

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

----- :
 IN THE MATTER OF: :
 :
 COMPREHENSIVE ZONING : Case No.
 REGULATIONS REVIEW: PLANNED : 08-06-12
 UNIT DEVELOPMENT :
 :
 ----- :

Monday, October 4, 2010

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

The Public Hearing of Case No. 08-06-12 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

JAMISON L. WEINBAUM, Director
SHARON S. SCHELLIN, Secretary
DONNA HANOUSEK, Zoning Specialist
ESTHER BUSHMAN, General Counsel

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER
TRAVIS PARKER
MAXINE BROWN-ROBERTS
ARLOVA JACKSON
STEVEN COCHRAN

The transcript constitutes the minutes from the Public Hearing held on October 4th, 2010.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

TABLE OF CONTENTS

OPENING REMARKS 4
Anthony J. Hood, Chairman

Z.C. CASE NO. 08-06-12
Request by the Office of Planning for
Commission to review and comment on
proposed concepts for text amendments
to the zoning regulations

OFFICE OF PLANNING 7
Travis Parker

PERSONS IN SUPPORT
Dennis Hughes 115

PERSONS IN OPPOSITION
Commissioner Ronneberg 124
Barbara Kahlow 129
Marilyn Simon 136
Alma Gates 143
Laura Richards 152

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

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

2 6:34 p.m.

3 CHAIRMAN HOOD: Good evening ladies and
4 gentlemen. This is a public hearing of the Zoning
5 Commission of the District of Columbia for Monday,
6 October 4th, 2010.

7 My name is Anthony Hood. Joining me
8 are Vice Chairman Schlater, Commissioners
9 Selfridge, May and Turnbull.

10 We are also joined by the Office of
11 Zoning staff under the leadership of Mr. Weinbaum.

12 Also the Office of Planning staff under the
13 leadership of Ms. Steingasser.

14 This proceeding is being recorded by a
15 Court Reporter and is also webcast live.
16 Accordingly, we must ask you to refrain from any
17 disruptive noise or actions in the hearing room.

18 The subject of tonight's hearing is
19 Zoning Commission Case No. 08-06-12. This is a
20 request by the Office of Planning for the
21 Commission to review and comment on proposed

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 concepts for text amendments to the zoning
2 regulations. This is one in a series of hearings
3 on various subjects currently under review as part
4 of the broader review of the zoning regulations.
5 Tonight's hearing will consider general rules
6 applicable to PUDs.

7 Notice about hearings published in D.C.
8 Register on September 10th, 2010, and copies of
9 the announcement are available to my left on the
10 wall near the door.

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

14 Preliminary matters;
15 Presentation by the Office of Planning;
16 Reports of other Government agencies;
17 Report of the ANCs;
18 Organizations and person in support;
19 Organizations and persons in
20 opposition.

21 The following time constraints will be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 maintained in these hearings. The ANCs,
2 Government agencies and organizations, five
3 minutes, individuals three minutes.

4 The Commission intends to adhere to the
5 time limits as strictly as possible in order to
6 hear the case in a reasonable period of time.

7 All persons appearing before the Commission
8 are to fill out two witness cards. These cards
9 are located to my left on the table near the door.

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

13 To avoid any appearance to the contrary, the
14 Commission requests that persons present not
15 engage members of the Commission in conversation
16 during a recess or at anytime. The staff will be
17 available throughout the hearing to discuss
18 procedural questions.

19 And I guess I will just go ahead and
20 introduce them, because I'm looking we don't have
21 a lot of witnesses.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Let me just introduce the Office of
2 Zoning staff. Ms. Sharon Schellin, Ms. Donna
3 Hanousek, Ms. Esther Bushman.

4 The Office of Zoning staff Mr. Travis
5 Parker, Mr. Steven Cochran, Ms. Jackson and Ms.
6 Brown-Roberts.

7 Please turn off all beepers and cell
8 phones at this time so as not to disrupt these
9 proceedings.

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

12 Does the staff have any preliminary
13 matters?

14 SECRETARY SCHELLIN: No, sir, not at
15 this time.

16 CHAIRMAN HOOD: And I will just ask
17 again. From time-to-time we move our heads away.

18 Sometimes I can hear myself when I turn my head.

19 So if you're not able to hear us, just raise your
20 hand and we'll get back in the mic. Okay.

21 Okay. Let's go to Mr. Parker.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Good evening.

2 MR. PARKER: Good evening, Mr.
3 Chairman, Members of the Commission. My name is
4 Travis Parker with the Office of Planning.

5 In addition to Ms. Steingasser, you
6 mentioned that I'm joined by three other members
7 of the Office of Planning, Mr. Cochran, Ms.
8 Jackson and Ms. Brown-Roberts. These are the
9 three people that are responsible for a lot of the
10 work behind the PUD recommendations tonight so
11 they're going to be here to assist and help me
12 answer questions regarding tonight's
13 recommendations.

14 Just as a little background. Our PUD
15 working group met, I believe it was earlier this
16 year. We had five meetings. We started with a
17 meeting looking at the history of PUDs in D.C. and
18 identifying issues. We looked at how other
19 jurisdictions handled PUD-type processes around
20 the country and we're going to talk a little bit
21 about that in some of our recommendations.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 And then we got into identifying the
2 goals of the PUD process and the issues involved
3 and discussing different options. And ultimately
4 at meeting five the Office of Planning presented a
5 series of recommendations that we're going to
6 present to you tonight.

7 We presented these to the Task Force
8 two months ago and have made a few changes based
9 on working group and task force input and tonight
10 we have 12 recommendations.

11 Each of the recommendations will be
12 preceded by the issue that was raised by the
13 working group that that recommendation was trying
14 to solve. We identified a long series of issues,
15 things like creating different processes for
16 different types of applications, making bonus
17 density more predictable, clarifying the
18 relationship between public benefits and the PUD
19 flexibility.

20 On the next page, another big one was
21 establishing a clearer process for community

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 input. And as I mentioned all of the
2 recommendations that we present tonight directly
3 respond to these issues that were identified by
4 the working group in this PUD process.

5 So, I'll get right into the
6 recommendations. Just as a note if you have
7 clarifying questions as we go along, please feel
8 free to interrupt me. I think I'll just go
9 through all 12 because there's a lot of
10 interrelation between the different
11 recommendations, but please stop me if you have
12 particular questions as we go through.

13 So, the first recommendation comes from
14 a need identified to create and to find different
15 types of processes for different types of
16 applications. Right now the existing practice in
17 the city is we have one PUD process, whether I'm
18 applying for 10,000 square foot lots without any
19 bonus density, just a use change, all the way up
20 to a massive multi-acre, you know, brand new
21 development complete with a zone change. These

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 processes have the exact same set of meetings,
2 exact same requirements for submission. And in
3 our look around how other cities dealt with these
4 issues around the country, we noticed that all of
5 the other cities that we looked at had different
6 types of processes for different types of
7 applications. And our first recommendation
8 tonight is talking about doing that in D.C.

9 And as a result of the working group we
10 avoided going down the road of having way too many
11 applications but certainly found that the single
12 type of process that we have now isn't sufficient
13 for all our needs. So, our recommendation here is
14 to take the existing PUD process and divide it
15 into three processes. And I'm going to describe
16 each one of these individually, but one thing I
17 want you to keep in mind is I want you to avoid
18 thinking about these in the context of our
19 existing PUD process. None of these three will be
20 exactly like our existing PUD process. And I
21 think in order to emphasize that point we've

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 avoided calling these processes PUDs, you know.
2 For the lack of anymore creative name, we've now
3 tentatively called them Type 1, Type 2 and Type 3.

4 We hope to have better names in the future. But
5 the point is, I want you to think of these are new
6 processes as I describe them rather than PUDs as
7 we treat them now.

8 So, the first type of process that
9 we're talking about is the simplest, the least
10 review. You know, it's basically a design review
11 only process. This is for projects that don't
12 require any additional density, don't require a
13 map amendment. These are projects that will have
14 limited flexibility available to them. Some
15 flexibility in height and yards, lot occupancy,
16 how you site the building on a lot.

17 In exchange for that flexibility, the
18 developer comes through the Zoning Commission for
19 a design review. This is a process that would be
20 available anywhere in the city. Any project could
21 go through it. We'll talk about, you know, lot

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 size requirements later. But any project can go
2 through it.

3 Some areas of the city that have a
4 requirement to do this now, this process would be
5 required. Places like Capitol Gateway and H
6 Street Northeast already have a requirement for
7 design review. Those existing design review
8 requirements would be lumped into this Type 1
9 process.

10 The second type that we're talking
11 about is the middle ground. This is projects that
12 are a little bit bigger. These are processes that
13 are requesting some FAR increase or requesting a
14 minor increase in bonus density. These are not
15 map amendment cases. But they do include the same
16 design review. They can get the same dimensional
17 flexibility as a Type 1. The difference with Type
18 2 is they're requesting extra density and in
19 exchange for that density, they're providing some
20 public benefits.

21 And we'll talk a little bit in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Recommendation 2 about what is minor density and
2 what is major density.

3 So, then for the larger projects, the
4 major density increases, we're proposing a Type 3
5 process. This process also includes the design
6 review and the flexibility that's available
7 through a Type 1 but this is for projects that are
8 requesting large amounts of additional density and
9 that are requesting a PUD-related map amendment
10 basically. This is analogous to what we currently
11 do now with the PUD and a map amendment combined.

12
13 So, an applicant could request bonus
14 density above what's available through a Type 2
15 and provide public benefits commensurate with that
16 additional density.

17 Through the subsequent recommendations
18 you're going to get a lot better picture about
19 each of these and how they work and how they
20 differentiate. But this is the basic premise of
21 our recommendations tonight is creating these

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 three new processes.

2 COMMISSIONER TURNBULL: Mr. Parker,
3 before you go on could I just ask one question?

4 MR. PARKER: Absolutely.

5 COMMISSIONER TURNBULL: The Type 1, how
6 close is that to being matter-of-right?

7 MR. PARKER: Well, those projects would
8 have to follow matter-of-right FAR. One good way
9 to think about that Type 1 in terms of our current
10 system would be, this would be like creating a
11 special exception for flexibility on how you place
12 your building on your lot: Yards, lot occupancy,
13 height. Right now, the only way to get that
14 relief often is through a variance where a
15 developer has to say because of the circumstances
16 on my lot, I can't meet my side yard. This is
17 offering the city and developers a different way
18 to look at a positive test saying I could
19 technically meet my 60 percent lot occupancy but I
20 can actually make a better project if I'm at 75
21 percent and a shorter building, or if I'm higher

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 and at 40 percent. It's offering the developer to
2 being able to come in and say, D.C., I can make a
3 better project if you waive these and here's how.

4 So, it's offering design review on the part of
5 the Zoning Commission in exchange for flexibility
6 on various bulk standards.

7 COMMISSIONER TURNBULL: Okay. Thank
8 you.

9 COMMISSIONER MAY: Could I follow that,
10 I mean, while we're on this topic.

11 So, a purely theoretical example of my
12 own house where I have a one-story garage in the
13 back, right. I have a two-story house and it's an
14 R-4 neighborhood. I can't achieve the density
15 that I'm theoretically entitled to but I'd like to
16 put a second floor on the garage. And because
17 there's no minimum lot size, you're telling me I
18 can do a PUD for my house?

19 MR. PARKER: There is a minimum lot
20 size, and in low and moderate that's a subsequent
21 recommendation. We will get into that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER MAY: Okay. I thought it
2 was -- oh, it's not all residential. It's --

3 MR. PARKER: Low and moderate, you know
4 R-1 to R-4, R-5-A basically are two acres or more.

5
6 COMMISSIONER MAY: Oh, there are two
7 acres or more. Okay.

8 MR. PARKER: Yes.

9 COMMISSIONER MAY: All right. That's
10 good because I didn't want to do a PUD.

11 MR. PARKER: You didn't want to do a
12 PUD.

13 COMMISSIONER MAY: No. Thanks.

14 COMMISSIONER SCHLATER: I'll follow up
15 since we're stuck on that particular one.

16 So, you've got developers under this
17 new system having an option of whether to go the
18 BZA route or the Zoning Commission route. Are you
19 afraid this could trigger a flood of cases through
20 the Zoning Commission that normally otherwise
21 would have gone through BZA?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. PARKER: Well, I think what it's
2 doing is it's separating the BZA. The BZA is
3 still appropriate for when my site configuration
4 or my topography or some circumstance on my lot
5 makes it impossible for me to meet my standard.
6 That's the variance test.

7 This is for cases that we see all the
8 time that now have to go to the BZA that could
9 meet those standards. You know, they could design
10 a project that meets that standard. But it's
11 actually a better project if they do it in a
12 different way. And this is offering a process for
13 developers to make that case.

14 COMMISSIONER SCHLATER: I guess if you
15 feel like you can't meet the variance test or the
16 special exception test --

17 MR. PARKER: Right.

18 COMMISSIONER SCHLATER: -- you would
19 just say this gives you a third alternative which
20 is: I don't meet either of those, I'm probably
21 going to get denied by BZA. I can go to the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Zoning Commission and try to convince them I have
2 a project of special merit.

3 MR. PARKER: Well, actually, this is
4 similar to a special exception. There are not
5 special exceptions for yards and height, and lot
6 occupancy now. This is basically creating a
7 special exception except there are not particular
8 review criteria. This is design review. This is
9 saying this project will result in a better
10 design.

11 The Zoning Commission will have to find
12 this project results in a better design because
13 it's narrow and high or short and wide or, you
14 know, whatever it is that's not allowed.

15 COMMISSIONER SCHLATER: So, there's
16 less flexibility available than under the current
17 PUD process, under this Type 1?

18 MR. PARKER: Type 1 is no density
19 available.

20 COMMISSIONER SCHLATER: But all the
21 other flexibility is available?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. PARKER: Right.

2 COMMISSIONER SCHLATER: Roof structures
3 and all the other stuff.

4 MR. PARKER: Right. Correct.

5 So, going back to what we talked about
6 with Type 2 and Type 3. In our current system,
7 again, one size fits all. We have one process so
8 a PUD without a map amendment goes through the
9 exact same process as a PUD with a map; there's no
10 functional difference.

11 We're talking about with these three
12 having different levels of review. So a Type 3
13 has a stricter level of review or a more involved
14 level of review, let's say, than a Type 2. In
15 creating that, we need to define what the
16 difference is, what the distinction is. What
17 constitutes a small change in density and what
18 constitutes a large change in density. And that's
19 the basis of our Recommendation 2.

20 We took a look at the Comprehensive
21 Plan at our existing bonuses available within each

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 zone in order to try and set a common standard for
2 what could be accomplished through a PUD within a
3 zone and what would require a zone change. And
4 the basic recommendation here is that for
5 residential projects in exceeding your residential
6 matter-of-right, you could go up 20 percent above
7 your matter-of-right including IZ through this
8 Type 2 project. More than 20 percent would be a
9 Type 3.

10 For commercial projects which have a
11 lower FAR in our mixed use zones, you could
12 increase that lower FAR by 30 percent on the Type
13 2. More than 30 percent would put you to a Type
14 3.

15 So, one thing to keep in mind this
16 isn't a bridging of what people can ask for or
17 increasing what people can ask for. It's just
18 defining which process you go through: Type 2 or
19 Type 3.

20 And the way that we came up with these
21 numbers in looking at the residential, our

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 available density through a PUD process by zone is
2 incredibly variable now. It's all the way from
3 nothing to 66 percent bonus density available.
4 And when you throw IZ in there the range of
5 density available through a PUD is all the way
6 from negative to 43 percent.

7 So, what we found is that the average,
8 the mean number was around 20 percent. We further
9 then looked at the Comprehensive Plan and found
10 that within each zone increasing the density by 20
11 percent kept that zone within its land use
12 category, within its generalized land use plan
13 category.

14 So, an example was R-5-D is a medium
15 density category. Raising the R-5-D by 20 percent
16 kept that within moderate density FAR limits. So,
17 this is a number that is consistent with the
18 average available now by zone and it avoids any
19 zone going through a Type 2 process from requiring
20 a look at the Comprehensive Plan to see if it's
21 consistent because it's staying within the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 existing land use classification.

2 In terms of commercial, again, we did
3 the same analysis. The existing commercial
4 bonuses through a PUD in the current code are
5 anywhere from 122 to 40 percent. The standard
6 here was around 30 percent. And so, again, we're
7 proposing that when you develop an all-commercial
8 project and those matter-of-right FARs are much
9 lower than the residential ones, you could
10 increase that number to 30 percent through a Type
11 2. More than 30 percent would require zone change
12 to a different zone.

13 COMMISSIONER TURNBULL: When you say
14 "standard," is that a maximum?

15 MR. PARKER: That would be the maximum
16 to go through the Type 2 process, yes. And more
17 than that you'd have to change your zone.

18 So, Recommendation 3 gets back to the
19 earlier question we examined lot size
20 requirements. And one thing that we did decide to
21 do was leave the low density and moderate density

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 zones alone. Those have a two acre minimum to go
2 through a PUD now. In the future we propose a two
3 acre minimum.

4 Really only the Type 1 applies here to
5 these zones because we don't measure FAR in our 1
6 to R-4 zones, so there's no bonus density that can
7 be applied for. So, large new developments coming
8 in as R-1-A or R-3 or R-4 if they wanted to go
9 through a process, would go through the Type 1
10 process.

11 The higher level zones, the moderate
12 or the medium and high density zones and all the
13 commercial zones we're talking about keeping the
14 existing 15,000 square foot limit for what are now
15 PUDs and PUDs with map amendments. And for this
16 new process of design review, this would be
17 available and would actually quite frankly be most
18 useful on the smaller and odd-shaped lots. So,
19 this we're proposing no minimum lot size for the
20 Type 1 on them.

21 Fourth recommendation. In looking at

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 lot size criteria we saw that there was not enough
2 guidance on the criteria that the Zoning
3 Commission could look at to waive those minimum
4 lot sizes, so right now the Zoning Commission can
5 waive them by 50 percent. We propose that that
6 continue but we propose to add to your available
7 criteria for granting that 50 percent
8 redevelopment of projects consistent with small
9 area plans, government projects and compatible in-
10 fill development. So, these are things that would
11 be added to the list of things that the Zoning
12 Commission could take into account when
13 determining whether to grant a waiver from the
14 minimum lot size.

15 The next big Recommendations 5 and 6 go
16 together. And these are another major paradigm
17 shift in how we look at PUDs in the city. One
18 thing that all of our best practice cities did and
19 when we talked to other jurisdictions around the
20 country they uniformly said they all had a way for
21 the Zoning Commission to value amenities. It

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 wasn't just a throw amenities up on the board and
2 see if they stick or a peer negotiation. All the
3 cities that we looked had a list of things that
4 they wanted. They had a way to rate them. We
5 looked at three different main types of ratings:

6 A direct proportional. You get five
7 percent for doing "X" amenity. You get 10 percent
8 for doing "Y" amenity.

9 The one that we ultimately have
10 recommended is done in Minneapolis and a couple of
11 other smaller cities is a point system where the
12 city defines all of the amenities that it find
13 acceptable, that it finds rises to the level of a
14 public benefit and creates a point value for each
15 one. And developments that go through these
16 processes are required to hit a certain point
17 threshold.

18 So, our Recommendation 5 is actually to
19 codify a list of benefits. And our Recommendation
20 6 then is to put a point value on each one.

21 In terms of codifying a list of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 benefits, again, we looked at our best practice
2 cities and took a bunch of lessons from them.

3 First, benefits needs to be things that are
4 measurable and specific. They need to be things
5 that the Zoning Administrator after the fact can
6 determine this has been met or can tell on a
7 building plan whether it's been provided.

8 One thing again, uniformly across the
9 country, other jurisdictions did not take monetary
10 contributions as public benefits. And the
11 officials in other cities that we actually talked
12 to were quite shocked that we had. So, one other
13 principle would be our list would not include just
14 open contributions or monetary contributions.
15 They would actually have to result in physical or
16 measurable benefits.

17 We did put one exception on this to the
18 existing District housing for the Housing
19 Protection Trust Fund because that's part of our
20 current code.

21 And, finally, you know, as much as

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 possible our benefits should --

2 COMMISSIONER MAY: Just on that one
3 point on the monetary.

4 Are you saying that if someone says
5 that they would put \$10,000 toward a particular
6 improvement, that that would not be viable?

7 MR. PARKER: The provision of the
8 improvement is what we're looking at. So --

9 COMMISSIONER MAY: So, in other words
10 they have to provide the entire improvement or --

11 MR. PARKER: Yes.

12 COMMISSIONER MAY: -- if it's a
13 neighboring park, for example. They can't just
14 say they'd put \$10,000 toward renovating the park.
15 They'd say they'd have to renovate the park.

16 MR. PARKER: Correct.

17 COMMISSIONER MAY: So, how do we know
18 what that's worth?

19 MR. PARKER: We don't necessarily.

20 MS. STEINGASSER: But they could
21 provide something, like they'll put in the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 sprinkler system, they'll replace the sod. They
2 can narrow it down to a \$10,000 value of
3 improvement. And that's been the practice of the
4 Commission for about the last six years where you
5 want to know exactly when go out there how was
6 that money spent, that it just wasn't just left
7 with a nonprofit, without a --

8 COMMISSIONER MAY: Right.

9 MS. STEINGASSER: -- how it came
10 through.

11 COMMISSIONER MAY: Well, I mean saying
12 that they'll put \$10,000 toward something that we
13 know is going to cost more than that. Writing a
14 check is a pretty specific and measurable thing.

