

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

SPECIAL PUBLIC MEETING

+ + + + +

THURSDAY

SEPTEMBER 2, 2010

+ + + + +

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 7:00 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson  
KONRAD SCHLATER, Vice Chairman  
PETER MAY, Commissioner (NPS)  
GREG SELFRIDGE, Commissioner  
MICHAEL G. TURNBULL, FAIA,  
Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

JAMISON WEINBAUM, Director  
SHARON S. SCHELLIN, Secretary  
DONNA HANOUSEK, Zoning Specialist

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OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER  
TRAVIS PARKER  
STEPHEN VARGA  
LAINE CIDLOWSKI

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTIG, ESQ.  
LORI MONROE, ESQ.

The transcript constitutes the minutes from the Special meeting held on September 2, 2010.

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

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

2 7:00 p.m.

3 CHAIRPERSON HOOD: Okay. We're  
4 back. We'll go ahead and begin our special  
5 public meeting.

6 Again, my name is Anthony Hood.  
7 Joining me are Vice-Chairman Schlater,  
8 Commissioners Selfridge and May and Turnbull.  
9 We're also joined by the Office of Zoning  
10 staff under the leadership of Director  
11 Weinbaum, also Attorney General all the way to  
12 my far left. And to my right the Office of  
13 Planning staff under the leadership of Ms.  
14 Steingasser.

15 Copies of today's meeting agenda  
16 are available to you and are located in the  
17 bin near the door.

18 We do not take any public  
19 testimony at our meetings unless the  
20 Commission requests someone to come forward.

21 Please be advised that this  
22 proceeding is being recorded by a court

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1 report. It is also webcast live.  
2 Accordingly, we must ask you to refrain from  
3 any disruptive noises or actions in the  
4 hearing room. Please turn off all beepers and  
5 cell phones.

6 Does the staff have any  
7 preliminary matters?

8 MS. SCHELLIN: No, sir.

9 CHAIRPERSON HOOD: Okay. If not,  
10 let us proceed with the agenda.

11 Preliminary matters, already said  
12 by Ms. Schellin, we have none.

13 Before we go into our hearing  
14 action, I would ask Mr. Rittig, our Attorney  
15 General, to kind of give us a history of how  
16 we got to set downs and not having set downs  
17 as we go through this process.

18 So, Mr. Rittig?

19 MR. RITTIG: Sure, I'd be happy  
20 to. At a public meeting on April 14th, 2008  
21 the Commission approved a procedural motion  
22 waiving its normal rules requiring a petition

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1 setdown and supplemental filings for the  
2 zoning rewrite case. It specifically waived  
3 Zoning Regulations 30-10.1, 30-11 and 30-13.  
4 It authorized the Office of Planning to  
5 proceed without filing any further petitions  
6 requesting changes to the zoning text,  
7 authorized the Office of Zoning to advertise  
8 hearing notices submitted by OP without going  
9 through the normal setdown process so long as  
10 the text was first vetted by the Attorney  
11 General, and waived the required prehearing  
12 supplemental filings normally required from  
13 petitioners so that OP did not have to make  
14 the filings before the hearings were  
15 scheduled.

16           When it did so, it did it with a  
17 caveat that this was very early in the zoning  
18 rewrite process and that the Commission would  
19 revise its procedural rules and its motion as  
20 the process progressed and text was ready to  
21 be presented to the Commission. And now we  
22 are at the point where text is being presented

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1 to the Commission, so it seems like an  
2 appropriate time to revisit that procedural  
3 motion.

4 CHAIRPERSON HOOD: Thank you very  
5 much, Mr. Rittig. And I would just echo that  
6 even when we started this process, the zoning  
7 rewrite process, we went in front the Council.  
8 And it was stated that we hadn't done one in  
9 over 50 years, so we knew that there were  
10 going to be some things that may change as we  
11 go along the process. And I want to commend  
12 the Commission for having the thought, the  
13 wherewithal at the beginning to say let's  
14 revisit this if we get to this point.

15 So, as already stated, I think  
16 we're at this point, but let me open it up to  
17 my colleagues for any comments or motions, or  
18 however you'd like to proceed.

19 VICE-CHAIRMAN SCHLATER: Mr.  
20 Chairman?

21 CHAIRPERSON HOOD: Vice-Chairman?

22 VICE-CHAIRMAN SCHLATER: Well, I'm

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1 glad we're revisiting this as well. I think  
2 it's important that these text changes go  
3 through the same process that we've instituted  
4 for other text amendments, namely going  
5 through the setdown process.

6 So, I move to amend the  
7 Commission's procedural motion approved April  
8 14, 2008 to restore the requirement that the  
9 Office of Planning submit a setdown report to  
10 the Commission containing its recommendations  
11 ten days before the meeting and that the  
12 Commission vote to set down the text contained  
13 in the report before a public hearing notice  
14 is published in the D.C. Register as required  
15 by 11 DCMR 30-11.2 through 30-11.4.

16 CHAIRPERSON HOOD: Great. Thank  
17 you, Vice-Chairman.

18 It's been moved. Can I get a  
19 second?

20 COMMISSIONER SELFRIDGE: Second.

21 CHAIRPERSON HOOD: Thank you,  
22 Commissioner Selfridge.

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1 Moved and properly seconded. Any  
2 further discussion?

3 (No audible response.)

4 CHAIRPERSON HOOD: Are you ready  
5 for the question? All those in favor? Aye.

6 VICE-CHAIRMAN SCHLATER: Aye.

7 COMMISSIONER MAY: Aye.

8 COMMISSIONER TURNBULL: Aye.

9 COMMISSIONER SELFRIDGE: Aye.

10 CHAIRPERSON HOOD: Not hearing any  
11 opposition, Ms. Schellin, would you please  
12 record the vote?

13 MS. SCHELLIN: Yes, sir. Staff  
14 would record the vote five to zero to zero to  
15 put back in place the setdown rule for all  
16 text regarding the zoning rewrite or review  
17 process. Commissioner Schlater moving;  
18 Commissioner Selfridge seconding;  
19 Commissioners Hood, Turnbull and May in  
20 support.

21 CHAIRPERSON HOOD: Thank you very  
22 much, Ms. Schellin.

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1                   Let's move right along, hearing  
2                   action. Zoning Commission Case No. 08-06,  
3                   Comprehensive Zoning Regulations Review: Use  
4                   and Height Text.

5                   Office of Planning, Mr. Parker?

6                   MR. PARKER: Good evening, Mr.  
7                   Chairman. I'm Travis Parker with the D.C.  
8                   Office of Planning. To my right are Steve  
9                   Varga and Laine Cidlowski who are largely  
10                  responsible for much of the material you'll  
11                  see tonight, just as a heads up.

12                  The first question I have for the  
13                  Commission is we seem to be short a large  
14                  screen. Are you all comfortable looking at  
15                  the three smaller screens?

16                  CHAIRPERSON HOOD: I think we are.  
17                  If not, we'll move closer.

18                  MR. PARKER: All right. We've got  
19                  a use and height chapter to talk about  
20                  tonight, but before we get to that we wanted  
21                  to formally present to you what we've  
22                  presented to the task force; we've shown you

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1 as well, the proposed code reorganization.  
2 Wanted to formally present it to you tonight  
3 and ask for your feedback and blessing on that  
4 tonight.

5 I think everyone in the room has  
6 seen this document. We're proposing a  
7 restructuring of the regulations that takes  
8 all the general information from our  
9 regulations and puts it up front. We're  
10 proposing to add a new level of hierarchy of  
11 subtitles to our Title 11, so breaking  
12 information out into subtitles, the first  
13 three of which would be general and the next  
14 seven or more would be land use-specific. And  
15 I'll go through those briefly.

16 The first one, Subtitle A, called  
17 Administration Procedures, would include such  
18 things as, you know, the introduction to the  
19 code, the legal applicability. New to our  
20 code would be basically a how-to, a user's  
21 guide to the code, how to access the  
22 information in this code and use the code.

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1 This subtitle would contain the process for  
2 amending the code and rules for BZA and Zoning  
3 Commission.

4 Subtitle B is going to be the meat  
5 of the code. A lot of information here, a lot  
6 of bulk. This is the general rules, rules  
7 that apply city-wide, things like how to  
8 measure height, you know, how to require  
9 parking. And I don't know if you can or  
10 cannot read that, but things like the two  
11 chapters that we're going to look at tonight.  
12 Use and height are both in this general  
13 chapter and these are the regulations again  
14 that apply city-wide.

15 Subtitle C then is general  
16 processes. This is special exception,  
17 variance, PUD, campus plan, etcetera.  
18 Depending on the formal format, this is where  
19 a lot of these process rules and regulations  
20 will go. There may be some still play between  
21 this and Subtitle A that remains to be seen.

22 And then finally on the bottom

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1 tier are the land use subtitles. So, right  
2 now they number D through J. There's the  
3 potential for one or two more. But these  
4 contain all the zone information. These are  
5 the equivalent to our chapters now; commercial  
6 chapter, residential chapter. Right now they  
7 number, you know, neighborhood residential,  
8 apartment residential, transit residential,  
9 mixed-use, mixed-use transit, downtown and  
10 PDR, which is industrial. And within each of  
11 those there will be a table for each zone that  
12 contains the development standards, the  
13 height, FAR, setbacks, etcetera. There will  
14 be a use permission chart, and we're going to  
15 go into that later when we talk about the use  
16 chapter that contains the use permissions for  
17 each zone within that subtitle. There will be  
18 parking requirements for the subtitle and then  
19 other rules that are specific either to that  
20 group of zones or to individual zones within  
21 that.

22 So with that, I just wanted to

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1 give you that short background, what we are  
2 asking from you tonight. This doesn't need  
3 further setdown or public hearing. This is  
4 not policy change, just a basic structural  
5 organizational change. We'd like your  
6 blessing to proceed with this structure  
7 throughout the rest of the process and  
8 chapters and subtitles that we bring forward  
9 to you for text review will be in this format.

