certain amount of area.

2 The difficulty comes in that the  
3 majority of courts in our city were built before  
4 1958 and are non-conforming which means that if--  
5 if I own this rowhouse and want to extend the  
6 dogleg back. Want to add on in this area, I have  
7 to get a variance because I am extending a non-  
8 conforming court.

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

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

21 So, that's the recommendation. It  
22 also removes a lot of tricky questions in terms

1 of what is a court niche? Whether a court is  
2 open or closed. If we don't have requirements  
3 you can keep your court. It doesn't matter  
4 whether it's open or closed or a court niche.  
5 It's just a court.

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

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

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

15 MR. PARKER: Air enough.

16 COMMISSIONER MAY: -- are  
17 inextricable.

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

20 Sorry, Sharon.

21 Recommendation 6, you're right. There  
22 is a lot of relationship here.

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1                   And why don't I talk about that first.  
2 Recommendation 6-B.

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

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

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1 add to your lot occupancy and require you to get  
2 that variance.

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

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

13 Now, we don't have a better system in  
14 mind in terms of ways to regulate building size  
15 necessarily in residential areas. But if we  
16 again go back to our goal of allowing development  
17 that is consistent with the historic pattern or,  
18 you know, with the pattern on the street, what we  
19 found is a lot of situations like this and  
20 actually on this entire map the footprint of  
21 nearly all of these buildings obviously with the  
22 exception of some down here and a couple in here

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1 are the same. I mean, these are wider and not as  
2 long. These are a little longer and narrower but  
3 there's a high degree in this area of consistency  
4 in terms of the footprint of the buildings. But  
5 an incredible variety of consistency in the lot  
6 occupancy. Just on this lot here we go from  
7 about a 40 percent lot occupancy down in this end  
8 to 95 percent on this end. And these are  
9 consistent set of rowhouses along this block.

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

20 And what we've actually seen is, I  
21 think, the number is 20 percent of all of the  
22 variances that we've seen over the last eight

1 years have been for lot occupancy on sub-standard  
2 lots.

3 And it's the result of people not  
4 trying to build more than what the neighbors have  
5 or further back than what the neighbor has but  
6 trying to building exactly what is on the block  
7 and exactly in this pattern but these lots here  
8 are already over 60 while these here are under  
9 60.

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

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

19 And this recommendation relates  
20 directly into the rear yard. The rear yard  
21 recommendation is exactly the same. We're  
22 saying, keep the existing rear yard standard but

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1 exactly like the lot occupancy. Where you have  
2 this situation, it doesn't make sense to require  
3 a 20-foot rear yard where it's not possible to  
4 put it.

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

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

18 And I'll stop there.

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

21 MR. PARKER: Yes.

22 CHAIRPERSON HOOD: All right. Thanks.

1                   You want to start off, Commissioner  
2 May?

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

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

13                   When you talk about height, you know,  
14 when you showed that diagram what it demonstrates  
15 pretty clearly is what you're looking at is -- is  
16 the perceived height or the, you know, the kind  
17 of average height, if you will. And when you  
18 have that little partial roof and, you know, the  
19 one on the far right and you show that you  
20 measured of the top of that point. I think that  
21 makes sense because that really is the perceived  
22 height of the building.

1           But when you do away with the stories  
2           it opens the door for, you know, squeezing the  
3           floors, pulling the basement further out or the  
4           cellar up into being a basement. And so you go  
5           from -- from two stories to three stories and  
6           three stories to four stories or something like  
7           that. And that has a lot to do with the  
8           perception of the height of the block. And I'm  
9           wondering why you're suggesting that that's no  
10          longer an important point when you've made such a  
11          strong gesture toward perception of height with,  
12          you know, where you measure to?

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

20                 I guess the problem is, it raises a  
21          lot more problems than it solves. Is that we  
22          have case after case where we have people

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1 actually cramming five stories in because the  
2 basement is just below the limit that we've set  
3 that counts as a basement rather than a story.  
4 And, you know, you drop the ceiling on the top  
5 floor and it becomes an attic rather than a top  
6 story. So, there's so many loopholes and  
7 questionable practices that come about and the  
8 calls the Zoning Administrator had to make to  
9 determine what is a story and what's not, that  
10 it's really not worth trying to keep somebody  
11 from forcing themselves to live in nine-foot  
12 stories in order to get that fourth story.

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

21 MR. PARKER: Right.

22 COMMISSIONER MAY: Or three eleven

1 whatever it is, whatever the limit is. And they  
2 call it a cellar. And, you now, the attic  
3 whatever came into play there.

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

11 COMMISSIONER MAY: Sure.

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

16 COMMISSIONER MAY: I guess my argument  
17 back would be. I think this might be an issue  
18 with -- I think the reason this is an issue now  
19 and the reason stories are counted so closely and  
20 measured so, you know, trickily, are that all of  
21 our residential districts allow 40 feet right now  
22 and most of our residential homes are well below

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1 40 feet.

2 So, if you can get -- if you can sneak  
3 in five stories, you don't have to worry about  
4 the 40 foot measure because you're worried about  
5 th story measure. The story measure is more  
6 restrictive than the foot measure right now.

7 I think the number one change that  
8 will come to neighborhoods as a result of this  
9 system in allowing more flexibility for  
10 neighborhoods to change their system will be  
11 height. And I think the number one thing that  
12 will happen is that neighborhoods will say, we're  
13 25 foot across the board, enough with the pop-  
14 ups. Let's set our height at 25 feet.

15 And once that gets more in line it's  
16 less important to regulate the storage because  
17 there's only so much you can cram into 25 feet or  
18 30 feet or 35 feet. It's when you say three  
19 stories and 40 feet that you get games played  
20 with how many stories because you can fill a lot  
21 more than three stories and 40 feet. Especially  
22 if everything above the ceiling of the top one

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1 doesn't count.

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

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

20           The -- on the front yard thing the  
21 only observation I have is that, you know, you  
22 show that sort of circumstances where they're

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1 kind of all over the place and with that kind of  
2 a diagram that makes sense using the existing  
3 homes as a range. But I think that what might  
4 happen more frequently or certainly happens very  
5 frequently in rowhouse neighborhoods is that you  
6 have, you know, a row of everybody who is on the  
7 property line and then one house that's 25 feet  
8 back. So, you've got a zero to 25 range there.  
9 And I'm not sure that you really want to open the  
10 door for that kind of range if you're going to  
11 start regulating that.

12 MR. PARKER: What do you suggest?

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

17 MR. PARKER: The situation you talk  
18 about is actually the reason why we stayed away  
19 from what a lot of cities do which is the  
20 average. A lot of cities force you to go to  
21 average. Well, if they're all built in a line  
22 except for one, then the new house has to built a

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1 couple of feet back. So, that's why we went with  
2 this instead of that. But, yes. Our thought was  
3 if there's already one 25 feet back then it's  
4 hard for us to tell the next person.

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

11 MR. PARKER: Right.

12 COMMISSIONER MAY: Side yards. I'm  
13 not sold at all on this idea of just doing the  
14 average. I recognize that there is the problem  
15 in that the side yards and a non-conforming side  
16 yard, non-conforming court added to the lot  
17 occupancy. And that's clearly an issue and you  
18 have a house that's, you know, an existing house  
19 that's got, you know, a couple of three foot side  
20 yards and you're not at a 40 percent lot  
21 occupancy limit. I mean, it really binds you in  
22 ways that are -- that are a problem.

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1           But I think that there's a certain --  
2           you know, we seem to have forgotten something  
3           about the genesis or what I have come to  
4           appreciate as the genesis of the current  
5           regulations when it comes to attached housing  
6           which is the 18 foot lot -- wide lot and a 100  
7           foot deep. That was kind of the model. I  
8           understand that that model doesn't happen very  
9           often.

10           MR. PARKER: Right.

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

17           So what I think the genesis of some of  
18           the side yard requirements or at least one of the  
19           ideas behind it is that, you know, you have this  
20           row of 18 foot wide houses and you come to the  
21           end of a row and you're now butting up against  
22           the next, you know, the row on the next block

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1 turning the corner. Their rear yards and their  
2 rear yards are limited to only 20 feet or 25 feet  
3 whatever it is. Probably 20 because they're  
4 probably in R-4 neighborhood. And the desire  
5 there is to have that full eight foot side yard  
6 so that you're not pushing up too close to those  
7 20 foot rear yards.

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

15 So, there's a model that's behind that  
16 that seems to have been lost. And I  
17 understanding wanting to have a certain  
18 established relationship and regularity. But I  
19 don't see a need at this moment to try to rewrite  
20 the zoning regulations to suddenly make every  
21 house out there conforming. And -- or conforming  
22 enough so that they don't need to get relief if

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1 they want to build, you know, a 30 foot edition  
2 on the back.

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

12 And, you know, Lewis designed a great  
13 system for how things should look is they were  
14 built from scratch and he used a lot of averages  
15 across the city as his standards. But what an  
16 average does is it makes 50 percent of the  
17 buildings non-conforming. And that's what we saw  
18 across the board whether it was lot occupancy or  
19 side yard or lot width or lot area, Lewis picked  
20 an average of what the buildings were across the  
21 city and made that the standard. And it just  
22 doesn't work for a city as varied as ours.

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1                   COMMISSIONER MAY: I can understand  
2 that but I don't think that what you're trying to  
3 do to solve that, this series of calculations and  
4 manipulations of the current regulations are  
5 really going to solve that. I mean, let's take  
6 for example the idea of taking, you know, let's  
7 go back to my other example where you have the 40  
8 percent lot occupancy because they're semi-  
9 detached. Okay.

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

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

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

20                   MR. PARKER: Right.

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

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1 occupancy --

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

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

11 MR. PARKER: Right.

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

21 MR. PARKER: And if that situation  
22 existed with any frequency, we wouldn't be

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1 recommending this but it doesn't. There's no --  
2 there is no normal in D.C. And there -- I mean,  
3 there's not a -- even a consistent --

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

10 MR. PARKER: Sure.

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

19 I mean, 20 percent of lot occupancy or  
20 variances or lot occupancy. You know, I'm not  
21 sure that that -- that really is a concern. I  
22 don't know if it is or it isn't, I mean, except

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1 for the fact that it's, you know, our process for  
2 dealing with variances is cumbersome.