15
16 MS. STEINGASSER: It is, but the
17 Commission's rejected that. And I think it
18 started in about 2004 where the Commission began
19 to hear back from the communities and the ANCs
20 what happens if that park nonprofit dissolves?
21 The developer made their contribution, they've got

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 a receipt. They've check it off. They're good to
2 go. But the amenity is never provided. And the
3 Commission became quite uncomfortable with that
4 and started saying, okay. We want the inspectors
5 to be able to go out and say, there's the sod.
6 There's the park bench. There's the sprinkler
7 system. The Housing Production Trust fund is the
8 one exception that we've been making.

9 COMMISSIONER MAY: Okay.

10 MR. PARKER: And one thing that we
11 should make clear about this is first, this needs:
12 If the city goes through the process of creating a
13 list of benefits that's acceptable in PUD process,
14 this needs to be a living document. It needs to
15 be reviewed regularly, updated regularly as
16 standards change, as green building standards
17 change, as other technology changes this list
18 needs to be updated.

19 The other point we'd like to stress
20 here is that there is the opportunity certainly to
21 add to this list local priorities. ANCs could

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 come and say, you know, we want to add more points
2 for benefit X or we want to propose new benefit Y.

3 You know, this needs to be done not as part of a
4 particular PUD but as part of a text amendment to
5 update the list.

6 So, the list doesn't change on
7 particular PUDs but the list should be changing on
8 a regular basis. And we'd like to make sure that
9 it is at least reviewed every two to three years.

10
11 So, I think in the packet you saw a
12 tentative list of benefits identified by the
13 working group. We're certainly going to continue
14 to work on this. We're going to continue to work
15 on evaluation of these. But they include things
16 like: Environmental, housing, parks and
17 recreation. transportation, public art and the
18 like.

19 And, again, Recommendation 6 has to do
20 with clarifying the relative value of these
21 benefits. Putting a point total on them. Then,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 you know, once we have a relative value of each of
2 these, setting a threshold that would have to be
3 accomplished. So, a Type 2 might have to achieve
4 10 points. to just throw a number out there. A
5 Type 3 might have to achieve 20 points. And then
6 it's completely up to the developer and their
7 negotiations with ANC as to how that point total
8 is met.

9 Actually I probably will stop here. I
10 think this is a good stopping point to delve more
11 into this issue of the benefits list, if you'd
12 like.

13 CHAIRMAN HOOD: Okay. I think what
14 we're going to do, we're going to go back to the
15 first recommendation and start with 1 through 6.

16 MR. PARKER: Okay.

17 CHAIRMAN HOOD: And they go up to 6, I
18 believe.

19 MR. PARKER: Yes.

20 CHAIRMAN HOOD: Right. And what we're
21 going to do, colleagues, is we're going to put

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 eight minutes on the clock because we do want to
2 hear from the audience. So, we're going to do
3 eight minutes and then after that if we need
4 another round, then we'll put some additional
5 minutes. But let's try to stick to that eight.
6 If we need another amount, it will be a lesser
7 time. But we want to make sure we get to the
8 audience before 11:00.

9 Okay. Who would like to go first?

10 Well, maybe we're going to get there
11 quicker than I thought. Okay, Commissioner May.

12 COMMISSIONER MAY: I'm always happy to
13 go first but I like to leave people time to, you
14 know, Vice Chairman --

15 CHAIRMAN HOOD: I actually can go
16 first. I just never go first because I yield to
17 my colleagues, but if you need some more time I
18 have a few questions.

19 COMMISSIONER MAY: No. I'm happy to go
20 anytime.

21 CHAIRMAN HOOD: Okay. Go right ahead.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER MAY: Okay. The first
2 question I have is when you referred to under the
3 Type 2 as minor density, 20 and 30 percent being
4 minor density, I mean, is that just a way of
5 differentiating it from the additional density
6 that comes with a map amendment?

7 MR. PARKER: Yes. And minor may not be
8 minor on a large project. Yes, I was just trying
9 to differentiate a Type 2 from a Type 3.

10 COMMISSIONER MAY: Okay. Yes. I think
11 a better term might be, you know well you might
12 find a better term based, you know, increase of
13 density, or something. But 20 percent is not
14 minor, at least in my view.

15 MR. PARKER: Understood.

16 Can we get a chart of the existing
17 densities and bonuses? I mean, you had provided
18 the pie chart, if you will, that had --

19 MR. PARKER: It should be in the
20 report.

21 COMMISSIONER MAY: But do you have the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 numbers that go with them all? You reported the
2 range --

3 MR. PARKER: Certainly. Yes, we can
4 provide that.

5 COMMISSIONER MAY: Yes. Okay. Because
6 I would just like to see it through the zone-by-
7 zone to see what the numbers actually were.

8 MR. PARKER: Yes.

9 COMMISSIONER MAY: I mean, something
10 like that, yes. Maybe it doesn't need to be in
11 that excruciating level of detail but just getting
12 some sense of --

13 MR. PARKER: What matter-of-right is
14 and what 20 percent over that is.

15 COMMISSIONER MAY: And what the IZ
16 density is.

17 MR. PARKER: Okay.

18 COMMISSIONER MAY: And not necessarily
19 what the 20 percent is. I mean, I'm just trying
20 to get a comparison if you look at a particular
21 zone, what the current state of affairs is, what

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 it might be.

2 MR. PARKER: So, like this with the
3 numbers filled in?

4 COMMISSIONER MAY: Yes. I mean, a
5 chart.

6 MR. PARKER: Yes, yes. Understood.

7 COMMISSIONER MAY: With the actual
8 numbers, not the -- Okay.

9 I'm not totally convinced about why
10 there's not some minimum lots size even under the
11 first type of PUD. And I'm wondering, I mean
12 there are going to be some zones that are like a
13 R-5-B. You may well have individuals with single-
14 family homes coming in for PUDs in order to get
15 the things that they want. Is there a reason I
16 don't have to fear that?

17 MR. PARKER: No. Again, keep in mind,
18 these aren't PUDs. The Type 1 is not what we
19 think now as a PUD. It's basically a special
20 exception.

21 COMMISSIONER MAY: And maybe it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 actually needs to be called something different.

2 MR. PARKER: I think they all do. I
3 think we should differentiate all three of these
4 from what we now call as a PUD to avoid that
5 confusion.

6 COMMISSIONER MAY: Maybe that's a
7 recommendation is that you should come up with a
8 new terminology for the three types of -- I mean,
9 it's just doing a Type 1, Type 2, Type 3. But the
10 real reason to be concerned about this is not so
11 much what you call it, it's what's the volume of
12 work going to be? I mean, if people have the
13 option of going to the Zoning Commission with a
14 PUD just to be more creative in the development of
15 their home, that might be more attractive and it
16 might be more than we could handle workload-wise.

17
18 MS. STEINGASSER: The volume will also
19 be balanced by the filing fee. While they may get
20 more, the filing fee and the process for the
21 Zoning Commission will also be more workload

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 involved.

2 COMMISSIONER MAY: Okay. But are we
3 talking about -- I mean, for the folks who I might
4 imagine would be doing this, they're not going to
5 be building inexpensive homes.

6 MS. STEINGASSER: That's correct.

7 COMMISSIONER MAY: So, a \$10,000 filing
8 fee may be a drop in the bucket.

9 MR. PARKER: This really isn't going to
10 be a single family home issue. I mean, even in
11 the R-5-B, we'll talk more in our recommendations
12 in a month or two on the R-5, but the R-5-B in the
13 future we're imagining to be more the apartment
14 zone as it is and taking a lot of the rowhouse
15 character of the existing R-5-B, it belongs more
16 in the moderate zone classification.

17 So, this really is for apartment zones
18 and commercial zones.

19 COMMISSIONER MAY: Okay. I'm not sure
20 how to sort of solve the question. I can see it
21 being applied in that way but I'm not sure that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 it's going to necessarily work out that way. So,
2 maybe if there's another way to--

3 MS. STEINGASSER: Put some use
4 restrictions on it.

5 COMMISSIONER MAY: Yes.

6 MS. STEINGASSER: Like a single-family
7 home would not qualify under a Type 1.

8 COMMISSIONER MAY: Yes.

9 MS. STEINGASSER: They're got available
10 to them already Section 223 which is a special
11 exception with limited, very much in the same
12 range as what we're doing.

13 COMMISSIONER MAY: Right.

14 MS. STEINGASSER: So, we're
15 distinguishing between those two, and we need to
16 put some restrictions.

17 COMMISSIONER MAY: And maybe there
18 needs to be maybe the deal with -- well, maybe we
19 need to look at 223 and to see whether that's
20 allowing flexibility in the right ways too. I
21 mean, because maybe there should be other

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 flexibility.

2 Okay. This is something that was
3 brought up in one of the testimony. I'm sure
4 we'll talk about this later. But we won't talk
5 about the emphasis of the public benefits
6 benefitting these specific affected area as there
7 is now. We're supposed to be watching to make
8 sure that most of the benefit or a major portion
9 of the benefit actually accrues to the affected
10 area. And there is no mention of that in your
11 recommendations and I'm wondering why.

12 MR. PARKER: Well, yes. We
13 concentrated on flexibility, but we concentrated
14 on identifying benefits that we as a city and we
15 as a collective neighborhoods want to see. And
16 some of these like, you know, donation of ANC
17 space definitely accrued to that area.

18 Others like, you know, Silver LEED
19 score or platinum LEED score, you know, benefit
20 the city as a whole.

21 I mean, we could certainly start saying

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 this one accrues the neighborhood and this one
2 accrues to humanity as a whole. But we wanted to
3 avoid going down that path of segregating them in
4 that way. But that's certainly something we could
5 look at if you wanted to.

6 It's not how anyone has done it before.

7 COMMISSIONER MAY: But it's one of
8 those things that's very important in the current
9 PUD process, at least it's supposed to be. And if
10 going to walk away from that, I at least want to
11 understand why it's a good thing to walk away from
12 it. Because I'm not sure that it necessarily is.

13
14 MR. PARKER: Well, keep in mind we're
15 not necessarily walking away from it anymore.
16 It's not codified now. There's no codification of
17 zoning regs that says 50 percent of your amenities
18 must accrue to the surrounding property owners.
19 Amenities are now negotiation with OP and the ANC.

20 The ANC isn't cut out of this process.

21 This is a list that the Zoning Commission will

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 approve. A lot of people have input on what's on
2 this list. And then when a developer comes in,
3 we'll see in recommendation the first stop that
4 they make before they even come to file their
5 application is with the ANC. So, the local
6 neighborhood is going to have input on how this 10
7 points or 20 points is met. You know, the
8 developer is going to get the first say but --

9 COMMISSIONER MAY: All I can say is
10 that I've sat through many, many PUD hearings and
11 I've heard it from members of the community on
12 several occasions about the importance of making
13 sure that the benefit package benefits the
14 community that's impacted by the project.

15 And, you know, again if we're going to
16 approach that issue differently or say that it's
17 not quite as important or will be handled in a
18 different way, there needs to be a more specific
19 policy statement about that to address it.

20 MS. STEINGASSER: We're definitely not
21 writing the ANC out but I want to be clear.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 There's a way that PUDs have evolved and there's
2 what the regulations actually say. And right now
3 the regulations say that the public benefits
4 benefit the surrounding neighborhood or the public
5 in general. And that's what codified now in
6 Chapter 24, and so we kind of stayed with that
7 theme. Not reducing the ANC, not over-empowering.

8 Just keeping the general context of what the
9 regulations say.

10 So we haven't really delved down any
11 further as to how we would allocate which ones are
12 benefits to the public in general and which ones
13 are the ANC. We like to think that everything
14 that's of benefit to the public in general also
15 benefits the ANC.

16 COMMISSIONER MAY: Okay.

17 MS. STEINGASSER: And obviously
18 mitigation of any adverse impacts would also be
19 written into all three types.

20 COMMISSIONER MAY: All right. I know
21 my time is up. I don't view this as exclusively

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 an ANC versus the rest of the world kind of a
2 situation. And I'm just not comfortable with --

3 CHAIRMAN HOOD: Okay. Thank you.

4 Who would like to follow and go next?

5 Mr. Turnbull.

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

8 I just have a couple of questions here.

9 Mr. Parker, when you were talking about
10 when you had the chart up a little while ago for
11 ratio by zone-residential. And I thought at the
12 time and you said that the R-5-D, but even with
13 the increase it would still be in moderate
14 density.

15 MR. PARKER: Medium. R-5-D is a medium
16 density zone so --

17 COMMISSIONER TURNBULL: I guess I
18 misheard. I thought you said moderate zone.

19 MR. PARKER: No. It is a medium
20 density zone and so even with the 20 percent
21 increase through a PUD it stays within that range

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 of medium density.

2 COMMISSIONER TURNBULL: Okay. My
3 mistake.

4 On your point system, how did you
5 develop? Was this task force meetings or --

6 MR. PARKER: Well, the point system is
7 actually it came from our best practices. The
8 main example of this around the country is
9 Minneapolis has a system similar to this. We
10 looked at a bunch of different ways that cities
11 quantify their benefits and we talked with the
12 working group about the different ways. This is
13 the one that had the most resonance with the
14 working group.

15 COMMISSIONER TURNBULL: Well, you know,
16 I see one here which is park maintenance for the
17 life of the development. You want the developer
18 to --

19 MR. PARKER: If the developer has a
20 nearby park and they proffer maintenance of that
21 park --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER TURNBULL: Is that a
2 dollar amount or actually doing the work?

3 MR. PARKER: Doing the work. Again, I
4 think what we learned from how other cities
5 operate around the country is we as the Office of
6 Planning, we as the city don't get into dollar
7 amount. If the developer wants to go out there
8 and carry a shovel himself, he can do it for free.

9 So, it's about getting the work done. Doesn't
10 matter whether they spend a million dollars or
11 have his family go out and do it.

12 COMMISSIONER TURNBULL: But is the park
13 maintenance, is that a program that they set up or
14 is that a program that's given to them?

15 I mean, if you tell me to maintain that
16 park, I may go out and cut the grass and that's
17 it. But if you want me to do --

18 MR. PARKER: Right.

19 COMMISSIONER TURNBULL: -- aerating and
20 a lot of other things and get an arborist and
21 everything else, that went beyond the scope of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 what I'm thinking that I'm providing.

2 MR. PARKER: Well, DPR actually has an
3 adopted a park program.

4 COMMISSIONER TURNBULL: Okay.

5 MR. PARKER: And so it would involve
6 membership in that program and meeting the
7 requirements of that program.

8 COMMISSIONER TURNBULL: Okay. I mean,
9 I'm getting back to the thing where they're going
10 to say we're putting aside \$15,000 a year for the
11 next 20 years to maintain a park.

12 MR. PARKER: Right.

13 COMMISSIONER TURNBULL: I mean, that's
14 kind of -- I'm just trying to figure out how they
15 figure that out and how we would look at that and
16 try to --

17 MR. PARKER: I think the goal is that
18 we don't look at that. They proffer maintenance
19 of the park based on X guidelines.

20 COMMISSIONER TURNBULL: Okay.

21 MR. PARKER: And we accept that and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 whatever it ends up costing then it ends up
2 costing them.

3 COMMISSIONER TURNBULL: Now, this list
4 you have here is just your first shot out of the
5 box at this.

6 MR. PARKER: We're open to suggestion.

7 COMMISSIONER TURNBULL: Well, I didn't
8 see anything like space for a senior center or
9 something elderly in the list so far. I mean,
10 that's just one thing that's out there, or a
11 shelter, or a homeless shelter. I'm just throwing
12 that out since it's come up recently.

13 MR. PARKER: We're open to suggestions
14 from you and from the public.

15 COMMISSIONER TURNBULL: Okay.

16 Mr. Chair, I'll relinquish the mic.

17 CHAIRMAN HOOD: Thank you.

18 Anybody else have additional questions?

19

20 Vice Chairman Schlater.

21 COMMISSIONER SCHLATER: Thank you, Mr.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Chairman.

2 I guess I'll pick up where I left off
3 on this Type 1 non-PUD, whatever we're going to
4 call it, special exception.

5 Maybe the concern that I would put out
6 there is that it's going to shift the workload I
7 think significantly between BZA and the Zoning
8 Commission. In your task force meetings did you
9 talk with, I don't know, the Office of Zoning?
10 Has that been raised as an issue? Because it
11 seems like people could be shopping for
12 jurisdiction based on wherever they think they
13 might have it easier.

14 MR. PARKER: Yes. We have been talking
15 about that. And, again, there will be separate
16 tests for each. Right now people are submitting
17 for variances even if they can't meet the test
18 because that's the only option open to them and
19 it's up to the BZA to decide well, you know, this
20 is really a better product. We're trying to
21 create, you know, we've already got the negative

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 test in the BZA and the positive test in the
2 Zoning Commission. I understand what you're
3 saying that we need to try and estimate workload
4 impacts on the Zoning Commission. Absolutely.

5 I don't think the shopping around is
6 going to be a problem. Obviously, you know, OP is
7 going to get involved in all these cases and we're
8 going to make a recommendation that this should be
9 a variance or this should be a Type 1.

10 But, yes, I think in terms of the
11 workload, we need to take a look at this whole
12 issue. I think other recommendations that we're
13 making outside of this PUD process will have an
14 effect on both BZA and Zoning Commission workload
15 as well. And so I think we need to take all of
16 that into account together.

17 COMMISSIONER SCHLATER: Okay. And I'm
18 not sure I understand why there needs to
19 necessarily be a difference between -- what we're
20 really talking about, I don't have any problem
21 with categorizing the various types of PUDs. I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 think that's helpful in everybody's mind to
2 understand what the category is.

3 But what we're talking about is sending
4 them down different processes. So, I just don't
5 understand why a Type 2 and a Type 3 would need
6 different processes. Can you explain that?

7 MR. PARKER: Well, we'll get into I
8 think in some of the subsequent recommendations,
9 but the idea is that there's more involvement,
10 more review of a Type 2. Not that there's less
11 review, but Recommendation 7 we're adding, you
12 know, new community involvement. Actually to both
13 Type 2 and to Type 3.

14 So, the idea is a Type 2 is going to go
15 through a similar level of review as an existing
16 PUD. A Type 3 is actually probably going to go
17 through a little bit more than what an existing
18 PUD does now.

19 One difference I think that we'll see
20 is also, you know, what we're proposing with
21 setdown. You know, based on what we have shown

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 here if we make a prejudgment as to what about of
2 density is acceptable within your existing land
3 use category, then we don't need a prejudgment by
4 OP or the Commission on whether something is in
5 conformance with the Comp Plan. So, a Type 2 may
6 not have to go through a setdown process. That's
7 one difference that we could talk about and that
8 we propose, whereas a Type 3 definitely needs that
9 review.

10 COMMISSIONER TURNBULL: So, you're
11 saying you think in current cases where we've got
12 a PUD that doesn't have a map amendment there
13 shouldn't be --

14 MR. PARKER: Well --

15 COMMISSIONER TURNBULL: -- a setdown.

16 MR. PARKER: -- unfortunately, it
17 doesn't work that way now because we have such a
18 huge variety of how much density is available
19 without a map amendment. There's no consistency
20 right now.

21 What we're proposing is, is a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 structured system where a C-1-A zone can go up 20
2 percent, a C-2-A zone could go up 20 percent, a
3 CM-1 zones can go up 20 percent. So that if
4 you're going through this lesser Type 2 process,
5 you're limited by how much density you can request
6 and you're limited to an amount that's still
7 consistent with your land use designation.

8 If you want to go higher, you're going
9 through a more significant process, complete Comp
10 Plan review, the whole works.

11 COMMISSIONER SCHLATER: Okay. I guess
12 my point on this is that the process changes are
13 the important part, not the classification from my
14 perspective. And so it's going to be hard for any
15 of us up here to weigh in on whether this new
16 categorization is appropriate unless we know what
17 the actual process changes are going to be.

18 MR. PARKER: And that's what it's
19 about. You're absolutely right. And, yes, I'm
20 happy to go through the next six recommendations
21 as well, and we'll get more into that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER SCHLATER: I couldn't be
2 more supportive of getting rid of monetary
3 contributions. They make me feel uncomfortable
4 sometimes when they go to neighborhood groups.
5 And I understand some of them are appropriate, but
6 I think we should get out of the business of
7 directing monetary contributions. I think that's
8 a great recommendation. I think they should be
9 measurable and specific. And where we can, they
10 should last the life of the project. I think
11 those are all very good recommendations.

12 As for the point system, I think one
13 thing that might concern me a little bit about
14 that is the current PUD standard speaks to the
15 measure of relief, and that's not entirely density
16 based. That also has to do with there's a lot of
17 other relief that you can get through the zoning
18 process if you go through the BZA or the Zoning
19 Commission. And I think you're just saying that's
20 sort of a design issue and not an applied amenity
21 or benefit issue. And I'm not sure I agree with

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that.

2 MR. PARKER: I don't think we're saying
3 that's just a design issue. I think what we're
4 trying to do is quantify the value to the city of
5 design review. I think design review is a cost
6 that developers go through and it's a benefit to
7 the city when we weigh in on how buildings fit in
8 their surroundings and how they meet our standard
9 of development.