10 CHAIRPERSON HOOD: Commissioners,  
11 any comments on this format that's being  
12 presented tonight?

13 COMMISSIONER TURNBULL: I just  
14 have one.

15 CHAIRPERSON HOOD: Commissioner  
16 Turnbull?

17 COMMISSIONER TURNBULL: I notice  
18 that under the general requirements you had  
19 height.

20 MR. PARKER: Yes.

21 COMMISSIONER TURNBULL: But then  
22 again height comes up in the next row down,

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1 too.

2 MR. PARKER: Let me explain that.  
3 Yes, absolutely. Height is actually one of  
4 the chapters we're reviewing tonight. And  
5 what you'll see in that general chapter is how  
6 to measure height basically. So, the rules  
7 about how height is measured, where it  
8 applies, you know, that sort of thing is here.  
9 When you go to your specific zones, there will  
10 be a table and it will say the height for this  
11 zone is 40 feet or whatever. If I look at my  
12 R-1-A Zone, I see that it's 40 feet. I go  
13 back to the general chapter if I don't know  
14 how to measure that, if I don't know where the  
15 bottom elevation is and the top elevation,  
16 because how to measure it is universal across  
17 the code, rather than repeating that in every  
18 chapter.

19 COMMISSIONER TURNBULL: Okay.

20 MR. PARKER: So, that's the  
21 information there.

22 COMMISSIONER TURNBULL: Thank you.

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1 MR. PARKER: Yes.

2 CHAIRPERSON HOOD: Okay. Ms.  
3 Schellin, I don't think we need a motion on  
4 this.

5 MS. SCHELLIN: I believe that when  
6 we spoke, if Ms. Monroe will clarify, I  
7 believe that Mr. Bergstein thought that a  
8 motion should be made to say that you were in  
9 agreement with the structural organization, or  
10 he suggested it.

11 CHAIRPERSON HOOD: Okay.

12 MS. SCHELLIN: Is that correct?

13 MS. MONROE: Yes, we discussed  
14 this the other night.

15 CHAIRPERSON HOOD: Okay. Thank  
16 you.

17 Any other comments or questions?

18 (No audible response.)

19 CHAIRPERSON HOOD: If not, I would  
20 move that we approve the proposed  
21 organizational hierarchy presented tonight by  
22 Office of Planning, Mr. Parker, and as for a

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1 second.

2 COMMISSIONER TURNBULL: Second.

3 CHAIRPERSON HOOD: It's been moved  
4 and properly seconded. Any further  
5 discussion?

6 (No audible response.)

7 CHAIRPERSON HOOD: All those in  
8 favor? Aye.

9 VICE-CHAIRMAN SCHLATER: Aye.

10 COMMISSIONER MAY: Aye.

11 COMMISSIONER TURNBULL: Aye.

12 COMMISSIONER SELFRIDGE: Aye.

13 CHAIRPERSON HOOD: Any opposition?

14 (No audible response.)

15 CHAIRPERSON HOOD: Not hearing  
16 any, Ms. Schellin, would you record the vote?

17 MS. SCHELLIN: Yes, staff would  
18 record the vote five to zero to zero to  
19 approve the structural organization hierarchy  
20 demonstrated this evening by the Office of  
21 Planning for the proposed future regs.  
22 Commissioner Hood moving; Commissioner

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1 Turnbull seconding; Commissioners Schlater,  
2 Selfridge and May in support.

3 CHAIRPERSON HOOD: Okay. Thank  
4 you.

5 Okay, Mr. Parker.

6 MR. PARKER: All right. With no  
7 further ado, we'll get onto the first of our  
8 general chapters in Subtitle B. We're going  
9 to talk first about height.

10 The main issue when talking about  
11 the height chapter is the two different types  
12 of height regulations that we have in D.C. In  
13 D.C. we regulate height by zone through  
14 Zoning, and Congress has also instituted an  
15 Height Act that controls height by the width  
16 of the street. So, we have two different  
17 limitations and both operate in different  
18 ways.

19 When we addressed this issue at  
20 our original guidance hearing, the discussion  
21 was that there was a general desire to see as  
22 much as possible in one place. So, if there

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1 was a way to put both of these types of height  
2 restriction into zoning into one chapter, we  
3 should explore that. We have. We worked a  
4 lot with the working group, we worked a lot  
5 with the task force. And we really came  
6 across three options, three ways that we can  
7 present height regulation within the zoning  
8 code. I'm actually going to present what has  
9 been submitted to you as Option 1, but I'm  
10 going to explain the three variations that  
11 we've gone through and then I'll talk about  
12 what we've presented to you.

13 So, the first option is having in  
14 the height chapter both a zone height and  
15 street-based height. The street-base height  
16 would be the same as the Height Act height.  
17 And the intent of this is to get everything as  
18 a zoning regulation in the same chapter, the  
19 thought being then if you have a street-based  
20 zone regulation, a developer or property owner  
21 doesn't need to go look at the Height Act.  
22 One universal principle that would be

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1 throughout all of these is we've been working  
2 with the Department of Consumer and Regulatory  
3 Affairs and the Zoning Administrator to have  
4 them publish their rules of interpretation of  
5 the Height Act. That, when approved by DCRA,  
6 would ultimately be codified within Title 11,  
7 within a non-zoning portion of Title 11. So,  
8 regardless of which option you choose, Height  
9 Act interpretations will be somewhere in Title  
10 11. In Option 1, we'd also have a zoning rule  
11 in the height chapter that mirrored them.

12 Option 2, very similar. We would  
13 have a zoning rule for height and then we  
14 would have sections within the height chapter  
15 that directly copied the Height Act language  
16 from DCRA and said the Height Act limits are  
17 these. This offers the same advantage of  
18 having everything in one place. The  
19 disadvantage of Option 2 is that you have  
20 sections within the height chapter that are  
21 not zoning and are actually not subject to  
22 your change, and OAG has expressed some

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1 concerns with that.

2 Option 3 then, which has been  
3 OAG's preference, is that we not try and put  
4 Height Act regulations within the Zoning Code  
5 or create a new zoning standard that  
6 replicates them. Option 3 would just have  
7 zoning within the height chapter and it would  
8 have reference to where DCRA's Height Act  
9 interpretations are elsewhere in the code.

10 So, the document in front of you  
11 tonight and in the public hearing notice  
12 represents one Option 1.

13 I'm going to walk quickly through  
14 what the sections are in that and what it  
15 would mean to try the different options.

16 There are eight sections. Really  
17 quickly, Section 400 is an introduction. This  
18 is going to be a common section throughout all  
19 the chapters in Subtitle B. It's going to  
20 give us the intent of regulating height, some  
21 general statements. And this is where there  
22 will also be the reference to the Height Act

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1 saying whatever happens in this chapter,  
2 properties in the District of Columbia are  
3 still subject to the Height Act and the more  
4 restrictive applies.

5 Section 401 is also something that  
6 you're going to see in every chapter in  
7 Subtitle B. This is the relationship between  
8 this chapter and the land use subtitles, the  
9 residential/commercial chapters. It talks  
10 about how this chapter interacts with those,  
11 where you find the information in those  
12 chapters and how you relate it to this  
13 chapter, and it gives rules for how you will  
14 codify height. An example of that is, we  
15 propose a rule in Section 401 that says when  
16 you set height limits for a zone, they'll be  
17 divisible by five. So, you can set a height  
18 limit of 35 or 40 feet, but not 372 feet, for  
19 example.

20 Section 402 then starts getting  
21 into the meat. This is how to measure height.  
22 This section applies both to zoning height and

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1 to Height Act height, and it talks about how  
2 you determine the bottom measuring point, that  
3 it's in the middle of the building, that it's  
4 from grade level and talks about what grade  
5 level is, how you determine the top measuring  
6 point. And that is actually something that  
7 differs between zone height and Height Act,  
8 whether you count the parapet or not.

9 Section 403 is strictly street-  
10 based and/or Height Act-related. This is when  
11 you're basing your height on the street, if  
12 you're on a residential block, it gives us a  
13 definition of residential block and it tells  
14 us what the maximum heights would be if you're  
15 under the street-based regulations on a  
16 residential block.

17 Section 404 is the same for  
18 business blocks. Again, definition of  
19 business block and what your street-based  
20 height regulation would be on a business  
21 block.

22 Section 405 again deals just with

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1 street-based interpretations and/or Height  
2 Act. This is basically the miscellaneous  
3 rules for determining your height based on the  
4 street width. If you have multiple street  
5 frontages, which do you use? If you have a  
6 reservation across from you, you know, what  
7 are the rules there? And actually this is  
8 where the section on whether you are a single  
9 building or multiple buildings belong. We  
10 actually mis-codified it in the public hearing  
11 notices 402.7, but it belongs with the Height  
12 Act or the street-based interpretations in  
13 Section 405, and we'll correct that.

14 Two more. Section 406 is the  
15 exception. This is roof structures, what's  
16 allowed above the height limit. And this  
17 section has rules for the required setbacks of  
18 roof structures, what types of structures are  
19 allowed, the height limit of those and the  
20 footprint limit of those.

21 And finally, Section 407 is  
22 special exception standards for height. This

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1 is strictly zoning. You can't get special  
2 exception from street-based and/or Height Act  
3 rules, but you can get special exception from  
4 zoning in terms of the roof structure setbacks  
5 or the roof structure footprint limit.

6 So, the version that you saw here  
7 looks something like this, and I apologize,  
8 you can't see it very well, but there are  
9 eight sections, three that deal strictly with  
10 zoning, Sections 400, 401, 402. Whatever  
11 option you choose, these three sections will  
12 appear in the height chapter.