3 MR. PARKER: Right.

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

16 Then, again, I don't want to  
17 necessarily say that if you got a two-foot side  
18 yard that it's okay for you to keep going back at  
19 two feet. Because I don't think that's a good  
20 circumstance either. I know you recognize the  
21 fact that there has to be some kind of minimum  
22 there.

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1           So, you know, I think that needs to be  
2           there. But I just -- I don't -- I think that  
3           need to be convinced further that these are, you  
4           know, the sensible steps to make or that they're  
5           not going to wind up creating these other  
6           circumstances that people will work around.

7           MR. PARKER: Okay.

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

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

14          MR. PARKER: Okay.

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

22          The things that -- well, I'll just

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

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

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

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

14 MR. PARKER: Fair enough.

15 COMMISSIONER MAY: 4A and 6C.

16 MR. PARKER: 4-A is the building lots  
17 with ratio percentage rather than a side yard and  
18 6-C is that there should be one lot occupancy per  
19 zone rather than two.

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

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1 questions.

2 Thank you.

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

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

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

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

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

19 MR. PARKER: I guess my point is. We  
20 don't need to define that if we don't have a  
21 limit on stories. We don't have to define story  
22 at all.

1 COMMISSIONER TURNBULL: Okay.

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

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

8 COMMISSIONER TURNBULL: That's the  
9 property line.

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

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

20 If you say that this is the standard  
21 and they're all at the property line, then the  
22 property line is the only place you build because

1 you can't be any further back than the furthest  
2 back house. So, if they're all at the property  
3 line you have to build at the property line.

4 COMMISSIONER TURNBULL: Okay.

5 MR. PARKER: So, I guess -- yes.  
6 We're not saying set a minimum and a maximum in a  
7 number of feet. We're saying you have to build  
8 between the furthest forward and the furthest  
9 back house. And so if they're all in a line, you  
10 have to build along that line.

11 COMMISSIONER TURNBULL: Okay. Fair  
12 enough.

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

15 MR. PARKER: No. A percentage.

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

21 MR. PARKER: Right. That's kind of  
22 what I said. I think there has to be and we

1 recognize that there has to be a minimum just  
2 because you don't want to allow a zero lot line  
3 and --

4 COMMISSIONER TURNBULL: Right.

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

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

14 MR. PARKER: Exactly.

15 COMMISSIONER TURNBULL: -- what makes  
16 sense on that.

17 When we get into the building are and  
18 the lot occupancy and I know, I've seen a lot of  
19 these cases. I've sat on enough cases on BZA  
20 where people want to put a garage in their lot  
21 and there's already existing garages. I'm  
22 thinking of up in the Capitol Hill area and

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1 technically they don't meet that requirement  
2 because if you figure a car is 9 by 18 you got to  
3 have that required space and a garage just  
4 doesn't make it. It's like you're two feet over  
5 the limit so you -- and we did something last  
6 year to allow a little bit more flexibility with  
7 the regs. But it still have instances where  
8 you're going to get a shorter read yard that you  
9 can put your garage.

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

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

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

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

19 Basically, the recommendation for  
20 accessory buildings is if we assume that you like  
21 this idea of a minimum lot size -- or minimum  
22 footprint when you have very small substandard

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1 lots, then those buildings when they're built are  
2 going to be over the lot occupancy.

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

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

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

18 Does that make sense? So, the same way  
19 as you're allowed a minimum square foot house and  
20 the only way you can go bigger than that is to  
21 stay within 60 percent lot occupancy. Again,  
22 you're going to have a minimum size accessory

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1 building. The only way you can go bigger than  
2 that is also if you have space within your total  
3 lot occupancy.

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

6 MR. PARKER: Absolutely. Just --

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

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

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

19 MR. PARKER: Right.

20 COMMISSIONER TURNBULL: And some are  
21 going to be tighter like up on those -- the  
22 second row of houses from the top there. They

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1 jog by the alley you can see where someone is  
2 going to have it and someone is not -- could come  
3 close --

4 MR. PARKER: Right.

5 COMMISSIONER TURNBULL: -- and there's  
6 still going to be a variance coming before us.  
7 Before the BZA anyways.

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

14 So, take these buildings right here.  
15 So, these are all, you know, at 40 to 50 percent  
16 lot occupancy. So, they have room within their  
17 lot occupancy to put a garage here. These people  
18 don't. These people are at, you know, 60 percent  
19 right now. So, they don't have room within their  
20 lot occupancy to -- so, we're saying just like  
21 with minimum footprint, you have a minimum  
22 accessory building rights. And you can put a

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1 one-car garage or whatever we determine is the  
2 appropriate for this neighborhood. And, again,  
3 this is flexible standard. So, we can determine  
4 in a neighborhood that it's nonappropriate.

5 But if we determine that at say 20 by  
6 9 garage is appropriate, you'd be allowed a 20 by  
7 9 garage here. Now, the only way you can go  
8 bigger than that is if you have adequate lot  
9 occupancy to accommodate it.

10 COMMISSIONER TURNBULL: Okay. Thank  
11 you.

12 COMMISSIONER KEATING: Now, I'm  
13 confused.

14 Now, let me start with height.

15 On the story issue, let me ask a  
16 question. The building code says minimum is  
17 7'6", right, for ceiling height?

18 MR. PARKER: I don't know.

19 COMMISSIONER MAY: Yes.

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

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1 MR. PARKER: Good point.

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

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

7 COMMISSIONER MAY: A really lousy  
8 five-story --

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

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

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

21 I think we're -- I applaud the effort  
22 here because it seems like the underlying

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1 principle is to try to streamline the process.  
2 Right. And limit the number of variances and in  
3 some -- in some way, shape or form make this  
4 process easier for the public to move through --  
5 reduce the number of resources requires to get  
6 through the process. And these are all --

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

11 COMMISSIONER KEATING: Okay. He's  
12 smart.

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

16 MR. PARKER: It is.

17 COMMISSIONER KEATING: -- variances by  
18 far?

19 MR. PARKER: It is.

20 COMMISSIONER KEATING: Okay.

21 I guess I kind of -- I was following  
22 along and until if you go back to your lot

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1 occupancy slide. And kind of the -- trying to  
2 follow the recommendation. I'm wondering if  
3 ultimately we'll end up with fewer requests for  
4 variances or not with this change.

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

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

13 COMMISSIONER KEATING: Right.

14 MR. PARKER: -- lots like this.

15 COMMISSIONER KEATING: Right.

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

20 COMMISSIONER KEATING: Right.

21 MR. PARKER: You have to build a home  
22 on the whole thing or as close as you can design

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1 to be. So, we're really down to two points.

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

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

14 MR. PARKER: Right. So, say 800  
15 square foot footprint and I'm throwing this  
16 number out there. I don't have any pre-  
17 determined -- I don't even have research in my  
18 head. But say 800 square feet is, you know, that  
19 90 percent of the buildings in this area are  
20 greater than 800 square foot footprint. So, we'd  
21 say. All right. In this zone your minimum  
22 footprint is -- your matter of right footprint,

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1 let's not say minimum. Matter of right footprint  
2 is 800 square feet. So, if you want to build up  
3 to an 800 square foot home you don't have to  
4 worry about lot occupancy. But if you want to go  
5 at 801 you have to be below 60 percent lot  
6 occupancy.

7 COMMISSIONER KEATING: Okay.

8 MR. PARKER: Okay.

9 COMMISSIONER KEATING: Now I get it.  
10 Okay.

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

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

22 COMMISSIONER KEATING: Okay. All

1 right. I'm starting to get it.

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

7 But I wanted to look at minimum and  
8 maximum setbacks. And I guess when I look at  
9 this, this may not be the best example. But when  
10 I look at this I think about some other  
11 regulations that we have now. I'm just trying to  
12 figure out on down the line how is that going to  
13 affect case in point. Under the special  
14 exception we talk about light and air. Light and  
15 air and any impacts to the surrounding area. But  
16 -- and I'm basically talking about infill. If we  
17 do an infill project and I think you alluded to  
18 that. I'm not sure if you alluded to it under  
19 Recommendation Number 3 or not on the front  
20 yards. But how is that going to come into play  
21 with the regulation that exists? And even more  
22 than that aren't we taking away -- aren't we

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1 taking away neighborhood input. And I understand  
2 we're trying to streamline. And maybe my  
3 question -- I see you frown. Maybe it's not  
4 clear. Maybe I'm mixing everything together. But  
5 aren't we taking away some neighborhood impact?

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

8 MR. PARKER: Front yards?

9 CHAIRPERSON HOOD: Yes.

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

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

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1 everybody else is set back 10 feet.

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

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

12 CHAIRPERSON HOOD: Let's do just the  
13 opposite.

14 MR. PARKER: All right.

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

17 MR. PARKER: yes.

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

20 MR. PARKER: You're already existing.  
21 Okay.

22 CHAIRPERSON HOOD: The third one, the

1 third row, now that's me coming in there. The  
2 one in the middle. The second one.

3 MR. PARKER: Okay.

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

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

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

18 Mr. Chairman, are you maybe suggesting  
19 that what could happen in these sort of  
20 circumstances is that rather than be aligned with  
21 the entire block that maybe you should be dealing  
22 with immediately adjacent properties? I mean,

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1 because I mean I can see that. If you were the  
2 second house in and you built that, you might  
3 upset the first house because you're -- you know,  
4 you're pushing so much further out to the street.

5 CHAIRPERSON HOOD: You know --

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

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

14 But one thing about this whole process  
15 and I'll say this is I believe we have to start  
16 something. The one thing that I think that this  
17 Commission has the same thing we did with our  
18 planning. We would petition the Office of  
19 Planning. If it does not work, I may not be here  
20 but I think the Zoning Commission should make any  
21 changes necessary. If this process -- if this  
22 whole process if there's a piece that needs to be

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1 corrected. I don't know. I'm just sitting here  
2 thinking in lieu to that situation. Yes. You're  
3 right. We probably need to look at that also.

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

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

15 MR. PARKER: Right.

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

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1           MR. PARKER: I guess I would -- too.  
2           This -- this recommendation is based on infill.  
3           This recommendation is based on being able to  
4           build what is there now. And in a lot of the  
5           city in the R-1 districts, this would result in  
6           more side yard than they have now. I mean, fir  
7           anything above 50 feet in lot width this is going  
8           to result in more side yards.