10 So, I think what we're saying is that
11 design review is a benefit that's commensurate
12 with the non-density-related relief.

13 COMMISSIONER SCHLATER: Okay.

14 MR. PARKER: And throughout Type 1, 2
15 and 3 that would be the case. And then density
16 would results in other benefits.

17 COMMISSIONER SCHLATER: I think if
18 that's the case, I think you need to look at ways
19 to improve the design review process as well.
20 It's not an imperfect tool and I don't get the
21 feeling that we're getting as much out of it as we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 could in the limited stuff that I've seen on the
2 CG overlay. It doesn't feel like the process is
3 correct. I don't see developers changing, you
4 know, coming in with an open mind on those things.

5 It's sort of a fait accompli.

6 So, we need to figure out how to
7 improve that.

8 And the last point on the point system
9 is I'm a little concerned just looking over it
10 quickly and I realize it's not a finished product,
11 but I know how I would look at this if I were
12 coming before the Zoning Commission. I would
13 pretty much try to cherry-pick those benefits that
14 are least expensive to the project. And I can
15 point out five of them on this list that I would
16 go to first in order to meet my 20 percent to get
17 to my 20 percent. So, I'm a little worried about
18 how the points are being determined.

19 I don't know if we're being asked to
20 weigh in or are going to be asked to weigh in on
21 this specific point system, but I have concerns

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 about it.

2 And the other thing is I'm not sure it
3 should be prescriptive. I think it should be
4 perhaps a guideline. Because not all cases are
5 equal. There are special circumstances and I
6 think we should have an opportunity to look at
7 these things on a case-by-case basis.

8 CHAIRMAN HOOD: Okay. Commissioner
9 Selfridge.

10 COMMISSIONER SELFRIDGE: Thank you, Mr.
11 Chairman. I just have two brief questions.

12 Would you adjust filing fees for the
13 different types?

14 MR. PARKER: I think we'd have to look
15 to the Office of Zoning on that, but likely.

16 COMMISSIONER SELFRIDGE: You'd
17 recommend that? Okay.

18 And then on the point system, is 20
19 points kind of your recommendation now or is that
20 just a plug number? What are you thinking on
21 that?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. PARKER: No. I threw out random
2 numbers. That's going to come after we have all
3 of these benefits weighted relative to each other.

4 We don't yet have a firm idea of whether these
5 numbers are right and some of them are still yet
6 to be determined. I think once we've got all the
7 benefits weighted relative to each other, we'll
8 come back when we come with tax with a proposal of
9 how many points you should achieve for a Type 2
10 and a Type 3.

11 COMMISSIONER SELFRIDGE: Is there a
12 sense that, and I guess I'm not sure this question
13 is relevant any more, but if 20 point is your
14 number, is there a sense that that's a higher
15 standard or lower standard than what's being met?

16 Is it just all over the board now or--

17 MR. PARKER: It is all over the board
18 now and we don't have a sense. We can try and get
19 a sense of that as we come forward. I mean, yes.

20 We have a lot of things that aren't quantifiable
21 now. And we're trying to go towards a system of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 quantifying things that aren't necessarily
2 quantifiable. But we can try to come up with a
3 sense of that as we move forward.

4 COMMISSIONER SELFRIDGE: Okay. Thank
5 you.

6 CHAIRMAN HOOD: Okay. Mr. Parker, on
7 page two of your report and if you haven't got
8 there yet and it's going to come up in the next
9 six, just let me know.

10 On page 2 it says "Establishing a clear
11 process for obtaining community input." When I
12 was reading this I put a question mark. What is
13 going to be the clear process? What ideas do we
14 have that we're going to have a clear cut process?

15 MR. PARKER: That's a great segue onto
16 Recommendation Number 7.

17 CHAIRMAN HOOD: Okay. But hold off.
18 I've got some other questions.

19 So, I assume the next one which I have
20 is a question mark, "Increasing the assurance that
21 projects will be built in a timely manner is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 coming up."

2 MR. PARKER: Yes.

3 CHAIRMAN HOOD: All right. Let me hold
4 off. I'll save this for the next round.

5 Let's look at Recommendation 1. And I think
6 it was referenced that recommendation -- I'm
7 sorry, Type 1, Design Review, is similar to our
8 Capitol Gateway, the way we do it now. So, that
9 would not be tied into any benefits, am I correct?
10 There's no benefits that will go along with that?

11 MR. PARKER: Not from the list. Again,
12 I think the fact there is the relief is being
13 offered in exchange for design review as a
14 benefit.

15 CHAIRMAN HOOD: Okay. Design review,
16 architecturally the innovative way. I think one
17 of the ways we might want to look at is also
18 saying, and I know there are other laws out there
19 which require certain developers to do certain
20 things, but we also need to say I think
21 architecturally and environmentally innovative.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 So, some kind of way. Right now those two words
2 are synonymous with each other. so we may want to
3 look at that.

4 I want to associate myself with some of
5 the comments of the letter we got, which is
6 Exhibit 5 from Ms. Barbara Kahlow. And I also
7 want to disassociate myself with some of her
8 comments. So, I'm letting you know up front what
9 I'm expecting when she comes with her testimony.

10 But let me ask you. The discussion
11 that Commissioner May is having about the ANC
12 space and whatnot, but I think right now there's a
13 requirement. And this also I think goes to what
14 Ms. Kahlow was talking about.

15 There's a requirement that the
16 administration, the mayor's office, is supposed to
17 have. and Mr. May may know a little more about
18 this than I do, but they are supposed to provide
19 ANCs with space if they don't have it.

20 So, I'm just trying to figure out, you
21 know, with this whole amenities package. To me,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that's already a requirement and I see it here on
2 the list. I'm not sure. I know the points are
3 not relevant, but those are some of the things
4 that we need to look at. And Case in point, I
5 know a nonprofit that wanted to fix the lights in
6 a public park. And that money could not be used
7 because there's already capital improvement money
8 already that's supposed to be out there for that.

9 I just think that we're doing our city and
10 ourselves an injustice when we are asking the
11 developers to do certain things that are already
12 in the public dollars. So, that's something I
13 think we need to balance that.

14 Now, the life of the project, I like
15 that. Well, I liked it until last Thursday. The
16 life of the project when I hearing certain things
17 only go so far. But I still like it, and I know
18 that a few people have some questions about the
19 life of the project. But for me I think when we
20 look at this, we need to balance it. And I
21 understand we're trying to take away some things

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that are associated with certain groups. But I
2 want to read from -- this is where me and Ms.
3 Kahlow I think are on the same page.

4 This is what she says on page 3: "This
5 list includes monetary contributions most of which
6 would not last the life of the project but which
7 enhance the area surrounding the project and
8 attract other positive developments." And I
9 looked at the list that was supplied back then.
10 And it says: Case in point. Six of 18 examples
11 are \$100,000 for prescription drugs for the
12 elderly at St. Mary's Court." If that's what
13 we're looking to eliminate, I mean I'm not sure,
14 but if that's what we're looking to eliminate,
15 that will I think help supplement and help out
16 with folks who really need it.

17 So, I just think we don't want to just
18 throw that all the way out the window. I think
19 that still should be an objection.

20 But now back to what Ms. Steingasser
21 was saying about the Commission in 2004. I think

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I was here. But the reason that we have, because
2 we wanted to make sure it was getting there. I
3 mean, this was being completed.

4 Now, how do we do that? I don't know
5 so that's what we're going to have to look at.
6 I'm not in agreement with just totally getting rid
7 of that.

8 MS. STEINGASSER: But what we're
9 looking at, using this as an example, would be
10 perhaps \$100,000 of prescription cards that would
11 be distributed to the residents. So, there's a
12 tangible thing that a zoning inspector could go
13 out and say "Here's a stack worth a \$100,000 of
14 prescription cards," or rather than \$50,000 for
15 the van, the van is dropped off, it's parked, the
16 title is given. That kind of thing is what we're
17 looking for.

18 CHAIRMAN HOOD: And that's kind of too
19 what we were trying to look at, making sure
20 something was getting done as you said. So, I
21 would like to just necessary get away with that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 but as you say, Ms. Steingasser, give the
2 prescription cards. There's some ball teams out
3 there. We don't want to put them in a
4 disadvantage. They get \$50,000 for equipment.
5 Other than that, they wouldn't have anything.

6 MS. STEINGASSER: Okay. Get them the
7 equipment.

8 CHAIRMAN HOOD: Give them the
9 equipment.

10 MS. STEINGASSER: Right.

11 CHAIRMAN HOOD: Okay. So, we we're o
12 target with that.

13 And I think Commissioner May was right.
14 I thought that the benefits and amenities were
15 supposed to be, and no maybe this is just how it's
16 always been said, was supposed to be immediate to
17 that immediate neighborhood. They're the ones who
18 is most affected. They're the ones that come down
19 and who have to endure whatever that we approve.
20 And I thought that's how we always have done that.

21

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. PARKER: The top two benefits that
2 the Zoning Commission has accepted over the past
3 decade have been environmentally sustainable
4 buildings and affordable housing. And those are
5 both city-wide, or even larger benefits. I mean,
6 there are often contributions or park day; there
7 are often certain benefits. But I would say as a
8 practice the Zoning Commission has accepted
9 benefits that are more broadly beneficial in
10 projects than locally beneficial.

11 That doesn't mean that they shouldn't
12 look at that issue and I think still will, but
13 just not always been the practice.

14 CHAIRMAN HOOD: Right. But I think
15 also when we had that \$100,000 that went to the
16 Housing Construction Trust Fund, we also had some
17 other benefits that went along with that to where
18 we can kind of balance that out. It wasn't just
19 everything to the Housing Construction Trust Fund.
20 Something went to that immediate neighborhood.

21 MS. STEINGASSER: There's always

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 landscape site improvements. There's usually
2 trees and sidewalk improvements and those kind of
3 things which we'll be happy to make sure that
4 those get reincorporated.

5 Remember, we're not writing regs here.
6 We're just getting your guidance on the stuff.
7 So that's certainly something we can take a look
8 at.

9 But I do want to point out OP believes
10 that affordable housing is in the best interest of
11 the public and neighborhoods. It's not at the
12 expense of.

13 CHAIRMAN HOOD: The Recommendation 5
14 where it says "Should last the life of the project
15 unless specified," I wholeheartedly agree with
16 that. We're coming closer I think than we have in
17 1998 as far as getting those kind of project
18 benefits to a community.

19 And let me ask. In Recommendation
20 Number 3. When I ask this I think I'm done.

21 Recommendation Number 3 we have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Commission to consider minimum lot size waivers
2 for additional categories or projects including
3 redevelopment consistent," and you see what it
4 says there. How is a joint effort like the
5 government and a private industry effort, how does
6 that fall into that recommendation? If you have
7 public/private?

8 MR. PARKER: That's a good question.
9 We can look into that. Do you have an example in
10 mind? I mean, something that's funded by the
11 government but managed by a private?

12 CHAIRMAN HOOD: I'm trying to remember.
13 I'm not sure. I don't want to -- but if you can
14 look into that. I want to say the Securities and
15 Exchange Commission. I'm trying to think of some
16 cases where we had something like that.

17 Haven't we had some public/private?
18 Maybe I thought it was public/private. Okay. I
19 may be wrong, but let's look into that. Just --

20 MR. PARKER: We'll clarify that.

21 CHAIRMAN HOOD: All right. Good.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 All right. Second round. How many
2 minutes, Commissioners, five minutes?

3 Let me ask the audience, how many
4 minutes do you all want us to have for the second
5 round? Let's go for five minutes and we'll go
6 from there.

7 All right. Commissioner May.

8 COMMISSIONER MAY: Okay. We didn't
9 talk about this specifically and it's not covered
10 in one of the points. But the issue of providing
11 mitigation for any of the impacts of a specific
12 PUD. I assume that that's still going to be
13 addressed and it's going to be separate from any
14 kind of benefit.

15 MR. PARKER: Yes.

16 COMMISSIONER MAY: And I think actually
17 that's been an area that's been a little too gray
18 in the past and I'm not sure how we make it more
19 explicit. But I do think that that's something
20 that we need to define very clearly or at least,
21 you know, make some statement within the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 regulations about if there's an impact, it has to
2 be mitigated and it doesn't count against your
3 benefit points.

4 MR. PARKER: Okay.

5 COMMISSIONER MAY: I'm trying to
6 decipher from my own notes.

7 You obviously did some study of PUDs
8 between 2003 and 2009 and I'm just curious about
9 if you went back and looked at those and tried to
10 divide them into Type 1, Type 2, Type 3, where
11 would they fall out? Have you done that kind of
12 analysis?

13 MR. PARKER: We divided them into map
14 amendment and non-map amendment. And I don't
15 recall off the top of my head.

16 COMMISSIONER MAY: Okay. Well, I mean,
17 if you have the information about divvying then up
18 between the three categories, I think that might
19 be a helpful piece of information if it's not too
20 difficult to obtain.

21 I think that looking at the list of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 potential benefits there are a number of areas
2 where you may actually be overlapping with
3 requirements and I think that that was brought up
4 in the case of -- well, I mean things specifically
5 about stuff like LEED requirements. I mean, LEED
6 is part of the new green building law in the
7 District and are you suggesting that if somebody
8 is simply complying with the law and gets to a
9 certain LEED level, they're also going to get
10 benefit points?

11 MR. PARKER: No. This is only for
12 exceeding requirements.

13 COMMISSIONER MAY: Above and beyond.
14 Above and beyond. And that's true in every one of
15 the benefit points if there's any other --

16 MR. PARKER: And we'll put some
17 expressive language even if it isn't clear in the
18 table that you don't get credit for meeting
19 requirements.

20 COMMISSIONER MAY: Right. Even if
21 they're not required specifically by Zoning, if

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 they're required by other law or even whether it
2 may be Federal law, for example.

3 When it comes to Adopt-A-Park Program,
4 I think that we ought to looked at the
5 possibility that the National Park Service sites
6 be included. I mean because the National Park
7 Service has so more money than the District,
8 right?

9 Now in the past actually the
10 improvements to NPS sites have been proffered as
11 benefits in PUDs. The Park Service may need to
12 take some steps to try to codify that to make it a
13 little bit friendlier. But there's certainly
14 plenty of our triangle parks and things that would
15 be ideal for adoption in some manner.

16 MR. PARKER: Okay.

17 COMMISSIONER MAY: Along those lines, I
18 think there's a flat three points for Adopt-A-Park
19 and how much effort is involved in a park?
20 Adopting a park can vary widely, depending on
21 where it is and what the use is and what the size

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 of it is and so on. So, at the very least it
2 ought to be a sliding scale kind of thing. And
3 that's probably true in a number of areas over the
4 whole list where we probably should be looking at
5 sliding scales and not just a specific amount.

6 And I think that's true, many of these
7 things could be construed as sort of a small
8 effort and get you a certain amount of points.
9 But if do the same thing on, it's just not in
10 parks where it might be a bigger area that's
11 affected or a greater cost involved. So, I think
12 the sliding scale is important.

13 And then the one thing that I have seen
14 frequently in benefit lists in the past have been
15 traffic improvements that were not specifically
16 mitigation, so traffic signals or other changes or
17 improvements and I think that those kinds of
18 things I think they mean a lot to the community
19 and ought to be considered for benefits.

20 And I concede my remaining 35 seconds.

21 CHAIRMAN HOOD: Okay. Anyone else?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Commissioner Turnbull.

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

4 I think I'd like to continue on with
5 what Mr. May was talking about. We talk about
6 mitigation, transportation demand, management
7 plans. We've even gotten into sort of
8 construction management, although we've kind of
9 been very careful about what we're asking. We've
10 been worried about the impact. We've had some
11 projects where they were going to go in and take
12 pictures of the homes to make sure that there's no
13 cracks for adjacent townhouses and all that. I
14 think that those kinds of things ought to be -- a
15 lot of times we've had them done for -- I'm trying
16 to think of -- I think we've had them done on the
17 last several ones where we've had the developer
18 has said that he would go in and either take
19 photographs of it, he monitored the site just to
20 make sure that there's nothing from what they're
21 doing, they've moved the project back a few feet.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 We've had a lot of impact results on a lot of
2 these projects when we get into it at the
3 hearings. And I think Mr. May's got a good point
4 about mitigation measures.

5 So, I don't know how you couch that
6 inside this or how you weigh that as a point
7 system. That's not readily that measurable, I
8 guess. I don't know. But it is one of those
9 intangible things of a PUD that comes out and is
10 something sought after by the neighborhood,
11 especially the residents that are right adjacent
12 to the project.

13 So, I just want to throw that out
14 there, just say that is something that I think is
15 critical in a PUD.

16 I guess the other thing is the
17 measurable aspect and who actually does the final?
18 Is the ZA responsible for going out and looking at
19 the project and seeing whether these conditions
20 have all been met?

21 MR. PARKER: I believe so. That's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 where the enforcement responsibility lies now.

2 COMMISSIONER TURNBULL: Okay.

3 MR. PARKER: And that would not change.

4

5 COMMISSIONER TURNBULL: Well, I might
6 have some more comments as we get into the next
7 part because we often talk about modifications
8 that the ZA can approve and cannot approve.

9 MR. PARKER: Okay.

10 COMMISSIONER TURNBULL: Okay. Thank
11 you.

12 CHAIRMAN HOOD: Any other? Vice
13 Chairman Schlater.

14 COMMISSIONER SCHLATER: On the point
15 system, how do you think having these various
16 amenities with points associated with them will
17 impact the interplay between the developer and the
18 ANC in terms of creating a benefits package? Is
19 the developer, do they have entire flexibility?
20 Is it a menu that they get to pick from and
21 whichever ones they want they get?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. PARKER: It is a menu. Now, as
2 you're going to see in the upcoming
3 recommendations, there's going to be a lot more
4 required interaction between the developer and the
5 ANCs. So, the ANC will certainly be able to
6 express their opinions on which ones they'd like
7 to see. But it is a menu that the developer can
8 pick from and it's ultimately Zoning Commission's
9 determination whether to approve the list that's
10 been determined.

11 I think the main benefit of this is it
12 levels the playing field. It sets a ground where,
13 you know a framework for discussion. Right now,
14 ANCs run the complete gamut of being very involved
15 and very informed to not at all involved, not at
16 all informed. And the same with developers. And,
17 you know, this puts everybody on the same playing
18 field, saying this is the menu that we're working
19 from and starts the discussion there.

20 COMMISSIONER SCHLATER: Okay. And
21 speaking of leveling the playing field, I think

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 one major problem with a point system like this is
2 that the value of density downtown is very
3 different from the value of density in the outer
4 reaches of town. So, if I'm trying to buy an FAR
5 square foot downtown, I may pay \$200 an FAR square
6 foot. If I'm trying to get a dollar of FAR square
7 footage in Ward 5, it may be less than that. It
8 may be less than \$50. So, the question is is
9 these point systems seem to value your FAR in the
10 same way.

11 So, there's two things. You're under-
12 valuing downtown FAR. And the second thing is
13 you're almost penalizing projects in developing
14 parts of the city where they have to actually
15 offer more benefits as a percentage of the value
16 of the project than you do in a downtown
17 development. And I'd rather see that relationship
18 reversed.

19 MR. PARKER: Right.

20 COMMISSIONER SCHLATER: Where you're
21 having to provide more benefits if you are in a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 part of town where you're getting much more
2 benefit out of the FAR that you're receiving.

3 So, I think there's a flaw in the
4 system and I'd like to see ways in which that can
5 be addressed.

6 MR. PARKER: I think that's fair. I
7 think one way that we tried to get that that
8 you'll see in a lot of these is one point per
9 percent of building space that you dedicate. And
10 I think that evens the playing field a bit in that
11 your percent of -- if you're giving up five
12 percent of your building downtown, that's worth
13 commensurately more than five percent of your
14 building in commerce.

15 COMMISSIONER SCHLATER: But if I'm a
16 developer working downtown, I'm going to go
17 directly to the ones that I think fulfill with a
18 fixed dollar value. I'm going to go for the
19 \$10,000 piece of art. I'm going to go for the
20 bicycle share station. I'm going to go for taking
21 care of the median. I'm going to do things that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 are discreet but I know how much they cost, and
2 you're going to be able to skirt right through
3 that. I mean, I think it's a little
4 disconcerting.

5 It's hard to come up with a point
6 system that works for all projects and it can be
7 applied equally. And I'm not saying that you guys
8 did a poor job of it, I just think it's a
9 difficult task to undertake and I'm skeptical that
10 you're ever going to get to a place where it works
11 equally for all projects across the city.

12 MR. PARKER: I hope you won't judge us
13 by that standard but by the standard of whether
14 it's better than the existing system.

15 COMMISSIONER SCHLATER: Well, I think
16 it would go to my point that I think it shouldn't
17 necessarily be prescriptive and that it may be
18 advisory so that you've got something and you say,
19 you know, the advisory list of amenities says you
20 would produce a package like this. And then we'd
21 look at other factors based on what kind of relief

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 they're getting, what part of town it's in and you
2 could make an assessment as to whether the
3 appropriate balance has been made.

4 MR. PARKER: The problem with advisory
5 is it almost never works to the advantage of the
6 city in my experience.

7 COMMISSIONER SCHLATER: Or a floor, how
8 about that, might be one way to put it. But you
9 don't want to create a system that is to the
10 detriment of your developing areas.

