GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA  
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ZONING COMMISSION  
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PUBLIC HEARING  
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IN THE MATTER OF: :  
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COMPREHENSIVE ZONING : Case No.  
REGULATIONS REVIEW: PLANNED : 08-06-12  
UNIT DEVELOPMENT : :  
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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.
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

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

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

We are also joined by the Office of Zoning staff under the leadership of Mr. Weinbaum. Also the Office of Planning staff under the leadership of Ms. Steingasser.

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

The subject of tonight's hearing is Zoning Commission Case No. 08-06-12. This is a request by the Office of Planning for the Commission to review and comment on proposed
concepts for text amendments to the zoning regulations. This is one in a series of hearings on various subjects currently under review as part of the broader review of the zoning regulations. Tonight's hearing will consider general rules applicable to PUDs.

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

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

- Preliminary matters;
- Presentation by the Office of Planning;
- Reports of other Government agencies;
- Report of the ANCs;
- Organizations and person in support;
- Organizations and persons in opposition.

The following time constraints will be
maintained in these hearings. The ANCs, Government agencies and organizations, five minutes, individuals three minutes.

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

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

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

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

And I guess I will just go ahead and introduce them, because I'm looking we don't have a lot of witnesses.
Let me just introduce the Office of Zoning staff. Ms. Sharon Schellin, Ms. Donna Hanousek, Ms. Esther Bushman.

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

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

At this time the Commission will consider any preliminary matters.

Does the staff have any preliminary matters?

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

CHAIRMAN HOOD: And I will just ask again. From time-to-time we move our heads away. Sometimes I can hear myself when I turn my head. So if you're not able to hear us, just raise your hand and we'll get back in the mic. Okay.

Okay. Let's go to Mr. Parker.
Good evening.

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

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

Just as a little background. Our PUD working group met, I believe it was earlier this year. We had five meetings. We started with a meeting looking at the history of PUDs in D.C. and identifying issues. We looked at how other jurisdictions handled PUD-type processes around the country and we're going to talk a little bit about that in some of our recommendations.
And then we got into identifying the goals of the PUD process and the issues involved and discussing different options. And ultimately at meeting five the Office of Planning presented a series of recommendations that we're going to present to you tonight.

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

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

On the next page, another big one was establishing a clearer process for community
input. And as I mentioned all of the recommendations that we present tonight directly respond to these issues that were identified by the working group in this PUD process.

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

So, the first recommendation comes from a need identified to create and to find different types of processes for different types of applications. Right now the existing practice in the city is we have one PUD process, whether I'm applying for 10,000 square foot lots without any bonus density, just a use change, all the way up to a massive multi-acre, you know, brand new development complete with a zone change. These
processes have the exact same set of meetings, exact same requirements for submission. And in our look around how other cities dealt with these issues around the country, we noticed that all of the other cities that we looked at had different types of processes for different types of applications. And our first recommendation tonight is talking about doing that in D.C.

And as a result of the working group we avoided going down the road of having way too many applications but certainly found that the single type of process that we have now isn't sufficient for all our needs. So, our recommendation here is to take the existing PUD process and divide it into three processes. And I'm going to describe each one of these individually, but one thing I want you to keep in mind is I want you to avoid thinking about these in the context of our existing PUD process. None of these three will be exactly like our existing PUD process. And I think in order to emphasize that point we've
avoided calling these processes PUDs, you know. For the lack of anymore creative name, we've now tentatively called them Type 1, Type 2 and Type 3. We hope to have better names in the future. But the point is, I want you to think of these are new processes as I describe them rather than PUDs as we treat them now.

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

In exchange for that flexibility, the developer comes through the Zoning Commission for a design review. This is a process that would be available anywhere in the city. Any project could go through it. We'll talk about, you know, lot
size requirements later. But any project can go through it.

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

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

And we'll talk a little bit in
Recommendation 2 about what is minor density and what is major density.

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

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

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

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

MR. PARKER: Absolutely.

