

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

SPECIAL MEETING

+ + + + +

MONDAY

JUNE 22, 2009

+ + + + +

The Special Meeting of the District of Columbia Zoning Commission convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:30 p.m, Anthony J. Hood, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
WILLIAM WARREN KEATING, Vice Chairman
KONRAD SCHLATER, Commissioner
MICHAEL G. TURNBULL, FAIA,
Commissioner (OAC)
PETER MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary
DONNA HANOUSEK, Zoning Specialist
ESTHER BUSHMAN, General Counsel

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OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON
TRAVIS PARKER

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTING, ESQ.

The transcript constitutes the minutes from the Special meeting held on June 22, 2008.

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1 P-R-O-C-E-E-D-I-N-G-S

2 6:37 p.m.

3 CHAIRMAN HOOD: Okay. Will this
4 Public Meeting please come to order. This is
5 the June 22nd, Public Meeting of the Zoning
6 Commission. My name is Anthony Hood. Joining
7 me are Vice Chairman Keating. I have to get
8 used to saying Vice - get used to that.
9 Commissioner Schlater. I need to get used to
10 that. Commissioner Turnbull and also
11 Commissioner May.

12 Also joined by Office of Zoning
13 staff, Office of the Attorney General, Office
14 of Planning.

15 Okay. Copies of the agenda are
16 available and you will see them at the door to
17 the left. We are also being webcast live. We
18 ask you to refrain from any disruptive noises.

19 Does the staff have any preliminary
20 matters

21 SECRETARY SCHELLIN: No, sir. Just

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1 to also advise that copies of the ZRR
2 worksheet are also in the bin.

3 CHAIRMAN HOOD: Thank you very
4 much.

5 Okay. If you have a copy of the
6 agenda you see that there's nothing under
7 preliminary matters.

8 Consent Calendar action and
9 proposed action. Let's move right into final
10 action.

11 Zoning Commission Case No. 06-21B,
12 Douglas Development Corporation - Two-Year
13 Time Extension for PUD at 6th and L Streets,
14 N.W.

15 Ms. Schellin.

16 SECRETARY SCHELLIN: The staff has
17 nothing further to add.

18 CHAIRMAN HOOD: Okay. Colleagues,
19 we have a submitted from Holland and Knight,
20 Exhibit Number 1 for 06-21B. Again, we've
21 seen more and more requests. I think it's

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1 very well done and outlines -- it's pretty
2 much the same format as the ones we had
3 previously.

4 It talks about the economy and
5 things that are going on as far as
6 construction is concerned and how to market
7 it. The market is difficult and also one of
8 the factors is are there any material factors.

9 Colleagues, we have a previous
10 order. We have changed the parking
11 requirement. We already approved that so
12 nothing really has changed. The only issue is
13 to ask for a two-year time extension in this
14 order to give additional time because of
15 conditions.

16 Any discussion?

17 I would move that we approve Zoning
18 Commission Case No. 06-21, two-year time
19 extension. And it says for a building permit
20 is extended to September 28, 2011 and the
21 deadline for starting construction of the

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1 project is extended to September 20th, 2012.

2 I would move approval of that and
3 ask for a second.

4 COMMISSIONER TURNBULL: Second.

5 CHAIRMAN HOOD: Any further
6 discussion?

7 All those in favor?

8 (AYES)

9 CHAIRMAN HOOD: Not hearing any
10 opposition, Ms. Schellin, would you record the
11 vote?

12 SECRETARY SCHELLIN: Yes. staff
13 records the vote five to zero to zero to
14 approve the two-year time extension in Zoning
15 Commission Case No. 06-21B.

16 Commissioner Hood moving,
17 Commissioner Turnbull seconding, Commissioners
18 Keating, May and Schlater in support.

19 CHAIRMAN HOOD: Okay. And I think,
20 Commissioner Schlater, we're not trying to get
21 rid of you, unless you want to stick around

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1 for the next 30 minutes it's up to you but
2 we'll leave that to my colleague, Commissioner
3 Schlater.

4 Next, let's move along with Final
5 Action on Zoning Commission Case No. 08-27,
6 American Institute of Architects -
7 Consolidated PUD & Related Map Amendment at
8 Square 170.

9 Ms. Schellin.

10 SECRETARY SCHELLIN: This case is
11 before you for Final Action. We did receive a
12 report from the NCPC. I believe that's
13 Exhibit 29.

14 CHAIRMAN HOOD: Okay. We have
15 Exhibit 29 from the National Capital Planning
16 Commission. Also, we have Exhibit 28. And,
17 again, I think I got confused at the hearing.

18 We have a denial findings of fact
19 from the West End Citizens Association. And I
20 think it's as well as the ANC, together,
21 jointly. Okay. I'm seeing heads shake. It's

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1 not jointly? But, anyway, I do know it's from
2 West End Citizens Association for proposed
3 findings of fact and conclusions of law. It's
4 Exhibit 28.

5 I have perused their findings and I
6 did not see where anything moved me to change
7 my decision in which way we move forward. And
8 I would open it up to my colleagues if anyone
9 wanted to comment on Exhibit Number 28.

10 Okay. Not --

11 COMMISSIONER TURNBULL: Mr. Chair,
12 if you are explicitly talking about Exhibit 28
13 or other comments?

14 CHAIRMAN HOOD: I was specifically
15 talking about 28. I was going to get into
16 everything else. But if you have something
17 now we can go ahead and start with that?

18 COMMISSIONER TURNBULL: No. I
19 think what was -- this project is I think is
20 one of the rare ones before us where we
21 actually are seeing an existing building being

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1 significantly renovated to reach LEED
2 Platinum. And I think my only concern at the
3 time and that I brought up was the
4 relationship of the site to the Octagon. And
5 concerning the very modern concrete brutalized
6 structure adjacent to this. Georgian Federal
7 Style gem of a little house and I was just
8 concerned that the landscaping somehow seemed
9 more modern than -- and I'm not actually
10 looking for historic landscape, but I was just
11 concerned that it needed to be treated a
12 little bit more sensitively. And they have
13 gone back and if you look on ZL10, they've
14 softened the area of the precast pavers by
15 adding some more green space and some trees.
16 And I think that it pays a little bit more
17 respect to the sensitivity of the house.

18 And I think that was my biggest
19 concern. ZI mean, obviously it's got a lot of
20 LEED features from the roof all the way down
21 to the ground. They've got the buyer

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1 retention. So, I think it's a very
2 significant project. I think it's -- it's got
3 a lot of excellent features that are something
4 that we've been looking for on a lot of
5 buildings. And as I say, they addressed my
6 one concern about the historic aspect of the
7 house.

8 CHAIRMAN HOOD: Okay. Anything
9 else?

10 Let me also just note that in
11 relationship to Exhibit Number 28, West End
12 Citizens Association in the NCPC report they
13 also raised and apparently at the NCPC meeting
14 our residents represented the West End
15 Advisory Neighborhood Commission has submitted
16 a resolution and it is attached to the back.
17 This is from the District of Columbia
18 Government -- okay. This is from ANC-2A.

19 One of the things that NCPC took
20 note of it says a related map amendment on the
21 grounds that the zoning changes are necessary

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1 to allow the retail use being proposed by the
2 AIA and could be handled as a use variance to
3 the BZA, Board of Zoning Adjustment. The
4 staff finds that in this case this issue is
5 local and not Federal. Therefore, staff
6 recommends that the Commission advise the
7 Zoning Commission of the District of Columbia
8 that the proposed consolidated PUD related map
9 amendment is not inconsistent with the
10 Comprehensive Plan for the National Capital
11 nor Advisory adversely affect any other
12 Federal interests.

13 So, unless anyone has moved, I
14 think we have hashed a lot of that out and
15 understand West End and 2A and I understand
16 their concerns. But I think that this fully
17 meets the threshold and we have a proposed
18 order in front of us. I would move that we
19 final approve Zoning Commission Case No. 08-27
20 and ask for a second.

21 COMMISSIONER KEATING: Second.

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1 CHAIRMAN HOOD: Been moved and
2 properly seconded.

3 Any further discussion? Any
4 further discussion.

5 All those in favor, aye.

6 (AYES)

7 CHAIRMAN HOOD: Not hearing any
8 opposition, Ms. Schellin, would you record the
9 vote?

10 SECRETARY SCHELLIN: Yes. Staff
11 records the vote four to zero to one to
12 approve Final Action in Zoning Commission Case
13 No. 08-27.

14 Commissioner Hood moving,
15 Commissioner Keating seconding, Commissioners
16 and Turnbull in support. Commissioner
17 Schlater, not voting, having not participated.

18 CHAIRMAN HOOD: Okay.

19 Let's move right along with our
20 agenda.

21 Let's go to ZRR. You know, my

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1 agenda must have gotten else. It's something
2 else I got up here. But anyway. Okay. Thank
3 you, Vice Chairman.

4 ZRR Guidance, Office of Planning.
5 Let's go to Zoning Commission Case No. 08-06-
6 9.

7 What I plan on doing, Mr. Parker,
8 let's see how far we can get along working
9 through the worksheet. And for those in the
10 audience, the worksheet is to the left on the
11 wall near the door if you don't have a copy.

12 Okay. Colleagues, looking at the
13 worksheet, we have Option 1 which is the
14 Office of Planning's recommendation and we
15 also have Option 2 and I'm going to read
16 Option 2. We see what Option 1 is.