13 There are three that deal  
14 specifically with Height Act issues; 403, 404,  
15 405. If you choose Option 3, these will come  
16 out. These three sections will come out of  
17 the zoning code and will be strictly dealt  
18 with in DCRA's interpretations of the Height  
19 Act.

20 There are two sections then; 402  
21 and 406, that are common between both. This is  
22 how to measure height and what you can do in

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1 terms of roof structures. These will be in  
2 the zoning code, whatever choice you make, and  
3 they will also be in DCRA's interpretations,  
4 whatever you choice you make. So, the  
5 difference for you is whether we keep section  
6 403, 404 and 405 in the Zoning Regulations or  
7 not.

8 And that's my presentation on  
9 height and I'm open to questions and  
10 discussion.

11 CHAIRPERSON HOOD: Okay. Let me  
12 ask a question. Maybe this is for the  
13 Attorney General. We're being ask to set  
14 these down. Are we going to set them down  
15 individually, or are we doing them in block,  
16 if we set them down?

17 MS. MONROE: If you want me to  
18 answer this; I don't know if OP wants to weigh  
19 in, but you can even make a choice. You can  
20 set them all down in the alternative, or you  
21 can make a choice and pick which one you want  
22 to set down. I think that's what OP is after

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1 tonight.

2 MR. PARKER: Absolutely. We want  
3 three things tonight: We'd ask you to set  
4 this down on September 20th. At this point  
5 everybody's had a chance to weigh in. We've  
6 made our recommendation. The taskforce has  
7 had their crack at it. OAG has made their  
8 recommendation. We'd like your guidance on  
9 which one you want to see on September 20th.  
10 We will publish that version.

11 CHAIRPERSON HOOD: Let me ask.  
12 What did the taskforce come back with?

13 MR. PARKER: The taskforce were  
14 all over the board. Every member thought  
15 something different, and often on different  
16 nights thought different things. So, we got  
17 lots of conflicting information from the  
18 taskforce.

19 CHAIRPERSON HOOD: Okay. Let me  
20 open it up. Commissioners, any questions,  
21 comments, options? Commissioner Turnbull?

22 COMMISSIONER TURNBULL: just to

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1 clarify, we're talking about process.

2 MR. PARKER: Yes.

3 COMMISSIONER TURNBULL: Are we  
4 talking about tonight or looking at any of the  
5 content of these?

6 MR. PARKER: Forgive me.  
7 Absolutely. If you have questions or concerns  
8 about the content, I'd love to hear those now.  
9 We'll talk more about that on the 20th, but  
10 certainly we want your questions and concerns  
11 about the content as well.

12 COMMISSIONER TURNBULL: Well, I  
13 have -- one of the questions, one that's been  
14 around for a long time and --

15 COMMISSIONER MAY: Mr. Turnbull,  
16 can I interrupt for just a second?

17 COMMISSIONER TURNBULL: Sure.

18 COMMISSIONER MAY: I was just  
19 wondering if it might make sense to just  
20 address the question of what we think we would  
21 set down first.

22 COMMISSIONER TURNBULL: First?

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1 That's fine.

2 COMMISSIONER MAY: If we can. If  
3 we can come to some conclusion about it. If  
4 we can't, then I think we leap into the  
5 individual questions.

6 COMMISSIONER TURNBULL: I think  
7 your right.

8 COMMISSIONER MAY: Yes, because I  
9 think it might save us some time.

10 COMMISSIONER TURNBULL: Yes,  
11 that's fine.

12 COMMISSIONER MAY: I for one am in  
13 favor of the third option, which is to only  
14 reference the Height Act. And since it's in  
15 the same chapter and since people will be  
16 looking at these things online anyway, I think  
17 it's handy enough. And I think that the real  
18 difficulty of trying to integrate them is that  
19 now you have the same regulations in two  
20 places and it's just going to be a nightmare  
21 making sure that they're in sync. And it's  
22 not just a nightmare in terms of like a

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1 paperwork task, it's rule making by two  
2 different agencies that would have to occur.  
3 So, I think that the cleanest thing is to  
4 simply make reference to it, make reference to  
5 the fact that the most restrictive applies and  
6 just set it down that way. I mean, that's the  
7 cleanest thing from my perspective.

8 CHAIRPERSON HOOD: Okay. Anybody  
9 else like to comment on the options?

10 COMMISSIONER TURNBULL: Where  
11 would you make reference to that the strictest  
12 would apply?

13 COMMISSIONER MAY: I think in the  
14 Zoning Regulations where it makes reference to  
15 the Height Act. I think there actually is a  
16 clause in here somewhere that when there's a  
17 conflict between them, the strictest --

18 COMMISSIONER TURNBULL: Okay. The  
19 most stringent applies?

20 COMMISSIONER MAY: Right, which is  
21 a matter of law I think anyway. So, it's just  
22 repeating something.

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1 COMMISSIONER TURNBULL: Yes.

2 CHAIRPERSON HOOD: Okay. Well,  
3 Vice-Chairman?

4 VICE-CHAIRMAN SCHLATER: This is a  
5 question for OAG and maybe Ms. Monroe. As to  
6 what it means to reference Subtitle M in this  
7 case, would these regulations promulgated by  
8 DCRA be part of the Zoning Regulations that  
9 the Zoning Commission enforces?

10 MS. MONROE: That's a hard  
11 question, because we've had this before and  
12 there was a recent BZA decision. It was the  
13 Kalorama case, which was dealing with the  
14 Height Act and the BZA specifically said that  
15 because the Height Act was referenced in the  
16 Zoning Regulations the BZA felt that it had  
17 the authority to interpret the Height Act.  
18 The case was appealed to the Court of Appeals  
19 but not on that issue. So, it wasn't actually  
20 decided by the Court of Appeals but it also  
21 wasn't brought up by the Court of Appeals as  
22 incorrect.

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1           So, I think there's a question. I  
2           don't think I have an absolute answer for you,  
3           but I think there would be a question that if  
4           it were referred to in the Zoning Regulations  
5           it could be considered as within the Zoning  
6           Regulations.

7           On the other hand, the Height Act  
8           is not a zoning regulation. The Height Act is  
9           a separate act that is implemented by DCRA,  
10          not by the Zoning Commission. So, the Zoning  
11          Commission doesn't have any authority to  
12          interpret it.

13          VICE-CHAIRMAN SCHLATER: I guess  
14          maybe what I'm concerned about is if you have  
15          an application that comes through either the  
16          Commission or BZA that's in clear violation of  
17          the Height Act. We could be putting ourselves  
18          in a situation where we're not even able to  
19          weigh in on that issue. And I think if we are  
20          able to weigh on that currently, I'd still  
21          like to be able to weigh in. And I understand  
22          that the Zoning Administrator has the final

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1 say over this, but you wouldn't want to be  
2 handcuffed in such a way that you couldn't  
3 even comment on it because it's outside of our  
4 purview. I think that would be a concern.

5 MS. MONROE: I think the way it's  
6 handled now; and Mr. Rittig can maybe talk  
7 about this because he does a lot of PUDs, but  
8 I guess in the PUDs the Zoning Commission will  
9 often say there's an ambiguity as to whether  
10 or not there is a Height Act violation here,  
11 and so therefore we not defer to the Zoning  
12 Administrator, but we'll leave it up to him to  
13 make this decision. I think that's the way  
14 it's handled now and that seems to be where we  
15 are.

16 CHAIRPERSON HOOD: That's correct.  
17 That's exactly how we handle it now. So, I  
18 don't know. But that's what we do now, unless  
19 it's a clear violation and we know. We  
20 usually stop it up front, but normally we let  
21 the Zoning Administrator make the  
22 interpretation.

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1                   COMMISSIONER MAY: I believe that  
2 we have asked applicants to make their case  
3 that they're not violating the Height Act just  
4 to demonstrate, because the last thing we want  
5 to do is approve a PUD that's going to get  
6 lopped off because of Height Act concerns and  
7 they'd have to come back. So, we just want to  
8 have some assurance that they're going to be  
9 in compliance, and so we've gotten testimony  
10 to that effect. It's not always been  
11 perfectly resolved when they leave here.  
12 There were definitely some open issues, and I  
13 can recall a few cases where there were open  
14 issues, but to my recollection none of those  
15 have actually come back to us as a result.

16                   I mean, the things I think of  
17 immediately are things like the Department of  
18 Transportation headquarters. There was a  
19 Height Act issue there. And then there were  
20 a few that I know NCPC made an issue of  
21 setbacks. Those issues were raised by others  
22 in the course of our hearing and I know that

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1 NCPC latched onto them and commented to us  
2 that there was a Height Act issue. And at  
3 that point we simply say it's the Zoning  
4 Administrator's job.

5 MS. MONROE: Let me say one thing:  
6 I don't want to pontificate about this; and OP  
7 should weigh on this, but the Height Act is  
8 interpreted and implemented by DCRA, but there  
9 have never been any written Height Act  
10 regulations put out by DCRA since 1910. And  
11 I think what OP has been -- and OAG's been  
12 working with DCRA is to put out their own  
13 independent Height Act regulations. So, maybe  
14 the Zoning Commission could step away from it  
15 at this point if DCRA's going to have its own  
16 regulations. And that is something again  
17 maybe Mr. Parker wants to address, because  
18 they've been working with the Zoning  
19 Administrator to come up with a set for DCRA.  
20 And then the set for the Zoning Commission  
21 could either include or not, and I think  
22 that's Option 3, is to not include what comes

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1 up from DCRA.