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

MR. PARKER: Well, those projects would have to follow matter-of-right FAR. One good way to think about that Type 1 in terms of our current system would be, this would be like creating a special exception for flexibility on how you place your building on your lot: Yards, lot occupancy, height. Right now, the only way to get that relief often is through a variance where a developer has to say because of the circumstances on my lot, I can't meet my side yard. This is offering the city and developers a different way to look at a positive test saying I could technically meet my 60 percent lot occupancy but I can actually make a better project if I'm at 75 percent and a shorter building, or if I'm higher
and at 40 percent. It's offering the developer to
being able to come in and say, D.C., I can make a
better project if you waive these and here's how.
So, it's offering design review on the part of
the Zoning Commission in exchange for flexibility
on various bulk standards.

COMMISSIONER TURNBULL: Okay. Thank
you.

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

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

MR. PARKER: There is a minimum lot
size, and in low and moderate that's a subsequent
recommendation. We will get into that.
COMMISSIONER MAY: Okay. I thought it was -- oh, it's not all residential. It's --

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

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

MR. PARKER: Yes.

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

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

COMMISSIONER MAY: No. Thanks.

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

So, you've got developers under this new system having an option of whether to go the BZA route or the Zoning Commission route. Are you afraid this could trigger a flood of cases through the Zoning Commission that normally otherwise would have gone through BZA?
MR. PARKER: Well, I think what it's doing is it's separating the BZA. The BZA is still appropriate for when my site configuration or my topography or some circumstance on my lot makes it impossible for me to meet my standard. That's the variance test.

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

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

MR. PARKER: Right.

COMMISSIONER SCHLATER: -- you would just say this gives you a third alternative which is: I don't meet either of those, I'm probably going to get denied by BZA. I can go to the
Zoning Commission and try to convince them I have a project of special merit.

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

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

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

MR. PARKER: Type 1 is no density available.

COMMISSIONER SCHLATER: But all the other flexibility is available?
MR. PARKER: Right.

COMMISSIONER SCHLATER: Roof structures and all the other stuff.

MR. PARKER: Right. Correct.

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

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

We took a look at the Comprehensive Plan at our existing bonuses available within each
zone in order to try and set a common standard for what could be accomplished through a PUD within a zone and what would require a zone change. And the basic recommendation here is that for residential projects in exceeding your residential matter-of-right, you could go up 20 percent above your matter-of-right including IZ through this Type 2 project. More than 20 percent would be a Type 3.

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

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

And the way that we came up with these numbers in looking at the residential, our
available density through a PUD process by zone is incredibly variable now. It's all the way from nothing to 66 percent bonus density available. And when you throw IZ in there the range of density available through a PUD is all the way from negative to 43 percent.

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

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

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

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

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

So, Recommendation 3 gets back to the earlier question we examined lot size requirements. And one thing that we did decide to do was leave the low density and moderate density
zones alone. Those have a two acre minimum to go through a PUD now. In the future we propose a two acre minimum.

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

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

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

The next big Recommendations 5 and 6 go
together. And these are another major paradigm
shift in how we look at PUDs in the city. One
thing that all of our best practice cities did and
when we talked to other jurisdictions around the
country they uniformly said they all had a way for
the Zoning Commission to value amenities. It
wasn't just a throw amenities up on the board and see if they stick or a peer negotiation. All the cities that we looked had a list of things that they wanted. They had a way to rate them. We looked at three different main types of ratings:

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

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

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

In terms of codifying a list of
benefits, again, we looked at our best practice cities and took a bunch of lessons from them.

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

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

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

And, finally, you know, as much as
possible our benefits should --

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

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

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

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

MR. PARKER: Yes.

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

MR. PARKER: Correct.

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

MR. PARKER: We don't necessarily.

MS. STEINGASSER: But they could provide something, like they'll put in the
sprinkler system, they'll replace the sod. They can narrow it down to a $10,000 value of improvement. And that's been the practice of the Commission for about the last six years where you want to know exactly when go out there how was that money spent, that it just wasn't just left with a nonprofit, without a --

COMMISSIONER MAY: Right.

MS. STEINGASSER: -- how it came through.

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

MS. STEINGASSER: It is, but the Commission's rejected that. And I think it started in about 2004 where the Commission began to hear back from the communities and the ANCs what happens if that park nonprofit dissolves? The developer made their contribution, they've got
a receipt. They've check it off. They're good to go. But the amenity is never provided. And the Commission became quite uncomfortable with that and started saying, okay. We want the inspectors to be able to go out and say, there's the sod. There's the park bench. There's the sprinkler system. The Housing Production Trust fund is the one exception that we've been making.