17 Continue to identify TDM measures
18 on a project-by-project basis. And I think
19 Option 1 just lays out some ground work. I
20 would be in favor of moving with Option 1.

21 If I don't hear any objection,

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1 we're going to keep right on moving.

2 Okay.

3 Okay. Number 2. Accessory
4 dwelling units. Now, what we also did -- we
5 got some submissions from a number of
6 organizations. I'll pull those out. And,
7 again, as we always stated, there's another
8 bite of the apple. I just want to make sure
9 that we know them because we have reviewed
10 them for the most part.

11 NCPC, I think their piece, we may
12 want to digress to that. Was very well done
13 and also ANC-3D, I think those are the only
14 two that I have other than what we got during
15 the hearing.

16 Okay. Number 2. Accessory
17 dwelling units. We have Option 1 which is the
18 Office of Planning's recommendation to allow
19 both internal and external ADUs for single-
20 family dwellings as a matter of right subject
21 to impact of design conditions. External ADUs

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1 would be subject to accessory building
2 regulations as well as an accessory utility
3 limitation. And I think there were some
4 concerns that were raised but that's what
5 Office of Planning is recommending.

6 Option 2 to match the ZC guidance.
7 You can read the rest for external units in
8 R4 and higher zones. Allow only internal ADUs
9 as a matter of right.

10 And Option 3, do not change
11 existing sections allowing matter of right or
12 special exceptions necessary to residents.

13 COMMISSIONER MAY: Mr. Chairman?

14 CHAIRMAN HOOD: Yes.

15 COMMISSIONER MAY: The whole
16 discussion on accessory dwelling units was --
17 I thought was a -- was of particular interest
18 and I have to say I'm not completely convinced
19 that -- that accessory dwelling units can and
20 should be a matter of right within all zones.

21 And I think that it's worth it. I'm not

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1 saying that they should be a special exception
2 in all circumstances, but I think that the
3 allowance for it to be a special exception in
4 some circumstances ought to be retained.

5 And I don't know whether that's
6 done by, you know, in certain zones or that
7 there are certain kind of threshold conditions
8 that have to be met first. And, you know, if
9 they can't be met, then it would be a special
10 exception, you know, to address some of the
11 things that have neighborhood impact such as
12 parking.

13 I think that there's enough of a
14 concern in some of the neighborhoods that you
15 just open the door wide open for accessory
16 dwelling units and some of the difficult
17 circumstances of parking shortages and so on
18 would only get worse. Or particularly when
19 you're combining other changes of the zoning
20 regs that would encourage greater density. I
21 think it's wise to at least leave the door

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1 open for special exceptions in certain
2 circumstances.

3 CHAIRMAN HOOD: Right. So, when I
4 hear that, I guess, we're going to eventually
5 have to get to Mr. Parker and he's probably
6 chomping at the bit to -- oh, he's not. All
7 right. Well, good. You're not.

8 I guess can we work with that
9 guidance that everyone -- I agree. I just
10 don't know where the certain circumstance will
11 be.

12 COMMISSIONER MAY: Well, yes. I
13 think that's -- you know, a lot of these
14 things we really have to get into the
15 particulars of what's going to be proposed
16 before we understand what it is. And so I
17 think that that's the next step. And I just,
18 you know --

19 MR. PARKER: Well, yes and no. I
20 mean and for this the particulars are, we're
21 recommending matter of right across the board.

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1 If the guidance back is we need to
2 define certain situations where it would
3 remain a special exception, we would need some
4 guidance for you on what characteristics those
5 -- what characteristics we should be looking
6 for, what situations those would be.

7 CHAIRMAN HOOD: So, in essence, we
8 would probably -- we're kind of in between I
9 guess Option 1 and 2.

10 MR. PARKER: Well, the difference
11 there. I mean, Option 1 is both internal and
12 external as a matter of right. The
13 recommendation for low and moderate density
14 that the Zoning Commission changed of ours was
15 we had recommended in two or more unit zones
16 that one of those units could be in an
17 external unit and your guidance to us was to
18 make that a special exception.

19 To carry that same logic through,
20 we would -- Option 2 would make external ADUs
21 always a special exception and internal ADUs

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1 always a matter of right.

2 What I seem to be hearing is that
3 in some cases even internal ADUs --

4 COMMISSIONER MAY: I'm sorry. I
5 didn't mean to -- I should have been more
6 clear. I was not suggesting that internal
7 ADUs that are already allowed as a matter of
8 right. I mean, flats are allowed as a mater
9 of right in R4 zones.

10 MR. PARKER: And this entire
11 discussion is for R1 to R3. This is for
12 single-family zones. So, recommendation 2 is
13 that internal be allowed as a matter of right
14 and external be a special exception.

15 COMMISSIONER MAY: I'm sorry. Now
16 I'm confused.

17 CHAIRMAN HOOD: Okay. Well, maybe
18 I threw it off.

19 I just was trying to get to where
20 Commissioner May was and he was saying not
21 everything -- not just across the board and I

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1 kind of agree with it but the circumstances --
2 I don't know what the circumstances will be
3 because we do need to evaluate parking and
4 some of those adverse issues and have public
5 input. Because I think matter of right for me
6 has always been a tickler word.

7 MR. PARKER: Shall I describe this
8 a little bit better?

9 COMMISSIONER MAY: Explain the
10 options a little better because --

11 MR. PARKER: Sure. Sure.

12 All right. We're talking here
13 about single-family zones. And right now we
14 have three opportunities for more than a
15 family in single-family zones.

16 We have in R1, the matter of right
17 opportunity to do, you know, domestic and
18 employee help in an external ADU. In all the
19 R1, R2 and R3 zones you have a matter of right
20 opportunity for two boarders in your home and
21 in all those zones you have a special

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1 exception capability to do an internal ADU.

2 We're proposing to take all of
3 those and combine those. Our proposal is in
4 these zones allow internal and external ADUs
5 as a matter of right subject to the same
6 criteria that we have now, no more than 25
7 percent of the size. In other words, if we
8 know the criteria that we want our ADUs to be
9 limited to, we can put those on and say. If
10 you meet these you're matter of right and if
11 you don't, you require review. So, we already
12 know -- have a good idea and outlined in the
13 report what criteria we find most -- and
14 parking certainly can be one of those,
15 availability of a parking space perhaps.

16 We know what those criteria are and
17 if ADUs meet those criteria they'd be allowed
18 as a matter of right. If they don't, they
19 require further review.

20 Option 2 then is take the external
21 ADUs, the carriage houses and the garage off

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1 the table as a matter of right, make those
2 special exception and just all the internal
3 ADUs when they meet the requirements that we
4 set as a matter of right. And then there can
5 always be other options.

6 COMMISSIONER MAY: All right. I'm
7 still kind of confused because your Option 2
8 is -- oh, I see. You're running a parallel --

9 MR. PARKER: Yes. Sorry.

10 COMMISSIONER MAY: -- to the R4
11 zones?

12 MR. PARKER: The guidance that you
13 gave us for the R4 zone was to make external
14 units a special exception. And so that based
15 on what you did there, we put out Option 2
16 that would make external units a special
17 exception.

18

19 COMMISSIONER MAY: Right.

20 MR. PARKER: All this for the
21 proper wording.

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1 COMMISSIONER MAY: No. That's
2 okay. Now, I understand. And we had given you
3 that when we were dealing with low and
4 moderate density housing?

5 MR. PARKER: Yes.

6 COMMISSIONER MAY: Okay. Yes.
7 Okay.

8 So, that's the concern and I -- I
9 guess, you know, I still feel kind of the same
10 way. I'm not saying that at this moment I
11 know enough to say that there should be
12 special exceptions for external ADUs. But I
13 also don't know -- I don't feel totally
14 confident that there aren't circumstances
15 where there should be.

16 In other words, maybe it's -- if
17 you can provide a parking space it's a matter
18 of right. If you can't, it's a special
19 exception.

20 MR. PARKER: And that's exactly the
21 kind of condition that we're talking about.

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1 Yes. We defined the things that we're
2 concerned about. And that would define the
3 difference between the two. That's exactly
4 what we're talking about.

5 COMMISSIONER MAY: Okay. So, is
6 that Option 1 because Option 1 doesn't mention
7 special exceptions?

8 MR. PARKER: Well, I apologize. I
9 should -- both of these are very distilled
10 versions that you can imagine of what's in the
11 report.

12 COMMISSIONER MAY: Right.

13 MR. PARKER: Both options would lay
14 out -- let's start with Option 1.

15 Both internal and external ADUs
16 would have a series of conditions. If you
17 meet those conditions you're matter of right.

18 If you don't you're a special exception.

19 Under Option 2 that would be true
20 for internal ADUs. External ADUs would always
21 be a special exception.

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1 COMMISSIONER MAY: Okay. Cot it.
2 All right. So, then I'm okay now with Option
3 1.

4 CHAIRMAN HOOD: I think you
5 highlighted a lot looking back at your report.

6 MR. PARKER: We did lay out a bunch
7 of conditions -- potential conditions.

8 CHAIRMAN HOOD: We only see but one
9 or two reports a year so -- no. I take that
10 back. We see too many reports, but anyway.

11 So, anyone else have any objections
12 that we can clarify on the Option 2?

13 MR. PARKER: So, what I've heard
14 here is Option 1 is the preferred option
15 subject to obviously review of the conditions
16 that result.