2 CHAIRPERSON HOOD: Mr. Parker, did  
3 you want to comment on that?

4 MR. PARKER: Sorry, I've been  
5 somewhat distracted here.

6 COMMISSIONER MAY: Can I just step  
7 in for a second? I think what actually is  
8 being proposed in Option 3 is that what gets  
9 referred to is the DCRA regulations once they  
10 are published, right? So, I mean, I don't  
11 think that's going to substantively change  
12 what happens in the course of PUDs. I think  
13 that we're going to still wind up with Height  
14 Act questions and we're going to ask  
15 applicants to prove that they are in  
16 compliance with the regulation and not the  
17 Act, and they'll have to make that case. And  
18 if we're satisfied, you know, it'll move on.  
19 Anyway.

20 CHAIRPERSON HOOD: Ms. Monroe,  
21 because I forgot exactly now, could you repeat  
22 what you were saying before you wanted --

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1 MS. MONROE: Oh, I'm sorry.

2 CHAIRPERSON HOOD: I'm sorry.

3 MS. MONROE: Basically I was just  
4 saying, Mr. Parker, that there have never been  
5 any written Height Act regulations put out by  
6 DCRA since 1910. And so, now that OP and OAG  
7 were working with DCRA to come up with their  
8 own set of Height Act regulations, it might  
9 make the Zoning Commission feel more  
10 comfortable not including everything in zoning  
11 if you don't want to, because there will be  
12 separate regulations. And that's what Mr. May  
13 was saying.

14 To kind of answer your question,  
15 if you don't reference the Act, you reference  
16 the DCRA Regs, then anybody who's building  
17 anything and is worried about height is going  
18 to go both sets of regs.

19 MR. PARKER: Right.

20 MS. MONROE: And the Act doesn't  
21 come in the back door into the Zoning  
22 Regulations that way.

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1                   Now, I'm not, you know, for or  
2                   against. I'm just saying that's the way it  
3                   would work.

4                   MR. PARKER: And those regs will  
5                   be in the same title even, so easily  
6                   reference-able.

7                   CHAIRPERSON HOOD: So, I guess,  
8                   Commissioners, we're being asked -- and did  
9                   that take care of your concern, Commissioner?

10                  VICE-CHAIRMAN SCHLATER: Yes,  
11                  absolutely. I don't think it serves any good  
12                  purpose to have two dualing regulations and  
13                  the ambiguity that comes from that as those  
14                  regulations change over time. So, I think we  
15                  need to pick one place for those sections to  
16                  be, and it seems to make sense that since DCRA  
17                  is the final arbiter on Height Act issues,  
18                  that it should be in a title that they  
19                  control.

20                  CHAIRPERSON HOOD: Okay. But I  
21                  think now we're being asked by the Office of  
22                  Planning to pick one of those three options.

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1 So far I think I've heard Option 3, and I know  
2 I'm in favor of Option 3. Option 3?

3 Let me ask this: Are you finished  
4 with your presentation on height?

5 MR. PARKER: On height, yes.

6 CHAIRPERSON HOOD: Okay. I guess  
7 what we'll do, Commissioners, we're going to  
8 go ahead and go with Option 3 unless I see  
9 something else. Okay.

10 Let's make a motion to set this  
11 down.

12 VICE-CHAIRMAN SCHLATER: I will  
13 say that. So, Option 3, I agree with that.  
14 I do have some comments on the text outside of  
15 just which option we're going to go down.

16 MR. PARKER: Please.

17 VICE-CHAIRMAN SCHLATER: One is  
18 that I realize that the Zoning Administrator  
19 is promulgating the rules now if we go with  
20 Option 3 for Sections 403 to 405.

21 MR. PARKER: Yes.

22 VICE-CHAIRMAN SCHLATER: I will

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1 say that there are provisions within the text  
2 that I saw that was in the setdown report that  
3 I don't necessarily agree with. And so I  
4 don't want the Zoning Administrator to get the  
5 sense that the Zoning Commission is endorsing  
6 necessarily all of the recommendations within  
7 those sections. And specifically I would just  
8 highlight the meaningful connection, single  
9 building versus multiple buildings. I'm not  
10 100 percent clear that that's in keeping with  
11 the current interpretation. Or, I've seen  
12 that issue come up on a few projects.

13 MR. PARKER: Right.

14 VICE-CHAIRMAN SCHLATER: And the  
15 way it's written right now does not seem  
16 entirely consistent with the way the Zoning  
17 Administrator has been interpreting it, and  
18 it's a little more strict. And I will say  
19 that we want to encourage breaking down the  
20 mass of buildings, and I'm worried that the  
21 way that language is currently written  
22 actually encourages super blocks. I think you

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1 need to very careful in how that language gets  
2 done. I think we need to be able to break up  
3 the mass on these large blocks, because what's  
4 happening is you've got people trying to pull  
5 the height from one side of their square all  
6 the way to the other side of the square. And  
7 if they're forced to, they'll do it in one  
8 giant building just to take advantage of their  
9 density, but it's much preferable to have  
10 separate buildings that break down the massing  
11 of that square. It's an arcane issue. I've  
12 seen it play out though on numerous occasions  
13 and it's a big deal.

14           The other is on the fronting of  
15 these reservations. I think my sense is that  
16 it's inconsistent. The language that's  
17 written right now is not consistent with the  
18 way that's been interpreted in the last few  
19 years, at least as long as I've been watching  
20 it. And so I'd just have them take another  
21 look at that and just know that I don't  
22 entirely endorse that. Otherwise, I think the

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1 language looks great. I'm excited about the  
2 direction you're going in and just wanted to  
3 highlight those two things.

4 MR. PARKER: Great. Thank you.

5 CHAIRPERSON HOOD: Thank you. Mr.  
6 Turnbull?

7 COMMISSIONER TURNBULL: I just had  
8 a question in 406. Four-oh-six we get into  
9 our favorite topics of spires, towers, domes,  
10 minarets, pinnacles, pergolas and similar  
11 architectural embellishments, chimneys and  
12 skylights. In 406.4, we say that space  
13 enclosed by walls on a roof is limited to 40  
14 percent of the building's total footprint.  
15 Looking down the road with sustainable design,  
16 green roofs and a lot of other aspects. I  
17 mean, to me that's just the penthouse proper  
18 or elevator shafts, the overruns. And what I  
19 look at then is how much more on the roof can  
20 be taken up with domes, pinnacles and  
21 pergolas? We've had some cases where a  
22 pergola runs the whole length. We've also had

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1 some places where structures can be made into  
2 tents on a roof and could be habitable, you  
3 know, three-quarters of the year. And we want  
4 to be creative and allow people to develop the  
5 architecture that's exciting, but I wonder how  
6 we structure the 40 percent limited to  
7 penthouses and then suddenly have a dome, a  
8 spire, a minaret, a pergola that could be  
9 enclosed at some point, could be terraced.  
10 I'm just wondering what kind of limitations  
11 are you looking at when you look at it that  
12 way?

13 MR. PARKER: Well, and actually if  
14 you take a look at 406.4, this one  
15 specifically stays away from penthouses. The  
16 language here is space enclosed by walls, so  
17 towers and domes would be included in that 40  
18 percent.

19 COMMISSIONER TURNBULL: Okay. But  
20 a pergola, an open-framed --

21 MR. PARKER: Pergola would not.

22 COMMISSIONER TURNBULL: --

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1 structure could possibly take up 40 percent of  
2 the roof?

3 MR. PARKER: More.

4 COMMISSIONER TURNBULL: Or more.

5 MR. PARKER: That wouldn't be  
6 subject to that limitation, just like now.

7 COMMISSIONER TURNBULL: Are we  
8 comfortable with that? I'm just throwing that  
9 out as to what we see on the roof now.

10 COMMISSIONER MAY: It would still  
11 have to be set back, wouldn't it?

12 MR. PARKER: It would. It would.

13 COMMISSIONER TURNBULL: Still have  
14 to be set back? Okay. I was just curious  
15 about the visual character that you would see  
16 now up on this, this potpourri of items that  
17 suddenly may come out.

18 The other thing is on your  
19 diagram; I don't know which one it is,  
20 406.2(3), the roof structure setback from a  
21 party wall where the building is higher, we're  
22 saying that the penthouse could be built right

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1 up to that structure?

2 MR. PARKER: We're saying there's  
3 not a setback required in areas where you  
4 couldn't see it, yes.

5 COMMISSIONER TURNBULL: Okay.

6 MR. PARKER: On a party wall.

7 COMMISSIONER TURNBULL: All right.

8 Thank you.

9 CHAIRPERSON HOOD: Anybody else?  
10 Commissioner May?

11 COMMISSIONER MAY: Yes, is this  
12 time for all my questions? Do you want to  
13 start the clock? No.

14 CHAIRPERSON HOOD: I probably  
15 should, but no.

16 COMMISSIONER MAY: Yes, it's not a  
17 hearing. We don't usually do it a meetings,  
18 right?

19 I'll try to talk quickly. Four-  
20 oh-two-point-three, there's a reference where  
21 it says, "Except as provided in 102.4." Is  
22 that correctly referenced?

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1 MR. PARKER: No, it should be  
2 402.4.

3 COMMISSIONER MAY: Four-oh-two-  
4 point-four?

5 MR. PARKER: That's a typo.

6 COMMISSIONER MAY: Okay. So, at  
7 402.4. So, is the exception to the maximum  
8 height difference of 12 inches, or is the  
9 exception to the midpoint of adjacent curb?

10 MR. PARKER: The exception is from  
11 using the adjacent curb.

12 COMMISSIONER MAY: Okay. So, I  
13 think that dependent phrase, the "except"  
14 should be inserted immediately after "curb" so  
15 it makes sense.

16 MR. PARKER: Can do.

17 COMMISSIONER MAY: On 402.4, since  
18 it's not stated I'm assuming that there's no  
19 actual order of preference among these items  
20 and I wonder if there should be. And I'm not  
21 asking necessarily for an answer. I just  
22 think that this might be one of those things

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1 you make note of because I may still have that  
2 question when it comes time for the hearing.  
3 So, give that some thought and if there's  
4 anything to say.