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

21                 So, this is all about infill and  
22          allows people to build in the patterns that

1 Washington, D.C. has now rather than the ones  
2 that were imposed in '58.

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

6 MR. PARKER: No. It has nothing to do  
7 with centering. In fact, that's the -- you have  
8 to get an aggregate. So, your side yards have to  
9 be equal to 30 percent of the lot width. So, if  
10 you have a 100 foot wide lot you have to have a  
11 total of 30 feet of side yards. And you could do  
12 that in 10 and 20 or in 5 and 25 and in 15 and  
13 15.

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

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1 CHAIRPERSON HOOD: Okay.

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

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

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

9 MR. PARKER: Not a problem.

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

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

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

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1 the public before 10:00.

2 MR. PARKER: Sure.

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

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

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

22 I'm also not -- I'll just note that

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

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

15 CHAIRPERSON HOOD: Any other  
16 questions?

17 Okay. Mr. Parker, we can proceed.

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

21 MR. PARKER: Recommendation 8 doesn't  
22 change anything. Basically what this is saying

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1 is make a -- you know, where we have that  
2 template and we add the list of things that  
3 neighborhoods can change, the height and the lot  
4 occupancy and the rear yard, make the number of  
5 units one of those things.

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

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

22 Basically right now we have our

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

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

21 So, we have subdivision standards. If  
22 we want to create new lots you have to abide by

1 those but you don't have to get a variance to  
2 build on a lot that's already there that doesn't  
3 meet those standards.

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

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

22 We're talking about taking away that

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1 list and saying. Now how do we define where we  
2 draw the cap on these non-residential uses in  
3 residential zones? And we can pull from our  
4 existing home occupation. So, if we have a  
5 category for offices the limit on offices in  
6 residential zones could be, you know, 25 percent  
7 of the house and own-occupied and no signage. All  
8 the existing standards that we use for home  
9 occupations.

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

16 Number 12 should be familiar to you.  
17 You've got a Zoning Commission case or had a  
18 Zoning Commission text amendment case on the use  
19 of institutional buildings. Basically the  
20 recommendation here is to adopt the results of  
21 that case in terms of allowing adaptive reuse of  
22 historic buildings in residential zones.

1                    Recommendation 13. Where you allow --  
2                    in zones that allow more than one unit so let's  
3                    start with the R-4. Two units are allowed in R-  
4                    4. Right now your only option is to do both of  
5                    those units in the main structure. If you have a  
6                    carriage house you can only use that for a garage  
7                    or for storage, sometimes for an artist studio.  
8                    But we're saying if you're allowed two units on  
9                    the lot in order to promote adaptive reuse of  
10                   these carriage houses and of the like, you could  
11                   do the second unit in the -- in the carriage  
12                   house or in the accessory building.

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

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

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1 residential than anywhere else.

2 But a couple of years ago you updated  
3 the parking regulations in terms of waivers for  
4 historic buildings. And when the waiver did not  
5 apply to additions and this would propose that we  
6 match that for loading. So, we didn't at the  
7 time up date the loading provisions for additions  
8 to historic structures. And so this was to do  
9 that and to have some requirements for -- loading  
10 requirements for additions to historic structures  
11 above certain limitations --above 50 percent  
12 limitations.

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

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

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

22 If you don't finish in the first six,

1 we'll do another six.

2 Who would like to start off?

3 Go ahead, Commissioner May, you?

4 COMMISSIONER MAY: Sure.

5 CHAIRPERSON HOOD: You're the man to  
6 start off tonight.

7 COMMISSIONER MAY: No problem. And I  
8 will keep it under six.

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

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

19 COMMISSIONER MAY: I think that that's  
20 -- I mean, that is something that ought to be  
21 considered and I'm not sure what it is. I mean,  
22 I certainly know of circumstances where the lots

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1 are smaller than that but I'm not sure that we  
2 want to open the door for everything.

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

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

18 Did you look at all or are you going  
19 to tie this into the relationship of such an  
20 accessory building to the alley? I mean, you  
21 got a ten-foot alley. You can't have a direct in  
22 parking space. Right?

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1 MR. PARKER: Well, we;'d have to  
2 maintain. I think there's 12 foot from the  
3 center line. Right. Right now.

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

7 MR. PARKER: Yes.

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

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

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

16 MR. PARKER: Now, that's a good point.  
17 And I don't recall off the top of my head whether  
18 we did have discussions on that. We are talking  
19 in sustainability and some of the recommendations  
20 that you'll see soon about accessory dwelling  
21 units and allowing in certain case, you know,  
22 residential use in those. So, it may be

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1       disappropriate to start looking at second stories  
2       but we haven't done that yet.

3                   COMMISSIONER MAY:   Yes.

4                   MR. PARKER:   Okay.

5                   COMMISSIONER   MAY:   -- I'm very  
6       surprised to hear that it hasn't come up already  
7       as a topic but I'd be interested in hearing what  
8       you have to say.  And I think that was it for me.

9                   CHAIRPERSON HOOD:  All right.

10                   The clock must work wonders.  You know  
11       I couldn't pass that up.  Okay.

12                   Commissioner Turnbull.

13                   COMMISSIONER TURNBULL:  Thank you, Mr.  
14       Chair.

15                   On   your   Recommendation   Number   8,  
16       Density.

17                   MR. PARKER:   Yes.

18                   COMMISSIONER TURNBULL:  Are you  
19       basically looking at R-3 and above?

20                   MR. PARKER:   No.  Everything.  I mean,  
21       again, this is not to change anything.  To say  
22       when we make that template and when we make that

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

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

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

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

13                   MR. PARKER: Right.

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

16                   MR. PARKER: Well, I guess -- I guess  
17       the point is that -- that single -- let's say the  
18       R-1 Districts have their own template and their  
19       limit is set at one, but neighborhood "X" is  
20       interested in having -- they have -- maybe their  
21       Mt. Pleasant sides have the big mansion houses  
22       and they're interested in being able to have two

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1 units in each house. So, they can go through a  
2 public process and propose a change and come to  
3 the Zoning Commission to say, our limit should be  
4 two units per lot rather than one.

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

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

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

21 MR. PARKER: I see that's where it  
22 would be most applicable.

1                   COMMISSIONER TURNBULL: Okay. Thank  
2 you.

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

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

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

20                   And so if one of the categories is  
21 office, we need to define -- this recommendation  
22 is just reminding us that we need to define what

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1 the limits are on that category and residential  
2 zones.

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

5 MR. PARKER: Impact limits. Like --

6 CHAIRPERSON HOOD: Parking.

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

11 CHAIRPERSON HOOD: Businesses. Okay.

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

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

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

22 CHAIRPERSON HOOD: Okay.

1                   So, in the beginning there's going to  
2 be a lot of work for somebody. I guess --

3                   MR. PARKER: Okay.

4                   CHAIRPERSON HOOD: All right. Okay.  
5 I'll move on.

6                   Any other questions. Thank you.

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

9                   Do we have the list?

10                  Do we have any ANC Commissioners  
11 present?

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

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

19                  We got six mics. Okay. Well, I saw  
20 six hands, but come on up ANC Commissioners and  
21 those who are representing the ANCs so we can get  
22 started.

1           And I hope the other public don't mind  
2 me calling the ANC Commissioners up. We all work  
3 hard, but they ran for office.

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

6           More hands than that for ANC  
7 Commissioners. Okay.

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

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

18           I actually I thought this was going to  
19 be more of a presentation tonight so we were  
20 coming to listen. But I can tell you that we  
21 raised -- we had the notice of the meeting and at  
22 our ANC we let it be known that there's an

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1 interest in attending and we got the consensus  
2 from the -- those who were present at our meeting  
3 that this was an important issue for us.

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

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

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

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1 neighbor changed something so now I can.

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

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

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

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

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1 existing rules which we understand.

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

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

11 UNIDENTIFIED PERSON: No, sir.

12 CHAIRPERSON HOOD: Okay.  
13 Work with me. We'll come back to you.

14 COMMISSIONER TOLIVER: Yes, sir.

15 CHAIRPERSON HOOD: Commissioner Grant.

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

19 My name is Janae Grant. I am -- also  
20 I'm the Vice Chair of ANC 5-A but more  
21 importantly I come before you as a Commissioner  
22 for 5-A-11 in the Woodridge area. And we

1 definitely wanted to weigh in on this.

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

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

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

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

18 However, while the provisions are  
19 extended to the historic district let it be known  
20 that in non-historic districts that conversion of  
21 a detached single family home for multiple uses  
22 or for separate families is not readily accepted

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1 or desired, just because some of the property  
2 lines may be blurred.

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

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

20 Regarding customized zones, a lot of  
21 these will be particularly in residential zones.  
22 Can residents then apply for a customized zone to

1 protect their characteristics of their  
2 neighborhood in advance? And in essence, is this  
3 the alternative to becoming a historic district  
4 for convenient protection?

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

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

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

19           Thank you, Chairman Hood, and all  
20 those --

21           CHAIRPERSON HOOD: Thank you very  
22 much. Do we have your submission?

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1 COMMISSIONER GRANT: No. I will get  
2 it to you.

3 CHAIRPERSON HOOD: Okay.

4 COMMISSIONER GRANT: I will get it to  
5 you.

6 CHAIRPERSON HOOD: Okay. Thank you.

7 Commissioner?

8 You want to turn your microphone.

9 COMMISSIONER GARRISON: Good evening.  
10 My name is David Garrison. I'm the Chairperson  
11 of ANC 6-B.

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

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

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

21 Last fall we received a proposed  
22 amendments to the retail section of the code only

1 a few weeks before the Zoning Commission's  
2 hearing, thus making it impossible for us to  
3 properly review the proposal through out normal  
4 committee process followed by discussion at a  
5 regularly -- at our regular monthly Commission  
6 meeting.

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

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

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

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1 those until next week.

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

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

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

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

21 As you well know, organizing and  
22 initiating a zoning regime is a complicated task.

1 This is especially true in the sort of historic  
2 district our Commission has with all the vagaries  
3 presented by odd shaped lots and older homes,  
4 many of which were constructed long before the  
5 codes we now use were enacted.

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

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

20 I know the Zoning Commission prides  
21 itself on reaching consensus quickly with little  
22 dispute or controversy. I shudder at the thought

1 of the amount of work, time and stress that would  
2 accompany an attempt to reach consensus on the  
3 residential code among three entirely separate  
4 independently elected Advisory Neighborhood  
5 Commissions.