17 CHAIRMAN HOOD: Right. Exactly.

18 And anybody disagree with that?

19 Okay.

20 Let's go to number 3. Transit or
21 development standards, TOD, Option 1.

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1 Mr. Parker, can you -- I'm not
2 going to read all that.

3 MR. PARKER: Sure. Not a problem.

4 This recommendation would put TOD
5 standards and guidance in the zoning
6 regulations. Right now we accomplish transit-
7 oriented development only through particular
8 planning or planned unit developments. The
9 recommendation here is to first define what we
10 mean by areas that are served by transit and
11 we've defined that as half a mile from a Metro
12 or a quarter mile from a high density bus line
13 or streetcar line. And within those areas
14 we'd lay out two types of -- two types of
15 regulations. General regulations that would
16 apply to all of those areas and these are
17 things that apply to one-story zones and 13-
18 story zones, That serves transit and that
19 includes, you know, development guidance that
20 the development will orient itself to the
21 transit, street activating design standards.

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1 You know, parking limitations and those vary
2 somewhat on the type of TOD.

3 And then the second type of
4 guidance in the regs would be variable
5 standards and these would be things like
6 minimum and maximum density and transitions to
7 residential areas.

8 The way that this would be
9 implemented is when the new zoning code is put
10 in place, these TOD areas would be marked and
11 labeled and the general standards would be
12 applied. Variable standards would come later
13 based on individual planning for individual
14 TOD areas.

15 Option 2 is to, you know, generally
16 view of what I just described but change where
17 it applies.

18 And Option 3 is to reject this
19 recommendation.

20 CHAIRMAN HOOD: Sorry. Any other
21 comments on this?

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1 COMMISSIONER TURNBULL: I just had
2 one.

3 Option 1 is sort of similar to one
4 of the LEED guidelines understandable sites.
5 But there its half a mile within a commuter,
6 bike rail or subway and/or its within a
7 quarter mile of two public bus -- I wonder why
8 you didn't -- I mean were you, I mean,
9 cognizant or were you trying to focus in on
10 like that or --

11 MR. PARKER: We were not. I mean,
12 we looked at a lot of different models for
13 this and we worked closely with Metropolitan
14 Transit Authority to look at the usage of
15 these different transit models and I'm not
16 surprised that we came close to the same
17 result.

18 COMMISSIONER TURNBULL: Yes. I
19 mean, you're close. I just think if you're
20 only asking for one streetcar or high service
21 bus corridor.

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1 MR. PARKER: Well, keep in mind a
2 high service bus corridor moves 15,000 people
3 a day and that's always on -- all of those
4 that exist in the District are more than two
5 routes.

6 COMMISSIONER TURNBULL: Okay.

7 MR. PARKER: Have two or more
8 routes along that line. So, what we mean by
9 that is --

10 COMMISSIONER TURNBULL: So, it's
11 sort of implied.

12 MR. PARKER: Right. Georgia Avenue
13 from X Street to Y Street, you know, has three
14 routes and the total people passing through
15 there are 20,000 a day . If it's over 15,000,
16 we consider that a high density corridor.

17 COMMISSIONER TURNBULL: Okay.

18 CHAIRMAN HOOD: Everybody is okay
19 with --

20 COMMISSIONER MAY: Yes. I'm okay
21 with it. I think one of the things that I

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1 guess gives me something to think about when
2 we actually get to the particulars of it is
3 how this is going to reconcile with the
4 Comprehensive Plan because there -- I mean,
5 the Comprehensive Plan itself is often
6 interpreted in different ways. And it would
7 be useful when it gets down to actually
8 writing the language and understanding what it
9 means if we were to look at where these
10 standards actually would apply and look at
11 whether that conflicts with or potentially
12 conflicts with the Comp Plan.

13 MR. PARKER: I can talk to that a
14 bit if you'd like.

15 There are some issue of the Comp--
16 the Comp Plan is working -- appears to be
17 working under the assumption that TOD means
18 more density. And that's what it is. And,
19 therefore, the Comp Plan says keep it next to
20 just the Metros and just certain Metros and do
21 an individual planning to define whether TODs

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1 should be in these places.

2 And we're saying TOD isn't -- TOD
3 can include density and often does but it's
4 not just that. There are general things that
5 apply to, you know, to transit in Cleveland
6 Park the same way that they do in Farragut
7 north. And that we need to say, you know, we
8 need to pull these concepts out. And define
9 TOD based on transit and based on orienting
10 our development towards transit and then as a
11 secondary step, talk about where density is
12 appropriate. So, we're following the Comp
13 Plan guidelines to have a discussion about
14 individual TOD areas and where density would
15 apply. But making the broader statement that
16 there are some general standards that apply
17 whether you're one story transit or 13 story
18 transit.

19 CHAIRMAN HOOD: Okay. So, we will
20 agree. And I'm trying -- I'm looking back at
21 some of the comments that were made at the

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1 hearing.

2 Okay. So, we'll all agree with
3 Option 1.

4 Okay. 4 and 5 we can skip. So, I
5 think the recommendation is no guidance. You
6 don't need any guidance from us at the time.

7 MR. PARKER: You're certainly
8 welcome to give us any if you'd like but we
9 don't --

10 CHAIRMAN HOOD: Unless someone has
11 something that they'd like to share on 4 and
12 5, we'll just move to number 6.

13 COMMISSIONER MAY: No. I would say
14 something about 4 and 5. It's just one of
15 those areas where it's -- it's hard to
16 understand how this actually is zoning related
17 and so, you know, as much as I'd like to
18 control the world --

19 MR. PARKER: Right.

20 COMMISSIONER MAY: -- there is lots
21 of other people who have -- who control parts

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1 of it. So, you know, I'd just as soon let them
2 and so I'm just -- I think there should be
3 some limits on how far we go and we certainly
4 don't want to create anything that's redundant
5 regulation of the same stuff.

6 CHAIRMAN HOOD: And I think what
7 would be very helpful at least from my
8 standpoint is when DDOE gives us a report as
9 you stated. Maybe I can understand again a
10 little more how all this ties in. And we
11 might be able to control a little more of the
12 world.

13 Okay. Number 6. Mr. Parker, I'm
14 just going to go to you so we can move through
15 it quickly.

16 MR. PARKER: No problem.

17 This is just saying we have a list
18 of things that are allowed in setbacks and
19 they include, you know, eaves and air
20 conditioners and stairways from entrances.
21 We're saying add to that list sustainable

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1 energy features. Things like light shelves
2 and photo panels that stick out.

3 We did hear a lot of concern about
4 historic districts so we threw Option 2 in
5 there. If that's of interest to you they
6 would, of course, still be reviewed by HPRB
7 and historic staff even if you went with
8 Option 1.

9 And then Option 3 would be to
10 reject the recommendation.

11 CHAIRMAN HOOD: Well, I'm not going
12 to rehash the hearing, but, you know, you try
13 to look at how some of the concerns.

14 One of the things for number 6 that
15 was mentioned. I'm saying the organization
16 but it says perhaps no other proposal, this
17 demands specific protection, preservation and
18 aesthetic standards as you already mentioned -
19 - alluded to. And clearly hierarchy of public
20 policy goals.

21 The OP proposal suggests a standard

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1 that will allow accessory structures that are
2 nearly as big as a house.

3 MR. PARKER: If that related to
4 this recommendation?

5 CHAIRMAN HOOD: That's what it says
6 here.

7 MR. PARKER: This is just talking
8 about things coming off the side of the house
9 like light shelves and such.

10 CHAIRMAN HOOD: Well, one of the
11 organizations used -- OP recommends a standard
12 that would allow accessory structures that are
13 nearly as big as houses.

14 COMMISSIONER TURNBULL: Maybe
15 they're -- maybe they're mainly talking about
16 the photo voltaic panels. I mean, they could
17 be rather large.

18 MR. PARKER: Could be. We can and
19 certainly will put limits on these. I mean,
20 the limits that were in the report talk about
21 minimum eight-foot clearance above the ground

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1 for these things. And I think it was 42
2 inches extension so we're not talking house
3 size. Limits on how far these things can go
4 out into your yard.

5 COMMISSIONER MAY: You know, I
6 think I have -- I don't have a concern about
7 the historic districts. In fact, historic
8 districts I'm much more comfortable allowing
9 all sorts of stuff because there that actual
10 layer of protection to make sure that the
11 buildings stay nicer.

12 I am concerned about what in
13 particular photo panels might end up looking
14 like, if they're not otherwise regulated. And
15 I think that there needs to be -- we're
16 probably not going to want to allow the same
17 sort of things on a front yard or a highly
18 exposed side yard as we would in a rear yard.

19 So, are you going to address it
20 kind of by yards?

21 MR. PARKER: You know, that's a

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1 very good point. We hadn't considered in this
2 -- we hadn't tied this to our recommendation
3 of regulating front yard because obviously
4 right now they're not regulated.

5 The idea for this was side and rear
6 and we could certainly make that explicit.

7 COMMISSIONER MAY: And I think that
8 even in side and rear yard circumstances there
9 is a concern because some of them are quite
10 visible and, I mean, certainly side yards can
11 be quite visible. So, I think the standards
12 should be -- has to do with visibility. And
13 I'll go back to my favorite example which is
14 the dish antennas for television where in
15 historic districts you don't really see them
16 very much because you're not allowed to see
17 them and there is somebody who actually
18 polices that.