5 MR. PARKER: I guess my immediate  
6 question though is how would a preference  
7 work? Like A always exists somewhere, so  
8 would you never -- if the current order was  
9 the order, would you not be able to do B or --  
10 I don't understand what you mean by set a  
11 preference to.

12 COMMISSIONER MAY: Well, I mean,  
13 there may not be a street frontage affected by  
14 an artificial elevation, and so therefore you  
15 go onto No. 2, or B.

16 MR. PARKER: I see.

17 COMMISSIONER MAY: I don't know.  
18 I mean, again I'm not expecting to have all  
19 these answered at this moment.

20 MR. PARKER: Okay.

21 COMMISSIONER MAY: I'm just sort  
22 of raising the question.

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1                   Can you tell me on C what  
2                   circumstances an elevation might have been  
3                   previously determined by the Zoning  
4                   Administrator?

5                   MR. PARKER: L'Enfant Plaza.

6                   COMMISSIONER MAY: Oh, okay. So,  
7                   is that the only one, or are there just a few  
8                   of those circumstances where they've --

9                   MR. PARKER: There are just a few.  
10                  I don't know of others off the top of my head,  
11                  but things like that.

12                  COMMISSIONER MAY: If they're  
13                  actually small enough numbered a list, do we  
14                  know that?

15                  MR. PARKER: I just don't know if  
16                  it would be exhaustive, but I can look into  
17                  it, yes.

18                  COMMISSIONER MAY: Oh, well then,  
19                  I'm just concerned about what that would mean.  
20                  I don't know if it's a big issue or not, so I  
21                  don't really have a specific question on that  
22                  one.

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1 MR. PARKER: Okay.

2 COMMISSIONER MAY: Okay. Height  
3 limit exceptions. There's no height limits  
4 set for these additional structures, right?

5 MR. PARKER: There are actually.  
6 Four-oh-six-point-three.

7 COMMISSIONER MAY: Four-oh-six-  
8 point-three? Oh, right. Okay. Nothing can  
9 rise more than 20 feet. Well, a dome or a  
10 pinnacle might be more than 20 feet.

11 MR. PARKER: Well, they can, A  
12 through E. The 20 feet applies to F through  
13 J.

14 COMMISSIONER MAY: All right. So,  
15 okay. A pergola then therefore could be more  
16 than 20 feet?

17 MR. PARKER: Ah, interesting  
18 question. That should probably be moved lower  
19 into the list.

20 COMMISSIONER MAY: Okay. Yes, I  
21 mean, chimneys, smokestacks, domes, minarets,  
22 pinnacles, towers, spires I could see

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1 potentially no limit.

2 MR. PARKER: Right.

3 COMMISSIONER MAY: Or having some  
4 process when it's above 20 feet, something  
5 like that.

6 And the setbacks apply only on F  
7 through J, but setbacks should apply to  
8 pergolas as well?

9 MR. PARKER: Correct, we can fix  
10 that.

11 COMMISSIONER MAY: Yes. Okay. I  
12 like the idea that on the setback requirements  
13 that you include an adjacent property's  
14 existing or matter of right height and a wall  
15 that abuts a lot line and that is taller than  
16 the greater of the matter of right or the  
17 existing. So, that means that if there's an  
18 existing historic structure that's never going  
19 to go to the matter or right height, you could  
20 still have a --

21 MR. PARKER: That is true.

22 COMMISSIONER MAY: -- penthouse

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1 without a setback?

2 MR. PARKER: That is true.

3 COMMISSIONER MAY: I think that's  
4 an issue.

5 MR. PARKER: Okay.

6 COMMISSIONER MAY: And you can  
7 address that issue whatever way you want. I'm  
8 just raising it, like I think I did at the  
9 previous hearing.

10 All right. I think that's it for  
11 my questions.

12 CHAIRPERSON HOOD: Any other  
13 questions or comments?

14 (No audible response.)

15 CHAIRPERSON HOOD: If we set this  
16 down, when are we supposed to have this, the  
17 20th? Okay.

18 All right. Any other comments,  
19 Commissioners?

20 (No audible response.)

21 CHAIRPERSON HOOD: Okay. I would  
22 move that we set down 08-06, height text, with

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1 Option 3. I think that's what you're going to  
2 advertise, Option 3. And also to take under  
3 consideration the comments that my colleagues  
4 have mentioned. And I move that we set that  
5 down and ask for a second.

6 VICE-CHAIRMAN SCHLATER: Second.

7 CHAIRPERSON HOOD: It's been moved  
8 and properly seconded. Thank you, Vice-  
9 Chairman.

10 Moved and properly seconded. Any  
11 further discussion?

12 MS. MONROE: Can I ask a question?  
13 Was Option 3 the one that was in the public  
14 hearing notice?

15 VICE-CHAIRMAN SCHLATER: It was  
16 not.

17 MS. MONROE: It was not? I just  
18 want you to know that. That's not the one  
19 that was advertised, but that's okay. I mean,  
20 you've chosen Option 3.

21 CHAIRPERSON HOOD: Which one was  
22 advertised?

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1 MS. MONROE: I think Option 1. Am  
2 I correct?

3 MS. SCHELLIN: Yes, we'll issue a  
4 new public hearing notice.

5 MS. MONROE: I just don't want to  
6 cause confusion to people, hearing all that,  
7 you know?

8 CHAIRPERSON HOOD: I'll be  
9 perfectly honest, when I heard that the  
10 taskforce was with all three, I was thinking  
11 all three, but I said, no.

12 MS. MONROE: Option 1 is the one  
13 that was in the hearing notice. But you've  
14 chosen Option 3, so Option 3 is the one that  
15 will be set down.

16 CHAIRPERSON HOOD: Okay. Option  
17 3.

18 MS. MONROE: With the comments.

19 CHAIRPERSON HOOD: Right.

20 MR. PARKER: Could I ask, OAG, is  
21 any special action required because of the  
22 short -- the retroactive setdown approval?

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1 MS. MONROE: No.

2 MR. PARKER: Okay.

3 CHAIRPERSON HOOD: Okay. Did I  
4 get a second.

5 MS. SCHELLIN: Commissioner  
6 Schlater.

7 CHAIRPERSON HOOD: Okay. It's  
8 been moved and properly seconded. Any further  
9 discussion?

10 (No audible response.)

11 CHAIRPERSON HOOD: All those in  
12 favor? Aye.

13 VICE-CHAIRMAN SCHLATER: Aye.

14 COMMISSIONER MAY: Aye.

15 COMMISSIONER TURNBULL: Aye.

16 COMMISSIONER SELFRIDGE: Aye.

17 CHAIRPERSON HOOD: Not hearing any  
18 opposition, Ms. Schellin, would you record the  
19 vote?

20 MS. SCHELLIN: Yes, staff records  
21 the vote five to zero to zero to set down  
22 Zoning Commission Case No. 08-06 with regard

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1 to height, Option 3. Commissioner Hood moving  
2 Commissioner Schlater seconding; Commissioners  
3 Turnbull, Selfridge and May in support.

4 CHAIRPERSON HOOD: Okay. Now,  
5 we'll go to use. But let me ask this: Is use  
6 going to be the same night, too, the 20th?

7 MS. SCHELLIN: If you set it down,  
8 yes.

9 CHAIRPERSON HOOD: Okay. All  
10 right. If set down.

11 Okay. Let's go to Mr. Parker for  
12 use.

13 MR. PARKER: Absolutely. I'm  
14 going to try and go quickly through this, but  
15 there's a lot of information to cover here and  
16 I want to make sure you're all familiar with  
17 it.

18 Really quickly, we spent a lot of  
19 time discussing with you and with a couple  
20 different working groups a lot of the problems  
21 with our current use system. You know,  
22 there's nearly 650 discreet uses. We've got

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1 a code now that if you want to know all the  
2 uses that are allowed in your zone, we have to  
3 go look at all the previous zones because the  
4 uses are nested. Some of the problems with  
5 use lists include, you know, they're  
6 constantly out of date, and I talk a little  
7 bit more about that on the next slide.

8 We don't define a lot of the uses  
9 listed in our code. Definitions, where they  
10 do exist, are scattered throughout and just a  
11 range of problems comes from permitting uses  
12 by a list of names rather than using a table  
13 with categories. And, you know, just the  
14 example that we show in all of our  
15 presentations is some of the dated uses that  
16 we have in our code, like telephone exchange  
17 and penny arcade. Lists call for constant,  
18 constant updating and changing in order to  
19 keep them current, and you can never stay on  
20 top of it.

21 So, what we've seen in other  
22 cities around the country is going away from

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1 lists and, you know, rating uses or organizing  
2 uses by their type and basically creating  
3 categories of uses. Right now, you know, D.C.  
4 has over 600. All of our other best practice  
5 cities have far fewer uses than us. You know,  
6 Portland and Miami down, you know, categories  
7 of 30 or 40 use types, all the way up to San  
8 Antonio which still has many hundred, but  
9 everybody is far below us. And the trend has  
10 been for the newer codes to go down to broader  
11 categories and to regulate them through  
12 conditions. And that's sort of what we're  
13 proposing and what we're going to talk about  
14 tonight.

15           The basic concept is taking things  
16 that are similar in their type and impact and  
17 creating a category. So, bookstore,  
18 drugstore, shoe store, they're all stores that  
19 people come in and buy products, so they're  
20 all retail business. You know, bank, tailor,  
21 bike repair, they're all people purchasing a  
22 service. And so, you know, using our

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1 knowledge of the impacts and characteristics  
2 of uses to start defining what are some  
3 categories of use that we can regulate.

4           Based on this and the work that  
5 we've done throughout the process, we've  
6 devised 29 different use categories and these  
7 categories are based on, you know, again the  
8 different activities and impacts that they  
9 have. Particular ones come about because they  
10 are particularly hard to characterize  
11 elsewhere, things like marine uses or waste-  
12 related. And then we do have some categories  
13 that provide a distinct performance or policy  
14 elements.