COMMISSIONER MAY: Okay.

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

The other point we'd like to stress here is that there is the opportunity certainly to add to this list local priorities. ANCs could
come and say, you know, we want to add more points for benefit X or we want to propose new benefit Y. You know, this needs to be done not as part of a particular PUD but as part of a text amendment to update the list.

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

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

And, again, Recommendation 6 has to do with clarifying the relative value of these benefits. Putting a point total on them. Then,
you know, once we have a relative value of each of these, setting a threshold that would have to be accomplished. So, a Type 2 might have to achieve 10 points. to just throw a number out there. A Type 3 might have to achieve 20 points. And then it's completely up to the developer and their negotiations with ANC as to how that point total is met.

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

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

MR. PARKER: Okay.

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

MR. PARKER: Yes.

CHAIRMAN HOOD: Right. And what we're going to do, colleagues, is we're going to put
eight minutes on the clock because we do want to hear from the audience. So, we're going to do eight minutes and then after that if we need another round, then we'll put some additional minutes. But let's try to stick to that eight. If we need another amount, it will be a lesser time. But we want to make sure we get to the audience before 11:00.

Okay. Who would like to go first?

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

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

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

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

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

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

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

MR. PARKER: Understood.

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

MR. PARKER: It should be in the report.

COMMISSIONER MAY: But do you have the
numbers that go with them all? You reported the
range --

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

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

MR. PARKER: Yes.

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

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

COMMISSIONER MAY: And what the IZ density is.

MR. PARKER: Okay.

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

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

COMMISSIONER MAY: Yes. I mean, a chart.

MR. PARKER: Yes, yes. Understood.

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

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

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

COMMISSIONER MAY: And maybe it
actually needs to be called something different.

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

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

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

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

MS. STEINGASSER: That's correct.

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

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

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

COMMISSIONER MAY: Okay. I'm not sure how to sort of solve the question. I can see it being applied in that way but I'm not sure that
it's going to necessarily work out that way. So, maybe if there's another way to--

MS. STEINGASSER: Put some use restrictions on it.

COMMISSIONER MAY: Yes.

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

COMMISSIONER MAY: Yes.

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

COMMISSIONER MAY: Right.

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

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

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

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

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

I mean, we could certainly start saying
this one accrues the neighborhood and this one accrues to humanity as a whole. But we wanted to avoid going down that path of segregating them in that way. But that's certainly something we could look at if you wanted to.

It's not how anyone has done it before.

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

MR. PARKER: Well, keep in mind we're not necessarily walking away from it anymore. It's not codified now. There's no codification of zoning regs that says 50 percent of your amenities must accrue to the surrounding property owners. Amenities are now negotiation with OP and the ANC. The ANC isn't cut out of this process. This is a list that the Zoning Commission will
approve. A lot of people have input on what's on this list. And then when a developer comes in, we'll see in recommendation the first stop that they make before they even come to file their application is with the ANC. So, the local neighborhood is going to have input on how this 10 points or 20 points is met. You know, the developer is going to get the first say but --

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

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

   MS. STEINGASSER: We're definitely not writing the ANC out but I want to be clear.
There's a way that PUDs have evolved and there's what the regulations actually say. And right now the regulations say that the public benefits benefit the surrounding neighborhood or the public in general. And that's what codified now in Chapter 24, and so we kind of stayed with that theme. Not reducing the ANC, not over-empowering. Just keeping the general context of what the regulations say.

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

COMMISSIONER MAY: Okay.

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

COMMISSIONER MAY: All right. I know my time is up. I don't view this as exclusively
an ANC versus the rest of the world kind of a situation. And I'm just not comfortable with --

CHAIRMAN HOOD: Okay. Thank you. Who would like to follow and go next?

Mr. Turnbull.

COMMISSIONER TURNBULL: Thank you, Mr. Chairman.

I just have a couple of questions here. Mr. Parker, when you were talking about when you had the chart up a little while ago for ratio by zone-residential. And I thought at the time and you said that the R-5-D, but even with the increase it would still be in moderate density.