19 They're also technically not
20 allowed to be seen in other areas of the city
21 in the same sort of circumstances. And yet

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1 they just get bolted on and nobody cares.
2 Bolted on to the fronts of the houses.

3 MR. PARKER: Is your concern
4 visibility from the street or from the
5 neighbors?

6 COMMISSIONER MAY: It has to do
7 with the visibility to the street. I mean,
8 there are plenty of stuff in the back yards
9 that we just all have to get used to seeing in
10 our neighbors yards.

11 MR. PARKER: Okay.

12 COMMISSIONER MAY: They get used to
13 seeing in my yard.

14 MR. PARKER: So, we should look
15 into conditions that would limit the
16 visibility from the street of these types of
17 things?

18 COMMISSIONER MAY: I think so.

19 MR. PARKER: Okay.

20 COMMISSIONER MAY: Disagree or?

21 CHAIRMAN HOOD: Anybody else? No.

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1 I think -- I think they will take whoever has
2 a concern under consideration.

3 We might not agree at this point
4 but I think they'll take it into
5 consideration.

6 MR. PARKER: Okay.

7 CHAIRMAN HOOD: Want to make sure
8 they get all of our points.

9 COMMISSIONER TURNBULL: I think one
10 of the things you're going to run into is
11 these panels being blocked by someone else's
12 house where they can't -- what I think we're
13 going to have a lot of BZA cases with people
14 who want to put up these panels but they can't
15 because of interference with someone's house
16 or it's blocking.

17 COMMISSIONER MAY: They'll be
18 objecting to somebody else's addition because
19 it will block the light from the --

20 COMMISSIONER TURNBULL: It blocks
21 the lights. Yes. But we address that in

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1 another recommendation.

2 COMMISSIONER MAY: We do. The
3 later recommendation talks about when you'd be
4 protected and it's just the roof mountage
5 under certain situations would protect side
6 mounting.

7 VICE CHAIRMAN KEATING: There's a
8 question raised in the NCPC report about
9 allowing roof top installations beyond current
10 required setbacks allowable by height fact
11 limits.

12 MR. PARKER: That's a question.
13 We've had a hearing you will probably recall
14 on height and we haven't brought that back to
15 you for decision yet because DCRA is still
16 going to be issuing. But one of the height
17 recommendations is allowing sustainability
18 features on the roof. And, yes, that's a fine
19 line is what on the roof has to be set back
20 and what doesn't. And that's something that
21 you will see as part of height

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1 recommendations.

2 CHAIRMAN HOOD: Okay. So, we can
3 agree to number 1 with the issue discussed by
4 Commissioner May? Okay.

5 Number 7. Renewal energy
6 generation.

7 Well, let me just start. I think
8 Option 3 is out. Okay. Let's is you leave
9 Option 3. I think the issue would be between
10 Option 1 and 2.

11 Mr. Parker?

12 MR. PARKER: Really the only
13 difference in here is if you want to weigh in
14 on the zones in which it's allowed. The first
15 recommendation is allow photo votalic panels
16 or small wind in any district as accessory to
17 your primary use. And as a primary use in
18 industrial land, high density land and
19 government areas, Option 2 is if you want to
20 change the zones or limit accessory use of
21 wind and power in certain zones for a special

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1 exception.

2 CHAIRMAN HOOD: Okay. I am
3 inclined to go with Option 1. Anyone else?

4 VICE CHAIRMAN KEATING: Here's a
5 quick question.

6 I need to find a small wing.

7 MR. PARKER: That's a good
8 question. I might have to look at the report.
9 It's -- there are generation limits. I think
10 it's 100 kilowatts. I don't off the top of my
11 head know the distinction. But we're not
12 talking big countryside power generators.
13 You're talking ones in the -- that's the main
14 difference. There's really just big ones that
15 generate for multiple properties and ones that
16 generate for a single property. And we're
17 talking about the single property. They are
18 small and they can -- they can be different
19 heights but they're producing the size of
20 maybe the ones in front of the Botanical
21 Gardens if you're familiar with those.

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1 VICE CHAIRMAN KEATING: Right. I
2 had raised the same concern that Commissioner
3 May raised about the photo voltaic panels
4 which is kind of how does that appear from,
5 you know, how does that change the view of the
6 home that's got one in its front yard? And
7 how do you -- what conditions are put around
8 allowing someone to do that?

9 MR. PARKER: That's fair. I think
10 we'd certainly -- I think a good limitation on
11 them would be from the front yard. The
12 primary place for these obviously is the roof.
13 And we've talked today about allowing them in
14 the rear yard and allowing them in the side
15 yard with some visibility limitations and we
16 could certainly prohibit them in the front
17 yard.

18 CHAIRMAN HOOD: Anybody else?

19 COMMISSIONER MAY: Can I make one
20 minor point which is you referred to allowing
21 it as a primary use of land in industrial,

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1 high density and government areas. And I'm
2 wondering are you planning to create a
3 government zone under the limit that exists
4 now which is essentially not zoned Federal?

5 MR. PARKER: No. But -- but D.C.
6 controlled certainly. No. We don't --

7 COMMISSIONER MAY: Right. But all
8 that has to be zoned as --

9 MR. PARKER: Fair enough.

10 COMMISSIONER MAY: -- industrial or
11 office or whatever it is.

12 MR. PARKER: i would say. No. So,
13 that's a good point. I don't have a zone to
14 tie that to.

15 COMMISSIONER MAY: Okay. I'm not
16 trying to discourage the use of such things on
17 government property. Certainly would want it,
18 I mean, the cities take advantage of it if
19 that makes sense. But there's no separate
20 government zone for District-owned property.

21 MR. PARKER: I think that is an

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1 important point because we wouldn't
2 necessarily -- if there was District property
3 that was appropriate for, you know, wind
4 generation, we wouldn't want to necessarily
5 limit ourselves to zoning it industrial. So,
6 there might have to be some exception or some
7 -- yes. Some definition of what that means.

8 CHAIRMAN HOOD: Okay. Any other
9 comments?

10 So, Option 1 taken into
11 consideration that the comments that were
12 given from Mr. Parker.

13 Okay. Let's go to number 8.

14 Sole access protection.

15 MR. PARKER: This is what we had
16 talked about earlier with protection of
17 existing solar panels. The option is -- the
18 recommendation is, again, only to protect
19 panels that already exist so people wouldn't
20 be able to claim it, well, they intended to
21 put panels up in the future.

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1 Our option would just -- you would
2 just take this into consideration when you're
3 looking at density above matter of right. So,
4 for a PUD or a height variance, you'd take
5 into consideration whether you were blocking
6 someone's panels. Everyone would be allowed
7 their matter of right development regardless
8 of neighboring panels under our
9 recommendation.

10 Option 2 is that it would be a
11 consideration for both discretionary and
12 matter of right development.

13 And Option 3 is that it's not a
14 consideration and development would always
15 trump it for middle ground on this one.

16 CHAIRMAN HOOD: For me, Option 2.
17 I don't now. It gives us some opening.
18 Anyway, let me hear a discussion.

19 I'm in favor of Option 2.

20 COMMISSIONER MAY: See, I can
21 certainly understand 1. Two is a little bit

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1 troubling because in effect what we're saying
2 is that you're matter of right, I mean,
3 whatever, the 110 feet that you can build to
4 on your site is going to be effectively
5 limited by what the building owner next door
6 on the, you know, on the north side of you,
7 for example, if they put -- they got a two-
8 story building and they put a solar panel on
9 it that's somehow going to affect your ability
10 to build it up to the matter of right height.

11 And I think that's -- I think that's highly
12 problematic -- highly problematic. I don't
13 think there's going to be a lot of
14 circumstances like that unless, you know,
15 people who don't want to have big buildings
16 built next door to them are going to go out
17 and just throw up a solar collector and for
18 \$5,000 they're going to effectively limit
19 their neighbors' ability to build.

20 I wouldn't even want to consider
21 that we'd have outcomes like that. I think

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1 it's fair enough to say that if there's an
2 existing facility it might -- it might be a
3 factor in a PUD. But I think that's about it.

4 I think that's about as far as I can go.

5 VICE CHAIRMAN KEATING: Could we
6 write it that way where it's just a
7 consideration as opposed to a -- because I can
8 see the scenarios where, you know, the process
9 is lengthy and you find out that someone is
10 applying for a PUD and you slap a solar panel
11 on your top of your building and now you just
12 effectively limited the matter of right
13 development.

14 COMMISSIONER MAY: Even the PUD
15 development.

16 MR. PARKER: Yes.

17 COMMISSIONER MAY: If it's going to
18 be a PUD, it would have to be --

19 MR. PARKER: So, yes. We can
20 absolutely write it. So, existing solar
21 panels would be taken into consideration in

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1 considering PUD or variance height. Okay?

2 CHAIRMAN HOOD: Okay. So, what
3 option are you guys -- is that Option 1 or
4 what?

5 COMMISSIONER MAY: Well, it's
6 effectively 1.

7 CHAIRMAN HOOD: I know it's not 3.

8
9 COMMISSIONER MAY: It's 1, but
10 rather than limit discretionary PUD
11 development, it's just that discretionary PUD
12 development would taken into consideration any
13 impact on neighboring roof mounted solar power
14 generation or hot water.

15 CHAIRMAN HOOD: Okay. Fine. I
16 pick and choose my battles and this -- I don't
17 know. I may come back and revisit that.