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

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

22 Section 7 on rear yards and building

1 depth for rowhouses would permit rowhouses in  
2 certain circumstances to be extended all or most  
3 of the way to the back line of the property.

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

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

21 Our Commission prefers and continues  
22 to prefer that some minimum useable backyard be

1 required in these situations.

2 We are also concerned about the  
3 implications of Section 11 on accessory  
4 buildings. Especially as regards Recommendation  
5 13 that would permit and indeed we think  
6 encourage the conversion of accessory structures  
7 such as the garages and carriage houses -- such  
8 as garages and carriage houses into dwelling  
9 units.

10 Again, as a general rule our  
11 Commission is opposed to the displacement of  
12 residential units in rear accessory structures on  
13 the Hill, particularly within the historic  
14 district. Our considered view is that our  
15 neighborhood is by and large a sufficiently  
16 thickly settled area. With the exception of some  
17 specific spots near transit stops and other  
18 transportation hubs, we do not support the idea  
19 that Capitol Hill needs to bulk up. Rather, we  
20 remind the Zoning Commission that the exercise in  
21 which you and OP are now engaged is to implement  
22 the revised Comprehensive Plan.

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1           And on this point, Section 1607.2 of  
2 the Comp Plan finds that "The Hill is already one  
3 of the densest communities of the District of  
4 Columbia." Recommendation 13, if approved, would  
5 quickly alter that status and thus in our view is  
6 not consistent with the Comprehensive Plan. It  
7 should be dropped from the proposal.

8           Thank you for your attention.

9           CHAIRPERSON HOOD: Thank you.

10           Commissioner?

11           COMMISSIONER TOLIVER: Good evening.

12           Yes.

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

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

22           There are just a few things that I

1 wanted to point out.

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

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

14 There's also some proposed  
15 developments along Georgia Avenue which would  
16 significant be impacted by the proposals.  
17 Specifically, there's the Beacon of -- Beacon of  
18 Light which is intending to construct a large  
19 development along Georgia Avenue. And that would  
20 be very significant to those members. They're  
21 not my constituents but they would very much  
22 impact our Commission.

1           With respect to the second proposal.  
2           The maximum heights appear fair and reasonable.  
3           They do appear to have taken into consideration  
4           the fact that taking the height up to the top of  
5           the building as opposed to just the floors makes  
6           it a lot more reasonable. But we're wondering  
7           how that would impact the existing owners? Would  
8           everyone then decide that they're going to pump  
9           up their home to the height of their neighbor  
10          which could then end up with a see-saw effect of  
11          the homes which would be, in my view, would be  
12          adversely impacting the quality of the  
13          neighborhood and the character.

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

21                 With respect to the side yards, there  
22          will be a lot of concern if you could, for

1 example, have a five-foot setback on one side and  
2 a 15-foot setback on the other side. The  
3 neighbor that's closest to that is actually then  
4 looking into your kitchen or looking into your  
5 bedroom or looking right into your home. Five  
6 fee is not much and if you allow both say to have  
7 two dwellings that five -- ten feet apart, that's  
8 not in keeping with the character particularly in  
9 our ANC -- in our Commission, excuse me.

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

18 But one of the most troubling are the  
19 accessory structures because it's really unclear  
20 as to how that will work. There are some homes  
21 that have accessory structures that are not  
22 immediately -- they're not abutting the property

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1 and there are some that may be a matter of a few  
2 feet and there are some at the end of the yard.  
3 And those carriage houses are a major concern  
4 because there's a home on Holly Street that we  
5 believe had illegally built home where they told  
6 the zoning and DCRA that there was actually a  
7 two-car garage that they bumped up to two  
8 stories. And all the neighbors in the community  
9 know it was a one-car garage that they just  
10 expanded out. And DCRA has taken no action.  
11 Zoning has taken no action despite our requests  
12 and complaints. So, that would be a particular  
13 concern because, for example, my home has a  
14 12,000 square foot lot. I could build a second  
15 home on it and my neighbors would probably be  
16 upset. But under these regulations, maybe I  
17 should be quiet on that issue.

18 Thank you.

19 CHAIRPERSON HOOD: All right. So, I  
20 guess we want to tailor it on -- let me ask.

21 Do we have any questions for the ANC  
22 Commissioners?

1 Commissioner May?

2 COMMISSIONER MAY: Yes. With regard  
3 to Commissioner Garrison's testimony. I made a  
4 mess of my paper, sorry.

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

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

16 COMMISSIONER TOLIVER: Our  
17 understanding and in the discussion we had the  
18 other night with OP staff is that the way this is  
19 -- the way the baseline is set in this proposal  
20 it would, in effect, permit and we think  
21 encourage houses that do not yet have a second  
22 unit to go ahead and convert that carriage house.

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1 The carriage into a carriage house or residential  
2 structure to get the two. This would enable that  
3 process to the extent to which that is the likely  
4 result, that is something we do not want to have  
5 as a general proposition in the historic  
6 district on Capitol Hill.

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

11 COMMISSIONER TOLIVER: There's a whole  
12 myriad--

13 COMMISSIONER MAY: Adding a parking  
14 user.

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

19 COMMISSIONER MAY: Well, I guess,  
20 Travis, do you want to field that question? I  
21 had thought that maybe this could be a, you know,  
22 what I've been calling a flavor that gets added

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1 or gets customized by the particular  
2 neighborhood.

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

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

14 MR. PARKER: Right. I guess the point  
15 anything about how something is measured is  
16 intended to be universal and what you measure too  
17 like the height measurement to roof, that's how  
18 you measure height and then you can set it at 40  
19 or 30. So -- so, we're going to argue strongly  
20 that we have a consistent way to measure things  
21 and consistent rules on what you can and can't do  
22 but then you can customize the number.

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1                   COMMISSIONER MAY:  So, going back to--  
2           I'm taking us off  in a different direction.  
3           Sorry.  And maybe you should start the clock.  
4           No.

5                   But there are some things that we  
6           would, you know, we could decide theoretically  
7           whether or not to measure.  For example, we could  
8           decide that we do in fact want to include stories  
9           as something that want to measure but then a  
10          neighborhood could opt for having no restriction  
11          or restricting it to two, three, four or five.

12                   MR. PARKER:  Yes.

13                   COMMISSIONER MAY:  Okay.

14                   CHAIRPERSON HOOD:  Anymore questions?  
15                   Commissioner Turnbull?

16

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

19                   I guess I've got a question but it's  
20           kind of a -- I'd like to bring the Office of  
21           Planning in on this.  I think it makes it much  
22           more fun.

1           But talking about the side yards. Mr.  
2 Toliver brought it up. This slipping and sliding  
3 the averaging of that bring up a good point. If  
4 you're five feet on one side and fifteen on  
5 another and there -- if the neighbor on the other  
6 side of the fifteen feet has got ten feet, you  
7 got 25 feet between the homes, and on the other  
8 side you've only got ten so you got a privacy  
9 issue on one and a luxury on the other unit.

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

16           COMMISSIONER TURNBULL: Right.

17           MR. PARKER: Now, what we're proposing  
18 would allow somebody to fit in that pattern. But  
19 you're right. It would allow somebody to go the  
20 other way and put ten feet between them on this  
21 side and forty feet between them on the other  
22 side. It would allow them to do that as well.

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1           So, we have to decide, do we want to  
2 allow them to fit in the pattern on -- and leave  
3 the opportunity open that they'll blow it and go  
4 the wrong way and screw everything up or do we  
5 want to force them to go to the middle of the lot  
6 and automatically wreck the pattern? We're  
7 guaranteed that we'll have a certain separation  
8 on either side, but they can't fit in the pattern  
9 without a variance.

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

13           How much trust do you have?

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

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

20           MR. PARKER: Right.

21           COMMISSIONER TURNBULL: But I'd rather  
22 go with the regularity than --

1           The other thing I want to ask you  
2 about is, and I guess it's a -- maybe I don't now  
3 if my colleagues have it too, but I think it's  
4 Mr. Toliver that had said. The lack of  
5 specificity has hampered us sometimes at looking  
6 at when you have a template --

7           MR. PARKER: Right.

8           COMMISSIONER TURNBULL: -- and you  
9 start adding these things. And I k now we're not  
10 there yet.

11          MR. PARKER: Right.

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

16          MR. PARKER: Right.

17          COMMISSIONER TURNBULL: -- of --

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

21                 I guess it's another -- it's another  
22 issue where we have a choice. You can either --

1 you know, we, the Office of Planning could go  
2 away for two years and come back with a document  
3 and say what do you think of it? Or we can all  
4 be a part of making it. And we chose, we'll all  
5 be a part of making it. Well, there's going to  
6 be this two years where nobody knows what it  
7 looks like.

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

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

22 MR. PARKER: And one option could be,

1 I mean, we're about to get to the end of our land  
2 use specific working groups. Once we wrap up  
3 commercial corridors and medium height into  
4 residential mix, we'll have -- we'll have done  
5 all the land use ones and maybe we take a break  
6 before we get into the administrative ones like  
7 PUD and Zoning Commission and spend some time  
8 putting some of this into text.

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

14 COMMISSIONER TURNBULL: Okay.

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

17 COMMISSIONER TURNBULL: Yes.

18 Thank you.

19 CHAIRPERSON HOOD: That sounds good to  
20 me.

21 Let me just say -- Travis -- excuse  
22 me, Mr. Parker. As you know, when the concerns

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1 come up through this process as we share the  
2 oversight in front of the Chairman and the  
3 Council, that we tweak it. And Mr. Garrison  
4 mentioned that he asked us to do something once  
5 before. And obviously we hadn't done it. And he  
6 mentions that they only had a few weeks before  
7 the Zoning Commission had to go over this  
8 proposal.

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

12 COMMISSIONER GARRISON: In this  
13 particular case, the memo from Mr. Parkers was  
14 dated the 18th of March. So, we had our  
15 committee meeting just a couple of days ago so we  
16 were -- the balance of March and then the first  
17 couple of days of April. And it didn't provide  
18 us with a sufficient -- we need -- we have a  
19 month's cycle, this like many of the other ANCs  
20 which include setting the docket and having a  
21 committee meeting and having the full ANC make a  
22 judgment. And that takes a little bit of time.

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1 And that's just the way we do our business and  
2 you guys see the results of that all the time on  
3 the BZA cases. The process. And there we have a  
4 routine and you notify us in advance. We have  
5 sufficient time. We complete our process. We  
6 get our comments to you in plenty of time for you  
7 to receive them in your sequence. And that works  
8 fine.