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

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

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

COMMISSIONER TURNBULL: Okay. My mistake.

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

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

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

MR. PARKER: If the developer has a nearby park and they proffer maintenance of that park --
COMMISSIONER TURNBULL: Is that a dollar amount or actually doing the work?

MR. PARKER: Doing the work. Again, I think what we learned from how other cities operate around the country is we as the Office of Planning, we as the city don't get into dollar amount. If the developer wants to go out there and carry a shovel himself, he can do it for free. So, it's about getting the work done. Doesn't matter whether they spend a million dollars or have his family go out and do it.

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

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

MR. PARKER: Right.

COMMISSIONER TURNBULL: -- aerating and a lot of other things and get an arborist and everything else, that went beyond the scope of
what I'm thinking that I'm providing.

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

        COMMISSIONER TURNBULL: Okay.

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

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

        MR. PARKER: Right.

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

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

        COMMISSIONER TURNBULL: Okay.

        MR. PARKER: And we accept that and
whatever it ends up costing then it ends up costing them.

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

MR. PARKER: We're open to suggestion.

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

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

COMMISSIONER TURNBULL: Okay.

Mr. Chair, I'll relinquish the mic.

CHAIRMAN HOOD: Thank you.

Anybody else have additional questions?

Vice Chairman Schlater.

COMMISSIONER SCHLATER: Thank you, Mr.
Chairman.

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

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

MR. PARKER: Yes. We have been talking about that. And, again, there will be separate tests for each. Right now people are submitting for variances even if they can't meet the test because that's the only option open to them and it's up to the BZA to decide well, you know, this is really a better product. We're trying to create, you know, we've already got the negative
test in the BZA and the positive test in the Zoning Commission. I understand what you're saying that we need to try and estimate workload impacts on the Zoning Commission. Absolutely.

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

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

COMMISSIONER SCHLATER: Okay. And I'm not sure I understand why there needs to necessarily be a difference between -- what we're really talking about, I don't have any problem with categorizing the various types of PUDs. I
think that's helpful in everybody's mind to understand what the category is.

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

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

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

One difference I think that we'll see is also, you know, what we're proposing with setdown. You know, based on what we have shown
here if we make a prejudgment as to what about of
density is acceptable within your existing land
use category, then we don't need a prejudgment by
OP or the Commission on whether something is in
conformance with the Comp Plan. So, a Type 2 may
not have to go through a setdown process. That's
one difference that we could talk about and that
we propose, whereas a Type 3 definitely needs that
review.

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

MR. PARKER: Well --

COMMISSIONER TURNBULL: -- a setdown.

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

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

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

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

MR. PARKER: And that's what it's about. You're absolutely right. And, yes, I'm happy to go through the next six recommendations as well, and we'll get more into that.
COMMISSIONER SCHLATER: I couldn't be more supportive of getting rid of monetary contributions. They make me feel uncomfortable sometimes when they go to neighborhood groups. And I understand some of them are appropriate, but I think we should get out of the business of directing monetary contributions. I think that's a great recommendation. I think they should be measurable and specific. And where we can, they should last the life of the project. I think those are all very good recommendations.

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

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

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

COMMISSIONER SCHLATER: Okay.

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

COMMISSIONER SCHLATER: I think if that's the case, I think you need to look at ways to improve the design review process as well. It's not an imperfect tool and I don't get the feeling that we're getting as much out of it as we
could in the limited stuff that I've seen on the CG overlay. It doesn't feel like the process is correct. I don't see developers changing, you know, coming in with an open mind on those things. It's sort of a fait accompli.

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

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

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

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

CHAIRMAN HOOD: Okay. Commissioner Selfridge.

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

Would you adjust filing fees for the different types?

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

COMMISSIONER SELFRIDGE: You'd recommend that? Okay.

And then on the point system, is 20 points kind of your recommendation now or is that just a plug number? What are you thinking on that?
MR. PARKER: No. I threw out random numbers. That's going to come after we have all of these benefits weighted relative to each other. We don't yet have a firm idea of whether these numbers are right and some of them are still yet to be determined. I think once we've got all the benefits weighted relative to each other, we'll come back when we come with tax with a proposal of how many points you should achieve for a Type 2 and a Type 3.