11 MR. PARKER: Understood.

12 COMMISSIONER SCHLATER: And it doesn't
13 capture all the value that it should.

14 COMMISSIONER TURNBULL: Mr. Chair, just
15 wondering if I could ask one question following up
16 on Mr. Schlater's. If a developer comes before us
17 with a PUD and he got his 20/30 points that he
18 needs or whatever, and we look at it as a point
19 project and we look around and we say we don't
20 like the points. No. We look at basically what
21 he said and said we don't like the way you've gone

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and picked your points. We don't like the way
2 that you fit it in with the neighborhood that
3 these 20 to 30 points that you've picked out, we
4 don't think they're appropriate. I mean, is there
5 a I've met my 20, 30 points, you have to give me
6 this.

7 MR. PARKER: No, ultimately, the
8 decision of whether to approve or not is yours.
9 Now, we're creating a system where they have to
10 meet 30 points so in some manner they have to meet
11 30 points. They could change how they meet that
12 30 points at your request. I don't think that it
13 would pass a legal test for you to require them to
14 meet 40 points when everybody else has to meet 30,
15 but--

16 COMMISSIONER TURNBULL: No, I'm just
17 saying what kind of legal battles are we going to
18 get into if we say the 30 points, you've picked
19 the low-hanging fruit.

20 MR. PARKER: Right.

21 COMMISSIONER TURNBULL: But this low-

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 hanging fruit doesn't do anything for the
2 neighborhood or for the community at large.

3 MR. PARKER: You'll definitely have
4 some discretion there. I think the crux of it is
5 getting to Mr. Schlater's point of that the onus
6 is on us, the city and the Zoning Commission, to
7 set these, you know to update them constantly to
8 make sure that we avoid the problems that he
9 raised.

10 COMMISSIONER TURNBULL: Okay. Thanks.

11 CHAIRMAN HOOD: Okay. Commissioner
12 Selfridge.

13 COMMISSIONER SELFRIDGE: Thank you, Mr.
14 Chairman.

15 I want to go back to the idea of
16 Recommendation 5, we cannot include monetary
17 contributions. I find myself agreeing with Vice
18 Chairman Schlater, but then Chairman Hood makes
19 some good points and I read through Ms. Kahlow's
20 letter. And it seems to me that everybody wants
21 to see that the funds are used or the benefits are

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 received as they were intended. But there's going
2 to be times when some of these private groups are
3 just more efficient at allocating the funds.

4 The one that jumps out at me from Ms.
5 Kahlow's letter, and perhaps she can speak to this
6 as well. Condition 8B, \$100,000 for D.C. Central
7 Kitchen which feeds the homeless and we're going
8 to go out and buy knives? You know, how do you
9 more efficiently allocate that money to what is
10 obviously a benefit to the community? MR.

11 PARKER: Well, I mean, there's always an argument
12 to be made that the private sector can do things
13 more efficiently. I think the counter argument
14 here is we have to balance between efficiency in
15 some cases and losing that benefit in other cases.

16 We've got examples in the city, multiple examples
17 of money that was never spent or wasn't spent
18 efficiently.

19 So, for every example we can find of
20 somebody that can do it efficiently we've got a
21 counter example of money that was lost or that's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 spent poorly. So, ultimately it comes down to
2 certainty and basically bricks and mortar:
3 Getting things delivered by the developer in the
4 first place and avoiding the city or the
5 neighborhood having to follow up to make sure that
6 things were spent.

7 COMMISSIONER SELFRIDGE: Yes. And I'm
8 really struggling on which way is better. I think
9 in general doing away with the monetary benefits
10 makes a lot of sense. But I can see where there
11 would be problems.

12 And then just a follow up thought on
13 Commissioner Turnbull. I mean, is it possible to
14 break these amenity categories down even farther?

15 It's like getting a license. You know, you need
16 two from category A, two from category B and maybe
17 cobbled together minimum points that way.

18 MR. PARKER: It certainly is. I think
19 it gives more flexibility to you and the developer
20 and the ANC not to do it. Yes, I mean we could
21 certainly say you have to have at least 30 percent

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 of your benefits from the environmental category
2 and at least 20 percent from some other category.

3 I think we erred on the side, and other
4 places that have done this, erred on the side of
5 flexibility both for the developer and for you to
6 say "No. In this particular neighborhood you
7 should do eight of your nine points in this
8 category."

9 COMMISSIONER SELFRIDGE: Okay.

10 CHAIRMAN HOOD: Okay. I guess anymore
11 questions? We can continue.

12 MR. PARKER: Okay. Under
13 Recommendation 7, And this gets to the Chairman's
14 question about establishing a clear process for
15 community input.

16 We had a lot of discussion about this
17 in the working group and, again, we turned to our
18 best practice cities on how do other cities
19 encourage interaction with the developer and the
20 community. And a lot of other cities this isn't
21 such a formal process. This is a lot more

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 interactive. And the best practice that we
2 ultimately turned to in this respect was Portland.

3 And we basically copied, you know, their pre-PUD
4 application process which basically it requires a
5 public meeting between the developer and the
6 affected ANC prior to filing the PUD.

7 So, a developer notifies the affected
8 ANC that they're going to file a PUD and that ANC
9 has 45 days to schedule and hold a public meeting.

10 The developer then can submit their application
11 45 days after that notification but if the ANC has
12 held a duly noticed meeting, then the developer
13 will attend that meeting.

14 OP would certainly also attend that
15 meeting as a facilitator, as a resource for both
16 the community and the developer.

17 And we proposed that this pre-
18 application process be required for both Type 2
19 and Type 3 projects. And then ultimately the
20 filing of the applicant would include copies of
21 the correspondence with the ANC and could also

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 include an ANC letter that supports or suggests
2 changes to the project.

3 The applicant could also in their
4 application identify changes that were made or
5 improvements that were made to the project based
6 on ANC input.

7 Recommendation 8 gets to the issue as
8 increasing the assurance that the project will be
9 built in a timely manner. And we talked here
10 about defining duration of PUD approvals and the
11 criteria for extension. Right now PUDs are
12 approved, have a two-year time limit. We've
13 talked for Type 2 and Type 3 we've talked about
14 retaining that existing time limit offering up to
15 two two-year extensions, and we've provided a list
16 of proposed criteria for extensions.

17 Type 1 we're talking about no limit.
18 These are again, it's basically more in the lines
19 of what we think of a special exception. So
20 there's not density being added so there's no time
21 limit and the extensions are applicable.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Recommendation 9 we got to meeting the
2 need of greater clarity to enforcement and to the
3 administration process. We talked here about
4 adding filing requirements for clarity after the
5 project is approved and clarity of enforcement by
6 the Zoning Administrator.

7 And what this would mean is two things:

8 Prior to proposed action on a PUD the
9 applicant must provide a table to the Commission
10 to the city showing the proposed benefits, the
11 number of points earned and how each the standards
12 of all the benefits are met. So, basically, you
13 know, this is after the hearing, after the Zoning
14 Commission, everyone has weighed in on which
15 points we met. This is basically ratifying that
16 agreement and showing how they'll meet that.

17 And then prior to final action,
18 providing the full documentation, a completely
19 updated set of plans based on what the Zoning
20 Commission approved which may be different from
21 what they sat down and debated. Table showing all

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the benefits and any other documents. So,
2 ultimately that way the Zoning Administrator has a
3 set of documents that were approved rather than a
4 set of documents that were amended by the Zoning
5 Commission.

6 Recommendation 10. Our identified need
7 here was improving consistency between the project
8 that was approved and the benefits that were
9 actually built. And here we talked about
10 specifically defining the process for enforcement
11 of conditions.

12 The basic rule would be that all of the
13 benefits are provided prior to the Zoning
14 Administrator issuing a C of O. There are
15 sometimes extenuating circumstances. You know,
16 weather prevents trees from being planted or
17 something along those lines. In that case if
18 there are particular benefits that haven't been
19 met at the time of the C of O, the Zoning
20 Administrator can issue a temporary C of O for 6
21 to 12 months that's conditioned on meeting those

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 remaining benefits. If those benefits aren't met
2 by the expiration of that temporary C of O, the
3 developer comes back to the Zoning Commission for
4 another hearing on changing the benefit to
5 something else, providing an equivalent benefit or
6 point value benefit.

7 So, that's the end of our
8 recommendations. This slide basically is a review
9 of the proposed process for each one.

10 As you can see the Type 1 very simple.
11 Just submit it. It goes straight to a public
12 hearing.

13 Type 2 and Type 3 both have this new
14 process of meeting with the ANC prior to filing.
15 They both then have a public hearing.

16 NCPC review only comes in where the
17 zoning changed. So the difference between Type 2
18 and Type 3 falls in two places: The setdown, need
19 for a setdown and the need for NCPC review.

20 And then both Type 2 and Type 3 have that
21 post-approval review that we just talked about

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 with the benefit review by the Zoning
2 Administrator, whereas Type 1 doesn't have
3 benefits.

4 So, I think this is a good summary of
5 the differences in process between the Type 1,
6 Type 2 and Type 3.

7 That concludes the recommendations and
8 I will take questions on the remaining one.

9 CHAIRMAN HOOD: Okay. I'm going to
10 start. I just have one question.

11 We'll do five-minute rounds, Ms.
12 Schellin, on this one. We'll do five-minute
13 rounds on this one.

14 Okay. Let's go back to the
15 notification process. In this city all the ANCs,
16 and probably one or two may be, I don't want to
17 say dysfunctional but not operating like they
18 should, when we're going to require a meeting
19 between the developer and the ANC? A lot of times
20 what we hear down here is I don't attend my ANC
21 meeting. I don't go to those meetings. I don't,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 you know, you know the story.

2 So, I guess if you're impacted and you
3 live within 200 -- any kind of way, and I know
4 what the regulations say about the ANC law and
5 everything. But is there any way in this
6 perspective in the zoning law that we can look at
7 maybe including those people who we do anyway
8 within, I think, 200 feet? That way, if you're
9 talking about a meeting and the ANC commissioner
10 lives six blocks away and the people within 200
11 feet away are right there, those are the ones who
12 are most impacted.

13 So, I think sometime we lose that. Even
14 by law we retain our requirements but we also need
15 to look at those who don't necessarily maybe
16 attend their ANC meeting.

17 MR. PARKER: Well, fortunately or
18 unfortunately, I think that responsibility is
19 going to fall on the ANC. Because if you keep in
20 mind, this interaction happens before the
21 applicant comes to the Office of Zoning, before

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 they file. So, this is a requirement that they
2 notify the ANC and that they meet.

3 So, ultimately it's going to be
4 incumbent on the ANC to notify the respective
5 people.

6 I think it makes total sense to allow
7 comment at the hearing or earlier on whether
8 affected property owners got proper notice and
9 heard. But I don't know that there's much that we
10 can do to ensure that the ANC is informing them.

11 CHAIRMAN HOOD: I think that most
12 developers -- Mr. Parker, this is where you and I
13 probably part ways. I think most developers would
14 like to know up front what kind of problems
15 they're going to have as opposed to waiting until
16 they get down here, which is a given.

17 MR. PARKER: Right.

18 CHAIRMAN HOOD: But I just think that
19 to put that on the ANCs which is a voluntary
20 group, I think that if we ask or we encourage
21 developers to do that, I think they'll do it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. PARKER: Have the developer notify
2 the 200 -- yes.

3 CHAIRMAN HOOD: 200 feet prior. When
4 they do that, and that will save them I think a
5 lot of headache or a lot of problems, or a lot of
6 the unknown when they get here. Now, they still
7 may not come down here all on the same page but at
8 least the opportunity has been made available to
9 those who don't attend those ANC meetings. So, we
10 need to find a way to do it. I don't what the
11 legal requirement and I'm not sure, but I think
12 that's something we need to look at.

13 MR. PARKER: Okay.

14 CHAIRMAN HOOD: Ms. Steingasser.

15 MS. STEINGASSER: I was just going to
16 say we could certainly encourage the developer to
17 do so and to provide some evidence to the
18 Commission that they've made some kind of outreach
19 but it cannot supplement for the required
20 notification that OZ will be sending out once the
21 application. So, hopefully there will be a double

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 bite at that apple.

2 CHAIRMAN HOOD: Okay.

3 MS. STEINGASSER: But I think we can do
4 that.

5 CHAIRMAN HOOD: And I like your words
6 "strongly encourage." Because I don't think
7 there's a law to make us do it. But I think that
8 we would know, "Hey look, this is an opportunity
9 for you to get those who may not attend those
10 meeting and get those in and it may save you some
11 time on the back end."

12 MS. STEINGASSER: And it puts the
13 developer on notice that the Commission is not
14 going to be happy coming straight in off the block
15 if they haven't reached out to the neighborhood.

16 CHAIRMAN HOOD: Right. Because it
17 makes the Commission's hearings a lot longer.
18 Okay.

19 Let's open it up. Commissioners?

20 Mr. Turnbull.

21 COMMISSIONER TURNBULL: Thank you, Mr.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Chair.

2 Mr. Parker, going back to
3 Recommendation Number 9. The second part of this.

4 This is getting back to what we are now; that
5 OAG has the best and final offer from the
6 applicant? Is this basically in that same
7 criteria?

8 MR. PARKER: Yes.

9 COMMISSIONER TURNBULL: Okay. On
10 number 10, you talk about process for a condition
11 enforcement and proposed post approval audit
12 process. You haven't really touched on
13 modifications as yet in any of this. And what you
14 talk about the ZA has the authority to issue a
15 temporary C of O if all the benefits have not been
16 provided.

17 Now, a couple of months ago I was going
18 through sua sponte, a BZA case that we had where
19 the ZA had issued a C of O for a project, for a
20 PUD, and basically put it into an escrow account.

21 And that was made reference to another escrow

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 account that had been set up at GW years before
2 for -- I'm assuming that money is still in that
3 escrow account.

4 But what was disturbing to me was that
5 when we say "the developer shall provide," "has
6 been provided," to me that means it's been done.
7 But it was meant, they said, "Well, it's in the
8 works and it's going to happen at some point."

9 Well there was a community group that
10 raised that on appeal and said this isn't
11 happening. Things aren't happening according to
12 what the amenity is in the written order was being
13 as written. But the ZA still said, no, I think it
14 is and I'm going to issue a C of O and we're going
15 to put the money in an escrow account. And the
16 appeal was that the amount of money that is there
17 does not match what was in the amenity or match
18 what's in the documents of the order.

19 And so it gets back to, I guess, 2409
20 implementation. That implementation says the ZA
21 can do four things. After that he's supposed to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 bring it back to a modification to the Zoning
2 Commission. And I'm concerned. I mean, what you
3 haven't addressed here and I'm concerned that the
4 ZA -- you know, the ZA does a fine job for what he
5 can. But I'm concerned about when he gets into
6 interpretation of the zoning order and the
7 amenities that are proffered especially with the
8 community group, that he's not -- to me a lot of
9 those things need to come back here and be
10 discussed with the Zoning Commission and whatever
11 parties were involved in setting those amenities
12 and approving it.

13 So, I'm just a little bit concerned
14 about how far the ZA can go in modifying a Zoning
15 Commission order and -- because it's going to have
16 an effect on the neighborhood.

17 MR. PARKER: I think that really gets
18 to the point of not getting into the cost of these
19 things. So, let's say our PUD proffered planting
20 10 trees in a park. Now, under the current --
21 under what you just said, the ZA could take

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 \$20,000 in escrow --

2 COMMISSIONER TURNBULL: Right.

3 MR. PARKER: -- to pay that. What
4 we're proposing is money is never an amenity. So,
5 if they proffered 10 trees in a park and the
6 weather comes and the park is under water for a
7 season, they can't plant those trees, the Zoning
8 Administrator can offer them a temporary C of O.
9 But the time that temporary C of O runs out they
10 either have to have planted those trees or come
11 back to you. There's not the option to accept
12 money in escrow. So, they can come back in and
13 say, the park --

14 COMMISSIONER TURNBULL: So, in the
15 future an escrow account is not in the picture for
16 anything?

17 MR. PARKER: Not in --

18 COMMISSIONER TURNBULL: As far as you
19 envision it now that's it work completed or work
20 that will be provided?

21 MR. PARKER: Yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER TURNBULL: Okay. Thank
2 you.

3 CHAIRMAN HOOD: Any other questions?
4 Mr. May.

5 COMMISSIONER MAY: Yes. I assume we
6 can get a copy of your PowerPoint because you've
7 got information in there that's not in our report
8 and that chart of the different -- all the yeses
9 and nos, I like that.

10 Along those lines maybe I missed it
11 when you said it, but NCPC does not have to sign
12 off on a PUD unless it is a map amendment; is that
13 what the law is now?

14 MR. PARKER: They have to sign off on
15 all map amendments.

16 COMMISSIONER MAY: That's what it is,
17 okay.

18 On Recommendation Number 8 the PUD time
19 extension summary table. Why are you suggesting
20 that there be no time limit for a Type 1? What's
21 the logic there?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. PARKER: No time limits for special
2 exceptions, variances. The Type 2 and Type 3
3 you're having a project approved that has more
4 density than would be a matter-of-right. Type 1
5 does not. It may be different configuration but
6 there's not more there than they could have gotten
7 otherwise.

8 So, the need for a sunset doesn't seem
9 as pressing.

10 COMMISSIONER MAY: But I mean there are
11 time limits on some BZA actions, right? I mean
12 are they only when they're imposed by the BZA? I
13 mean, isn't there normally a duration, you have
14 to file for a building permit if you get a
15 variance, for example?

16 MS. STEINGASSER: There's a two year
17 limitation to a building permit.

18 MR. PARKER: On variances.

19 COMMISSIONER MAY: On variances. But
20 not for special exceptions? Okay.

21 MR. PARKER: I don't know.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER MAY: Yes. I'm not sure.
2 I mean I think there are some time limits and I
3 think that, frankly, I think that there should be
4 even if there aren't. So, I think you need to
5 look more closely at that.

6 MR. PARKER: Okay.

7 MS. BUSHMAN: Can I insert something
8 here?

9 COMMISSIONER MAY: Sure.

10 MS. BUSHMAN: There is a time limit.
11 Special exceptions and variances, any case where
12 in the BZA is dealing with construction.
13 Similarly, if it's a matter of a C of O that has
14 to be reached within six months.

15 COMMISSIONER MAY: Okay. I think
16 that's about it. That's all I have.

17 CHAIRMAN HOOD: Thank you, Ms. Bushman,
18 for clarification.

19 Any other questions? Hold on. Let me
20 go to Vice Chairman Schlater and then we'll hear
21 from Director Weinbaum.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER SCHLATER: In
2 Recommendation Number 7 it says: "Require
3 applicant to document community participation."
4 What does that mean? What is that going to look
5 like?

6 MR. PARKER: Document their
7 notification to the ANC their attendance at a
8 meeting and any other correspondence that happened
9 between them and the ANC.

10 MR. COCHRAN: There is one other thing
11 which is the applicant would be required to say
12 "Here's the project I was contemplating before I
13 met with the ANC or the community groups. And
14 here are the changes that were made or not made as
15 a result of that consultation."

16 COMMISSIONER SCHLATER: Okay. I think
17 that would be helpful. It's also, it would be
18 helpful. I don't know if you can get to it but
19 and I guess this is more of the burden of the
20 ANCs. But I don't think we always get this level
21 of detail to understand what issues were raised at

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 these community meetings in terms of what were the
2 concerns that were raised, and whether they were
3 ignored or incorporated into the revised plan.

4 MR. PARKER: I think ideally, yes. The
5 ANC would then issue a letter that would be
6 submitted with the application. And if the
7 applicant doesn't submit it, it would be submitted
8 concurrently with the application that detailed
9 their issue.

10 COMMISSIONER SCHLATER: Along the lines
11 of something the Chairman raised which is just
12 proper notification. I know it doesn't belong
13 exactly here but I'm going to reiterate it. I
14 said it before.

15 I think we need to do a better job of
16 postings in terms of the visibility of the
17 posting. Sometimes they're put in windows that
18 are on private property fairly far away from the
19 sidewalk. And we just need to figure out a better
20 way for it to be exclusively clear that there's
21 going to be a hearing on some major zoning action.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 And maybe that depends on which type you're going
2 for. But I think we need to be a little bit
3 better job. I think other jurisdictions a better
4 job than we do on that.

5 On the PUD time extension,
6 Recommendation Number 8, I'm not sure I understand
7 the logic why there would be no limit on Type 1
8 time extensions. I don't see it. I think
9 projects can get stale over time and you'd want to
10 be able to review it again, not be able to pull
11 out a plan from 1982 and say all right. I'm
12 moving forward. I've got my special exception.
13 Those things need to be looked at every once in
14 awhile.

15 So, maybe it's a different time. I
16 could buy that.

17 I think on the other things I'm fully
18 in support. Could you just go to the table that
19 you included at the end of your presentation on
20 the process summary? This was not included in our
21 packet, correct?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. PARKER: It may not have been. We
2 can make this available to you.

3 COMMISSIONER SCHLATER: Just let's walk
4 through the three types. I'll try to do it
5 quickly.

6 On Type 1, it would go immediately to a
7 public hearing without setdown?

8 MR. PARKER: Yes.

9 COMMISSIONER SCHLATER: And what's the
10 logic for not having setdown?

11 MR. PARKER: Again, setdown is review
12 for consistency with Comp Plan. This is something
13 that's not changing the density. It's not
14 changing the use. It's not changing the zoning.
15 So, by it's very nature it's consistent with the
16 Comp Plan.