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

16 CHAIRPERSON HOOD: I know that.

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

21 CHAIRPERSON HOOD: Okay. Keeping in  
22 the spirit with the comments that I made at the

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1 oversight hearing, Mr. Parker, let's try to work  
2 on that. I don't know what we can do. Let's try  
3 to --

4 MR. PARKER: Sure.

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

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

15 COMMISSIONER GARRISON: Thank you.

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

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

21 COMMISSIONER TOLIVER: Well, in this  
22 case the specifics of the recommendation which in

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1 the end were contained in your memorandum and  
2 that was your intention obviously to have that be  
3 the document that was the operative.

4 MR. PARKER: Right.

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

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

12 MR. PARKER: Right. Okay.

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

15 COMMISSIONER GRANT: Yes. I do.

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

20 You know, is this our alternative for  
21 historic districts?

22 MR. PARKER: Is this an alternative to

1 historic districts?

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

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

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

22 And so that's the sort of thing that

1       could be done with this rather than trying to get  
2       a district to prevent pop-ups going up to 40  
3       feet. This could be used for that.

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

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

9                   CHAIRPERSON HOOD: Any questions from  
10      the Commission?

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

13                   Commissioner Toliver?

14                   COMMISSIONER TOLIVER: Yes. Just one  
15      point of clarification.

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

22                   So, if you say, for example, you're

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1 going to bump up your home to meet that 40 foot,  
2 then you can still have a roof top terrace.  
3 That's one of the concerns that I guess some of  
4 the community might have where people might have  
5 roof top parties in their homes or, you know, a  
6 portion of the home designated as a terrace.

7           Would that be possible under the  
8 proposal?

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

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

21           CHAIRPERSON HOOD: And Commissioner  
22 Toliver said that his ANC hadn't had a chance.

1                   Mrs. Schellin, how long do we normally  
2                   leave the record open?

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

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

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

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

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

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

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1 But that would be very helpful.

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

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

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

11 All right. Any other questions?

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

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

19 And, Ms. MacWood, I understand your  
20 request so we're going to go ahead and -- all  
21 that I would ask is that you let us know when you  
22 move over to your comments alone. Sure. I want

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1 you to do -- no. I want you -- you can do it all  
2 right at the table.

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

5 Any other ANC Commissioners? Okay.

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

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

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

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

17 Our message is brief. After reviewing  
18 the recommendations and attempting to determine  
19 how they would be implemented in the various  
20 residential zone districts within our boundaries,  
21 we came to the conclusion that we did not have  
22 sufficient information to draw any conclusions.

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1           Since we are concerned that our  
2 residents understand the potential impacts, pro  
3 and con, we request that the Zoning Commission  
4 seek additional detail from the Office of  
5 Planning on how each recommendation would be  
6 implemented in each residential zone district  
7 that meets the definition of lower or moderate  
8 density.

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

13           And that concludes my testimony on  
14 behalf of the ANC.

15           Okay. Changing hats now.

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

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

21           I want to use my three minutes, Mr.  
22 Chairman, to urge you to consider how these

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1 proposed recommendations will alter the  
2 predictable nature of zoning and to question why  
3 some of them are being promoted.

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

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

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

20 The second sentence which wasn't  
21 included in the report states that the positive  
22 elements that create the identity and character

1 of each neighborhood should be preserved and  
2 enhanced in the future.

3 Action H15B under the housing element  
4 has a second sentence.

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

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

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

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1 that.

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

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

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

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

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

22 COMMISSIONER MACWOOD: Sure.

1 Recommendation 4-B should be amended  
2 to prohibit additions that continue a side yard  
3 of less than some reasonable minimum.

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

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

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

18 I don't believe Comp Plan supports  
19 this change. When you probe OP about how this  
20 would work, you learn a neighborhood would not be  
21 able to refine or restrict the basic package or  
22 template. For example, if the neighborhood only

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1 wanted corner grocery stores but no other type of  
2 retail, they couldn't limit the introduction of  
3 commercial uses into the neighborhood in this  
4 way.

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

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

16 Thank you very much, Mr. Chairman.

17 CHAIRPERSON HOOD: Thank you very  
18 much.

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

21 Okay. Thank you very much.

22 And we have your testimony. I know

1 you didn't get a chance to read it all, but we  
2 have your testimony.

3 And let's go to the list. I have  
4 proponents and Ms. Gates is good. She's a  
5 proponent and opponent, I think from what I see  
6 here. You're a proponent? Opponent. Okay.

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

9 Also David Alpert, Pro D.C.

10 Cheryl Cort, Coalition for Smarter  
11 Growth.

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

14 Anyone else in support?

15 Okay. We'll begin with Mr. Peterson.

16 MR. PETERSON: Thank you, Mr.

17 Chairman.

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

21 First of all, I think what's been  
22 presented to us will let us have a zoning code

1 that's more flexible, will allow for more zoning  
2 districts with any kind of luck should be easier  
3 and cleaner to use.

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

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

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

21 The things that I really support are  
22 the provisions for side yards and court widths.

1           I support not being able to fill them  
2           in and also support being able to extend them.  
3           And I also think as a quid pro quo for that then  
4           they shouldn't be counted against the lot  
5           occupancy figures. I think that just makes  
6           sense.

7           One of the things that, I guess,  
8           Chairman Garrison and I are going to have to talk  
9           about is the use of accessory buildings.

10           I know that we in the past have  
11           supported that in Ward 6, but what I'm talking  
12           about is existing carriage houses, the two-story  
13           carriage houses allowing their adaptive reuse as  
14           residential. And the reason I want that or  
15           propose that is we're ending up with demolition  
16           by neglect of those structures because there  
17           really no other use except parking on the first  
18           floor and people throw stuff in there to store  
19           but there's no incentive to maintain those  
20           buildings at the level that they should be  
21           maintained.

22           And so I have always supported

1 reusing those as residential, not changing the  
2 number of units per lot and also requiring one  
3 parking spot be maintained in that. So, there's  
4 a couple of example. My written testimony covers  
5 the whole gamut of OP's proposals.

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

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

12 Thank you.

13 CHAIRPERSON HOOD: Ms. Cort.

14 MS. CORT: Thank you, Chairman Hood.

15 My name is Cheryl Cort. I'm with the  
16 Coalition for Smarter Growth and I participated  
17 in the low and moderate density residential work  
18 group and also actually was on the Comprehensive  
19 Plan Task Force.

20 I want to say that I'm really  
21 impressed with the detailed and thoughtful  
22 analysis that was done by the staff. I think

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1 that it helped to demonstrate the clear images of  
2 how the 1958 zoning code is not really serving  
3 our city very well and really undermines the  
4 historic building lot and block patterns of the  
5 city. And I appreciate the careful analysis that  
6 has put forth an alternate approach for zoning to  
7 provide a much clearer, more consistent  
8 application and to really be able to conserve the  
9 character of our low and moderate density  
10 neighborhoods.

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

15 Deanwood basically -- I participated  
16 in the Deanwood Task Force and in the residential  
17 zones we have houses every which way because  
18 there are no front yard requirements. There's a  
19 lot of corrections that need to be made in order  
20 to protect the consistency of residential blocks  
21 and so we need tools to do that and the Deanwood  
22 plan says we need tools to do that.

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1           And I that what's being proposed here  
2           is to get at that in terms of how we can protect  
3           neighborhood character that is more consistent.

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

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

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

19           And so I think that the modest amount  
20           of variability is appropriate but there's  
21           certainly a lot of examples of very jarring  
22           contrasts that are really inappropriate.

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1 I wanted to -- I'll just make a -- you  
2 know, I could use my own 100 year rowhouse as an  
3 example related to lot occupancy and rear yard  
4 setbacks.

5 The blocks that are shown with the  
6 sort of diagonal -- the diagonal street. I live  
7 on one of those blocks and my backyard is maybe  
8 10 feet. The rear yard setback is somewhere in--  
9 I live in R-5-B. Your rear yard setback is  
10 somewhere in the -- I think in the neighborhood  
11 of 15 feet.

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

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

22 And so I think that what has been

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

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

14 Regarding the question of non-  
15 residential uses in residential zones, you know,  
16 I can give you an example of a corner store that  
17 is on the way to my friend's house. It's in a  
18 residential district and it was a really nice  
19 little corner store. But then it closed and they  
20 were trying to renovate it and then it just went  
21 on and it's been closed for a couple of years.  
22 And so I'm concerned that that's a non-conforming

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1 use, that it will go away. And so I do support  
2 coming in -- recognizing that what we should be  
3 regulating is the performance of these uses in  
4 terms of their impacts on the neighbors rather  
5 than necessarily the use itself in terms of home  
6 occupations. And so I really support the  
7 direction of Recommendation 10.

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

13 And I just want to make one point. It  
14 wasn't -- FAR wasn't mentioned in this and I  
15 actually think it's not a very helpful term.

16 Tell me how big, how high, where  
17 should the building be placed? How does it  
18 relate to its neighbor? FAR is a dimensionalist  
19 measure that has no -- it doesn't tell me  
20 anything about the quality of the building, how  
21 it relates to its neighbors. And so I actually  
22 think it's an arbitrary and actually unuseful

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1 measure that I think we should drop basically.

2 Thank you.

3 CHAIRPERSON HOOD: Thank you. Mr.  
4 Alpert.

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

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

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

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

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

1 comments.

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

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

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

20 But having a choice does not obligate  
21 a neighborhood to take advantage of that choice.  
22 The ANC Commissioner from Crestwood, I believe,

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1 said that they do not want to allow more  
2 dwellings per building. However, just because  
3 they feel that way does not mean that other  
4 neighborhoods might want that choice.

5 Let's not mistake flexibility for  
6 overpermissiveness.

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

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

17 To a question that I think Chairman  
18 Hood asked. I e-mailed Mr. Parker to clarify  
19 whether if a block has one house that projects  
20 farther out from all of the others or farther  
21 back, whether the zoning code would require --  
22 would allow anyone to build that far out or that

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1 far back no matter what. And if I understood  
2 correctly what he said, I believe that while  
3 neighborhoods might allow buildings to go as far  
4 out as an existing building, they don't have to  
5 do that. They could choose to require all of the  
6 buildings to line up even if there's a non-  
7 conforming building already.