18 Okay.

19 COMMISSIONER TURNBULL: I mean,
20 this is only going to affect a lot of PDs on
21 east/west streets. Those facing -- which have

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1 a southern exposure that are --

2 MR. PARKER: And generally only
3 where you have a discrepancy in the height
4 between -- allowed between two properties
5 which --

6 COMMISSIONER TURNBULL: Right.

7 MR. PARKER: -- is very rare to
8 have more than a 10- or 20-foot difference in
9 the height of them.

10 COMMISSIONER MAY: And every once
11 in awhile you've got somebody who has the low
12 rise building and they're going anywhere. And
13 you have that on the hotel on M Street --

14 MR. PARKER: Yes.

15 COMMISSIONER MAY: -- not too long
16 ago.

17 CHAIRMAN HOOD: Okay. Option 1
18 would with the caveat so noted.

19 Okay. Number 9.

20 District energy systems.

21 MR. PARKER: Sorry. We feel that

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1 this is really just to clean up. District
2 energy system exists in the city now and are
3 generally implicitly allowed. This would just
4 call them out as explicitly allowed and I can
5 certainly go through the description of what
6 these are again if you'd like.

7 CHAIRMAN HOOD: Does anyone need
8 it?

9 COMMISSIONER MAY: No. I think
10 it's fine, Option 1 is fine.

11 CHAIRMAN HOOD: Okay. So, we think
12 Option -- I'm just reading some of the
13 comments we got. One group thought that this
14 should be a rigorous process. I don't know if
15 anyone -- but anyway, I'm sure it's another
16 bite of the apple.

17 Okay. So, Option 1, expressly
18 permit District energy systems.

19 Let's go to number 10.

20 Water conservation features.

21 MR. PARKER: This is basically the

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1 same as the earlier yard discussion with light
2 shelves in front of a tech house. This would
3 define water-related things, cisterns and rain
4 barrels and the like and allow them in side
5 yards and rear yards. And we are certainly
6 willing to put the same -- although these are
7 probably less structure than the others but we
8 could certainly put the same visibility
9 descriptions on them.

10 COMMISSIONER TURNBULL: But a lot
11 of the water you're talking, it's just rain
12 harvesting. You're not getting into gray
13 water, recycling?

14 MR. PARKER: It's a good question.
15 I mean, we could certainly write the use of
16 that. We certainly would like to encourage.

17 COMMISSIONER TURNBULL: Right.

18 MR. PARKER: Yes. We have wrote
19 this with water harvesting in mind. But I
20 don't think we'd want to exclude water reuse.

21 COMMISSIONER TURNBULL: Okay. Are

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1 you going to put anything in or are you going
2 to just let it float for awhile?

3 MR. PARKER: The water? No. I
4 idea here is to define a category of water --
5 and we would define that category of water-
6 related structures to include both rain
7 harvesting and water reuse.

8 COMMISSIONER TURNBULL: Okay.

9 CHAIRMAN HOOD: Okay. We'll go
10 with 1?

11 MR. PARKER: Yes.

12 CHAIRMAN HOOD: All right. Let's
13 move to environmentally sensitive area
14 buffers.

15 MR. PARKER: Option 1 is to define
16 areas of streams, steep slopes and wetlands.
17 And these are largely mapped and were included
18 in our report and create a protection buffer
19 around them that would limit development in
20 those areas.

21 Option 2 is to not do that.

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1 CHAIRMAN HOOD: I hope this will be
2 the quickest one. I think we all can agree
3 with Option 1. Establish environmental
4 protection zones --

5 MR. PARKER: Okay.

6 CHAIRMAN HOOD: -- to create buffer
7 requirements.

8 Okay.

9 COMMISSIONER TURNBULL: So, will
10 that then bring in setbacks as regulating how
11 far you have to be from a wetland?

12 MR. PARKER: Basically, limiting
13 what you can do within that distance from the
14 wetland.

15 COMMISSIONER TURNBULL: I think we
16 have a case that we have been working on or
17 something.

18 CHAIRMAN HOOD: We weren't going to
19 debate that long.

20 All right. Let's go to maybe on
21 this one for a minute.

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1 Number 12. Flood plain protection.

2 MR. PARKER: Basically, two types
3 of uses being proposed to be restricted in
4 flood plain areas. First are vulnerable
5 populations, uses for the handicapped or for
6 elderly or for children. And the second would
7 be uses that use contaminating chemicals or
8 other things like car washes or dry cleaners,
9 etcetera.

10 COMMISSIONER MAY: Aren't these
11 already regulated to the building codes or by
12 FEMA's flood mapping and what that triggers in
13 terms of insurance requirements and so on?

14 MR. PARKER: They're not through--
15 they may be through insurance requirement. I
16 hadn't checked that. But uses to my knowledge
17 aren't. We haven't come across it if they
18 are.

19 COMMISSIONER MAY: It's just --

20 MR. PARKER: The structure and how
21 they're built.

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1 COMMISSIONER MAY: But they're
2 prohibited in flood plains.

3 MR. PARKER: Well --

4 COMMISSIONER MAY: Aren't they?

5 MR. PARKER: It depends on what
6 you'd find. You can building out. You can
7 build up and this would say -- in the area
8 defined as flood plain, you can't have these
9 uses. Up, down, sideways. You'd have to be
10 beyond that flood plain limit.

11 COMMISSIONER MAY: But there really
12 isn't any other -- any other restriction on
13 use or --

14 MR. PARKER: We haven't checked the
15 practical restrictions of insurance, so I
16 haven't looked into that. But the DDOE
17 doesn't get into uses.

18 COMMISSIONER MAY: Okay. I guess
19 I'm okay with Option 1 but, again, subject to
20 a fuller understanding of how these issues are
21 addressed by FEMA and by flood plain insurance

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1 and things like that. Because, again, I don't
2 want to create a redundant regulation.

3 MR. PARKER: Okay.

4 CHAIRMAN HOOD: Okay. So, we will
5 Option 1.

6 I think that goes without saying
7 though, Commissioner May. I think we're
8 looking at that in all of this whole aspect.
9 We don't want to create one that says one
10 thing and something that says something else
11 and then we have to sit down and figure out
12 which one are we supposed to do.

13 COMMISSIONER MAY: Agree.

14 COMMISSIONER TURNBULL: I think
15 FEMA has got something about five feet below
16 100 foot level of a two-year, 24-hour storm or
17 something. It's in the LEED category too that
18 says you can't build on that kind of an area.

19 MR. PARKER: Yes. They got lots of
20 rules about what you can build and where you
21 can build. But not what uses go on.

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1 COMMISSIONER TURNBULL: Well, do we
2 care what uses or can we just worry about--

3 COMMISSIONER MAY: That's just
4 being relative. Certain types of uses you're
5 suggesting are inappropriate for flood plains
6 period.

7 COMMISSIONER TURNBULL: Isn't any
8 use --

9 COMMISSIONER MAY: Well, some are
10 more problematic than others. I mean,
11 underground storage tanks I can testify
12 personally how problematic that can be when
13 there's a flood.

14 Now, my experience occurred in an
15 existing building, not in a flood plain, but
16 there was a flood in the building. There were
17 burst pipes in the building and there was a
18 storage tank in that building and it made the
19 clean up of that building just horrendous and
20 it got cleaned up but it was costly and
21 fortunately didn't affect the environment

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1 beyond the building but it's -- it's a
2 problem.

3 MR. PARKER: And, Mr. Turnbull,
4 you're certainly right. There are a lot of
5 jurisdictions that just prohibit development
6 outright in the flood plain. I think D.C. may
7 be well beyond that point. We've got a lot of
8 existing structures.

9 CHAIRMAN HOOD: Okay. So noted. We
10 will go with Recommendation Number 1.

11 13. Existing Tree Cover Protection.
12 We see Option 1, Option 2. I'm going to go
13 to Option 2 because Option 1 is more detailed.

14
15 Provide tree protection standards
16 only as optional customization of local
17 residential zones.

18 Again, I think this goes back to
19 the same point of making sure we work along
20 with UFA and those groups. And I think you're
21 already doing it but --

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1 MR. PARKER: And they were here.
2 Absolutely. We heard from them at the
3 hearing.

4 CHAIRMAN HOOD: Anybody else?

5 COMMISSIONER MAY: Yes. This is
6 one where I just want to throw the question
7 out there.

8 Do we really want to address trees
9 and tree cutting for large trees as a matter
10 of a special exception? It seems to me that
11 the government ought to be capable of
12 providing an appropriate regulation and have a
13 regulatory kind of framework for dealing with
14 that whether it's getting approval from UFA
15 and they have guidelines about what you do in
16 those circumstances, rather than it being a
17 zoning issue per se. You know, I just think
18 about cases that have occurred in the past
19 where I know that on site there were large
20 trees. And do we want to get into the
21 business of trying to evaluate a special

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1 exception and what the appropriate mitigation
2 is for cutting down those trees?

3 I'm all for having protections and
4 having a really good and very strong
5 regulatory framework that, you know,
6 encourages replanting and encourages working
7 around existing healthy trees, but you know,
8 as soon as you're talking about a tree of 24
9 inches and you got to get, you know, the
10 arborist to certify that it's a healthy tree
11 and you got to look at the age of the tree and
12 what's the life expectancy of that tree in the
13 first place. A lot of times trees appear to
14 be quite healthy and that their substantial
15 diameter but, in fact, you know, beyond the
16 first, you know, inch of good solid wood, it's
17 all rotted out and it falls down in the next
18 storm.