17 The argument is the same for the Type
18 2. These are, Commissioner May doesn't like the
19 term "minor." but these are lesser bonus increases
20 that are predetermined within a range that keeps
21 everything within its Comp Plan land use category.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 So, that's the logic behind that. We're
2 certainly open to your input on where you want a
3 setdown but --

4 COMMISSIONER SCHLATER: But you still
5 have proposed and final action or are you
6 proposing it's not really in your process --

7 MR. PARKER: I think that's a
8 procedural given, but yes.

9 MS. STEINGASSER: Type 1 would only
10 have one action.

11 COMMISSIONER SCHLATER: Okay. So
12 that's not a procedural given?

13 MR. PARKER: I guess I was wrong.

14 MS. STEINGASSER: Type 1, if you think
15 of it as a special exception; it's filed with the
16 Office of Zoning, it gets a hearing, it goes to
17 the BZA and it gets a vote. There's no referral,
18 there's no setdown and there's no final action.
19 This is mirroring that process.

20 COMMISSIONER SCHLATER: Okay. Hand
21 over.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 DIRECTOR WEINBAUM: Just for
2 clarification purposes. So, technically the
3 decision could even be made on Type 1 by the
4 Commissioners right at the end of the hearing.
5 So, it wouldn't even have any kind of meeting,
6 even a final action meeting.

7 MS. STEINGASSER: Right. Type 1 is
8 basically a type of special exception and the same
9 way the BZA can take action at the end of that
10 hearing, if the Commission chooses to keep this.
11 I'm reading between the lines that the Commission
12 might want us to look at this being a BZA type of
13 action. Okay. I'm just trying to --

14 COMMISSIONER SCHLATER: Don't read that in
15 my lines.

16 MS. STEINGASSER: Okay. I was just
17 trying to spell out all the concerns. But it
18 would be that same process that the Commission
19 could take action that night, as they can in the
20 Capitol Gateway.

21 CHAIRMAN HOOD: And if I can just tell

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 my colleagues, if we look at our Capitol Gateway
2 cases for the most part I think this would be very
3 applicable. And then one action because really if
4 I think back, most of them don't take long. I
5 probably shouldn't have said that. But most of
6 them actually those cases do not take us long. I
7 mean, 15 to 20 minutes and we're out of here.

8 COMMISSIONER MAY: Well, 30 minutes.

9 CHAIRMAN HOOD: Well, okay, 30 minutes.

10 I forgot. It depends on whether --

11 COMMISSIONER MAY: Yes.

12 CHAIRMAN HOOD: Let's open it up. I'm
13 sorry. Are you finished? Director, are you
14 finished? Okay.

15 DIRECTOR WEINBAUM: Yes.

16 COMMISSIONER SCHLATER: So, you
17 wouldn't have a setdown for a Type 2 where you're
18 getting additional density? Same logic, which is
19 Comp Plan. I find the setdowns to actually be a
20 useful step in the process and would not
21 necessarily be supportive of doing away with it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 It identifies issues before a hearing that can be
2 raised.

3 We often get this stuff cold. And it's
4 helpful to have that check in before the hearing
5 to say these are the things that concern me and so
6 that they can be vetted. I realize that that adds
7 a step in the process and we're trying to
8 streamline and be as efficient as possible. But I
9 think the setdown is helpful. Likewise, I
10 think sometimes having the two readings is helpful
11 to get additional public input as well as to have
12 changes made that we've requested. I don't know
13 if I want to do away with that.

14 And I'm not sure I buy into the fact
15 that Type 2 is that much different than Type 3. I
16 understand the different categorization, but I
17 don't know that they necessarily warrant different
18 processes. I don't even know that Type 1 warrants
19 a different process from Type 2 or Type 3,
20 honestly. Because it's not just about density, I
21 guess, would be my argument. It's about all the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 other relief that you go through.

2 CHAIRMAN HOOD: Okay. Any other
3 comments?

4 COMMISSIONER MAY: Mr. Chairman.

5 CHAIRMAN HOOD: Commissioner May.

6 COMMISSIONER MAY: Yes. Along the
7 lines of this, following on the same discussion.
8 I think it would be helpful to actually see the
9 decision, you know posted action final action
10 check off on this chart just so we see very
11 clearly the difference.

12 I'm pretty comfortable with the idea of
13 doing a Type 1 review along the lines of what
14 you're suggesting without a setdown and with a
15 single decision making. But it is a matter of
16 defining what the limits are of what flexibility
17 can be granted I think in that circumstance. And
18 I think once we've define that we would hopefully
19 get to the point where we all can be comfortable
20 with it.

21 As for Type 2. I agree with

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Commissioner Schlater that the setdown is very
2 important even for Type 2. It's our first chance
3 to see it and determine whether in fact a given
4 project is ripe for a hearing. And so I think
5 it's good to have a setdown discussion with that.

6 And then if I can just backtrack just a
7 little bit. When it comes to documenting the pre-
8 application meetings and whatever has been done,
9 I'm not really fond of the idea of getting a lot
10 more paper or a lot more documentation of sort of
11 the development of the project over time. I mean,
12 I think to some extent that may help in deciding a
13 given case, but I don't think that's something I
14 want to see every single time. I think what I do
15 want to see is some documentation of the fact that
16 it was discussed early and often with the ANC or
17 with anybody else. And so maybe there's some sort
18 of standard reporting we can get. You know, a
19 single sheet of paper that says that it was this
20 box was checked off. They had the meeting with
21 the ANC on this date. I don't really want to hear

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 every detail unless either the applicant or the
2 ANC wants to bring that to us before the hearing.

3 Because we frankly get a lot of information to
4 read and if we start getting meeting notes from,
5 the 10 ANC meetings that preceded the PUD hearing,
6 you know that's another 20 or 30 pages of material
7 that we have to read. And we've got enough to
8 read. So, anyway --

9 CHAIRMAN HOOD: Director Weinbaum.

10 DIRECTOR WEINBAUM: Yes. If it's
11 helpful if you go down that road for the office to
12 create a form that could be used for those
13 purposes, we could certainly work with the Office
14 of Planning on that point if that would kind of
15 consolidate it.

16 COMMISSIONER MAY: Yes. Something like
17 that. Simple.

18 CHAIRMAN HOOD: Okay. Any other
19 questions of the Office of Planning? Any other
20 questions? Okay.

21 I want to thank you all for your

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 presentation. Let's go to report of other
2 government agencies.

3 What I want to do is -- let's see. I
4 don't think we have any other reports. We have
5 some submissions from ANC 6A, ANC 6B and I think
6 6C is asking us to leave the record open.

7 SECRETARY SCHELLIN: Actually all three
8 of them.

9 CHAIRMAN HOOD: All three of them are
10 asking. Okay. Well, all of them are asking to
11 leave the record open, which I think we're
12 probably to do anyway.

13 Let me ask for any ANC Commission. I
14 have a list here. I'm going to call the two ANC
15 Commissioners that I -- well, the one that I have
16 here, and if we have someone else who is speaking
17 on behalf of ANC or an ANC Commissioner, if you
18 can come forward who wants to testify.

19 You know what? That person is an
20 opponent. Let me call the proponents first as
21 prescribed in the agenda.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Organizations and person in support.
2 ANC -- organizations and persons in support. Let
3 me do this. Let me call Mr. Dennis Hughes. Do we
4 have anyone else in the audience who is here in
5 support of the recommendations presented to the
6 Zoning Commission tonight?

7 SECRETARY SCHELLIN: Chairman Hood, Mr.
8 Ronneberg, do you have your laptop? If he could
9 just come to this table while Mr. Hughes is giving
10 his presentation he could go ahead and set up his
11 laptop. Because he has a small PowerPoint
12 presentation.

13 CHAIRMAN HOOD: Okay. Good.

14 SECRETARY SCHELLIN: I don't think
15 he'll disturb Mr. Hughes.

16 CHAIRMAN HOOD: Okay.

17 COMMISSIONER MAY: Mr. Chairman, could
18 I ask a question about the ANC reports? We got
19 several of them where they said that they didn't
20 receive the report in time to be able to meet and
21 talk. And was there some delay in getting the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 report out to them or did it just because of the
2 timing of it being --

3 SECRETARY SCHELLIN: It's because this
4 is a guidance hearing and so it doesn't require
5 the typical 40 day notice period. So, for a lot
6 of them, they didn't have enough time within that
7 time period. It was more like 30 days or for some
8 maybe even less. But I think it was more like 30
9 or 35.

10 Mr. Parker, do you remember how many
11 days that was? I don't recall.

12 MR. PARKER: I don't remember.

13 SECRETARY SCHELLIN: I think it was
14 more like 30.

15 CHAIRMAN HOOD: It probably put them
16 out of sequence of the --

17 SECRETARY SCHELLIN: It did. Like one
18 meets I think on the 14th or they meet tonight.
19 Yes.

20 COMMISSIONER MAY: I mean, we don't
21 have a lot more of these guidance hearings left,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 right? Do we have any?

2 MR. PARKER: Two or three.

3 COMMISSIONER MAY: Two or three.

4 MR. PARKER: Yes.

5 COMMISSIONER MAY: I would just suggest
6 that in the future they get the 45 days notice
7 because it's a lot better to have them prepared
8 and in front of us with testimony than letters
9 requesting we keep the record open.

10 CHAIRMAN HOOD: Okay. All right. Mr.
11 Hughes, you may begin.

12 MR. HUGHES: Thank you, Mr. Chair.

13 Good evening, Mr. Chair, Members of the
14 Commission. For the record, my name is Dennis
15 Hughes with the law firm of Holland & Knight.

16 Thank you for allowing me a few minutes
17 to offer comments upon the conceptual changes to
18 the PUD process proposed by the Office of
19 Planning.

20 At the outset, I'd like to offer my
21 appreciation to the Office of Planning staff that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 organized and led the numerous PUD working group
2 sessions I had the opportunity to attend. I
3 believe these sessions were quite helpful for OP
4 to hear from property owners, developers, advisory
5 neighborhood commissioners and other interested
6 District residents in terms of the larger concepts
7 in issue.

8 I also hope that the comments raised of
9 those of us zoning and land use practitioners
10 regarding certain of the peculiar mechanisms and
11 complexities of the PUD and related Zoning Map
12 amendment processes help to further the
13 conversation and to inform OP's conceptual
14 proposal before you tonight.

15 While my personal experience with the
16 processing of PUDs leads me to believe that the
17 current system adequately allows the Zoning
18 Commission to fairly balance public benefits and
19 project amenities against requested flexibility, I
20 can appreciate OP's objectives for revision to the
21 process. I therefore wish to offer my general

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 support for the concepts presented for the
2 proposed amendment to the PUD process and I
3 certainly look forward to working with OP as the
4 process continues to clarify how certain of these
5 mechanisms will function.

6 With that support in mind I'd like to
7 use my remaining short time to discuss and request
8 clarification of certain aspects of OP's proposal
9 as the Commission moves forward with its review.

10 With regard to Recommendations 1 and 6
11 in the final working group session discussions, I
12 understood that for Type 2 and Type 3 PUDs
13 involving density increases, one benefit of the
14 new process is that an applicant could determine
15 the amount of additional density necessary or
16 desirable to move forward with a particular
17 project, review a pre-established matrix of
18 benefits and amenities and make the necessary
19 calculations to arrive at the package of benefits
20 and amenities needed to achieve the desired
21 density.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 For instance, in a nonresidential PUD
2 if an applicant is determined to proceed with a 15
3 percent additional density, that applicant would
4 arrive at a package of, say, 15 points from the
5 benefit amenities list. The role the Zoning
6 Commission would play in that process largely
7 would be to verify that the proposed amenities in
8 a PUD application satisfies the elements set forth
9 in the benefits matrix.

10 In a reviewing OP's hearing report and
11 listening to testimony tonight, it appears that a
12 different process is contemplated. One where in
13 order to proceed with either a Type 2 or a Type 3
14 PUD an applicant needs to meet a threshold of
15 benefit points that equals the maximum amount,
16 i.e., 20 points for up to 20 to 30 percent
17 additional density.

18 And I would refer you to page 14 of the
19 hearing report. That's the Recommendation 6 which
20 talks about as a bullet assigning a minimum point
21 threshold for Type 2 and 3 projects.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 If I understand the current approach,
2 I'm concerned that it unfairly burdens certain
3 applicants, especially those not seeking or unable
4 to maximize density as well as developers of
5 smaller properties and does not provide the level
6 of clarity for the process that OP and the working
7 group are seeking to achieve.

8 On a related issue, I'd like to note
9 that certain projects under the proposed new
10 structure apparently may be thrown into the Type 3
11 process simply by virtue of the need for related
12 Zoning Map amendment in order to permit certain
13 uses not allowed in more restricted districts.
14 For example, moving from an R-4 to an R-5 zone to
15 allow apartment use.

16 I'd like to confirm that unless such a
17 map change also involves an increase of more than
18 20 percent additional density, it should not
19 require the most of the -- I'm going to quote this
20 from page 5 of the OP report. "Most of the
21 applicants in terms of provision of public

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 benefits and amenities."

2 With respect to the matrix of benefits
3 and amenities I appreciate that a great deal of
4 community discussion and economic analysis still
5 needs to be undertaken by OP and the working group
6 should the Commission indicate its preliminary
7 approval with the proposed system.

8 When that further study occurs I'm
9 hopeful that the list of acceptable benefits and
10 amenities will be expanded beyond the current
11 topics and continue to include such currently
12 recognized benefits as historic preservation and
13 employment and training opportunities, among
14 others.

15 Just quickly. Regarding Recommendation
16 Number 8, I believe it is, time periods for PUD
17 orders. I'd simply caution that a bright line
18 limit of two time extensions for Type 2 and 3 PUDs
19 may not be prudent, especially given that one of
20 the criteria for such extensions is existing or
21 pending litigation and such a firm limit may allow

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 a PUD to lapse while tied up in litigation.

2 And, finally, I want to confirm that
3 this process does not negatively impact those
4 Zoning Map amendments being pursued as consistent
5 with the Comprehensive Plan and the Future Land
6 Use Map. As I understand it those conforming map
7 amendment applications would not be impacted by
8 this new PUD process or rather could be processed
9 as stand-alone applications.

10 In closing, I want to again commend OP
11 for its efforts and continue to make myself
12 available as OP proceeds to answer some of these
13 details in the transition to a new program.

14 Thank you for your consideration of
15 these comments.

16 CHAIRMAN HOOD: Thank you very much,
17 Mr. Hughes.

18 Commissioners, any questions or
19 comments for Mr. Hughes? Any questions?

20 Vice Chairman Schlater.

21 COMMISSIONER SCHLATER: Mr. Hughes,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 thank you for your testimony.

2 Can you repeat your understanding on
3 conforming map amendment with respect to how that
4 would work?

5 MR. HUGHES: That a particular property
6 that is under the Future Land Use Map could be up-
7 zoned would not go through this process, it could
8 be stand-alone map amendment process.

9 COMMISSIONER SCHLATER: Oh, it would be
10 a stand-alone map amendment process, that would
11 happen before you go through the PUD process?

12 MR. HUGHES: Correct. That it could be
13 processed as a stand-alone map amendment.

14 COMMISSIONER SCHLATER: Okay. Okay.
15 Thank you.

16 CHAIRMAN HOOD: Any other questions?

17 All right. Thank you very much, Mr.
18 Hughes.

19 We're going to take about a five-minute
20 break and we'll resume in about five minutes.

21 (Whereupon, off the record from 8:28

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 p.m. to 8:31 p.m.)

2 CHAIRMAN HOOD: We're back in session.

3 And we will begin. Let me just call a few others
4 up to the table with you, but we'll start with
5 you, Commissioner Ronneberg.

6 Am I pronouncing your name right?

7 COMMISSIONER RONNEBERG: Yes, you are.

8 CHAIRMAN HOOD: Okay. These are
9 opponents. We didn't have anyone else who is
10 here in support. These are the people in
11 opposition.

12 Ms. Barbara Kahlow, West End Citizen's
13 Association, Ms. Marilyn Simon, Friendship
14 Neighborhood Association, and Ms. Alma Gates,
15 Committee of One Hundred and Ms. Laura Richards,
16 Penn Branch.

17 Let me see. Do we have anyone else who
18 is here to testify tonight? Okay. So, I think
19 everybody can fit at the table. Anyone else who
20 is here to testify tonight? Okay.

21 So, I think I have everyone at the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 table and we will actually want to start with
2 Commissioner Ronneberg, ANC-6A02.

3 MS. KAHLOW: Can I make a request
4 first, Mr. Hood?

5 CHAIRMAN HOOD: Sure. Thank you. We
6 five discussed it and we would love if we could
7 have a little flexible time. Thank you.

8 CHAIRMAN HOOD: How much time do you
9 want, Ms. Kahlow?

10 MS. KAHLOW: You know me, I'd like as
11 much as I can get. But I know I won't be able to
12 do what I want to do in five minutes. So, if you
13 could be flexible.

14 CHAIRMAN HOOD: I can tell you I
15 already knew that. Especially, just knowing some
16 of my colleagues now. When we look out, we don't
17 have 100 people in the audience we want to hear
18 from you. We want you to have time. So, we want
19 to stick with five but if you need to go over,
20 we'll work it. We're very accommodating. Don't
21 we look like five accommodating guys?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER SCHLATER: Well, we--

2 CHAIRMAN HOOD: Okay.

3 COMMISSIONER MAY: And I would also add
4 that in Ms. Kahlow's case at least we've all read
5 and studied her testimony so she can really skip
6 to the high points.

7 CHAIRMAN HOOD: All right.

8 MS. KAHLOW: I might be adding things.

9 COMMISSIONER MAY: That's fine. That's
10 what I -- rather than repeating what we've already
11 read.

12 CHAIRMAN HOOD: Okay. So, we'll work
13 with you. No problem at least.

14 All right. Commissioner, if you would
15 go ahead and get started.

16 COMMISSIONER RONNEBERG: Okay. Thank
17 you, Chairman Hood and the rest of the Zoning
18 Commission.

19 I said I was in opposition. I actually
20 like a lot of the changes that have been made to
21 the proposed PUD regulations.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 There is one, I do have one large
2 problem the Type 3 PUDs. And I want to say our
3 Commission will be voting on the recommendations
4 of our Economic Development and Zoning Committee
5 on October 14th, so you'll get an ANC
6 recommendation at that point.

7 So, just a little background. I'm sure
8 most people know. Consolidated type PUDs are
9 currently the most popular option to a developer
10 because you get more density. With the zoning
11 regulation rewrite, I think that it would become
12 even more popular because a normal PUD would not
13 have the density bonus especially in C-2-B zones.

14
15 Often these consolidated type PUDs turn
16 out larger than what was envisioned in Council
17 approved planning documents and they encourage
18 land speculation.

19 And here's the case study from Day
20 Street Northeast Neighborhood Commission --
21 Neighborhood Commercial Overlay. This is the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Capitol Place PUD just south of Senate Square,
2 just east of the SEC Building.

3 And if you go and look at the
4 regulations and overlays they say they're designed
5 to limit the maximum permitted height of new
6 buildings so as to encourage a general
7 compatibility in scale between new buildings and
8 older buildings.

9 And if you look at what got put in
10 place, this is the only example we can find where
11 you had a C-3-C zone that was created through the
12 map amendment on the same square as R-4 zoning.
13 So, you see something that looks very
14 incompatible.

15 So how did this 6 to 8 story building
16 become a 10 story building? Well, it all comes
17 from the H Street Overlay which had an essential
18 compromise that the western end of the corridor
19 would be up-zoned in exchange for restricting
20 inappropriate uses, encouraging neighborhood scale
21 buildings and historically compatible

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 architecture.

2 And the plan called for this site to
3 have a development of a mid-rise six to eight
4 story building. Unfortunately, the plan was
5 ignored and a C-3-C map amendment was approved as
6 part of this PUD.

7 This kind of gives you a sense of, we
8 call it, the density creep at the site. As
9 originally purchased by the developer is 190,000
10 square feet, the overlay up-zoning increases to
11 230,000. With the PUD without a map amendment, it
12 was at 333,000 and with the map amendment it go tn
13 extra 70,000.

14 And so how did this happen? Well, in
15 negotiations with the developer, what essentially
16 happened was they valued the land not at what the
17 zoning was but at what other developers got for
18 their projects. So, they looked across the street
19 what they got, which they actually owned too the
20 SEC Building, and they said "Oh, they got 5.9 FAR
21 there. How about at Senate Square they got 5.3

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 FAR over there. We should get something similar."

2 So, we don't care what the zoning is, we'll get
3 it through a map amendment.

4 So the question is, is it the city's
5 responsibility to make this land speculation
6 profitable? It should be inherently risky but if
7 we give them the density that they expected to get
8 based on projects around it, then it's making a
9 speculative thing a sure thing.