15           There are two real components to  
16 this system. The one that you're going to  
17 review tonight is in the general use chapter,  
18 is the use definitions. And so, every  
19 category that we propose has a definition and  
20 that definition is composed of, you know, the  
21 characteristics of the use, but also examples  
22 of that type of use and exemptions, things

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1 that clearly are not, that give a guide to the  
2 user of the code and ultimately to the Zoning  
3 Administrator of what these categories mean  
4 and what's in each one.

5 We're going to have a chance to  
6 talk about these categories, but the 29 are on  
7 the screen; and I'm sorry you can't read them  
8 from here, but you've got them in your packet  
9 as well. We've proposed 29 use categories.  
10 And you won't be able to read this on the  
11 screen either, but basically we've taken the  
12 multiple different uses from our current code  
13 and grouped them. And retail's the biggest  
14 one. There's, you know, one or two hundred  
15 different retail designations in our code.  
16 And then you get to, you know, service and  
17 office that have 20 or 24 different types of  
18 offices that are listed. And just going  
19 through the list. You know, we always have 10  
20 or 12 of these uses that fit one of our  
21 categories. We had education, health care.  
22 Even antennas has six or seven different

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1 listed uses. So, we want through this process  
2 of taking every use in our current code and  
3 categorizing them by their type.

4 One thing that I want to note is  
5 that this change involves a paradigm shift in  
6 the way that we think about uses. Right now  
7 a zone has a list of uses that are permitted  
8 and it's assumed that if a use is not listed  
9 in that list, that use is not permitted. But  
10 this causes trouble when you have something  
11 like a yoga studio. Our code doesn't list  
12 yoga studio. So, the basic rule of zoning is  
13 that the yoga studio wouldn't be permitted.  
14 But in point of fact, it's a matter of the  
15 Zoning Administrator making a call that, well,  
16 it's actually kind of like public health spa  
17 or some of the old terms that are in our code.  
18 So, the existing system puts a lot of pressure  
19 on the Zoning Administrator.

20 The new system is designed around  
21 these categories. Every use of land that you  
22 can possibly imagine or do fits into one of

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1 these categories or is intended to fit into  
2 one of these categories. My staff spent a lot  
3 of time thinking of things like heliports, and  
4 I can't name all the different ways we tried  
5 to break the system and make sure that  
6 everything that we could possibly do with a  
7 piece of property had a place in this system.  
8 So, unlike the existing system, there's  
9 nothing left out. Everything has a home and  
10 every category has a permission level;  
11 permitted, not permitted, etcetera.

12 So where this fits in our  
13 organization is in two places. In the general  
14 chapter is the list of definitions and, you  
15 know, what the rules are, the general rules  
16 regulating use. Within each of the land use  
17 subtitles then there is a use permission  
18 chart. And you've seen an example of one of  
19 those in your report, in your setdown report.  
20 Attached to it was an example of a use  
21 permission chart and there's one on the screen  
22 that again it is kind of small, but basically

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1 across the top are listed the zones within  
2 that use category.

3           Down the side listed are 29 use  
4 categories. And in each box is a permission  
5 level. And there are five letters that can be  
6 in that box. P means that use is permitted,  
7 and you can do any type of that use that you  
8 want. N means that use is not permitted and  
9 you can't do anything related to that use  
10 category. The other three permission levels  
11 are C for conditional, or permitted with  
12 condition; S for permitted through special  
13 exception; and A permitted as accessory. And  
14 what that means is for example if I have a  
15 conditional use on service, the condition  
16 might be no more than 2,500 square feet of  
17 service, which means I can still build  
18 whatever building I'm allowed to do in that  
19 zone, but I can't have a service use larger  
20 than 2,500 square feet. Special exception,  
21 and example is, you know, CBRFs are allowed in  
22 some zone by special exception. We're going

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1 to talk about CBRFs later, but that use  
2 category would have an S by it. And finally,  
3 accessory, if you have an A it just means that  
4 use is only permitted as an accessory use to  
5 another use and not permitted as a stand alone  
6 use. So, those are the five potential use  
7 permissions for each type of use.

8 So, the benefits of this type of  
9 system, A, it's easier to find your  
10 permission. All your permissions for, you  
11 know, your C-2-A Zone are listed in one place.  
12 You don't have to look at C-2-A and C-1 and R-  
13 5 and look back and forth. There's a lot more  
14 flexibility in customizing permissions to a  
15 local area. We're going to look at some  
16 examples later that show this, that show how  
17 it's easier to implement plans, it's easier to  
18 achieve specific planning policy. This system  
19 solves for the omissions and inaccuracies of  
20 a list system, it eliminates the redundancy in  
21 our current code of repeating conditions and  
22 it focuses our restrictions on the impacts of

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1 uses rather than what name they fall under.

2 So, I want to go through some  
3 examples. The first example; and I'll tell  
4 you what's on the screen is from the Macomb-  
5 Wisconsin Overlay. And we pulled some of the  
6 existing permitted uses from that overlay and  
7 three of them include self-service laundry up  
8 to 2,500 square feet, dry cleaning  
9 establishment up to 2,500 square feet and  
10 tailor or valet shop up to 2,500 square feet.  
11 So, we've got three different use permissions.  
12 All of these are service uses in our new code  
13 and this is another way that we can reduce a  
14 lot of text through this system by simply  
15 making services a conditional use in that  
16 overlay and the condition being cleaning,  
17 alteration or repair of clothing is limited to  
18 2,500 square feet. We can allow all service  
19 uses that don't meet that definition.  
20 Services that are laundries or tailor or valet  
21 shops are limited to 2,500 square feet. So,  
22 it's a very simple and easy way to put

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1 conditions on uses and make very clear what  
2 your permission levels are in a very little  
3 amount of text.

4 Another example is home  
5 occupations. Right now we have a list of a  
6 few things, like clergymen, academic, tax  
7 preparer and dressmaker that you can do from  
8 home. There's a lot of other things that you  
9 probably should be able to do from home and  
10 people probably do do from home that may not  
11 be on our 40-year-old list of home  
12 occupations. So, the easy way around this is  
13 these uses on our current list generally fall  
14 into two of our use categories; service and  
15 office. And the way that home occupations are  
16 solved for in this new code is service and  
17 office are allowed in residential zones as an  
18 accessory use. They have an A in their  
19 category. And the conditions that apply to  
20 them now are conditions on that accessory use.  
21 So, you have A. You have a section reference  
22 that points you to the conditions on doing

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1 office or service uses in your home.

2           And the final example I want to go  
3 through is about something that isn't even in  
4 zoning now, but how we would take a plan and  
5 implement it. The 2008 Deanwood Plan has a  
6 bunch of goals for their neighborhood  
7 including no carryouts, getting some new sit-  
8 down restaurants, a full-service grocery  
9 store, no liquor store, office supply store  
10 and adding some retail clothing stores. Well,  
11 if we categorize those uses, the top two are  
12 within our food and alcohol service category  
13 and the bottom two are in retail. This area  
14 of Deanwood is currently in the C-1. There  
15 are no retail requirements currently or  
16 conditions currently. It's just a permitted  
17 use in the C-1. And for food and alcohol  
18 there are some current conditions limiting  
19 fast foods. But simply by adding two new  
20 conditions we can limit carryouts. By adding  
21 a condition to food and alcohol service saying  
22 no more than 25 percent of food sales may be

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1 off-premise consumption, we suddenly  
2 eliminated carryouts in Deanwood without  
3 having to have add carryout to a list or  
4 define what a carryout is.

5 For retail, you know, we can put a  
6 condition on retail saying no more than 15  
7 percent of gross floor area may be used for  
8 the sale of liquor. Now, anything not  
9 involving liquor, that condition doesn't  
10 apply, so retail is unencumbered. But where  
11 liquor's involved, that condition kicks in.  
12 So again, a simple way to take to our plans  
13 and implement them easily in zoning.

14 Two more points to make on this  
15 system. There are some uses that become  
16 difficult to categorize. One is funeral home.  
17 It met both the definitions of service and of  
18 institutional. Uses like that, the best way  
19 for us to handle them is probably to -- and  
20 what we have done throughout the code is to  
21 determine which one they should be in and put  
22 them in the example of that so that the Zoning

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1 Administrator can easily find that use doing  
2 a search, find which category that is.

3 Others like a cabaret or a dinner  
4 theater, cabaret or dinner theater falls into  
5 both food and alcohol service and performing  
6 arts, and it rightly so does because it has  
7 the impacts of both of those uses. So some  
8 uses like a dinner theater would fall into two  
9 categories and would have to meet the  
10 conditions of both categories because it has  
11 the impacts of both categories.

12 The final thing I want to talk  
13 with you about is CBRFs. Right now there are  
14 seven types of CBRFs and they're all heavily  
15 restricted in residential zones. The city has  
16 run into some legal issues on limiting some of  
17 these in residential zones because they are  
18 determined to be housing or homes for disabled  
19 as that's legally defined. So, there are  
20 three types of CBRFs as we define them  
21 currently; community residents facility,  
22 substance abuser's homes and youth residential

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1 care homes that legally cannot be limited  
2 anymore than the residential uses in those  
3 zones can be limited. So, where we have zones  
4 with unlimited residential, we can't limit  
5 these at all. Where we have zones with  
6 limited unit residential, we can limit the  
7 number of people in these facilities, but we  
8 can't put location restrictions on them  
9 because we don't put location restrictions on  
10 single-family homes.

11 But the other CBRFs can continue  
12 to be regulated. Rehabilitation homes for  
13 adults and youth, we've proposed that those be  
14 called community-based institutional  
15 facilities and would carry over the existing  
16 limitations on those. Emergency shelters and  
17 health care are now each their own categories  
18 of use.