19 I'm just really uncomfortable about
20 us getting too far into that as a zoning
21 issue. I'm all for tree and slope protection

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1 and things like that and general concerns and
2 how you deal with this as a zone, but I think
3 we're getting a little --

4 CHAIRMAN HOOD: I had a --

5 COMMISSIONER MAY: -- too far into
6 the weeds if you will.

7 CHAIRMAN HOOD: That's a good
8 comment because I had a colleague and I can't
9 remember who it was at this time but he wanted
10 to do the -- I know it was a male. He wanted
11 to do the tree and slope and he wanted to have
12 a generic tree and slope overlay across the
13 ward. We were doing, I think, I forgot where
14 we were. But we were in Ward 3 somewhere and
15 he kept pushing and I agreed with him that we
16 need to have some generic I think for the
17 whole city.

18 Do you remember me having that
19 conversation, Commissioner May?

20 COMMISSIONER MAY: I remember the
21 Forest Hills Tree and Slope debate.

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1 CHAIRMAN HOOD: I forgot who it was
2 but I don't know. Was it you or somebody else?
3 Maybe it was Mr. Parsons.

4 COMMISSIONER MAY: I was -- I did a
5 lot of talking about that one. I can't
6 remember what I said but I was there for a lot
7 of that --

8 CHAIRMAN HOOD: Somebody said it
9 and I agreed with that.

10 So, let me ask this. So, you think
11 we need to get out of the business of waiting
12 for arborists to come and tell us.

13 COMMISSIONER MAY: I guess I -- I
14 guess I'm just not ready to buy into option 1
15 as being the right direction or even having
16 tree protection standards as an optional
17 customization of the local residential zone.

18 I think we need to look more
19 carefully in what is the right place for this
20 to be regulated? What's the most effective and
21 what's going to be the most reasonable. I

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1 absolutely agree with the sentiment and the
2 desire for the protection. But I'm just not
3 sure that we're the right place to do it.

4 CHAIRMAN HOOD: Does anyone else
5 feel strongly instead of just making an option
6 of 1 as the recommendation or should we --
7 shall we say -- I'm trying to take
8 Commissioner May's comments -- the guidance
9 that we're going to give. Can we say that we
10 need further study?

11 COMMISSIONER MAY: I think that we
12 should look at it a little bit more.

13 CHAIRMAN HOOD: So, can we do that,
14 Mr. parker?

15 MR. PARKER: We can. I would love
16 a little more guidance. Look at it with the
17 idea of applying it in particular areas. Look
18 at it with the way of making firm standards
19 for what applies and what doesn't. Both --

20 COMMISSIONER MAY: You know, I
21 think that the -- the -- I'd like as I said

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1 before the tree and slope overlay and
2 expanding it into other residential areas but
3 I think that what is a big concern for me is,
4 you know, the particulars of -- I mean having
5 to do with special exception for taking out a
6 tree that's 24 inches in diameter. That's
7 kind of the red flag for me.

8 If there are other methods of
9 providing protection that are more effective I
10 would -- I would opt in that direction. I
11 just -- I don't feel like -- it's hard for me
12 to explain --

13 CHAIRMAN HOOD: Let me ask this
14 question.

15 COMMISSIONER MAY: -- the reticence
16 that I have but it's just -- it's special
17 exceptions specific to a 24 inch tree I think
18 is a difficult matter for us to get into and I
19 would rather have another stronger framework
20 if one could be found.

21 MR. PARKER: Okay.

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1 COMMISSIONER MAY: If we can't find
2 one that's better than, okay, I'd go along
3 with this. But I think that maybe there's a
4 better way.

5 CHAIRMAN HOOD: But is the
6 background information of 24 inch trees
7 because it's a mature tree? I mean, is that
8 some information that necessarily we're not
9 seeing here which is how we arrived at the 24
10 inches?

11 MR. PARKER: Well, that's certainly
12 a legacy tree that would work with the four --
13 and that's the standard from the tree and
14 slope overlay now. They have the two
15 standards. They have a low standard for when
16 you have to count a tree and you can take a
17 third of all the tree between the two. But
18 you can't take above -- above this 24 inch
19 circumference.

20 I am certainly hearing the concern
21 and I think what we can do is is walk away

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1 with a version of Option 1 where a tree that's
2 greater an eight inches in diameter are
3 protective and require mitigation. And we'll
4 look at other options to handle protection for
5 the 24 inches and above tree, other than
6 special exception.

7 CHAIRMAN HOOD: I don't know if I
8 would agree with necessarily taking -- I don't
9 know if I all agree with what Commissioner May
10 said but let's look at that.

11 COMMISSIONER MAY: Yes. I'm not
12 suggesting necessarily that it's -- that it
13 has to go -- that that has to go. I'm just
14 saying that, you know, isn't there a better
15 way that's going to be stronger and going to
16 require less of, you know, our judgment on
17 whose arborist is correct on that about the
18 health of the tree or what have you because,
19 you know, you can get an exception if the tree
20 is not healthy. Right?

21 VICE CHAIRMAN KEATING: I'd have to

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1 agree with you because the one case we've said
2 on here that we don't with the tree issue
3 which was Georgia and Lamont, I think. And
4 they were taking out a tree to access the
5 alleyway and we had a lengthy conversation
6 about that tree. And never really, I think --
7 we were all over the place trying to figure
8 out what was going on with that tree.

9 I can see kind of some lengthy
10 conversations happening around tree diameters,
11 healthy tree report from this arborist or that
12 that might get us so far off track in terms of
13 the real issues that we need to be dealing
14 with on these applications.

15 MR. PARKER: And I will say that in
16 that particular case that was in the absence
17 of tree and slope overlay and so I think that
18 the idea of expanding tree protection into
19 some of those other cases but having a better
20 structure for it I think would be wise.
21 Because I think it would be good for us to

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1 have a structure for dealing with, you know, a
2 PUD in an urban area that has some good street
3 trees and what's the right way to handle those
4 sorts of things.

5 COMMISSIONER TURNBULL: Yes. I
6 think on some of our Planned Unit Developments
7 it's not an issue. There's either no trees on
8 the site. But you do get into some areas
9 where it's out a little bit further and you do
10 have trees. And so before they come to us
11 with a Planned Unit Development that got to go
12 through a special exception process then to
13 talk about the trees.

14 MR. PARKER: Well, you can
15 certainly do that as part of your PUD.

16 COMMISSIONER TURNBULL: Yes, but
17 that --

18 MR. PARKER: That's been drafted
19 into a PUD, sir.

20 COMMISSIONER TURNBULL: I think it
21 needs to be covered a little bit differently

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1 though.

2 COMMISSIONER MAY: Yes. I think
3 what the concern that I have though is that
4 there -- is not that we, you know, we couldn't
5 discuss it. It's that there's already so much
6 to discuss and to evaluate. It would be
7 better if there was less that was sort of
8 subject to our collective judgment and some
9 things -- more things that were very well
10 defined. And that's why I guess my notion
11 when it comes to tree protection is that tree
12 protection should be applied more broadly --

13 MR. PARKER: Right.

14 COMMISSIONER MAY: -- across the
15 city but the structure of it should be less
16 subject to, you know, the debate and the sort
17 of subjective criteria that we would -- we
18 would be applying with this one.

19 MR. PARKER: Well, I guess the
20 difficulty I'm having and I regret that OIG is
21 not here. And we'll work with them.

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1 But the difficulty that we have is
2 that the only discretionary authority falls
3 with you or the BZA. Based on the assumption
4 that we've been working under is we either
5 allow something to be removed and mitigated or
6 not. And if there's going to be any
7 discretion about trees over 24 inches then it
8 has to fall on you or the BZA. And we can't
9 apply -- we can't grant discretionary
10 authority to the VA or their enforcer or
11 somebody else outside of the bounds of if it
12 helps.

13 COMMISSIONER MAY: But could the
14 Urban Forester publish their own regulations
15 or DDOT public their own regulations that
16 Urban Forester would apply that would address
17 some of these things?

18 MR. PARKER: You're talking about
19 an expansion of their forest react or some
20 council initiative.

21 COMMISSIONER MAY: Well, but I mean

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1 there's certain things that are a matter of --
2 maybe a matter of regulation not just a matter
3 of law.

4 I mean, it may well be that when
5 you go back and you look at this there really
6 is no alternative.

7 MR. PARKER: Well, I'll certainly-
8 -

9 COMMISSIONER MAY: But I just think
10 -- I think it would be nice to --

11 COMMISSIONER TURNBULL: Yes. I
12 think on some sites where an applicant which--
13 and which has a significant amount of trees,
14 maybe there's a requirement for the applicant
15 to create a tree easement that trees in that
16 certain zone which is either bordering
17 something whatever significant or a certain
18 street, they need to create a tree easement
19 that they can't go into. I don't know.

20 MR. PARKER: Okay.

21 CHAIRMAN HOOD: Okay. So, we're

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1 going to go with Option 1 with the -- trying
2 to refine some of the special exception
3 language? Absolutely.

4 CHAIRMAN HOOD: Okay. What I'm
5 going to do at this point I have to leave so
6 I'm going to turn it over to the Vice Chair to
7 finish it off.