10 So, how could this be changed to make
11 it better? I think for city-wide we have in the
12 regulations now a two-stage PUD process that no
13 one utilizes. Everything comes through as a
14 consolidated PUD. And for these I think it would
15 be useful to go back to that process where in
16 stage 1 you'd have to show that the proposed map
17 amendment is consistent with the City Council
18 approved plans and you'd have to justify the need
19 for the additional density. And then you'd go on
20 to stage 2 where they design the building and so
21 on.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 And within neighborhood commercial
2 overlays, I don't think Type 3 PUDs should be
3 permitted at all because it goes against the
4 spirit of keeping the neighborhood scale. And as
5 far as potential restrictions in other zones I'll
6 leave that for you to contemplation.

7 Thank you, and that's the end of my
8 presentation.

9 CHAIRMAN HOOD: Thank you very much.

10 Why don't we just hear from everybody
11 and then we'll ask questions. Okay.

12 Okay. We'll go with you, Ms. Kahlow.

13 MS. KAHLOW: Thank you.

14 I, Barbara Kahlow, submitted my
15 testimony in advance at the request of the Office
16 of Zoning. Because it was lengthy, I am testifying
17 today on behalf of the West End Citizen's
18 Association, the oldest citizens organization,
19 Foggy Bottom/West End, the areas primarily
20 interested in maintaining and improving the
21 quality of life for the existing residential

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 community in Foggy Bottom/West End.

2 I spent 25 years at the Office of
3 Management and Budget primarily involved in
4 regulatory policy development. After that I
5 served 7 years in Congress, retiring as a staff
6 director of the only subcommittee work committee
7 in Congress devoted to the regulatory process and
8 policy.

9 I've been recognized as an expert
10 witness in regulatory processes and it is from
11 that prospective that I want to discuss the
12 process the Office of Planning has invoked for the
13 rewriting the zoning regulations.

14 Since 1991 I have been involved in over
15 a dozen PUDs in D.C. and I think I am unique in
16 that respect having more experience than I think
17 any of your other witnesses today or otherwise.

18 I want to start by saying that I've
19 never been in a process with less respect, less
20 respect for public comments. And that partially
21 explains why you have only four or five public

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 witnesses today and why you did on the height and
2 all the others.

3 It started out with a lot of people and
4 the Office of Planning was pushing what it wanted,
5 didn't pay any attention to our recommendations.
6 I would like to take a Q&A at the end, Mr. May,
7 where I can explain some of the other ideas that
8 were put forth on PUDs but were rejected and not
9 mentioned in any of your stuff.

10 What you've got is the Office of
11 Planning's plan, not what the community actually
12 is in favor of.

13 And with respect to the PUDs one, the
14 two major issues we raised were not in any of your
15 materials. One is omnibus PUDs which is a brand
16 new animal, for lack of a better term, that was
17 used in the G.W. Campus plan for 20 noncontiguous
18 squares to basically get around the requirements
19 of the FAR cap for universities. They promised
20 Office of Planning that they would deal with it in
21 the university group in the Office of Planning,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and the PUD group never happened. It's not going
2 to be addressed. It needs to be addressed because
3 other universities are looking at it now.

4 Second and more important than
5 anything, law trumped regulations. Old
6 regulations and new regulations. Today's
7 discussion showed no understanding that law
8 trumps. The City Council entered the field when
9 it first said for Ward 2 and then city-wide that a
10 substantial part of the amenities need to benefit
11 the immediately impacted community. That's not
12 discretionary. That's the law. And "substantial"
13 of anybody's definition with common sense should
14 be over 50 percent.

15 So, you need to go back to what Mr. May
16 was asking and others, which is what does the
17 immediate community want. And I provided lots of
18 examples of what we were able to get for our
19 community such as elderly people, and I will go
20 through some of that.

21 Now, vis-à-vis the PUD recommendations

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in front of you. Recommendation 2, we're opposed
2 to the standard 30 percent density increase for
3 nonresidential FAR.

4 For Recommendation 5, that's the most
5 important one. There are three kinds of things:

6 Benefits, which are for the public at
7 large;

8 Amenities that immediately impact the
9 community, and;

10 Mitigation for things that are actually
11 going to hurt the community directly.

12 The proposal in front of you is only
13 about the first. And, in fact, some of those
14 public benefits, as many of you pointed out today,
15 are already law. And even if they put it a little
16 bit above, it's still not going to do it. The
17 main purpose of the PUD is to provide amenities
18 to the immediate impacted community and
19 mitigation. There's nothing in this document that
20 describes either of those. That's the process we
21 need to think about, what will work and what will

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 work better. Because I agree, some ANCs, some
2 communities are more sophisticated than others.
3 But we need to have something. There is such a
4 huge impact when you have a PUD on the immediate
5 community especially if they're little townhouses.

6 So, I went through and I listed a
7 document I prepared at the request of NCPC on some
8 examples of what amenities are. They wanted to
9 understand what a PUD was all about and what are
10 the amenities. So, I gave you some examples which
11 required money. Some didn't require money like
12 retail. And when you say for the life of the
13 project, what happens when the retailer goes broke
14 or when a developer goes broke and he wants to
15 supposedly take care of a park?

16 You know, this isn't going to work this
17 life of the project business. What we have to do
18 is come up with things that actually will work and
19 where there is a need.

20 Recommendations 9 and 10. We've been
21 extremely dissatisfied with the performance of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Zoning Administrator and we would like the Office
2 of Zoning, which is much more competent, to
3 actually assume responsibility for PUDs in terms
4 of what amenities have been delivered, in
5 auditing, etcetera.

6 And as for if there should be
7 penalties, we think there should be penalties and
8 we aren't sure exactly sure who should access
9 them, but there should be penalties for not giving
10 the amenities that were promised. And they would
11 include things like fines, daily fines.

12 As for pulling a C of O, what happens
13 if people have already moved into the project? I
14 mean, that sort of doesn't make a lot of sense.
15 But we have to be creative thinking about
16 penalties will make this process work better.

17 Now, to give an example, I used one
18 other example besides the big 2 of things we
19 talked about that were really important to our
20 community. And that was, what about other
21 agencies providing their reports? When we had

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 this omnibus PUD we desperately needed the
2 Department of Transportation to tell us what the
3 effect was on all of the streets. They never did.

4 We weren't able -- they submitted some things.
5 We couldn't cross examine them. We say hold up
6 the process until the rest of the city that is
7 where it is essential fills their obligations.

8 Another one we need the fire department
9 to be involved. We need to have that.

10 I have six other examples of
11 substantive issues like that that were raised in
12 the various meetings that were ignored in the
13 Office of Planning, and I would like you to ask me
14 about that in your questions.

15 The bottom line, however, is we request
16 that you ask the Office of Planning to go back to
17 the drawing board and to deal with the major
18 issues at hand of what PUDs are all about in terms
19 of benefits and mitigation and that they should
20 submit a revised proposal which more fully
21 reflects the public comments and comments

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 expressed tonight.

2 Thank you.

3 CHAIRMAN HOOD: Okay. Thank you very
4 much, Ms. Kahlow.

5 Ms. Simon.

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

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

14 Homeowners rely on the protections
15 provided by the zoning regulations when they
16 choose to live and invest in our neighborhoods.
17 Zoning regulations provide homeowners with
18 predictability about the development that would be
19 allowed in their neighborhood and in the zones
20 near their neighborhood.

21 This critical function of our zoning

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 regulations is primary if we are to improve our
2 regulations for PUDs.

3 Some of the recommendations that you
4 heard tonight remove the predictability about
5 near-by development on which D.C.'s homeowners
6 depend, reduce community input and fail to assure
7 that these projects will be consistent with the
8 Comprehensive Plan.

9 I'll outline these issues and more
10 information is available in my testimony.

11 On item number 7. The efforts to
12 revise the pre-hearing process are a step in the
13 right direction, but there are several additional
14 measures that are necessary for the Zoning
15 Commission to benefit from having some issues
16 resolved prior to the hearing and to benefit from
17 well-prepared presentations at the hearing on all
18 the relevant issues.

19 First, the Zoning Commission should
20 have access to input from the community prior to
21 the setdown meeting. This should not be limited

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to the applicants or OP's summary of the community
2 concerns. They should read the comments of the
3 ANC, community organizations and individuals prior
4 to the setdown meeting.

5 In the past this was possible and based
6 on those comments, the Zoning Commission provided
7 the applicant with guidance for preparing the pre-
8 hearing submission. There's an example in my
9 written testimony.

10 In addition, in order to encourage
11 parties to prepare informative presentations, the
12 Zoning Commission should determine party status
13 prior to the first hearing night. It's difficult
14 for neighborhood organizations to invest the time
15 and resources necessary to prepare a thorough
16 evaluation of the issues if they are not certain
17 that they will be allowed to make their
18 presentation.

19 A good presentation requires hiring
20 expert witnesses. It involves hundreds of hours
21 of volunteer time and it's difficult to be able to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 do this without certainty about being able to use
2 all this work.

3 On Recommendation 2, OP recommends a
4 set percentage bonus density available across
5 zones. This appears to be based upon a desire for
6 simplicity rather than any analysis as to what
7 bonus density might be appropriate for PUDs in any
8 of the zones.

9 OP's claim that having different
10 percentages in different zones provides
11 significant uncertainty about the intent of the
12 development that can occur with a PUD; obviously,
13 this is incorrect. Even without consistent
14 percentages there's a simple table in the zoning
15 regulations that lists the maximum height and
16 density for each zone. In fact, the current
17 uncertainty about the intensity of the development
18 that can occur with a PUD, arises from allowing
19 associated map amendments and not from the
20 difference in percentage bonus density.

21 OP's proposal for a bonus density for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 PUDs above inclusionary zoning is excessive. In
2 approving inclusionary zoning, the Zoning
3 Commission provided a 20 percent bonus density
4 with an associated public benefit of new
5 affordable housing spread throughout the city. IZ
6 allowed the increase in density and required a
7 specific public benefit in exchange: The
8 provision of affordable units. This preempted a
9 portion of the increase in density that might be
10 consistent with the Comprehensive Plan and
11 appropriate for the area and it mandated the
12 specific benefit rather than the menu of benefits
13 that would be provided as part of the PUD process.

14 So, the PUD process should only be used
15 for that additional density that might be
16 appropriate and not for a fixed amount above what
17 has already been designated to provide incentives
18 to increase the supply of affordable housing.

19 Further, it is clear that the bonus
20 density proposed is inconsistent with the
21 Comprehensive Plan. For example, it would allow a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 floor area ratio of 3.5 in a C-2-A zone which it's
2 listed in the Comprehensive Plan as one of the
3 categories that can be designated for low density
4 commercial.

5 On Recommendation 1, OP proposes
6 dividing PUD applications into three categories
7 with three separate processes. While there is
8 some merit to having separate processes, we have
9 concerns about OP's specific recommendations for
10 each type.

11 For example, for PUDS that do not
12 involve an increase in density, OP proposes an
13 extremely streamlined process that minimizes pre-
14 hearing interaction, public notice and public
15 input. Their analysis seems to describe the
16 process as simply design review and downplays the
17 importance of height, lot occupancy, side and rear
18 yards in the zoning regulations provide light and
19 air and the impact of that dimensional flexibility
20 on neighboring properties.

21 For PUDs that do not involved the map

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 amendment OP suggested eliminating a setdown
2 meeting is appropriate. As noted below, the bonus
3 density that OP provides is excessive and in some
4 zones would be inconsistent with the associated
5 category and the Future Land Use Map.

6 In addition, there are many other
7 factors in the Comp Plan that need to be
8 considered before setdown to establish if the
9 application is appropriate for hearing.

10 For example, near a regional center
11 there is a phrase, a policy that requires that the
12 development be appropriate to the scale and the
13 function of the adjoining neighborhood. That is
14 not included in the simple little charts that you
15 have seen tonight.

16 OP lists a third category, PUDs with
17 project specific rezoning. In the working group,
18 the majority of participants stated that we should
19 not even be considering associated map amendments
20 with PUDs. Including associated map amendments in
21 the PUD process destroys any predictability that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 the homeowners have had about neighboring
2 development. Rather than adhering to the limits
3 of bonus height and density contemplated for PUDs,
4 the applicant simply picks the zone which provides
5 him with a heightened density that he desires.

6 My written comments have points about
7 the remaining several issues.

8 Thank you very much.

9 CHAIRMAN HOOD: Thank you, Ms. Simon,
10 and we may ask you questions on that back page
11 that you didn't finish, but thank you.

12 Okay. Ms Gates.

13 MS. GATES: Good evening, members of
14 the Commission. I am Alma Gates representing the
15 Committee of One Hundred, a group that has
16 advocated on behalf of intelligent and smart
17 planning and land use in Washington, D.C., since
18 it's founding in 1923.

19 The Committee of One Hundred's
20 testimony was drafted by Laura Richards and me.
21 Both of us are members of the Zoning Review Task

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Force and participated in the work groups on
2 Planned Unit Developments.

3 On April 9th, 2009, the Commission was
4 asked to provide guidance on the proposed changes
5 for low to moderate density residential zones. At
6 that hearing, concern was expressed regarding
7 changes that would permit matter-of-right
8 development, density and use in the height and lot
9 occupancy beyond what currently is allowed.

10 Tonight the Commission is asked to
11 provide guidance on conceptual changes regarding
12 PUDs. The timing of this particular chapter seems
13 out of sequence and would be more logically
14 considered by the Commission after high density
15 residential and commercial chapters have been
16 reviewed because the Commissioners already
17 endorsed major changes in residential area
18 requirements that will allow additional density,
19 making it difficult to conceive of a need for
20 further zoning relief or bonus densities that
21 wouldn't inappropriately alter the character of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 neighborhoods.

2 At a minimum, PUD bonus density should
3 be calculated without consideration of the bonus
4 density. Calculating PUD density on top of IZ
5 density unnecessarily multiplies the affect of the
6 IZ bonus.

7 The working group meeting notes contain
8 this proposal from a participant who expressed a
9 view joined by a number of participants. IZ is
10 already giving bonus density in exchange for
11 benefits. Should we be adding on top of these
12 levels?

13 Additional density should be on top of
14 base zones, not on top of IZ. What about 20
15 percent or IZ amount, whichever is higher. The
16 Committee of One Hundred believes this suggestion
17 has merit and urges the Commission to adopt it.

18 Skipping ahead.

19 The Committee of One Hundred notes that
20 the working group discussed without resolution
21 whether a fourth PUD tier was needed to deal with

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 very large sites such as St. Elizabeths, the
2 McMillan site and Poplar Point.

3 These sites allow the development of
4 traditional cohesive neighborhood PUDs rather than
5 the significantly smaller PUDs that prevail in the
6 District. The Committee of One Hundred asks the
7 Zoning Commission to consider whether proposed
8 Type 3 PUDS are sufficient for very large sites.

9 OP proposes to retain the existing
10 provisions for lot size waiver which allows a PUD
11 as small as 7,500 square feet. Waivers would be
12 available for a wide range of uses including
13 development consistent with an approved small area
14 plan, in-fill development and government projects.

15
16 The broad availability of waivers
17 creates the very uncertainty that the
18 recommendations are supposed to address. Waivers
19 should be rejected.

20 I might note that 7,500 square feet is
21 what is required in an R-1-A zone district for a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 lot.

2 The R-5-B problem. Currently PUDs in
3 R-5-B residential districts are limited to one
4 acre or 43,560 square feet. Under the proposed
5 PUD regulations, the B-5 District would have the
6 same standards as applied to the higher density
7 zones. 15,00 square feet or about one-third of
8 what was previously required for development
9 depending on the amount and types of public
10 benefits provided.

11 OP notes that the R-5-B zones offers
12 significant development potential, even beyond
13 what is now permitted as a matter-of-right for
14 residential development under current inclusionary
15 zoning allowance.

16 Setting a new matter-of-right density
17 allowance under the PUD regulation might well
18 encourage more PUDs in the R-5-B district as a
19 developer could realize significantly more profit
20 while the community is faced with considerably
21 more density.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 At the first work group meeting a list
2 of PUD issues was identified, and I've attached
3 those. Probably the most consistent theme across
4 the six meetings was the need for greater public
5 participation throughout the PUD review process.
6 Considerable discussion took place on returning to
7 a previous practice which allowed input to the
8 Zoning Commission prior to the setdown hearings.
9 It was felt this would provide ANCs with greater
10 involvement in the PUD process.

11 More inconsistent design review was
12 also cited as important by the work group and was
13 an area cited by the task force as needing more
14 consideration and discussion.

15 A review of the issues list may
16 encourage the Commission to postpone any decision
17 on this chapter until more comprehensive
18 consideration is given to all aspects of PUDs.

19 Public benefits have proven a prickly
20 issue in PUD's negotiations. The preliminary list
21 drawn up by the Office of Planning appears to be a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 means of acquiring expanded public services
2 through the zoning process. This is a slippery
3 slope and one the Zoning Commission should
4 consider carefully being mindful not to set in
5 place benefits that encourage District agencies to
6 support development projects that would result in
7 budget savings to that agency.

8 Required improvements associated with a
9 particular development that are the responsibility
10 of the applicant should not segue into the
11 benefits column.

12 Also giving developers points for best
13 practices seems to encourage less than best
14 practices for non-PUD developments. As a starting
15 point the District should be requiring best
16 practices for every development project. The
17 manner in which the benefits list is presented
18 appears to remove choice from the community and
19 place it in the hands of the developer.

20 In any event, points should be awarded
21 only for benefits to the general public for the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 immediately surrounding neighborhood and no points
2 should be awarded by amenities that affect only
3 the project. That apparently is the intent of the
4 recommendations, but clarification is needed.

5 The Committee of One Hundred finds
6 merit in OP's recommendations that benefits must
7 be measurable and specific, cannot include
8 monetary contributions except to District Housing
9 Funds and should last for the life of the project
10 unless otherwise specified. These recommendations
11 enjoyed nearly unanimous support from working
12 group participants. We also support the provision
13 of the temporary Certificate of Occupancy until
14 proper benefits or equivalent substitutes are
15 delivered.

16 The Committee of One Hundred urges that
17 the Zoning Commission provide draft and guidance
18 to OP that no points can be awarded for project
19 features that are inherent to the project or that
20 an owner/developer is required to provide by
21 standards or regulations imposed outside the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 zoning regulations.

2 The Committee of One hundred urges, in
3 addition, that any regulations adopted require an
4 owner/developer to demonstrate with specificity
5 the ratio of the monetary value of proffered
6 public benefits to the added value of the bonus
7 density and that the regulations require benefits
8 of not less than 10 percent of the added value.

9 A few specific recommendations are
10 noted. The Committee of One hundred agrees with
11 the significant number of working group
12 participants who have opposed donating ANC office
13 space as a potential benefit because of the
14 inherent conflict of interest this poses, given
15 ANC's mandatory party status and the great weight
16 accorded to its views.

17 I'm going to skip to the end now to
18 design review, and Mr. Schlater you spoke to
19 this.

20 The extensive reliance on design review
21 requires the development of published standards or

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 benchmarks. Again, OP sought to create
2 predictability but design review without
3 articulated standards risks decisions premised on
4 principle, the principle of: I don't know much
5 about art but I know what I like.

6 Thank you for the opportunity to
7 comment.

8 CHAIRMAN HOOD: Thank you very much.

9 Ms. Richards.

10 MS. RICHARDS: Good evening. I'm
11 appearing on behalf of the Penn Branch Citizens
12 Civic Association in Ward 7. So, appreciate the
13 opportunity to give comments.

14 On public benefits we support the
15 concept of the proposed point system, especially
16 the recommendations for measurable, specific
17 benefits, inclusion of monetary contributions and
18 benefits that last the life of the project.

19 We also support the recommended
20 temporary Certificate of Occupancy pending
21 delivery of promised benefits. However, we ask

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 the Zoning Commission to radically increase either
2 the number of points necessary to get the
3 requested zoning relief or else to insist that
4 communities and the public get substantially more
5 bang for the point than OP proposes in its
6 suggested list.

7 We also object to the inclusion on the
8 list of supposedly public benefits that are, in
9 fact, project amenities. For instance, points can
10 be awarded if a project gives residents free
11 membership in a car-sharing program. That is not
12 even a project amenity. It is a person subsidy to
13 individuals that some many view as taxable income.

14 Points for bike racks are superfluous
15 given the number of DDOT initiatives and mandates
16 promoting this. A large rack was recently
17 installed at the Penn Branch Shopping Center and
18 numerous other racks now dot Southeast.

19 Other listed items are insultingly low.
20 It is well documented that John Rockefeller
21 passed out dimes as tips and souvenirs. That

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 practice has been revised in OP's list. One point
2 for ten square feet of garden space in exchange
3 for 1,000 square feet of building space. Two
4 points for Silver LEED certification, nothing for
5 senior citizens. And I'm in that group now so I
6 have a personal and vested interest in it.

7 We ask the Zoning Commission to direct
8 OP to provide a point system that provides points
9 only for benefits to the general public or the
10 immediately surrounding neighborhood and expressly
11 prohibits points for amenities that affect only
12 the projects, requires the monetary value of
13 benefits points to be equal to 20 percent of the
14 lifetime value of the bonus density. We're poor
15 over in Ward 7 so we have to ask for a little bit
16 more than the Committee of One Hundred.

17 And finally, we want to prohibit points
18 for development elements that are required by
19 building codes, insurance standards, other
20 regulations or that are the norm for a particular
21 type of project. For instance, no points should

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 be awarded for landscaping a Class A office
2 building or high income condominiums.