COMMISSIONER SELFRIDGE: Is there a sense that, and I guess I'm not sure this question is relevant any more, but if 20 point is your number, is there a sense that that's a higher standard or lower standard than what's being met? Is it just all over the board now or--

MR. PARKER: It is all over the board now and we don't have a sense. We can try and get a sense of that as we come forward. I mean, yes. We have a lot of things that aren't quantifiable now. And we're trying to go towards a system of
quantifying things that aren't necessarily quantifiable. But we can try to come up with a sense of that as we move forward.

COMMISSIONER SELFRIDGE: Okay. Thank you.

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

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

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

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

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

MR. PARKER: Yes.

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

Let's look at Recommendation 1. And I think it was referenced that recommendation -- I'm sorry, Type 1, Design Review, is similar to our Capitol Gateway, the way we do it now. So, that would not be tied into any benefits, am I correct?

There's no benefits that will go along with that?

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

CHAIRMAN HOOD: Okay. Design review, architecturally the innovative way. I think one of the ways we might want to look at is also saying, and I know there are other laws out there which require certain developers to do certain things, but we also need to say I think architecturally and environmentally innovative.
So, some kind of way. Right now those two words are synonymous with each other. So we may want to look at that.

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

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

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

So, I'm just trying to figure out, you know, with this whole amenities package. To me,
that's already a requirement and I see it here on
the list. I'm not sure. I know the points are
not relevant, but those are some of the things
that we need to look at. And Case in point, I
know a nonprofit that wanted to fix the lights in
a public park. And that money could not be used
because there's already capital improvement money
already that's supposed to be out there for that.
I just think that we're doing our city and
ourselves an injustice when we are asking the
developers to do certain things that are already
in the public dollars. So, that's something I
think we need to balance that.

Now, the life of the project, I like
that. Well, I liked it until last Thursday. The
life of the project when I hearing certain things
only go so far. But I still like it, and I know
that a few people have some questions about the
life of the project. But for me I think when we
look at this, we need to balance it. And I
understand we're trying to take away some things
that are associated with certain groups. But I want to read from -- this is where me and Ms. Kahlow I think are on the same page.

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

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

But now back to what Ms. Steingasser was saying about the Commission in 2004. I think
I was here. But the reason that we have, because we wanted to make sure it was getting there. I mean, this was being completed.

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

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

CHAIRMAN HOOD: And that's kind of too what we were trying to look at, making sure something was getting done as you said. So, I would like to just necessary get away with that.
but as you say, Ms. Steingasser, give the prescription cards. There's some ball teams out there. We don't want to put them in a disadvantage. They get $50,000 for equipment. Other than that, they wouldn't have anything.

MS. STEINGASSER: Okay. Get them the equipment.

CHAIRMAN HOOD: Give them the equipment.

MS. STEINGASSER: Right.

CHAIRMAN HOOD: Okay. So, we're on target with that.

And I think Commissioner May was right. I thought that the benefits and amenities were supposed to be, and no maybe this is just how it's always been said, was supposed to be immediate to that immediate neighborhood. They're the ones who is most affected. They're the ones that come down and who have to endure whatever that we approve. And I thought that's how we always have done that.
MR. PARKER: The top two benefits that the Zoning Commission has accepted over the past decade have been environmentally sustainable buildings and affordable housing. And those are both city-wide, or even larger benefits. I mean, there are often contributions or park day; there are often certain benefits. But I would say as a practice the Zoning Commission has accepted benefits that are more broadly beneficial in projects than locally beneficial.

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

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

MS. STEINGASSER: There's always
landscape site improvements. There's usually
trees and sidewalk improvements and those kind of
things which we'll be happy to make sure that
those get reincorporated.

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

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

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

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

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

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

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

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

MR. PARKER: We'll clarify that.

CHAIRMAN HOOD: All right. Good.
All right. Second round. How many minutes, Commissioners, five minutes?

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

All right. Commissioner May.

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

MR. PARKER: Yes.

COMMISSIONER MAY: And I think actually that's been an area that's been a little too gray in the past and I'm not sure how we make it more explicit. But I do think that that's something that we need to define very clearly or at least, you know, make some statement within the
regulations about if there's an impact, it has to be mitigated and it doesn't count against your benefit points.