8 VICE CHAIRMAN KEATING: Okay.
9 We'll move on to 14. Vegetated Roofs.

10 MR. PARKER: Right now parapets are
11 allowed on a building to extend four feet
12 beyond the zoning height restriction. This
13 recommendation would include in that exemption
14 green roofs. So, behind your parapet up to
15 four feet you could put a green roof above the
16 allowed zoning height. So, no additional
17 appearance of height. We're simply allowing
18 green roofs in there.

19 VICE CHAIRMAN KEATING: So, you
20 don't need an additional three feet above that
21 for a parapet on the green roof?

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1 MR. PARKER: You -- well, no. I
2 mean, we could say the recommendation would be
3 to have -- allow an additional three feet for
4 parapets. We hadn't gone that far. That's
5 certainly a possibility but that would result
6 in additional height.

7 VICE CHAIRMAN KEATING: Height.

8 MR. PARKER: Height.

9 COMMISSIONER MAY: So, essentially
10 what this allows you to do is, you know, if
11 you have an extensive green roof and you got
12 six inches of trays or something like that,
13 that could all be above your height limit.

14 MR. PARKER: Right.

15 COMMISSIONER MAY: And if you have
16 an intensive green roof that might have three
17 foot deep planters all of that could be above
18 it.

19 MR. PARKER: Right. But, yes.
20 You're cutting down the parapet that could
21 stick above the green roof.

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1 COMMISSIONER MAY: Are we okay with
2 Option 1. Okay.

3 VICE CHAIRMAN KEATING: 15. Water
4 Conserving Landscaping.

5 MR. PARKER: Basically in our
6 report we identified a list of native and low
7 water plant species. I believe the Chesapeake
8 Bay Foundation or something put out that list.
9 That list would serve as a guide in our
10 recommendation. Required landscaping would
11 have to be from that list and certainly any of
12 the optional landscaping that would put --
13 from that list would count extra towards a
14 green area ratio, assuming that you approve
15 Recommendation 18 and we have a Green Area
16 Ratio system of native vegetation would count
17 higher than non-native.

18 COMMISSIONER MAY: What are you
19 referring to as required landscaping versus
20 optional?

21 MR. PARKER: When landscaping is

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1 required there is a requirement for
2 landscaping in certain zones, requirement for
3 landscape buffers. When you have something
4 that is required, it would have to be -- it
5 would have to use species from this list.

6 COMMISSIONER MAY: And that's
7 required as part of a particular zone?

8 MR. PARKER: Right.

9 COMMISSIONER MAY: Or as -- would
10 it be something that was written into a PUD
11 order as well?

12 MR. PARKER: It certainly could be.

13

14 COMMISSIONER MAY: But I guess we
15 have total discussion on that.

16 I don't know. It seems very
17 restrictive that there would be some
18 government-approved planting list. And I -- I
19 guess I'm interested in the idea that it would
20 be incentivized through green area ratio and
21 that there would be some benefit that accrues

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1 to the owner if they go down that road. But I
2 don't -- I don't know. It makes me think
3 about my own garden and whether the stuff I
4 have in my front yard would be on the approved
5 list.

6 MR. PARKER: Your own garden not
7 required though.

8 COMMISSIONER MAY: Well, okay.
9 What about -- what about the public space in
10 front of my house? Is that required?

11 MR. PARKER: Not in the zoning
12 code. There's only a few instances --

13 COMMISSIONER MAY: Right.

14 MR. PARKER: -- after a screen in a
15 parking lot I think for example.

16 COMMISSIONER MAY: Right.

17 MR. PARKER: There's a few
18 instances where landscaping is required, but
19 not very many.

20 COMMISSIONER MAY: Oh, so it's a
21 very limited?

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1 MR. PARKER: Yes. Yes. I think
2 the CR requires some landscaping.

3 COMMISSIONER MAY: Not all
4 landscaping just where required to have
5 landscaping.

6 MR. PARKER: Where in the zoning
7 ordinance zoning requires landscaping, that
8 landscaping would have to be from this list.

9 COMMISSIONER MAY: Is that spelled
10 out in your report where it's required?

11 MR. PARKER: No. But I can
12 certainly provide you a list. We've actually
13 just gone through that in a couple of our
14 working groups. So, we have that information.

15 COMMISSIONER MAY: Okay.

16 I think I want to see that. I
17 mean, if it really is as limited as you say
18 and if we're talking about parking lots and
19 those sorts of things.

20 MR. PARKER: Certainly parking lot
21 landscaping is the main one that comes to

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1 mind. You've approved a requirement for 10
2 percent of the parking lot to be landscaped.
3 That's one.

4 And then there are other areas
5 where you have to buffer and that buffer can
6 be a wall or landscape.

7 I can provide you that list and,
8 yes. What I'm hearing is that the -- the
9 Commission is supportive of incentivizing it
10 through the GAR and needs to see more
11 information on requirements.

12 COMMISSIONER MAY: Yes. I think
13 that's right.

14 I think -- you know, one of the
15 things I worry about and this is again going
16 into that whole area of us getting too
17 involved and in some of these issues is that
18 we'd wind up having to do variances if
19 somebody wants to plant something other than
20 -- from the required -- on the approved list.
21 And it just seems that we could be getting

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1 ridiculous.

2 MR. PARKER: Okay.

3 COMMISSIONER MAY: But maybe it's
4 not. We'll get more information and we'll
5 see.

6 COMMISSIONER TURNBULL: You're got
7 to specify a native and low water. I suppose
8 with that goes no water. With the low water
9 are you -- want to bring up about the type of
10 equipment. Are they going to use, I mean,
11 drip irrigation, misting rather than full
12 blown -- I mean, I'm just thinking that's
13 another part of it.

14 MR. PARKER: Right. That's
15 absolutely true and you know our consultants
16 went down that road and they talked that over
17 with us and with the working group. We didn't
18 carry it to that next stage in our
19 recommendation but you're absolutely right.
20 That's another consideration that we could go
21 down.

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1 COMMISSIONER TURNBULL: Okay.

2 MR. PARKER: Let me know if that's
3 something that you want to see more of.

4 COMMISSIONER TURNBULL: I'm just
5 thinking, you know, you've mentioned low water
6 but the best way to get low water is through
7 the right kind of equipment. If you're going
8 to use regular sprinklers, you're really
9 getting low water.

10 MR. PARKER: Right. We can
11 certainly look at tackling it that way if
12 you'd rather.

13 COMMISSIONER TURNBULL: Well, I
14 don't know what the other members -- what the
15 other Commissioners think of that.

16 You're saying add to this?

17 MR. PARKER: Well, I mean, we're
18 talking about low water demand plant species.
19 But if you're not controlling the kind of
20 water that's going to the plants --

21 COMMISSIONER TURNBULL: Yes. So,

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1 they could put all the plants on the approved
2 list and then put in those, you know, giant
3 sprinklers.

4 MR. PARKER: Yes.

5 COMMISSIONER TURNBULL: And water
6 the hell out of them.

7 MR. PARKER: The question is, do we
8 want to zone for sprinklers though.

9 COMMISSIONER MAY: Another fertile
10 area for special exceptions.

11 MR. PARKER: You know, we might
12 benefit from learning something about what
13 your debate was on that and whether or not we
14 put it in, I don't know. I'd be open to
15 considering that.

16 VICE CHAIRMAN KEATING: Are we okay
17 with the recommendation pending more
18 information?

19 MR. PARKER: Yes. Let me just
20 recap what I have heard.

21 That we will specify the plant

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1 species for incentivized -- incentivizing
2 under the green area ratio. We'll provide you
3 more information on required landscaping where
4 it is required now in the zoning code and
5 we'll provide more info on the pros and cons
6 of regulating irrigation systems.

7 VICE CHAIRMAN KEATING: Okay.
8 Sixteen. Pavement Runoff and Soil Erosion
9 Control.

10 MR. PARKER: As part of the parking
11 working group, the Commission approved
12 additional landscaping standards for parking.

13 Surface parking lots, 10 percent, landscape
14 cover 30 percent, canopy cover. The
15 consultants certainly recommended to us that
16 we should certainly look at standards to
17 regulate the design and distribution of that
18 landscaping to increase the quality and
19 quantity of runoff control.

20 And those were laid out to some
21 extent in the report.

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1 VICE CHAIRMAN KEATING: So, Option
2 1 is really just for, again, going back to the
3 landscaping. How you use the landscaping to
4 control pavement runoff and soil erosion
5 control?

6 MR. PARKER: Basically, yes. For
7 surface parking lots in addition to the basis
8 requirement of 10 percent landscaping, we
9 added some requirements as to how that had to
10 be laid out. They have to be laid out in
11 certain size increments and certain distances
12 with a goal of increasing the quality again of
13 the runoff control.

14 VICE CHAIRMAN KEATING: Okay. Any
15 thoughts, colleagues? No. Okay.

16 MR. PARKER: Okay.

17 VICE CHAIRMAN KEATING: Option 1.
18 Pavement Runoff Reduction.

19 MR. PARKER: This one is tied to
20 Recommendation 18. It's really an
21 encouragement of pervious surfaces. We can do

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1 this by, you know, putting individual
2 statements in individual zones or individual
3 requirements in individual zones to encourage
4 pervious pavement or pervious surfaces instead
5 of impervious. Our recommendation is to
6 simply incentivize it through the green area
7 ratio.