3 One of the major problems with the
4 existing PUD system is the arbitrary and uneven
5 allocation of community benefits. Some
6 communities do well, others are humiliatingly
7 short-changed. The suggested list would solve
8 that problem by treating neighborhoods of all PUDs
9 equally poorly. Penn Branch urges the Commission
10 to require benefits commensurate with the relief
11 granted.

12 The proposed list perpetuates the
13 existing de facto policy that PUDs are matter-of-
14 right and that in most cases a few crumbs are
15 distributed to provide a fig leaf of compliance
16 with the rules.

17 Minimum lot size. Penn Branch was very
18 disappointed that OP recommended no increase in
19 minimum PUD lot sizes. I think that at the
20 beginning of this process, people thought everyone
21 agrees the PUD process is flawed. And the big

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 things people thought was, well, maybe we'll get
2 like real PUDs that are several acres. You know,
3 and maybe we'll fix the benefits, and those were
4 key and neither one of them happened.

5 Community groups generally expected
6 that that would be increased. OPs 2007 PUD study
7 acknowledges that the District's small PUD lot
8 size, 15,000 square foot, is unique. The two acre
9 lot size for Type 1 PUDs in low density zones
10 should be adopted as the city-wide standard. At a
11 minimum, the one acre lot formally applicable to
12 the R-5-B should be adopted outside low moderate
13 density zones.

14 We strongly object to dropping the
15 minimum for R-5-B and we object also to the
16 flexible standard for Type 1 PUDs that are located
17 outside the low mod residential zones.

18 We cannot understand why an initiative
19 that announced as a principle goal that increase
20 of transparency and trust has turned instead to a
21 discretionary zoning regime, it's executed behind

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 closed doors. The recommendations by the
2 principles underpinning the Zucker Report, Paul
3 Zucker openly advocated combining planning and
4 zoning functions and replacing the public
5 adjudicatory process with informal discretion.
6 The Council never adopted the Zucker Report but it
7 would appear that OP intends to foist it upon the
8 District by self-produced recommendations.

9 TOD and PUDs. The recommendations do
10 not preserve the 2006 Comp Plan's provisions for a
11 case-by-case determination as to whether areas
12 surrounding a Metro Station is suitable for TOD
13 development. TOD and PUDs are integrally related.

14 PUDs are the primary tool for implementing TOD
15 principles and PUD applicants often invoke TOD as
16 the basis for their proposal being granted.

17 The Comp Plan nevertheless provides
18 that every site potentially designated for TOD
19 must be individually evaluated before being
20 developed in this manner. The recommendations
21 assume that a PUD proposal that invokes TOD

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 principles is self justifying without the need for
2 further scrutiny or any consideration being given
3 to neighborhood conformity. This is an especially
4 alarming aspect of the recommendations in light of
5 OP's proposed Comp Plan amendment presented to the
6 Council.

7 As this Commission is aware, OP
8 proposes to designate major bus routes and all
9 streetcar stations as TOD eligible sites.
10 Moreover, OP's oral testimony before the Council
11 stated that this change which is to be affected
12 through a glossary redestination did not require
13 Council approval, i.e., OP could speak it into
14 being. Such a major change without the benefit of
15 case-by-case scrutiny operates to up-zone the
16 entire city. In this light, Penn Branch feels it
17 is imperative that the Zoning Commission require
18 regulations that preserve case-by-case review.

19 Other issues. We now believe in IZ
20 bonus density plus PUD bonus density, one or the
21 other. And we're pretty emphatic about that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Proposed Type 1 PUDs are special
2 exceptions and should be treated as such. As
3 proposed they are totally exempt from adverse
4 impact review. That's just not, you know, fair.

5 Design review standards should be
6 adopted and published with public and expert
7 input.

8 Thank you.

9 I have also submitted the written
10 testimony of Single Member District Representative
11 Robert Richards, 7B07. The testimony advocates
12 the retention of negotiated payments to community
13 groups and it cites a number of reasons why the
14 writer feels that these are valuable, community
15 choice being the primary one.

16 The testimony of Mr. Richards also
17 advocates strong enforcement tools, including the
18 right for third parties to bring law suits to
19 enforce and the payment of penalties.

20 Thank you very much.

21 CHAIRMAN HOOD: Okay. I want to thank

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 you all for your testimony.

2 And I'm going to start very briefly and
3 ask questions. This first question could really
4 be a yes or no answer. I know you probably going
5 to say don't ask me to say yes or no. But I'll
6 tell you, Commissioner Ronneberg said that he was
7 supportive on some of the measures that were
8 presented. And I heard where we have some issues
9 or some difficulty supporting it. But is there
10 anything -- you don't have to get specific. You
11 can just yes or no. Is there anything in this
12 recommendation by the Office of Planning that we
13 do support?

14 Let me start with you, Ms. Kahlow, and
15 come on right down the line.

16 MS. KAHLOW: Very little.

17 CHAIRMAN HOOD: I can take that.
18 Wasn't yes or no, but very little. I'll take
19 that.

20 Ms. Simon.

21 MS. SIMON: Yes, there were several

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 although there were some where we felt that they
2 either didn't go far enough or went too far.

3 CHAIRMAN HOOD: Ms. Gates.

4 MS. GATES: Some, yes.

5 CHAIRMAN HOOD: Okay.

6 Ms. Richards.

7 MS. RICHARDS: Some, yes and they are
8 stated in testimony.

9 CHAIRMAN HOOD: You know, one of the
10 things that Ms. Kahlow mentioned was about
11 consensus and about -- I think you mentioned, Ms.
12 Kahlow, the reason why nobody here is because
13 basically OP is pushing it and doing their own
14 thing. That has actually come up at our
15 confirmation -- so many things there up. But, no,
16 that has actually come up at our oversight
17 hearings with Chairman Gray awhile back. And we
18 tweaked and made changes.

19 And let me just say that one of the
20 things that was mentioned to me at another hearing
21 was that the reason we didn't -- I think it was

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 height. The reason we didn't have so many people
2 here was because through all the work groups and
3 the task force they were building more of a
4 consensus. Is that an accurate statement?

5 MS. KAHLOW: No.

6 CHAIRMAN HOOD: Okay.

7 MS. KAHLOW: I assume you want one
8 word.

9 CHAIRMAN HOOD: Yes. Yes, okay. Well,
10 I mean, not you all. I was talking about the
11 others. The reason the others weren't here is
12 because they were kind of going along or agreeable
13 to what the Office of Planning's recommending.

14 MS. KAHLOW: I can just say with
15 respect to this and others, we as a community, a
16 variety of people across the city have gotten
17 together and expressed frustration with this
18 process. And we all know each other pretty well
19 right now because we've all been in the same room
20 talking about this and, hey, thank goodness you
21 took it away, all the dangerous stuff out of that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 height line so then we didn't have to testify
2 here. The dangerous stuff was in it.

3 CHAIRMAN HOOD: Okay. Ms. Kahlow, I
4 guess personally you and I are just going to
5 disagree about this life of the project. Maybe we
6 just have a different understanding but I guess
7 we're just going to disagree.

8 But let me just say this about the task
9 force. When I was there the few meetings that I
10 came to the folks who attended, the whole
11 participants of the task force, I strongly don't
12 believe that the Office of Planning can push any
13 of them away. I think it would be the other way
14 around. So that's just my belief. I may be
15 wrong. But we have some folks in there who are
16 very convicted to the process. They will not let
17 the Office of Planning -- now somebody may tell me
18 they're discouraged. But to move them away;
19 they wanted to have another bite of the apple and
20 they were coming either to the oversight hearing,
21 Office of Planning.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I don't know, Ms. Gates, you're
2 disagreeing with me?

3 MS. GATES: Yes, I do. We're down to
4 about five or six people now on a regular basis.
5 It's very discouraging. It's very discouraging
6 because the process is moving so quickly and not
7 only is it moving, the Comprehensive Plan
8 amendments were heard by Council last week. So,
9 we have I think a very serious situation that will
10 have huge impacts in terms of change on this city
11 and the involvement continues to diminish. It may
12 be a time commitment.

13 It may be just being overwhelmed with
14 facts and work. But I think the Office of
15 Planning would agree the numbers have been really
16 down. And as someone who has been there, it's
17 really hard because you don't have anybody, you
18 know, to sound off against so to speak, to compare
19 notes with.

20 CHAIRMAN HOOD: Okay. I did not know
21 it got down to five or six.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MS. GATES: And I want to say one more
2 thing if I might about ANCs. Having been an ANC
3 commissioner and having been before, not the
4 Zoning Commission so much but the BZA on a monthly
5 basis when I was the Chair, I'm very discouraged
6 with the amount of training ANCs are getting. So
7 they don't come because they don't know what
8 they're supposed to do. They don't know how to
9 put together a case. They don't know the purpose
10 of the zoning really. And I'm hoping that after
11 this election in November we will see a change
12 there and you will see more ANCs in front of you.

13 CHAIRMAN HOOD: Let me just say
14 something on this, Ms. Gates.

15 We've already talked to the Director,
16 the new Director of the Office of Zoning. I think
17 you're going to see that, kind of like what we
18 used to do with the ANCs. We just actually had
19 that discussion this week or last week. I think
20 that rest assured and even with the new
21 administration, we've already started that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 discussion. I think you're going to see that
2 where, you know, everybody -- the ANCs are welcome
3 to come down. The Office of Zoning's office is
4 going to do a presentation to present. I think
5 we're getting ready to go back to that. So --

6 MS. GATES: Thank you.

7 CHAIRMAN HOOD: -- just hold tight.

8 MS. GATES: Thank you.

9 CHAIRMAN HOOD: The party status at
10 setdown. That was discussed and I'm trying to
11 think of when that was discussed. But that was
12 something that has been tossed around for awhile.

13 And I can't remember where we left off but maybe,
14 Mr. Parker, you can help me?

15 Where did we mention that previously?
16 Does anybody remember? But I know it was
17 mentioned, I just don't know how long ago.

18 MS. STEINGASSER: I think it's been
19 discussed in many forums. The BZA has had similar
20 issues of trying to offer some kind of equity to
21 the neighborhoods who are taking off work and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 using their vacation time and having to pay an
2 attorney to come and sit through only to find the
3 other cases have overflowed or they're not getting
4 party status. So, they have to come fully
5 prepared.

6 I don't know if there was a legal issue
7 with why it couldn't be done. I know there will
8 always still be appeal. Even if it were decided
9 weeks in advance, it could still be appealed at
10 the hearing and the applicants and the party
11 status would still have to represent themselves.

12 Perhaps the Office of Zoning could
13 weigh in a little bit.

14 SECRETARY SCHELLIN: It would be
15 difficult to do it at the time of setdown because
16 at the time of setdown there's no notice sent out.

17 So, therefore, there's no notice. So the only
18 people who would be notified or would be on notice
19 would be those who happen to be in the know.

20 The time the notice is sent out is when
21 the public hearing notice is sent out.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: But apparently from
2 what the testimony, this was a process or practice
3 that was done prior. But I just don't remember
4 it. It must have been done some years ago.

5 MS. SIMON: Yes.

6 MS. STEINGASSER: Well, I think there's
7 two issues being discussed. There's the party
8 status at setdown and there's the ability of the
9 ANCs to weigh in, thus opening a written record at
10 setdown. And OAG's been very clear that the
11 written record should not be open until the
12 setdown has happened. And so that's why that
13 ceased.

14 CHAIRMAN HOOD: Okay. And I think, Ms.
15 Kahlow, you're talking about party status at
16 setdown?

17 MS. KAHLOW: Actually --

18 MS. SIMON: I raised two issues.

19 CHAIRMAN HOOD: Oh, was that you? I'm
20 sorry?

21 MS. SIMON: Yes. In the past the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Zoning Commission did read letters from the public
2 prior to the setdown meeting and it informed
3 discussion, and it was very useful.

4 The other issue is that in order to
5 prepare in our presentation a community group has
6 to make a substantial investment. We usually hire
7 a traffic expert. We hire a lawyer, sometimes a
8 land use expert. We spend our nights and weekends
9 and take vacation days to prepare the case. And
10 this is all to provide you with the best possible
11 information that you can use to evaluate the
12 project. And it's a very difficult commitment to
13 make when you don't know in advance that you'll
14 actually be able to use it.

15 I don't think that it's ever been the
16 case in my recollection that you actually
17 determined party status prior to the setdown. You
18 usually would have a pretty good idea.
19 Particularly, a very long-standing community
20 organization might know. But in some
21 neighborhoods there aren't long-standing community

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 organizations. And when people see the danger of
2 an inappropriate PUD in their neighborhood, they
3 get together and they are less certain that
4 they'll get party status.

5 So, I don't know if an additional
6 meeting is necessary, whether it could be done on
7 paper or mostly on paper. But something to
8 relieve the uncertainty so people can feel
9 comfortable making that investment.

10 MS. KAHLOW: I want to give one example
11 of the first of these which was input pre-setdown.

12 Everybody knows the Blackie's parking lot which
13 is now the Ritz in the West End. The first time
14 it came to the Zoning Commission it was for 25
15 percent residential. We wrote various community
16 groups without the ANC, though, it didn't matter,
17 said that's ridiculous. Should be a minimum of 50
18 percent. You rejected it based on that.

19 Came back at 33 percent. You rejected
20 it. No setdown at 33 percent. Finally, came back
21 at 51 percent. You set it down. They ended up

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 not building it, they ended up building the Ritz.

2 But it was the input from the communities that
3 showed you what was going on, and that was how I
4 got persuaded to send you the stuff today in
5 advance.

6 And it's the two points that Marilyn
7 made, one about the setdown. We all feel that
8 there's got to be an opportunity for us to help
9 you to be able to sort through the issues pre-
10 setdown.

11 And vis-à-vis the party status, I don't
12 think we have the answer. We all know that we
13 have to submit our letter 14 days in advance. So,
14 you have 14 days to look at it. There should be
15 some way that you can tell us before we hire all
16 these people. And I don't know what it should be
17 other than Marilyn's right.

18 CHAIRMAN HOOD: Okay. Let's --

19 COMMISSIONER RONNEBERG: Chairman, I'd
20 like to address that point.

21 In the case I mentioned, that case

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 actually took place in a neighboring ANC and we're
2 ANC-6A. And I'd made a huge personal investment
3 in time and requested party status because we
4 wanted to submit exhibits and all the things a
5 party does. And we were denied party status
6 without even -- and the rationale would be, we
7 both share one overlay together and that's what
8 makes our ANC unique from any others.

9 And we didn't get party status even
10 without any hearing or testimony. Even a minute
11 of hearing or testimony. So, it was a very
12 frustrating experience.

13 CHAIRMAN HOOD: Were you able to
14 present your case?

15 COMMISSIONER RONNEBERG: In the three
16 minutes.

17 CHAIRMAN HOOD: And we didn't give you
18 no additional time?

19 COMMISSIONER RONNEBERG: No.

20 COMMISSIONER MAY: Mr. Chairman, can I
21 ask a question? I'm not sure we answered this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 issue before. But I'm trying to understand OAG's
2 issue with when a record begins. Does that happen
3 when something is setdown?

4 SECRETARY SCHELLIN: Correct.
5 Technically, it's not a case until you guys set it
6 down, but we do create a record because otherwise
7 where would we put anything? But technically,
8 there's no file.

9 COMMISSIONER MAY: Okay. and that's
10 the basis for advising against accepting any
11 information into the record is that there is no
12 record at that point?

13 SECRETARY SCHELLIN: Correct. There
14 really is no record.

15 COMMISSIONER MAY: Okay. And the
16 setdown report that OP produces becomes part of
17 the record, does it not?

18 SECRETARY SCHELLIN: It does.

19 COMMISSIONER MAY: Okay. So, if we're
20 establishing procedures now by which contact with
21 ANC is mandated in advance of something coming

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 before us, it seems that we could also mandate
2 that there be a submission of an ANC report or
3 something like that to the Office of Planning that
4 would be included in the setdown report. Right?

5 SECRETARY SCHELLIN: Correct.

6 COMMISSIONER MAY: So, that way there's
7 no sort of interpretation by OP or interpretation
8 by the applicant or anything like that. It's
9 simply OP including an attachment.

10 SECRETARY SCHELLIN: Or you could allow
11 the ANC to weigh in. It's up to you.

12 COMMISSIONER MAY: Yes.

13 SECRETARY SCHELLIN: Or make it part of
14 OP's report, however you want to do it.

15 COMMISSIONER MAY: Okay.

16 MS. KAHLOW: Mr. May, can I say though
17 that it should not just be the ANCs. The civil
18 associations often spend the monies since they're
19 the ones that can sue and they often have much
20 more detailed information that should be
21 available.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER MAY: Okay. Well, I'm not
2 sure what to do about that.

3 And when it comes to the process for
4 determining parties, I mean it seems to me that
5 given that we are now regularly holding meetings
6 every two weeks, it seems like we could build in a
7 process whereby party status applications for
8 upcoming hearings are heard on a regular basis and
9 that just becomes part of the agenda at regular
10 meetings, you know.

11 CHAIRMAN HOOD: You know, I just can't
12 remember the discussion. We discussed this some
13 years ago at length. And I just can't remember
14 why --

15 COMMISSIONER MAY: We discussed it very
16 recently in the context of the consent calendar,
17 for lack of a better term, for BZA.

18 CHAIRMAN HOOD: But we also discussed
19 it at length at one time for the Zoning
20 Commission.

21 SECRETARY SCHELLIN: it would work for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 most hearings but not all because not every month
2 do we have two hearings -- do we have two meetings
3 like October, December.

4 COMMISSIONER MAY: But you can schedule
5 things. Once something is setdown, you can
6 schedule when the meeting would be, when party
7 status applications would be taken up.

8 SECRETARY SCHELLIN: You can't
9 necessarily do it at setdown because the hearing
10 is not scheduled at that time because of --

11 COMMISSIONER MAY: But I don't mean at
12 the hearing. I mean once something has been
13 setdown, the next step is to set a hearing.
14 Right?

15 SECRETARY SCHELLIN: Right, which is we
16 wait until the applicant files a pre-hearing
17 statement.

18 COMMISSIONER MAY: Okay. So --

19 SECRETARY SCHELLIN: So it's not on us.

20 COMMISSIONER MAY: All right. So, once
21 they file the pre-hearing statement, then we can

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 establish a date for both a meeting to take up --

2 SECRETARY SCHELLIN: Yes.

3 COMMISSIONER MAY: -- party status
4 applications and a hearing.

5 SECRETARY SCHELLIN: Correct.

6 COMMISSIONER MAY: Yes. Okay.

7 CHAIRMAN HOOD: So, that's something we
8 can look at. Maybe we'll look at Wednesday. No,
9 I'm just joking.

10 Last thing. I think a lot of good
11 points. I'm going to go to my colleagues, but I
12 think I've gotten to see a lot of points like
13 pitting the agency against agency for those
14 dollars. I think a lot of good points have been
15 brought up by all of you.

16 But let me just say this to you,
17 Commissioner. You know, I know this may not be
18 beneficial to you, but I want to apologize about
19 giving you just three minutes.

20 Typically, I don't normally do that.
21 Especially, if it's an ANC Commissioner. Even

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 though you were in another area, you might not
2 have got -- I don't apologize for not giving party
3 status because you might have been a mile away or
4 something, I don't know. But, you know, not to
5 give you more than three minutes and you're an ANC
6 Commissioner, I don't know what the case was. Was
7 I Chairing? I just want to know was I Chairing
8 that hearing?

9 COMMISSIONER RONNEBERG: I don't want
10 to rat you out but you were.

11 CHAIRMAN HOOD: And I only gave you
12 three minutes?

13 COMMISSIONER RONNEBERG: Possibly five.
14 I may be --

15 CHAIRMAN HOOD: Okay. Now, that's the
16 difference. Oh, remember now, you're on the
17 record. Because I know Anthony Hood and Anthony
18 Hood doesn't usually do that.

19 Now five minutes, and you got to
20 remember when you got your back turned to the
21 audience, so anyway.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 And let me ask this. Ms. Bushman, from
2 a legal perspective, can the City Council legislate
3 zoning?

4 MS. BUSHMAN: No, it cannot.

5 CHAIRMAN HOOD: And somebody said the
6 law. We are under the Home Rule Charter.
7 Actually get in trouble for every time I mention
8 it that the City Council cannot legislate zoning
9 with some Councilmembers. But that has been what
10 I've been advised of, it cannot legislate zoning.

11 And that goes to something, I think, Ms. Kahlow
12 had mentioned.

13 Okay. Let me open it up to my
14 colleagues. Did you have something?

15 MS. RICHARDS: Oh, I just wanted to
16 comment that I think Ms. Kahlow's point went to
17 the Comp Plan.

18 MS. KAHLOW: Yes, it did not go.

19 CHAIRMAN HOOD: Okay.

20 MS. KAHLOW: It was legalized --

21 CHAIRMAN HOOD: Okay. You know, I'm

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 definitely not going to question your expertise.

2 Okay.

3 Let me open it up for any comments.

4 Mr. May.

5 COMMISSIONER MAY: Yes. I don't have
6 so much questions for the panel. But I was
7 interested in hearing the Office of Planning
8 respond to some of the issues that were raised.
9 And, in particular, Ms. Kahlow's issue with regard
10 to the omnibus PUDs, the G.W. case. And also the
11 issue of benefits to the affected community. And
12 then also Ms. Simon's statement with regard to C-
13 2-A FAR jumping all the way up to 3.5 in your
14 proposed scheme.