MR. PARKER: Okay.

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

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

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

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

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

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

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

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

COMMISSIONER MAY: Right. Even if they're not required specifically by Zoning, if
they're required by other law or even whether it may be Federal law, for example.

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

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

MR. PARKER: Okay.

COMMISSIONER MAY: Along those lines, I think there's a flat three points for Adopt-A-Park and how much effort is involved in a park? Adopting a park can vary widely, depending on where it is and what the use is and what the size
of it is and so on. So, at the very least it
ought to be a sliding scale kind of thing. And
that's probably true in a number of areas over the
whole list where we probably should be looking at
sliding scales and not just a specific amount.

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

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

And I concede my remaining 35 seconds.

CHAIRMAN HOOD: Okay. Anyone else?
Commissioner Turnbull.

COMMISSIONER TURNBULL: Thank you, Mr. Chair.

I think I'd like to continue on with what Mr. May was talking about. We talk about mitigation, transportation demand, management plans. We've even gotten into sort of construction management, although we've kind of been very careful about what we're asking. We've been worried about the impact. We've had some projects where they were going to go in and take pictures of the homes to make sure that there's no cracks for adjacent townhouses and all that. I think that those kinds of things ought to be -- a lot of times we've had them done for -- I'm trying to think of -- I think we've had them done on the last several ones where we've had the developer has said that he would go in and either take photographs of it, he monitored the site just to make sure that there's nothing from what they're doing, they've moved the project back a few feet.
We've had a lot of impact results on a lot of these projects when we get into it at the hearings. And I think Mr. May's got a good point about mitigation measures.

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

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

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

MR. PARKER: I believe so. That's
where the enforcement responsibility lies now.

    COMMISSIONER TURNBULL: Okay.

    MR. PARKER: And that would not change.

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

    MR. PARKER: Okay.

    COMMISSIONER TURNBULL: Okay. Thank you.

    CHAIRMAN HOOD: Any other? Vice Chairman Schlater.

    COMMISSIONER SCHLATER: On the point system, how do you think having these various amenities with points associated with them will impact the interplay between the developer and the ANC in terms of creating a benefits package? Is the developer, do they have entire flexibility? Is it a menu that they get to pick from and whichever ones they want they get?
MR. PARKER: It is a menu. Now, as you're going to see in the upcoming recommendations, there's going to be a lot more required interaction between the developer and the ANCs. So, the ANC will certainly be able to express their opinions on which ones they'd like to see. But it is a menu that the developer can pick from and it's ultimately Zoning Commission's determination whether to approve the list that's been determined.

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

COMMISSIONER SCHLATER: Okay. And speaking of leveling the playing field, I think
one major problem with a point system like this is that the value of density downtown is very different from the value of density in the outer reaches of town. So, if I'm trying to buy an FAR square foot downtown, I may pay $200 an FAR square foot. If I'm trying to get a dollar of FAR square footage in Ward 5, it may be less than that. It may be less than $50. So, the question is is these point systems seem to value your FAR in the same way.

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

MR. PARKER: Right.

COMMISSIONER SCHLATER: Where you're having to provide more benefits if you are in a
part of town where you're getting much more benefit out of the FAR that you're receiving.

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

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

COMMISSIONER SCHLATER: But if I'm a developer working downtown, I'm going to go directly to the ones that I think fulfill with a fixed dollar value. I'm going to go for the $10,000 piece of art. I'm going to go for the bicycle share station. I'm going to go for taking care of the median. I'm going to do things that
are discreet but I know how much they cost, and you're going to be able to skirt right through that. I mean, I think it's a little disconcerting.

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

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

COMMISSIONER SCHLATER: Well, I think it would go to my point that I think it shouldn't necessarily be prescriptive and that it may be advisory so that you've got something and you say, you know, the advisory list of amenities says you would produce a package like this. And then we'd look at other factors based on what kind of relief
they're getting, what part of town it's in and you could make an assessment as to whether the appropriate balance has been made.

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

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

MR. PARKER: Understood.