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

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

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

20 However, if commercial activities  
21 could take place without creating those negative  
22 side effects, I would support those. We should

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1 enable some neighborhoods serving commercial or  
2 institutional uses in our residential districts  
3 where they would be contextually appropriate,  
4 beneficial to the public and minimal in their  
5 impacts.

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

9 The Office of Planning has conducted  
10 many meetings on this process and even delayed  
11 this report to further studies and issues that  
12 opponents have raised. I believe they work  
13 remarkably hard to create a zoning model that is  
14 strongly deferential to the needs of existing  
15 residents and existing neighborhoods, but while  
16 also adding the flexibility that we need for our  
17 21st century city.

18 Thank you very much.

19 CHAIRPERSON HOOD: Thank you very  
20 much.

21 Any questions?

22 Mr. Turnbull?

1                   COMMISSIONER TURNBULL: Thank you, Mr.  
2 Chair.

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

12                  MR. PETERSON: That is correct and  
13 actually about 15 years ago CHAMPS, Capitol Hill  
14 Merchants Organization and the Capitol Hill  
15 Restoration Society did a study of how many of  
16 these there actually area. And there's less than  
17 100 so we're not talking frankly about that many  
18 additional units. And we had actually proposed  
19 the zoning amendment to allow that, that died a  
20 death somewhere in the process because a lot of  
21 other neighborhoods opposed it.

22                  COMMISSIONER TURNBULL: Okay. I just

1 wanted to --

2 MR. PETERSON: Right.

3 COMMISSIONER TURNBULL: -- clarify  
4 your point.

5 Thank you.

6 COMMISSIONER MAY: Okay. Thanks.

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

10 No. Okay.

11 Now, we're looking at persons in  
12 opposition.

13 Alma Gates, George Clark and Ann  
14 Sellin.

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

17 MS. GATES: Good evening Members of  
18 the Commission.

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

21 As a starting point for discussion of  
22 new zoning strategies and concepts OP highlights

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1 the Comprehensive Plan's main goals for  
2 residential areas, protection of existing  
3 neighborhood character and promotion of  
4 conforming infill.

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

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

21 OP is proposing to replace the seven  
22 existing low and modern residential zones with a

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1       limitless number of customized zones. The number  
2       of existing map zones districts throughout the  
3       city will increase as numerous new zones are  
4       created.

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

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

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

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1 of life.

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

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

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

17 As the Commission will recall in the  
18 recent Canal Park case, a number of the side yard  
19 setbacks were well under what is currently  
20 required including one that was less than one  
21 foot. This allows more overall massing,  
22 increased density and impervious surface

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1 coverage, omit light and air and lowers the bar  
2 in terms of zoning standards.

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

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

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

22 The Comprehensive Plan's goal for

1 protecting neighborhood character is not met by  
2 these proposed changes.

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

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

16 Thank you.

17 CHAIRPERSON HOOD: Thank you.

18 Mr. Clark.

19 MR. CLARK: Thank you, Mr. Chairman.

20 My name is George Clark. I'm pleased  
21 to testify here tonight on behalf of the  
22 Federation of Citizens Associations of D.C. I'm

1 also a member of the Zoning Review Task Force and  
2 have participated actively in those meetings and  
3 those of the work groups, including the one for  
4 this hearing.

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

16           And let me say that once again the  
17 Office of Planning has misrepresented the process  
18 that led to this session. I was at all but one  
19 of the working group sessions. I can tell you  
20 that there was no consensus that the existing  
21 regulations are inadequate. That's a quote. In  
22 fact, the consensus whether there were 10 or 25

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1 persons in attendance were that OP was going to  
2 bar and had not considered the effects of what it  
3 was proposing.

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

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

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

21 OP was very honest in its response.  
22 They said, we haven't tried to figure out how to

1 write this and the task force said, well, why  
2 don't you try to figure it out and then come back  
3 to us? OP said, sure. We will. Days later they  
4 issued the notice that we're here on tonight  
5 without doing that.

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

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

21 OP's idea for at least 132 different  
22 residential zones before going block by block

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1 means that this Commission will have to become  
2 familiar with each of them and their principles  
3 decided one may not be applicable to another.  
4 And the same goes for those developers and  
5 homeowners who are promised simplicity.

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

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

20 So, there are things that we ought to  
21 be thinking about and I'm glad we picked up on  
22 that.

1           OP has offered no reason to change  
2 standard zoning terms like side yards and rear  
3 yards. And by the way on side yards the  
4 sustainability group recommendation to the Office  
5 of Planning is three foot minimum. We've been  
6 bantering about five and four and ten in this  
7 hearing. Three feet is what they say there.

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

20           This doesn't preserve neighborhood  
21 character. OP recommends allowing residential  
22 accessory units of a very large size on every

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1 lot. They have cut back a little bit on this on  
2 the sustainability group. But what's the basis  
3 for this? It was a report by a consultant that  
4 there are 125 such units in Aspen, Colorado,  
5 built for seasonal use. Apparently, OP has  
6 forgotten or never knew that alley dwellings are  
7 one of the reasons D.C. was an early adopter of  
8 zoning regulations.

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

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

17 Ms. Sellin.

18 Can you turn your microphone on?  
19 Okay. And identify yourself.

20 MS. SELLIN: My name is Anne Sellin.  
21 I'm testifying for the Residential Action  
22 Coalition, a citizens group founded 28 years ago

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1 which focuses on planning, housing and  
2 preservation issues in the Dupont Circle  
3 neighborhood.

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

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

22 Conversely, retail areas that need

1 reinforcement could be serious undermined.

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

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

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

20 The proposals 4 through 10 are  
21 provisions that increase matter of right, lot  
22 occupancy and density by the reduction of courts,

1 backyards. It also allows garages and adjunct  
2 buildings to exceed lot occupancy and swallow  
3 backyards. This diminishes privacy, light and  
4 air and ignores the desirability to preserve the  
5 environment, open green space and trees.

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

17 Increased uses should not be allowed  
18 to proliferate in any residential neighborhood  
19 and is contrary to H13-A of the Comprehensive  
20 Plan which says. Make necessary changes to  
21 preserve rowhouses as single family units to  
22 conserve the city's inventory of housing for

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1 larger households and LU213, recognizing the  
2 importance of balancing goals to increase housing  
3 supply and expand neighborhood commerce with  
4 parallel goals to protect neighborhood character,  
5 preserve historic resources and restore the  
6 environment.

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

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

22 In many R-4 areas, we have ample

1 services near by on commercial streets some of  
2 which have empty stores. These strips run  
3 between residential areas every few blocks.  
4 Fourteenth, Seventeenth, Eighteenth Street,  
5 Connecticut Avenue, part of P and Q. There are  
6 plenty of stores and services within walking  
7 distance.

8           Retail and commercial establishments  
9 inevitably lead to a change in the character of  
10 buildings with facade changes and signs. Just  
11 look at the commercial areas of Connecticut  
12 Avenue above Dupont Circle. Or Georgia Avenue or  
13 18th Street and Adams Morgan where historic  
14 rowhouses have been commercialized, altered and  
15 sometimes mutilated.

16           This is contrary to LU238 of the  
17 Comprehensive Plan that mandates. Reduce the  
18 number of nonconforming uses in residential  
19 areas, particularly those uses that generate  
20 noise, truck traffic, odors, air and water  
21 pollution and other adverse effects. Virtually  
22 all retail stores bring truck traffic.

1 Neighborhood groceries generate trash,  
2 rats and have late hours that disturb residents.  
3 The despoiling of residential districts by retail  
4 and commercial uses would disasteriously impact  
5 the quality of life of residents and lead to the  
6 elimination of neighbors and housing. It could  
7 also result in poor upkeep of properties and the  
8 decline of neighborhoods.

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

13 And the permission of alley dwellings.

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

21 The Zoning Commission should not set  
22 these proposals down for a hearing. The changes

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1 proposed would lead to a loss of existing houses,  
2 the weakening of our commercial districts,  
3 adverse environmental effects resulting in the  
4 loss of trees and green space, as well as the  
5 commercialization of residential neighborhoods.

6 This should not be the policy of  
7 Washington.

8 CHAIRPERSON HOOD: Thank you very  
9 much.

10 Any questions, colleagues, of this  
11 panel?

12 I wanted to talk. Ms. Gates, I have  
13 a quick question. I think I underlined it.

14 You mentioned that we should not -- we  
15 should be talking about this and also  
16 sustainability at the same time.

17 Why did you say -- I think I know, but  
18 I'm going to ask you.

19 Why did  
20 you say that?

21 MS. GATES: I'm sorry, Chairman Hood.  
22 I couldn't hear the beginning of it.

1 CHAIRPERSON HOOD: Oh, I'm sorry.

2 I think in the testimony you said we  
3 should be talking about low to moderate density  
4 and the sustainability at the same time and not  
5 in isolation.

6 Why did you say that?

7 MS. GATES: Oh, we should be looking  
8 at the findings of those groups because I think  
9 there's such overlap in almost every area,  
10 environmental lot size, uses, etcetera.

11 CHAIRPERSON HOOD: Okay. Thank you.

12 And, Mr. Clark, you mentioned about I  
13 think the exact words. Going to rewrite for the  
14 sake of rewriting.

15 Let me ask this. If we saw more  
16 examples like today I think the issue about the  
17 template. If we were able to visually see that  
18 and kind of get a roll map of exactly where we  
19 may end up, would that be more helpful? Would  
20 you still make the statement that we're just  
21 rewriting this to be rewriting it?

22 MR. CLARK: I think it's probably

1 true, Mr. Chairman, but I for one was willing to  
2 be open to the prospect of trying to put things  
3 all in a different kind of a template.

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

6 CHAIRPERSON HOOD: What happens is --

7 COMMISSIONER MAY: The microphone is  
8 right over --

9 MR. CLARK: I'm sorry.

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

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

14 COMMISSIONER MAY: Yes. More. Thank  
15 you.

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

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

21 But the -- I don't believe that the  
22 mere fact of having some kind of a template is

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1 improper or is not something that could work. I  
2 was open to that prospect during the course of  
3 the working group meetings.

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

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

20 I mean, because I'm looking and Ms.  
21 Schellin actually wrote the schedule on Mr.  
22 Clark's testimony. But I think he brings up some

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1 valid points. And actually one of the points he  
2 brought up was one of the issues that I think  
3 Commissioner May mentioned earlier about fixing  
4 the existing problems.