19 So, that's my presentation. I've  
20 got on the screen there then the example of  
21 the use permission chart that's also in your  
22 packet. But basically what we're asking again

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1 is for your comments on this system, your  
2 thoughts on this system and hopefully for a  
3 setdown to the 20th of September.

4 CHAIRPERSON HOOD: Okay. Thank  
5 you, Mr. Parker. Let me start off, and help  
6 me walk through this. Let's look at 206.13.  
7 I see the definition, and I meant definitions.  
8 Any use providing 30 days or less of temporary  
9 housing to indigent, needy, homeless,  
10 transient individuals. Emergency shelter uses  
11 may also provide ancillary such as counseling,  
12 vocational training or similar social and  
13 career assistance.

14 Now, when I look at that, then  
15 it's got the exception. The term does not  
16 include uses which more precisely meet the  
17 definition of residential. And with this new  
18 undertaking would this emergency shelter be  
19 permitted in a PDR, or how is that going to  
20 work?

21 MR. PARKER: Well, actually one  
22 thing I can answer is where these things are

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1 permitted, because when we come forward with  
2 the PDR Zone, we'll have a table of which of  
3 these uses is permitted in the zone. All I  
4 can tell you now, or what I'm prepared to  
5 discuss now is, you know, whether this is the  
6 right definition for emergency shelter or  
7 whether we need to tweak that. Where it's  
8 permitted, we're going to maintain the same  
9 permission levels. Where those are permitted  
10 now they'll be permitted in the future. Where  
11 they're a special exception now, they'll be a  
12 special exception in the future. And when we  
13 bring those zones forward, it will have a use  
14 table with those permissions in it.

15 CHAIRPERSON HOOD: And I guess I'm  
16 asking is this a real life situation? So,  
17 basically you want to know about the  
18 definition and tweaking it 30 days?

19 MR. PARKER: Yes, if you have  
20 questions or concerns with the definition, we  
21 want to solve that, because, you know, when we  
22 come back with the PDR Zones, there will be a

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1 table and it will say, you know, permitted or  
2 not permitted or conditional. And by that  
3 time we -- you know --

4 CHAIRPERSON HOOD: Mr. May  
5 probably could help. When I look at this it  
6 says any use providing 30 days or less. We  
7 might want to work with some of those who may  
8 know a little more than I do about emergency  
9 shelters, because I know it's much more than  
10 30 days. So, we might want to work and find  
11 out exactly what's real, what's really real,  
12 what's really happening. And Mr. May may be  
13 able to help us with that at some point.

14 Okay. Let me open it up. Did you  
15 want to comment?

16 COMMISSIONER MAY: I'll start  
17 there. Actually it was one of my questions.

18 I don't see a reference to a  
19 longer term. Homeless shelters, is that what  
20 you're referring to as a community residence  
21 facility?

22 MR. PARKER: Yes, a longer term.

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1 So, lease periods of more than a month would  
2 be --

3 COMMISSIONER MAY: I'm not talking  
4 about lease periods because there are no  
5 leases.

6 MR. PARKER: Well, actually yes,  
7 stay periods, are they -- yes.

8 PARTICIPANT: (Off microphone.)

9 MR. PARKER: Right, right. When  
10 that goes to 31 days. The intent here is,  
11 yes, facilities where people commonly stay  
12 more than 30 days are under the residential  
13 category.

14 COMMISSIONER MAY: So, a community  
15 residence facility; in other words a homeless  
16 shelter where people would stay longer than 30  
17 days will now be treated like any other  
18 residential facility?

19 MR. PARKER: And limited to the  
20 same number. So, in an R-1 Zone --

21 COMMISSIONER MAY: You can only  
22 have four unrelated people or six unrelated

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1 people, whatever it is?

2 MR. PARKER: Right. Right.

3 COMMISSIONER MAY: Okay. Unless  
4 it were actually an apartment building or  
5 something like that. You couldn't have that  
6 in R-1. You'd have to have that in R-5-D --

7 MR. PARKER: Right. Right.

8 COMMISSIONER MAY: -- or the  
9 equivalent.

10 MR. PARKER: Right.

11 COMMISSIONER MAY: Okay. Yes, I'm  
12 not sure exactly what it is, but there might  
13 be something to tweak in the definitions  
14 because the way we define these forms of  
15 shelters.

16 MR. PARKER: Okay.

17 COMMISSIONER MAY: And how the  
18 mechanics of living there actually occur. The  
19 ones who require that everybody leave in the  
20 middle of the day --

21 MR. PARKER: Right.

22 COMMISSIONER MAY: -- I mean, does

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1 that mean if they come back to the same one  
2 every night does that mean that it's now an  
3 emergency shelter because they have to leave  
4 every day?

5 MR. PARKER: Right.

6 COMMISSIONER MAY: You know, I  
7 don't know. I mean, there are rules -- or not  
8 rules, but more customs I guess in the  
9 operation of homeless shelters that we might  
10 want to have a finer look at.

11 MR. PARKER: I think all of these  
12 though -- it's not a matter of people staying  
13 more than 30 days, because a hotel has the  
14 same 30-day cutoff. Basically if it's more  
15 than 30 days it's residential. If it's less  
16 than 30 days, it's, you know, either emergency  
17 shelter or a hotel. I can stay in a hotel for  
18 three months, but I'm making arrangements on  
19 a nightly or weekly basis. Same for emergency  
20 shelter. I may stay there for 90 days, but  
21 that's a day-to-day decision or a week-to-week  
22 decision. Does that make more sense?

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1                   COMMISSIONER MAY: I think what  
2                   it's going to boil down to is where it will  
3                   now be possible to have such facilities. I  
4                   think that's when you're start dealing with  
5                   the land use sections that's when it's I think  
6                   going to get more complicated.

7                   MR. PARKER: Yes.

8                   COMMISSIONER MAY: So, I don't  
9                   think it really necessarily affects the  
10                  definition. Maybe it does. I don't know. I  
11                  just wanted to touch on that one.

12                  I can continue with my other  
13                  questions if you'd like.

14                  CHAIRPERSON HOOD: I'm glad you  
15                  did because I know you have more experience in  
16                  that than I do. Okay.

17                  COMMISSIONER MAY: Would you like  
18                  me to continue with my other questions?

19                  CHAIRPERSON HOOD: Yes.

20                  COMMISSIONER MAY: Okay. Two-oh-  
21                  six-point-three. My question is; I'm a little  
22                  confused, if you have a garden in your yard

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1 and you're growing vegetables, does that mean  
2 that you have agriculture as an accessory use?

3 MR. PARKER: Well, we're talking  
4 about things that would require a C of O  
5 probably. So, I mean, if you're going to  
6 build a barn for it or, you know --

7 COMMISSIONER MAY: Not in my yard.  
8 No, it just seems sort of like a basic common  
9 sense question. Is this going to effect, you  
10 know, the home garden?

11 MR. PARKER: More appropriately  
12 this is intended to provide a home for things  
13 like community gardens, like where you have  
14 like a plot of land and, you know, we want to  
15 ensure that this could be used for a community  
16 garden or something like that. So, that's the  
17 intent there.

18 COMMISSIONER MAY: Okay. Well,  
19 and so the reference to examples including a  
20 garden, I mean, you could read this with a  
21 really fine point and say oh, my gosh, my  
22 neighbor's got -- he's growing pumpkins. He's

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1 got a garden and agriculture is not permitted  
2 as an accessory use in my neighborhood.

3 MR. PARKER: Well, and I don't  
4 know anywhere that it's not.

5 COMMISSIONER MAY: And you've got  
6 rats that like to eat the pumpkin.

7 MS. CIDLOWSKI: It is intended to  
8 be a clarification of the existing rules which  
9 list truck garden, but not necessarily  
10 something like a community garden at all in  
11 our current regulations. So, we're just  
12 giving the example of what it is now to help  
13 people how the old code will translate.

14 MR. PARKER: And it is permitted.

15 COMMISSIONER MAY: Right.

16 MR. PARKER: So, I think this is  
17 to ensure that gardening is permitted in all  
18 residential zones.

19 COMMISSIONER MAY: Well, but this  
20 is just the agriculture definition. You're  
21 going to have agriculture permitted in all  
22 residential zones?

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1 MR. PARKER: Yes.

2 COMMISSIONER MAY: Okay. The  
3 individual solar panels or windmills that I'm  
4 going to put on my roof, how is that allowed?  
5 Is that an accessory use under basic  
6 utilities?

7 MR. PARKER: I wouldn't even say  
8 that those are an accessory use at all. Those  
9 are a building function. Those are like a  
10 heater.

11 COMMISSIONER MAY: Okay. Going to  
12 206.9, commercial parking, storage of vehicles  
13 made available to the public for a fee. I  
14 mean, does that include a circumstance where  
15 a single tenant takes the whole building,  
16 leases the entire parking lot and gives it to  
17 their employees?

18 MR. PARKER: No, this is parking  
19 that's open to the public, or available to  
20 the --

21 COMMISSIONER MAY: Only open to  
22 the public? Okay.

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1                   The education facilities, when it  
2 comes to public schools versus private schools  
3 is there going to be some sort of  
4 differentiation in terms of what's going to  
5 require special exception approval versus --

6                   MR. PARKER: It will be done  
7 through a condition. So, education will be a  
8 conditional use and the condition is, you  
9 know, you're required to get a special  
10 exception for particular types of this  
11 category.

12                   COMMISSIONER MAY: Okay. You  
13 know, for some reason I'm thinking that maybe  
14 that this idea that was apparent in your  
15 presentation about adding the conditions --  
16 I'm not sure that that's coming across in just  
17 the language that we're seeing here. It  
18 raised a lot of questions for me about that.