15 And then I'm not sure who made the
16 statement, but the statement about lot size
17 minimums or our minimum lot size of 15,000 being
18 exceptionally low compared to other cities.

19 So, if you can answer on any of those
20 now or later. Now, if you can do it.

21 MR. PARKER: Yes. I can talk about a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 few of those.

2 Ms. Kahlow and I have had several
3 discussions on omnibus PUDs. The issue is
4 adjacency of property. The zoning regulations say
5 that a PUD can be multiple properties that are
6 adjacent, but it allows for crossing alleys and
7 streets.

8 The issue with G.W. was that there was
9 a large swath of area. All of those properties
10 were adjacent in that they crossed alleys and
11 streets. The issue raised by Ms. Kahlow is that
12 there were also properties not owned by G.W. that
13 were within this area.

14 I think the judgment was at the time
15 that this didn't affect the adjacency of these
16 parcels. There have been multiple other examples
17 of donut PUDs like Capper/Carrollsborg in
18 Southeast. There were nearly 20 properties
19 unowned by that development that were within that
20 larger PUD. And other examples of the same thing.

21 So, I think that we have a disagreement

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 about what adjacency is. I think I agree with her
2 point that unadjacent properties in two different
3 parts, you know separated by other properties
4 should not be. We disagree that G.W. falls into
5 that category.

6 To the second point of benefits
7 occurring to the community. I just did a count
8 while we were sitting here. There are 25 possible
9 benefits on our proposed list and, based on my
10 estimation of what benefits the local community, I
11 counted 16 of those. So about two thirds of the
12 ones on our list I would judge to have a benefit
13 to the surrounding community.

14 So, even though that there is a chance
15 that a developer could pick most of their benefits
16 off the other thirds, we are providing a system
17 where the majority of benefits identified, the
18 majority of benefits available have some benefit
19 to the surrounding community. And I think that
20 setting up parameters saying 50 percent or two
21 thirds of every project must fall within these

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 takes flexibility away from the Zoning Commission
2 and even the neighborhood who may have a desire
3 for an environmental building or something that
4 has a broader impact.

5 And Mr. Cochran --

6 MR. COCHRAN: We imagine that it would
7 also be possible for a neighborhood, an ANC,
8 specific group to propose certain neighborhood-
9 specific amenities that could then be rank
10 ordered, valued with the same point system as long
11 as it's approved by you all, the Zoning
12 Commission.

13 We've tried to do some of that in the
14 past when we've talked to particular neighborhoods
15 and asked them to informally give us a list of
16 what they would consider amenities, benefits that
17 they would like to see PUD applicants proffer for
18 the neighborhood. But we, unfortunately, have
19 been met with a fair amount of resistance on that
20 in the past.

21 MR. PARKER: Yes. I think Mr. Cochran

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 brings up a great point that -- I lost my train of
2 thought.

3 Yes. That we expect to and plan to
4 amend the list regularly. That, again, is a
5 living document. We want to have ANC
6 contributions. We want to have regular updates to
7 this list to keep the benefits local.

8 The other issues that you -- yes. Lot
9 size. We'll look at our best practice cities to
10 see what minimum lot sizes are available.

11 Okay. Yes. Well, yes. I won't go
12 there. But we'll provide input.

13 MS. STEINGASSER: One of the things
14 I'll add just for context on minimum lot size is
15 we're a confined and historic city. And because
16 of the L'Enfant plan we have a lot of odd-shaped
17 lots and we have a lot of historic landmark
18 structures. And part of what we were trying to do
19 is to allow either through the Type 1 or the Type
20 2 the redevelopment or re-adaptive reuse of those
21 sites. And having an overly large suburban scale

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 PUD standard makes it impossible to get those
2 things back in view. So, that was one of the
3 angles we were trying to figure out.

4 COMMISSIONER MAY: My question was
5 solely limited to the idea that whether this
6 really is that exceptional. Because we're
7 certainly not the only city that's old and
8 historic and confined. We're confined in one way
9 that other cities are not. So, but I mean that's
10 basic question and you answered.

11 MS. STEINGASSER: And we have a
12 distribution that we can bring in and show you.

13 COMMISSIONER MAY: Okay. Then the last
14 question I have which is sort of the overall tone
15 of this that I'd like the Office of Planning to
16 respond a little is this notion that over the
17 course of the various meetings with the working
18 groups, the specific concerns of neighbors are
19 being either ignored or beaten down by the
20 process. And to hear statements like that is kind
21 of discouraging because after the first couple of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 chapters when we received text, edited text, I was
2 actually quite encouraged that the process seemed
3 to be going very well because we went from highly
4 attended, somewhat contentious discussions on
5 certain issues to relatively straightforward
6 hearings on specific text. Now granted it took a
7 couple of years between, you know, from one to the
8 other and I don't know when this one is going to
9 come back with actual text. But I thought that
10 the process was probably going reasonable well.
11 To have it suggested that, in fact, no,
12 neighborhoods are being routinely ignored it's
13 kind of disheartening.

14 I can understand if you get to a point
15 where you listen to them and you simply came down
16 a different way, I would hope with some support
17 that goes beyond simply your office. But I get
18 the sense that people who we rely on to come and
19 give us honest testimony and criticism all the
20 time that their views would be listened to and
21 taken very seriously and addressed.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. PARKER: I think you hit on two
2 important things there. First, you know, when we
3 had the first height guidance hearing back in 2008
4 there were a lot of people that came and said we
5 aren't happy. We haven't been heard. By the time
6 we got to the text last month we were in a better
7 place. And I think that this is the very first
8 time that you have seen anything about PUDs. In
9 another year when we see text, we may or may not
10 be in a better place, but I think we'll be closer.

11 The other thing is we hear from the
12 working group and the task force a variety of
13 opinions. There was no consensus on the working
14 group about one right way to go. There was no
15 consensus on the task force about one way to go.

16 We hear a lot of opinions. We take a
17 lot of opinions into account. We try to find the
18 best response that solves the problems that were
19 identified, that's respectful of the city's
20 existing practices and other constraints that
21 adopts the best practices. So, we take everything

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that we hear into account, certainly. We don't
2 always agree with it. We don't always adopt it.

3 I mean, tonight we heard just on the
4 one issue of the -- I lost my -- but anyway. On
5 several different issues we've heard several
6 different opinions from opponents. So, you see
7 the position that we're in. We certainly hear the
8 input and we weigh it the best we can.

9 COMMISSIONER MAY: I would agree. We
10 didn't hear unanimity on all the issues. But I
11 was interested in the sort of general theme about
12 what attention your paying to the views that are
13 being expressed.

14 I think one of the sort of general
15 theme that I would note that seem to be something
16 of a common thread is this concern about the
17 layering on of bonus density under a PUD with IZ
18 and the interaction between those and what that
19 does to the resulting zone. And how big that
20 makes things, makes projects within those
21 neighborhoods. And I think we need to understand

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that better.

2 I'm not saying that you're proposing is
3 wrong but clearly some people think that it's too
4 much. So somehow we need to understand that
5 better before we're able to make ultimately
6 decisions about that.

7 MR. PARKER: Well, I think the thing to
8 keep in mind here is that we're talking in this
9 process about discretionary projects. And making
10 a judgment about whether density is wrong or
11 right, in terms of PUDs is in your hands. Right?
12 I mean, if we're going --

13 COMMISSIONER MAY: We tend to operate
14 much better with some strict guidelines.

15 MR. PARKER: I'm sure you do. But if
16 we are setting new IZ guidelines at 40 percent,
17 we'd have to be a lot more firm about this 40
18 percent is appropriate in every neighborhood that
19 it's being applied. We're setting a standard.
20 All we're doing is setting a standard for whether
21 you're going to go through Type 2 process or Type

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 3 process.

2 Someone can apply now under the current
3 rules, someone can apply under the future rules
4 for 100 percent bonus density. It's ultimately
5 down to the Commission to decide whether that's
6 appropriate in the neighborhood and the
7 surrounding.

8 All that we've done with our 20 and 30
9 percent is define the process to go through.

10 Does that make sense?

11 COMMISSIONER MAY: Well, I guess in
12 theory, but I'm not sure that really is -- that's
13 it's really. I think I want to see those charts
14 that we talked about before and I think I need to
15 understand better just how the IZ provisions work
16 or how they will work in conjunction with this.

17 CHAIRMAN HOOD: Okay. Any other
18 questions or comments for this panel?

19 COMMISSIONER TURNBULL: I just have one
20 comment. I would echo what Commissioner May has
21 said. I think and what's disheartening to the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 people who on the panel is that I think without
2 charts and tables, I think there's this fear of
3 what these numbers really are. What's this
4 quantity of this additional zoning and the impact
5 on the neighborhood?

6 It sounds like a very fearsome number
7 that we're allowing developers to go to. And I
8 think that's sort of our uncertainty too is that,
9 you know, we need a little more explanation. We
10 need a little bit more guidance as to how this --
11 where these numbers are really going.

12 MR. COCHRAN: Commissioner, if I could
13 mention it?

14 The approximate numbers can be
15 ascertained in those charts given on the Y axis.
16 Those numbers are there. But we'll certainly be
17 following up on that.

18 One of the reasons that we proposed the
19 density increase was our concern that with only
20 two, possibly three zones giving enough bonus
21 density after IZ to permit of a PUD, we were very

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 concerned that that would encourage every PUD
2 applicant to come in and ask for a zone change
3 which would then give them even more possibility
4 for a density increase.

5 So, what we were looking for was
6 something that would comport with the
7 classifications in the Comprehensive Plan on what
8 types of land use categories fit with what types
9 of FAR that wouldn't go beyond that, but that
10 would still give enough of a possibility of a
11 density increase for PUD to not make it necessary
12 for a developer to go and ask for a new zone.
13 Because we had a range from 7 to 43 percent on the
14 bonus density in the residential zones.

15 So, we did try to average that out at
16 20 percent and accomplish --

17 COMMISSIONER TURNBULL: I think in
18 theory, you know, it is a way to go. I think what
19 you're hearing from the panel is that there's a
20 lot of uncertainty as to whether, you know, if
21 they really -- it sounds forbidding. It sounds

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 like there's more to this than -- it sounds like
2 you're trying to slip something over on them.

3 MR. COCHRAN: In terms of that I would
4 invite you to go to the zoning review website.
5 Summaries of each of the working group meetings,
6 each of the task force meetings are on that
7 website. So, you can judge for yourself whether
8 we have listened to or not listened to the people
9 who came to those meetings.

10 COMMISSIONER TURNBULL: There was one
11 comment made and I forget who made it about the
12 bus routes and streetcars which will be transit
13 oriented development, as I'm not sure.

14 MS. RICHARDS: It was my comment, sir,
15 and we're very concerned. We are very concerned.

16 We've expressed this before the Council as well
17 and stated it here before about the interplay
18 between -- well, first TOD and TOD has proposed
19 the expanded long bus routes and streetcar routes
20 and that change is proposed to be made to the
21 Comp Plan without Council oversight or vote.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 And since everything that's like
2 designated, you know, a TOD then becomes ripe for
3 PUD development. We very much would like to see
4 the Comp Plan provisioned for case-by-case review
5 of TOD sites preserved in the zoning regulations
6 regarding PUDs.

7 COMMISSIONER TURNBULL: Is that in the
8 works? I mean, I --

9 MR. PARKER: There will always be case-
10 by-case review of PUD. And there isn't any
11 encouragement of PUDs in TOD versus non-TOD. So,
12 we have in our sustainability recommendations and
13 you've seen that we're going to be proposing TOD
14 zoning that will have, you know, standards for how
15 to develop facing a Metro, different parking
16 standards --

17 COMMISSIONER TURNBULL: Right.

18 MR. PARKER: -- etcetera. But the PUD
19 recommendations don't make any distinction between
20 TOD and non-TOD zoning.

21 COMMISSIONER TURNBULL: Thank you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MS. RICHARDS: I'll be happy to follow
2 up with that and provide additional written
3 testimony.

4 CHAIRMAN HOOD: Okay. Vice Chairman
5 Schlater.

6 COMMISSIONER SCHLATER: I just want to
7 thank the panelists for coming out tonight. It's
8 been a long night. You obviously put a lot of
9 thought and effort into your recommendations. And
10 I just want you to know that it's extremely
11 helpful to this one Commissioner to have it. I
12 agree with a lot of your points. And we'll be
13 reiterating them when we give guidance on these
14 recommendations.

15 So, thank you.

16 CHAIRMAN HOOD: Okay. Any other
17 questions, Commissioner May?

18 COMMISSIONER MAY: No. I just wanted
19 to respond to something Mr. Cochran had said.

20 You know, if there are things that you
21 have, other materials that you have, summaries of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 meetings or whatever, that demonstrate the case
2 about the range of options that you've heard and
3 so on, I suggest that you all might just submit
4 something to that effect. Because, frankly, it's
5 much more reliable and consistent if we see that
6 information here at the Zoning Commission rather
7 than having to go out and do research on our own,
8 which generally is discouraged.

9 Thanks.

10 MS. GATES: Mr. May, may -- may --

11 CHAIRMAN HOOD: Sure.

12 MS. GATES: Would it be safe to say the
13 question you're asking is why should a community
14 not be fearful of the density you're proposing?

15 COMMISSIONER MAY: That's not really
16 the question I was asking.

17 MS. GATES: Well, you were talking
18 about --

19 COMMISSIONER MAY: I mean, but I was
20 just talking right now. What I just said or
21 earlier?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. GATES: Earlier.

2 COMMISSIONER MAY: Okay. Yes. I mean
3 I want to understand better what they're proposing
4 versus what exists now. That was the purpose of
5 the chart.

6 MS. GATES: Well, I think it would be
7 very helpful, you or a member of the Zoning
8 Commission and deal with this on a regular basis.

9 Communities don't. And when they hear about the
10 density increase, when they've made the kind of
11 investment they have in their community, this
12 scares them.

13 So, the clearer the chart is, the
14 better for everyone.

15 COMMISSIONER MAY: I agree. Thank you.

16 MS. KAHLOW: Can I add something to Mr.
17 May's colloquy with Mr. Cochran?

18 Unfortunately, the Office of Planning's
19 lists do not include all of the issues that were
20 raised. I went through the first two and most of
21 the issues I raised were not listed. So, you have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 a problem in that they are not complete.

2 COMMISSIONER MAY: Okay. But you
3 provided some of that in your testimony, right?

4 MS. KAHLOW: Some. I only had five
5 minutes. But I have more I could write. I mean,
6 I had a list of six things here that--

7 COMMISSIONER MAY: We're going to have
8 the record open for the ANC reports. What are we
9 going to do about other information?

10 CHAIRMAN HOOD: I'm hearing, you only
11 had five minutes and I heard earlier I only gave
12 somebody three minutes. I know good well tonight
13 I gave everybody more than five minutes.

14 MS. KAHLOW: Yes, you did. You did,
15 Mr. Hood. Thank you very much but I'm saying I
16 can go on and on. You were great. Thank you.

17 CHAIRMAN HOOD: Because I don't want
18 next month that I didn't do that because I know
19 how we operate.

20 MS. KAHLOW: You did. You did.

21 CHAIRMAN HOOD: Okay. And,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Commissioner May, you said you had a question.
2 Were you asking something?

3 COMMISSIONER MAY: No. I mean, we
4 still have the open question of the ANC requests
5 to keep the record open.

6 CHAIRMAN HOOD: Yes. We're still going
7 to do it. Yes.

8 COMMISSIONER MAY: And we should
9 probably address the question whether we would
10 accept all information or just the reports from
11 the ANCs who'd asked it.

12 CHAIRMAN HOOD: Someone else. I hard
13 two people say they wanted to supplement
14 something, some of your questions. Maybe we could
15 just go with that. And the ANCs that requested --
16 I guess, if we just -- I don't know. What do you
17 all think? Leave it all open. Just leave it
18 open.

19 SECRETARY SCHELLIN: Until October
20 25th?

21 CHAIRMAN HOOD: 25th. Let me do this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 first. Let me go back to Commissioner Ronneberg.

2 Do you have anything else that you
3 wanted to say?

4 COMMISSIONER RONNEBERG: No, sir. I
5 had very limited testimony.

6 CHAIRMAN HOOD: Was it three -- no, I'm
7 just -- okay.

8 So, that's it. Any other questions for
9 this panel?

10 Again, as we've already stated by
11 Commission -- Vice Chairman Schlater has already
12 mentioned. You all were very helpful. You know,
13 your comments will not go on deaf ears, trust us.

14 So, I appreciate you all coming out and providing
15 some other twists to things that we may be able to
16 look at. We greatly appreciate it.

17 Thank you.

18 Okay. Let's come up with a time factor
19 before -- you say August 25th?

20 SECRETARY SCHELLIN: Right.

21 CHAIRMAN HOOD: I'm sorry, October

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 25th. It might be August.

2 SECRETARY SCHELLIN: I was agreeing
3 with you.

4 October 25th for the record to be open
5 until 3:00 p.m. on that day for anyone to submit
6 additional testimony including the ANCs.
7 Actually, anyone. And then were you looking for
8 the Office of Planning to provide responses to
9 that plus additional information you requested?

10 CHAIRMAN HOOD: I'm not sure.
11 Commissioners, do we want responses from Office of
12 Planning or can we wait until we get our --

13 SECRETARY SCHELLIN: The next step for
14 the Office of Planning is the worksheet.

15 CHAIRMAN HOOD: Worksheet. We usually
16 get a worksheet.

17 COMMISSIONER MAY: I don't think there
18 was anything that I asked them that was unanswered
19 per se. There were a few extra pieces of
20 information that we asked for, charts and such.

21 SECRETARY SCHELLIN: Some charts.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER MAY: I mean, not
2 responses per se, but just the additional material
3 requested.

4 SECRETARY SCHELLIN: So, when do you
5 think you guys can provide that?

6 MS. STEINGASSER: We could provide it
7 within the week.

8 SECRETARY SCHELLIN: Okay. So, the
9 same day, October 25th?

10 MS. STEINGASSER: 25th is fine.

11 SECRETARY SCHELLIN: Okay.

12 CHAIRMAN HOOD: And I think the
13 information that was provided tonight by this
14 panel about -- by the panel tonight I think we can
15 -- we can use what we have -- the materials we
16 have here in our deliberations.

17 SECRETARY SCHELLIN: Do we want to--

18 CHAIRMAN HOOD: Except for whatever
19 you're going to need.

20 SECRETARY SCHELLIN: -- put this on for
21 November 29th? Is that going to give you guys

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 enough time to -- isn't that Thanksgiving?

2 CHAIRMAN HOOD: The 29th.

3 MR. PARKER: We can have the worksheet
4 on the 25th or on October 25th as well.

5 SECRETARY SCHELLIN: So, you actually
6 want to take it up at our November 8th meeting or
7 the November 29th meeting?

8 MR. PARKER: November 8th?

9 SECRETARY SCHELLIN: November 8th?

10 CHAIRMAN HOOD: The sooner the better.

11 SECRETARY SCHELLIN: The sooner the
12 better. Okay. All right. I thought they might
13 need more time because they need to work with OAG.

14 So, November 8th?

15 MR. PARKER: Do we have to do anything
16 -- just the worksheet and --

17 SECRETARY SCHELLIN: Just the worksheet
18 that you worked with OAG.

19 MR. PARKER: No, we'll be fine.

20 SECRETARY SCHELLIN: Okay. So, I'll
21 put it on the November 8th meeting agenda then.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: Is everybody here
2 November the 8th?

3 SECRETARY SCHELLIN: Let me check.

4 CHAIRMAN HOOD: Do we have a lot of
5 stuff already for November the 8th?

6 SECRETARY SCHELLIN: I'm not that
7 scheduled out but right now I don't have a lot.
8 But right now no one is scheduled to be out. So,
9 if they are, they haven't told me.

10 CHAIRMAN HOOD: Well, Mr. May will be
11 out.

12 SECRETARY SCHELLIN: Mr. May is not
13 going to be here?

14 COMMISSIONER MAY: I think my wife would
15 understand if I missed her birthday for zoning.

16 CHAIRMAN HOOD: Mr. May is going to be
17 in trouble.

18 COMMISSIONER MAY: I've missed so many
19 other things at this point.

20 SECRETARY SCHELLIN: First it was the
21 anniversary, now it's her birthday.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: Hopefully, she's not
2 watching the webcast live. I can guarantee you
3 that.

4 COMMISSIONER MAY: She often works on
5 her birthday and misses it too so --

6 CHAIRMAN HOOD: Okay.

7 SECRETARY SCHELLIN: So, we're good for
8 the 8th. Maybe we should just have her come down
9 and sit in the audience. We'll all celebrate her
10 birthday. Okay.

11 COMMISSIONER MAY: You know, maybe I
12 could get her to tune in and we could all sing to
13 her.

14 SECRETARY SCHELLIN: She may not enjoy
15 that.

16 CHAIRMAN HOOD: Okay. So, anything
17 else, Ms. Schellin?

18 COMMISSIONER MAY: No, but my sons --
19 my sons will definitely --

20 CHAIRMAN HOOD: We just might do that.
21 Okay. I want to thank everyone for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 their participation tonight. And this hearing is
2 adjourned.

3 (Whereupon, the above matter was
4 concluded at 9:51 p.m.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701