5 MR. PARKER: Right.

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

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

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

21 I really think that what I'm saying is  
22 kind of what you're saying. And say, well, how

1 do we know how this is going to work and look"?  
2 And the answer is, we all said the same thing.  
3 How do we know how it's going to work and look?  
4 And OP's answer was, we think it will be okay,  
5 but we don't know. We haven't tried to put it  
6 together in writing to see if it will work.

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

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

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

18 But I think the task group and I'm  
19 feeling for the task force because you all meet  
20 two or three hours every other month and you're  
21 putting a lot of time in it. And, you know, we  
22 all want to get to the end. And I think the

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1 Chairman of the Council even said it to us at the  
2 oversight hearing. We don't want to get to a  
3 point where we have a whole lot of unhappy folks  
4 and we end up in the same place we are. And  
5 that's why I want to talk to Mr. Parker.

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

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

22 We can and will with your guidance

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

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

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

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

22 We did meet with the working group.

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

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

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

21 Do we need to fix things that aren't  
22 broken? I mean, we've got enough things that are

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1 broken that we want to fix. But do we need to  
2 fix things that aren't broken by changing  
3 completely the system that we use to regulate low  
4 and moderate density residential?

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

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

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

20 MR. PARKER: I think that what Mr.  
21 Clark is saying is that the task force and  
22 rightly so said we'd love to see how this works.

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1 We'd love to see an example. We'd love to see the  
2 codification of this and how it's going to look  
3 in text. And that's absolutely fair and  
4 absolutely true and that is the next step for us  
5 to do. But we had the -- you know, we presented  
6 these ideas to the task force. There's no reason  
7 not to present the same ideas to you and the next  
8 step is we go away and we write it. But you need  
9 your opportunity to also say. You know what?  
10 Maybe Recommendation 7 is not right, drop that  
11 one. And drop Recommendation 11, write it in  
12 this way.

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

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

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

20 CHAIRPERSON HOOD: All right.

21 Can we agree on that, Mr. -- he's  
22 giving us a chance now.

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

11 CHAIRPERSON HOOD: I got you.

12 Commissioner Keating?

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

17 MR. CLARK: There was not a report.

18 CHAIRPERSON HOOD: Okay.

19 MR. PARKER: Yes. The task force is  
20 an advisory body. I mean, we present to the task  
21 force. We collect their opinions and I hope I  
22 have in the comment document that I attached, I

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1 faithfully rendered them to you. So, we collect  
2 the comments and we certainly make changes where  
3 we can. But, again, the main comment was. This  
4 might work, we want to see it. And that's where  
5 I'm saying that's six months -- that's -- you  
6 know, the process that we have to go and hide in  
7 our offices and spend six months designing it.  
8 And we'd like to get everyone's, if not buy-in,  
9 at least understanding first.

10 COMMISSIONER KEATING: Just one quick  
11 structural question.

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

14 MR. PARKER: These recommendations?

15 COMMISSIONER KEATING: Yes.

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

18 COMMISSIONER KEATING: Deal with --

19 MR. PARKER: -- low and moderate  
20 density.

21 COMMISSIONER KEATING: -- low and  
22 moderate density?

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

10 MS. SELLIN: Mr. Hood?

11 One of the problems is these task  
12 forces are all top down. We're presented with a  
13 preconceived list of things to deal with and  
14 we're not particularly listened to when we bring  
15 up other problems. And they can be ignored.

16 Just as an example, one problem is the  
17 building over of windows that are on a property  
18 line. In L'Enfant City if you have the side of a  
19 building with windows on the property line, the  
20 vacant lot next door, they can just build over  
21 your windows and we've had this happen. But that  
22 was not addressed. This is just one example.

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1           And a lot of the things that are  
2 addressed in this are not really problems. There  
3 are problems. But they're not being looked at.

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

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

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

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

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1 All right.

2 Thank you all for your testimony. I  
3 appreciate it.

4 Okay. The last panel I have is Ms.  
5 Zartman, Committee of 100. Mr. Watson, Wesley  
6 Heights, Historical Society. Richard Hinds,  
7 Citizens' Association of Georgetown. Marilyn  
8 Simon, Friendship Neighborhood Association.

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

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

13 We'll start with Ms. Zartman.

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

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

20 MS. ZARTMAN: Oh, well.

21 Thank you for the opportunity to  
22 testify about recommendations from the Office of

1 Planning with regard to low and moderate density  
2 residential areas on behalf of the Committee of  
3 100 on the Federal City.

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

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

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

22 Inquires about who would sit at the

1 table during these decisions, how boundaries  
2 would be set, how disagreements would be settled,  
3 what limits would apply, how enforcement would  
4 occur, all were met with the same replies. We  
5 don't know, we're still working on that. Wait  
6 for the regulatory language. That doesn't help.

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

19 The uses as has been proposed will no  
20 longer be specific. I agree with everyone that  
21 the current list of uses permitted, prohibited  
22 and conditional needs a lot of work and maybe it

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1 needs to be scheduled for a periodic updating.  
2 But the new categorical regulation of uses is we  
3 believe very troubling and will result in great  
4 confusion, a great deal of unhappiness. You  
5 know, we joke about the distinction between the  
6 personal services of your family dentists and a  
7 recreational masseuse. And gone will be the  
8 voice of the ANCs, of community groups, of  
9 neighbors. The Office of Planning will make  
10 these decisions on our behalf. And quite  
11 honestly, I don't know that there is the level of  
12 trust based on the experience many communities  
13 have had with PUDs, with campus plans, with small  
14 area plans, to empower the Office of Planning to  
15 do that on our behalf. We believe the voice of a  
16 community needs to be heard.

17 I can go through more specifics, alley  
18 dwellings, expanded garages, carriage houses are  
19 to be allowed of right, though no particulars  
20 about health and safety issues are offered.  
21 Appropriateness of dwellings on narrow alleys and  
22 their import on adjoining and nearby dwellings,

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1 not addressed.

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

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

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

21 HPRB Review is critically important to  
22 maintaining historic districts' character and

1 integrity. The provisions of front, side and  
2 rear setbacks are critically important to these  
3 areas and HPRB cannot be precluded from  
4 exercising its responsibility under the Act. All  
5 OP proposals should be carefully reviewed for  
6 their impact on the independence assured to HPRB  
7 and its Federal counterparts.

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

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

18 I would ask that you not offer policy  
19 direction until that process has played out and  
20 the consequences drawn from the experience can be  
21 before you to consider in terms of impact in real  
22 life, in a real place with real people.

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1 Thank you. I'd be happy to answer any  
2 questions, including that one bout R-3.

3 CHAIRPERSON HOOD: Thank you, Ms.  
4 Zartman.

5 We'll go to Mr. Watson.

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

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

19 Wesley Heights is an upscale 1920s to  
20 1930s Miller-led development just south of  
21 American University, consisting of some 525  
22 single-family detached homes in R-1-A and R-1-B

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1 zones with large yards and landscaped streets.

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

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

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

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

19 In the mid-1980s, however, there was  
20 a state of development in Wesley Heights when two  
21 adjoining R-B-1 lots with modest shingle homes on  
22 Klinge Street were purchased by a developer and

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1 immediately demolished. In their place two very  
2 large brick mirror-image railroad car like tall  
3 homes went up changing forever the streetscape of  
4 that block of Klinge Street.

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

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

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

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1 peaceful and inviting.

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

17 These are all simply stated in the  
18 zoning code. We did, however, overlook one  
19 aspect of the front yard setback provision.  
20 Namely, for corner lots as Alma Gates mentioned  
21 earlier, we should have made them subject to the  
22 same front yard setbacks on both sides of the

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1 corner. There has already been one egregious new  
2 corner lot home placement with an eight-foot  
3 setback fronting 20 foot plus -- fronting a 20-  
4 foot setback streetscape.

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

15 We've had some successes and some  
16 disappointments. A developer bought a quarter  
17 acre side yard on 44th Street and began pouring  
18 concrete walls for a new infill townhouse about  
19 10 feet from the street. In the name of the  
20 society I brought this to the attention of ANC 3-  
21 D and the chair immediately send the developer a  
22 tear down that wall letter pointing out the --

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1 the WHOD infraction.

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

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

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

12 MR. WATSON: Yes.

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

18 MR. WATSON: But what I want to bring  
19 to your attention is that the zoning overlay has  
20 worked in Wesley Heights. And we have gone after  
21 abuses of the zoning overlay and the neighborhood  
22 supports it and the main thing I want to

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1 emphasize is that our neighbors and others  
2 throughout this city have worked hard to  
3 establish and enforce these neighborhood overlays  
4 that are tailored to local conditions and  
5 environments.

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

11 Thank you.

12 CHAIRPERSON HOOD: Thank you very  
13 much.

14 Mr. Hinds -- Richard Hinds.

15 MR. HINDS: Thank you.

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

21 The reason for our opposition is that  
22 Georgetown is a historic district and I think

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1 that my comments may also apply to other historic  
2 districts and certainly mirror some of the  
3 comments you've already heard from  
4 representatives of the historic districts.

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

17 We are, therefore, diametrically  
18 opposed I think in concept to what the Office of  
19 Planning is proposing which is to push down and  
20 since there's no exception for historic districts  
21 that would cover historic districts, matter of  
22 right development to the maximum extent possible.

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1 I mean, the classic example is the small  
2 substandard lot where you get to build a house of  
3 some substantial dimensions that's going to be  
4 basically as big as what's -- big as your  
5 neighbor's house and then if there's any green  
6 space left in that lot, you get to be able to  
7 build another structure which can be also a  
8 residential structure. That is -- that is, you  
9 know, a -- a total change in approach to  
10 Georgetown which just, you know, is unacceptable.

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

19 That is the opposite of the matter of  
20 right type of approach that is being proposed.  
21 And we think that it just doesn't work in  
22 Georgetown. We doubt that it works in any

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1 historic district.

2           So, if we're talking about what needs  
3 to be done here. I think one thing that needs to  
4 be done is basically to cut out historic  
5 districts from this entire process because it's  
6 not taking their unique characteristics into  
7 account. They are just different. We're trying  
8 to preserve. We're not trying to develop. We're  
9 trying to oppose development that would change  
10 the historic character of the District.