19                   MR. PARKER: Yes.

20                   COMMISSIONER MAY: But seeing what  
21 you presented made it a lot easier. So, I  
22 don't know how we can get that information

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1 shared, but --

2 MR. PARKER: I'll certainly send  
3 my presentation if that would help.

4 COMMISSIONER MAY: Well, not  
5 necessarily to me.

6 MR. PARKER: Oh, yes.

7 COMMISSIONER MAY: I'm also  
8 concerned about people in the general public,  
9 that alarm bells that were going off for me as  
10 I was reading this might be going off for  
11 them.

12 MR. PARKER: Did you find the  
13 sample table with the conditions attached  
14 useful, or was that --

15 COMMISSIONER MAY: Sort of.

16 MR. PARKER: Okay.

17 COMMISSIONER MAY: It was more  
18 useful seeing it in the presentations.

19 MR. PARKER: Understood.

20 COMMISSIONER MAY: Long term  
21 homeless shelters, we talked about.

22 I understand how nightclubs would

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1 work theoretically under 206.14. I'm sorry  
2 206.16.

3 Okay. Yes, a lot of these have to  
4 do with the conditions that would apply in  
5 some of these circumstances.

6 We have some very interesting  
7 examples. Under PDR we have very interesting  
8 examples that I'm not sure will occur very  
9 frequently. Smelting, acetylene gas  
10 manufacturing. Maybe that happens; I don't  
11 know. But we don't have concrete and asphalt  
12 plants, which actually do occur I think. They  
13 certainly have. We have concrete plants.

14 MR. PARKER: Okay.

15 COMMISSIONER MAY: We used to have  
16 asphalt plants and it used to be a big issue  
17 for DDoT to make sure that there was an  
18 asphalt plant close to where they were making  
19 roads.

20 MR. PARKER: We can add those to  
21 the examples.

22 COMMISSIONER MAY: Yes. Where's a

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1 large lumber yard like a Home Depot go in  
2 this? Is that going to be PDR, or is it going  
3 to be retail?

4 MR. PARKER: Well, a Home Depot  
5 itself would be in retail and would be  
6 controlled by, you know, square footage  
7 limits.

8 COMMISSIONER MAY: Square footage  
9 conditions?

10 MR. PARKER: Yes.

11 COMMISSIONER MAY: Okay.

12 MR. PARKER: Or outdoor storage as  
13 well.

14 COMMISSIONER MAY: Okay. Just as  
15 long as it's clear to the Home Depot what  
16 they're subject to.

17 MR. PARKER: Right.

18 COMMISSIONER MAY: Transportation  
19 infrastructure. So, Metro stations are only  
20 going to be allowed in certain zones under  
21 transportation infrastructure?

22 MR. PARKER: To the best of my

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1 knowledge that would be permitted pretty much  
2 across the board.

3 COMMISSIONER MAY: Yes. Okay.  
4 All right. That was it for my questions.  
5 Thank you. The presentation cleared up a lot  
6 of my thinking.

7 MR. PARKER: All right.

8 COMMISSIONER MAY: And I would say  
9 overall I think that what we got in the way of  
10 language was really excellent and well written  
11 and covered. I mean, it was very inclusive  
12 even though I have a few nitpicky questions.  
13 And I think that overall the structure and the  
14 process is all coming together very well. So,  
15 I think you all deserve a compliment. Thanks.

16 CHAIRPERSON HOOD: Anybody else?  
17 Commissioner Turnbull?

18 COMMISSIONER TURNBULL: Mr.  
19 Parker, you mentioned that there could be uses  
20 that could fall under two categories or  
21 whatever.

22 MR. PARKER: Right.

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1 COMMISSIONER TURNBULL: What  
2 governs, the most stringent of the two, or is  
3 it kind of just --

4 MR. PARKER: No, if the Zoning  
5 Administrator determines that it falls into  
6 both and there's conditions on both, they'd  
7 have to meet the conditions of both.

8 COMMISSIONER TURNBULL: Okay.

9 MR. PARKER: So, yes.

10 MR. VARGA: Also, sir, they would  
11 be cumulative. But in cases where you had two  
12 conditions that spoke in the same terms, it  
13 would be the more restrictive of the two. So  
14 for instance, if you had a 2,500 square-foot  
15 maximum on one case and a 2,000 square-foot  
16 maximum on the other, you'd be subject to the  
17 more restrictive for that portion.

18 COMMISSIONER TURNBULL: Do I have  
19 a problem if I own a theater and I'm putting  
20 on "Hair" or "Old Calcutta?" I'm just  
21 throwing that out. I might have a problem  
22 now. Or something along that line. I'm just

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1 curious.

2 MR. PARKER: I think the answer to  
3 that question is always yes.

4 COMMISSIONER TURNBULL: Okay. I  
5 mean, does the ZA got to decide then or --

6 MR. PARKER: No, I think the only  
7 time that theaters get in trouble is when they  
8 actually become dinner theaters, when you have  
9 a full food service establishment with --

10 COMMISSIONER TURNBULL: And you're  
11 watching "Hair?"

12 MR. PARKER: Right.

13 COMMISSIONER TURNBULL: Okay.

14 MR. PARKER: That may be a health  
15 code issue, yes.

16 COMMISSIONER TURNBULL: All right.  
17 Thank you.

18 CHAIRPERSON HOOD: Anybody else?  
19 Okay. Commissioner Selfridge?

20 COMMISSIONER SELFRIDGE: Yes.  
21 Thank you, Mr. Chairman. I just had one  
22 question on temporary uses. Where does the

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1 permission for that show up for the certain  
2 zones? Is anything potentially a temporary  
3 use that's allowed in any zone?

4 MR. PARKER: Yes, that's a good  
5 question. Right now in the code it's  
6 relatively undefined and we don't have a lot  
7 there now. It's very much Zoning  
8 Administrator discretion in terms of temporary  
9 uses. We didn't have a lot of examples in  
10 other codes to go on on good rules for  
11 temporary uses, but we're open to suggestions.

12 MS. CIDLOWSKI: This is something  
13 that's come up increasingly over the past  
14 couple of years, especially with the state of  
15 the economy where projects have stalled.  
16 People have wanted to do things with sites in  
17 the interim, so there's been demand for having  
18 restrictions about temporary uses. So, we've  
19 been talking with DCRA and the Zoning  
20 Administrator about what those should be. And  
21 we just wanted to make sure that we codify it  
22 so that people are able to do things within

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1 properly set out restrictions. So, we don't  
2 have a lot of precedent for what it should be,  
3 but we want to set up a system to allow where  
4 it should go.

5 COMMISSIONER TURNBULL: Is this  
6 the right place to set that system up? It  
7 just seems very broad. I'm sure the Zoning  
8 Administrator would never allow this, but you  
9 could put a firearm store in a residential  
10 zone, I mean, as a temporary use in theory,  
11 right?

12 MR. PARKER: Well, yes, the  
13 question is whether you'd allow uses that  
14 aren't otherwise allowed in that zone as a  
15 temporary use.

16 COMMISSIONER TURNBULL: Why  
17 wouldn't you just put it as an additional  
18 permission category so you could exclude those  
19 uses which would never be allowed, by  
20 implication if it's not an allowed temporary  
21 use?

22 MR. PARKER: I don't follow you

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1 exactly.

2 COMMISSIONER TURNBULL: Well, I  
3 guess should there be an exclusion? Something  
4 cannot be a temporary use?

5 MR. PARKER: That makes good sense  
6 that some of them could never -- you know,  
7 rock quarrying for example could never be a  
8 temporary use. Yes, that makes good sense  
9 that some of them could not be. And, yes, we  
10 can put that in the general instructions.

11 COMMISSIONER TURNBULL: That was  
12 my only question.

13 CHAIRPERSON HOOD: Anybody else?

14 (No audible response.)

15 CHAIRPERSON HOOD: Okay. Thank  
16 you very much, Mr. Parker, and Office of  
17 Planning staff.

18 We have a request, Commissioners,  
19 to set down the use categories for a hearing.  
20 What's your pleasure?

21 COMMISSIONER MAY: I would move  
22 that we set down for a public hearing Case No.

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1 08-06 with regard to uses as described in OP's  
2 report. And that should be enough, right?

3 CHAIRPERSON HOOD: That's just  
4 fine. Can I get a second?

5 (No audible response.)

6 CHAIRPERSON HOOD: Second. Moved  
7 and properly seconded. Any further  
8 discussion?

9 (No audible response.)

10 CHAIRPERSON HOOD: All those in  
11 favor? Aye.

12 VICE-CHAIRMAN SCHLATER: Aye.

13 COMMISSIONER MAY: Aye.

14 COMMISSIONER TURNBULL: Aye.

15 COMMISSIONER SELFRIDGE: Aye.

16 CHAIRPERSON HOOD: Not hearing any  
17 opposition, Ms. Schellin, would you record the  
18 vote?

19 MS. SCHELLIN: Yes. Before I do,  
20 I want to go back and say that the height was  
21 set down as a rule making case, of course.

22 And this too will be set down as a

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1 rule making case, Zoning Commission Case No.  
2 08-06 with regard to use. Commissioner May  
3 moving; Commissioner Hood seconding. By a  
4 vote of five to zero to zero, Commissioners  
5 Schlater, Turnbull and Selfridge in support.

6 CHAIRPERSON HOOD: Okay. Thank  
7 you, Ms. Schellin. Do we have anything else  
8 before us tonight?

9 MS. SCHELLIN: No, sir.

10 CHAIRPERSON HOOD: All right. I  
11 want to thank everyone for their participation  
12 in this special public meeting and appreciate  
13 all the work and effort that went into this.  
14 And this special public meeting is adjourned.

15 (Whereupon, the meeting was  
16 adjourned at 8:16 p.m.)  
17  
18  
19  
20  
21

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