8 VICE CHAIRMAN KEATING: Okay.
9 Option 1.

10 Now the Green Area Ratio, Number
11 18.

12 MR. PARKER: Would you like me to
13 go into a recap of what the green area ratio
14 is or are the three of you fairly familiar
15 with --

16 VICE CHAIRMAN KEATING: We're okay.
17 We're fine.

18 MR. PARKER: Okay. So, Option 1 is
19 that we would adopt that system. And Option 2
20 -- I guess there is an Option 2.

21 Oh, Option 2 is not about that

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1 system. Just has individual standards for all
2 of those separate things. And then Option 3
3 is to not regulate.

4 COMMISSIONER MAY: I guess the one
5 concern I have about this system is, how
6 complicated is it going to be to do the
7 calculation? And is it going to be designed
8 so that, you know Joe Homeowner is going to be
9 able to do their own GAR calculation?

10 MR. PARKER: That would be the
11 plan. You saw in the report that, you know,
12 the worksheet that Seattle uses and you can
13 design something so that if you can calculate
14 the area of each feature and we'll give you a
15 standard area for a certain type of trees and
16 such, then you can fill out this worksheet and
17 calculate it yourself. That's the goal.

18 VICE CHAIRMAN KEATING: Okay.

19 MR. PARKER: Now, Seattle does
20 require that you have this certified by a
21 landscape architect. We certainly -- we will

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1 look at that whether that is doable or not.

2 COMMISSIONER MAY: Yes. I mean --
3 I think that something like that has to be
4 done. It either has to be certified by a
5 qualified professional or you're going to have
6 to have somebody in the government who checks
7 it. And I'm not sure you want to, you know,
8 add that -- add that layer of bureaucracy. I
9 don't know.

10 MR. PARKER: We haven't found an
11 alternative yet. You're right to the
12 simplicity of just having certification.

13 COMMISSIONER MAY: And how did you
14 say it. Seattle does it--how do they check or
15 confirm?

16 MR. PARKER: Well, they have a
17 worksheet that the property owners do and then
18 when you submit for your building permit a
19 landscape architect certifies. They certify
20 the work.

21 COMMISSIONER MAY: That probably

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1 works. You probably need to have them -- the
2 landscape architect may need to have certain
3 training or authority or whatever to be able
4 to do it. So you make sure you get real
5 understanding.

6 MR. PARKER: Okay. Okay with
7 Option 1.

8 VICE CHAIRMAN KEATING: Yes. Okay.
9 Local Food Production.

10 MR. PARKER: One second.

11 This is simply to make sure that we
12 explicitly allow food production in all zones
13 -- residential zones and all other zones. You
14 know, gardening, community gardens, roof tops
15 gardens to make sure that they're permitted in
16 every zone.

17 VICE CHAIRMAN KEATING: Okay. Any
18 comments? No.

19 Let's go with Option 1.

20 20. Individual Food Sales.

21 MR. PARKER: Again, just clarifying

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1 what is permitted and in this case the
2 temporary use or product sales and we can
3 define what temporary means. A certain number
4 of days a year or certain number of months a
5 year. But the idea here is to allow produce
6 sales.

7 COMMISSIONER MAY: How would you go
8 about getting a permit for the temporary use?

9 I mean, is it just applied like you apply for
10 a building permit and temporary use and the ZA
11 would sign off on --

12 MR. PARKER: Yes.

13 COMMISSIONER MAY: I think we need
14 to think carefully about what the temporary
15 use -- what the timeframe is for that.
16 Because I know that there is some -- and
17 others -- other "temporary uses" there are --
18 there's the potential for some, you know,
19 abuse. Things are allowed 364 days a year and
20 so for one day, you know, you dismantled a
21 tent and then you come back the next day and,

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1 you know. I mean, it's got to be
2 realistically temporary.

3 MR. PARKER: Okay. We can make
4 sure of that.

5 COMMISSIONER TURNBULL: What about
6 size of stands? I mean, I could be a very
7 enterprising homeowner and grow bushels of
8 tomatoes and set this up as Mike's Garden
9 Emporium some place and I want to have like a
10 40-foot long stand?

11 MR. PARKER: Well, there's a couple
12 of ways. I mean, you can certainly limit it
13 to on site grown produce and then it's only so
14 large it can be.

15 And the other option is just to
16 like you said, limit it to -- limit it by the
17 amount of produce or some other size
18 requirement.

19 We'll look at how other communities
20 do that.

21 COMMISSIONER TURNBULL: I was just

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1 wondering. Can several homeowners go together
2 on this thing and -- or is this just
3 individuals?

4 MR. PARKER: Then you get into
5 Recommendation 21, the Farmers Market.

6 COMMISSIONER TURNBULL: Farmers
7 Market. Okay.

8 COMMISSIONER MAY: But I think in
9 this circumstance there would be some other
10 regulation to accompany this that limits size
11 or specifies something about the construction
12 of it or what have you.

13 MR. PARKER: Right. No structures
14 that sort of thing.

15 COMMISSIONER MAY: Yes.

16 VICE CHAIRMAN KEATING: So, we're
17 okay with 20 with defining temporary use and
18 size.

19 MR. PARKER: Yes. Size and use.
20 Or size and temporary --

21 VICE CHAIRMAN KEATING: Temporary

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1 use. Okay.

2 21. Farmer's Market.

3 MR. PARKER: Make sure -- right now
4 we don't have a definition for farmer's
5 market. Make sure we define what farmer's
6 markets are and permit them where we want
7 them.

8 COMMISSIONER MAY: Again, with some
9 appropriate regulation about that impacts
10 physically.

11 MR. PARKER: Yes. Impacts. Right.

12

13 VICE CHAIRMAN KEATING: Okay. And
14 then 22, Incubator Space for Sustainable
15 Business.

16 MR. PARKER: So, when we separate
17 our uses into categories of uses, one of these
18 categories we've already talked about in a
19 past hearing is PDR. What we now call
20 industrial distribution repair.

21 A large part of that category in

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1 the future will be production distribution
2 repair of sustainable elements. Things like,
3 you know, building solar panels and that sort
4 of thing. Bike repair. Other things that can
5 be tied to sustainability.

6 One of the important parts in our
7 Comp Plan and in our green jobs initiative
8 right now is producing incubator space for
9 businesses to start up in those fields. To
10 start up with green jobs and start green
11 businesses.

12 The recommendation here is in
13 commercial zones where traditional PDR uses
14 are not allowed and manufacturing and other
15 things are not allowed, allow small incubator
16 size green businesses that would otherwise
17 fall into the PDR category.

18 And, again, limit the size and
19 impact and even duration.

20 COMMISSIONER MAY: Yes. I think it
21 is going to come down to specifics of the

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1 impacts.

2 MR. PARKER: Okay.

3 COMMISSIONER MAY: And I think
4 there may be some "sustainable" businesses
5 that may be inappropriate no matter what
6 because of the impact.

7 MR. PARKER: Okay.

8 VICE CHAIRMAN KEATING: Okay. All
9 right. 23. LEED-ND for Large areas.

10 MR. PARKER: 23 has to do with
11 development of large tracts. In a future
12 working group and in the PUD working group
13 we're going to get into talking about large
14 tract development and large sites. So, we
15 will be taking this up later but we wanted to
16 get your preliminary inputs since this is a
17 sustainability issue.

18 But the recommendation here is that
19 when we are planning large site, things like
20 Armed Forces Retirement. Things like large
21 Federal Government land transfers and other

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1 large site where we're doing zoning work and
2 area plans, the regulations would require
3 sustainable development. And whether we use
4 LEED-ND itself or just use similar standards
5 of LEED-ND, our recommendation is that we do
6 sustainability planning for those larger
7 areas. And this is one that will come to you
8 with further details after that later group.

9 COMMISSIONER TURNBULL: Are you
10 leaning toward using LEED-ND or --

11 MR. PARKER: Well, LEED-ND is still
12 in development.

13 COMMISSIONER TURNBULL: Right.

14 MR. PARKER: They're still going
15 through development. We have open debate in
16 that. I think the preference right now is to
17 -- is to pull out the standards of LEED-ND and
18 put them in the code rather than requiring
19 LEED-ND certification. But we're still open
20 on that.

21 COMMISSIONER TURNBULL: So, on a

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1 PUD would they be required then to submit
2 documents to us similar to LEED?

3 MR. PARKER: Haven't gotten to that
4 level of detail yet.

5 COMMISSIONER TURNBULL: Okay.

6 VICE CHAIRMAN KEATING: Okay.
7 We'll look forward to getting more information
8 on that.

9 Anything else on that? Other
10 issues? Okay.

11 So, on 23 I hear --

12 MR. PARKER: Option 1. Yes.

13 VICE CHAIRMAN KEATING: Thank the
14 Office of Planning. Excellent work as usual.
15 Appreciate it.

16 I think that's it for the evening.

17 Ms. Schellin, do you have anything
18 else?

19 SECRETARY SCHELLIN: That's it.
20 Unless OP has a report for us.

21 MR. LAWSON: We do not. Thank you,

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1 Ms. Schellin.

2 SECRETARY SCHELLIN: Okay. Then
3 that's it.

4 VICE CHAIRMAN KEATING: That
5 concludes our business for the evening.

6 Thank you. This hearing is
7 adjourned.

8 (Whereupon, the above matter was
9 concluded at 8:02 p.m.)

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