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

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

22           What we're really concerned about is

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

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

21 Now, I have to tell you as Barbara  
22 Zartman pointed out, we have agreed to explore

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1 with the Office of Planning what they're  
2 proposing to try to get a better feel for it  
3 because we actually think that what they are  
4 actually trying to do is to try and replicate  
5 Georgetown in other areas of the city so that we  
6 do have mixed use, you do have corner stores.  
7 And we understand that. But we're very concerned  
8 about what that whole process means to  
9 Georgetown. And basically we think it shouldn't  
10 -- it shouldn't -- what we have now should not be  
11 changed because it deals with our unique  
12 situation in a way that is satisfactory.

13 Thank you.

14 CHAIRPERSON HOOD: Thank you.

15 Ms. Simon.

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

19 Zoning regulations have a critical  
20 role as a contract between the citizens of the  
21 District and their government. A contract which  
22 protects homeowners and businesses that have

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1 invested in the District and its neighborhoods.

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

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

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

20 In doing so, OP has swept many other  
21 potential projects into the matter of right  
22 category. Projects which should be reviewed

1 which might have a negative impact and would have  
2 not have been approved by the BZA or this  
3 Commission.

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

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

15 There are also recommendations which  
16 allow a minimum footprint as a matter of right  
17 regardless of lot size and occupancy, allow  
18 matter of right construction on substandard  
19 existing lots, increasing lot occupancy beyond  
20 the current limits and for rowhouses allow matter  
21 of right minimum building depths even on shallow  
22 lots increasing lot occupancy and in some

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1 instances reducing or eliminating the rear yard  
2 requirement.

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

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

14           These specious proposals which remove  
15 predictability about neighboring uses as well as  
16 the scale of new buildings and placement of new  
17 buildings in low and moderate density residential  
18 zones are compounded by some of OPs  
19 recommendations in other sections of the zoning  
20 rewrite that will change the uses allowed in low  
21 and moderate density residential zones and the  
22 type of development allowed in zones near low and

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1 moderate density residential neighborhoods.

2 For example, in the campus and  
3 institutional section, OP recommended  
4 institutional uses such as day care centers or  
5 CBRFs below some is yet to be determined size for  
6 each zone be allowed as a matter of right in  
7 residential zones.

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

20 In a recent working group session, OP  
21 announced TOD zones will be defined to be all  
22 nonresidential or high density residential areas

1 within a half a mile of every Metro station in  
2 D.C. Open the option of adding low and modest  
3 density land to the TOD zones in the future.

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

15 A common theme for many of the  
16 recommendations in the low and moderate density  
17 residential section is to increase the amount of  
18 development that will be allowed on any lot and  
19 to change the regulations to allow matter of  
20 right development on small lots that currently  
21 would not be buildable or would require zoning  
22 flexibility. This is done without consideration

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1 for the impact of these changes will have on  
2 light and air and on the character and stability  
3 of our residential neighborhoods.

4 Thank you very much.

5 CHAIRPERSON HOOD: Thank you very  
6 much.

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

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

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

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

21 There has been a problem with  
22 developers, other, putting the equivalent of a

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1 trellis to connect their detached or semi-  
2 detached home to the property line and enhance  
3 their position by 50 percent. Suddenly go from  
4 40 percent to 60 percent lot occupancy and it's  
5 not so that they can build a rowhouse. It's  
6 usually so that they can have additional lot  
7 coverage to put a deck in the back, to put an  
8 addition in the back, that they would not  
9 otherwise be entitled to have.

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

21 And we had two cases going at one time  
22 so it's -- it's not a rare occurrence and, in

1 fact, the case where the BZA decided that you  
2 cannot eliminate a side yard which is what you  
3 would do if you claimed you were creating a  
4 rowhouse was a case that involved a nonhistoric  
5 district property that was just a bad use of  
6 land. It had bad impacts on neighboring  
7 properties. It meant that the adjoining neighbor  
8 had 18 inches of space in his side yard. It was  
9 nonconforming too.

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

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1 Georgetown but elsewhere.

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

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

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

18 This is not to implement anything in  
19 Georgetown before this is written obviously. But  
20 theoretically they could be the first to come in  
21 and there's no reason a Ward 8 neighborhood  
22 wouldn't -- wouldn't along right with that.

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1                   CHAIRPERSON HOOD:  And the reason I  
2                   say that because we have two distinct areas and I  
3                   think we would cover a lot more if we give some  
4                   variation.

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

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

13                  MR. PARKER:  Well, I mean, we're  
14                  talking now about a preliminary exercise.  Again,  
15                  just like this largely conceptual.  This would be  
16                  largely conceptual because again we haven't -- we  
17                  don't have text yet.  And so we can't finish that  
18                  exercise until we have text.  But we can get to a  
19                  point where under this conceptual structure  
20                  here's what it could look like and we can have  
21                  that discussion with Georgetown.  That doesn't  
22                  mean that when we write out the text that is

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1 exactly what it is going to look like. And  
2 that's the step that follows. That's the step  
3 that's going to take us some time.

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

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

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

21 MR. PARKER: Some real world examples,  
22 absolutely.

1 CHAIRPERSON HOOD: Okay.

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

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

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

21 MR. PARKER: I am certain that by the  
22 end of this process we get a favorable

1 recommendation out of Ms. Zartman.

2 COMMISSIONER TURNBULL: Okay. That's  
3 something.

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

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

8 MR. PARKER: Sure. Sure.

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

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

14 CHAIRPERSON HOOD: Okay. Mr.  
15 Turnbull. Okay.

16 Anybody else?

17 Commissioner May.

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

21 When they're building these trellises  
22 or whatever they do to fill in the side yard does

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1 it actually wind up attaching to the house next  
2 door or does it end at the lot line?

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

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

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

22 COMMISSIONER MAY: Well, I would hope

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1 that we resolve this question once and for all in  
2 the regulations. Because I'm, you know. I'm  
3 very, very clear on what a side yard is and a  
4 rowhouse is not a house that's goes lot line to  
5 lot line. It actually attaches to something.

6 CHAIRPERSON HOOD: Turn your mic on.

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

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

17 MR. PARKER: There is a section. Not  
18 in the definition of side yard, but there is a  
19 section that says. Yes. That you cannot build  
20 up to the lot line unless you are attaching to  
21 another home. That has been deemed in certain  
22 cases to be in conflict with the --

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1                   COMMISSIONER MAY: I hope that we  
2 resolve that.

3                   MR. PARKER: Absolutely. Absolutely.

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

8                   MR. PARKER: Okay.

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

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

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

20                   COMMISSIONER MAY: Okay. Well, I  
21 think that's a mistake in assumption. Everything  
22 that I've pictured up to this point was what's --

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1 you know, what's kind of the minimum to make a  
2 workable house or what might fill out the end of  
3 a row. I didn't imagine that it was going to be,  
4 you know -- I mean, when you say substantial  
5 dimension, I'm picturing things that could be  
6 much bigger and the reason I ask the question is  
7 that I think that as this process moves forward,  
8 what we need to have input on is what's the right  
9 size for something like that. And not just, no.  
10 This should never be. Because I think there is a  
11 useful purpose for something -- for that kind of  
12 a provision and it would be helpful to understand  
13 what people think, you know, if a useful -- is a  
14 reasonable dimension for a minimum building.  
15 Because you don't want to, I mean, would you  
16 prefer that a property simply become, you know,  
17 unbuildable as a result?

18 MR. HINDS: Yes.

19 COMMISSIONER MAY: Well, that's not  
20 always practical because -- because the way. I  
21 mean, even the way it is right now. If you have  
22 a theoretically unbuildable lot that's grounds

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1 for -- I mean, that's one of your prongs on the  
2 variance test.

3 MR. HINDS: Sure.

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

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

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

19 When it's looked at by, you can on any  
20 body in Georgetown if there's enough space, build  
21 this minimum sized house, whatever it is, and if  
22 there's anymore space you can build another

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1 minimum size accessory building. That to us is  
2 going in the wrong direction. It's not going in  
3 the direction in the historic district of  
4 preservation of green space that exists.

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

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

16 And I guess what I would -- I would  
17 hope would come out of this process is some  
18 attempt to try and reconcile those circumstances  
19 with the intention and, you know, boil it down to  
20 what is the intention. The intention is to try  
21 to make -- to establish some minimums so that  
22 the, you know, there is perhaps a little bit more

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1 regularity to what happens when you have these  
2 smaller size lots. And I think there are ways to  
3 sculpt what the Office of Planning is trying to  
4 do based on prior experience that may actually  
5 result in a favorable outcome and actually  
6 addresses some of the problems so you don't have  
7 to go out there and fight it out with the BZA  
8 every time. Maybe it's already written into the  
9 regs that this is what you can do and it's a  
10 little bit clearer. Or maybe it's written into  
11 the regs what -- what the BZA can -- can do even  
12 within their authority. Right? Which is another  
13 thing because right now as soon as you pass the  
14 test, God knows what they can do. I mean, they  
15 can do just about anything they want.

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

1 COMMISSIONER MAY: Okay.

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

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

22 MR. HINDS: And those thing happen all

1 the time. That's 20 percent of your cases I  
2 understand.

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

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

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

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

14 COMMISSIONER MAY: Yes. Well, I  
15 mean --

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

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

22 Thanks.

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

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

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

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

14 Okay. Do you want to add anything?  
15 Anything you want to see?

16 Commissioner Keating? Commissioner  
17 Turnbull? Sharon?

18 Okay. Let's do this.

19 Sharon has been so nice to give me a  
20 schedule. We're going to leave the record open  
21 as requested for six weeks which will take us to  
22 May the 21st and then we're going to give the

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1 Office of Planning two weeks if they choose to  
2 respond to anything that we left the record open  
3 for.

4 SECRETARY SCHELLIN: It's not quite  
5 two weeks.

6 CHAIRPERSON HOOD: Oh.

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

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

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

15 CHAIRPERSON HOOD: The Office of  
16 Planning's report needs to be back in June the  
17 1st.

18 SECRETARY SCHELLIN: June 1st.

19 CHAIRPERSON HOOD: Okay. One week and  
20 a day or two. And then we're going to try to  
21 take this up at our meeting on June the 8th. And  
22 I would ask that the presentation with any

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1 changes come back -- accompany you when you come  
2 back when we start doing out -- go through our  
3 worksheet.

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

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

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

12 Do I have that right, Ms. Schellin?

13 All right. Is there anything else?

14 SECRETARY SCHELLIN: That's it.

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

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

20

21

22