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

COMMISSIONER TURNBULL: Mr. Chair, just wondering if I could ask one question following up on Mr. Schlater's. If a developer comes before us with a PUD and he got his 20/30 points that he needs or whatever, and we look at it as a point project and we look around and we say we don't like the points. No. We look at basically what he said and said we don't like the way you've gone
and picked your points. We don't like the way that you fit it in with the neighborhood that these 20 to 30 points that you've picked out, we don't think they're appropriate. I mean, is there a I've met my 20, 30 points, you have to give me this.

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

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

MR. PARKER: Right.

COMMISSIONER TURNBULL: But this low-
hanging fruit doesn't do anything for the neighborhood or for the community at large.

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

COMMISSIONER TURNBULL: Okay. Thanks.

CHAIRMAN HOOD: Okay. Commissioner Selfridge.

COMMISSIONER SELFRIDGE: Thank you, Mr. Chairman.

I want to go back to the idea of Recommendation 5, we cannot include monetary contributions. I find myself agreeing with Vice Chairman Schlater, but then Chairman Hood makes some good points and I read through Ms. Kahlow's letter. And it seems to me that everybody wants to see that the funds are used or the benefits are
received as they were intended. But there's going
to be times when some of these private groups are
just more efficient at allocating the funds.

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

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

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

So, for every example we can find of
somebody that can do it efficiently we've got a
counter example of money that was lost or that's
spent poorly. So, ultimately it comes down to certainty and basically bricks and mortar: Getting things delivered by the developer in the first place and avoiding the city or the neighborhood having to follow up to make sure that things were spent.

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

And then just a follow up thought on Commissioner Turnbull. I mean, is it possible to break these amenity categories down even farther? It's like getting a license. You know, you need two from category A, two from category B and maybe cobbled together minimum points that way.

MR. PARKER: It certainly is. I think it gives more flexibility to you and the developer and the ANC not to do it. Yes, I mean we could certainly say you have to have at least 30 percent
of your benefits from the environmental category and at least 20 percent from some other category.

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

COMMISSIONER SELFRIDGE: Okay.

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

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

We had a lot of discussion about this in the working group and, again, we turned to our best practice cities on how do other cities encourage interaction with the developer and the community. And a lot of other cities this isn't such a formal process. This is a lot more
interactive. And the best practice that we ultimately turned to in this respect was Portland. And we basically copied, you know, their pre-PUD application process which basically it requires a public meeting between the developer and the affected ANC prior to filing the PUD.

So, a developer notifies the affected ANC that they're going to file a PUD and that ANC has 45 days to schedule and hold a public meeting. The developer then can submit their application 45 days after that notification but if the ANC has held a duly noticed meeting, then the developer will attend that meeting.

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

And we proposed that this pre-application process be required for both Type 2 and Type 3 projects. And then ultimately the filing of the applicant would include copies of the correspondence with the ANC and could also
include an ANC letter that supports or suggests changes to the project.

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

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

Type 1 we're talking about no limit. These are again, it's basically more in the lines of what we think of a special exception. So there's not density being added so there's no time limit and the extensions are applicable.
Recommendation 9 we got to meeting the need of greater clarity to enforcement and to the administration process. We talked here about adding filing requirements for clarity after the project is approved and clarity of enforcement by the Zoning Administrator.

And what this would mean is two things:

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

And then prior to final action, providing the full documentation, a completely updated set of plans based on what the Zoning Commission approved which may be different from what they sat down and debated. Table showing all
the benefits and any other documents. So, ultimately that way the Zoning Administrator has a set of documents that were approved rather than a set of documents that were amended by the Zoning Commission.

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

The basic rule would be that all of the benefits are provided prior to the Zoning Administrator issuing a C of O. There are sometimes extenuating circumstances. You know, weather prevents trees from being planted or something along those lines. In that case if there are particular benefits that haven't been met at the time of the C of O, the Zoning Administrator can issue a temporary C of O for 6 to 12 months that's conditioned on meeting those
remaining benefits. If those benefits aren't met by the expiration of that temporary C of O, the developer comes back to the Zoning Commission for another hearing on changing the benefit to something else, providing an equivalent benefit or point value benefit.

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

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

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

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

And then both Type 2 and Type 3 have that post-approval review that we just talked about
with the benefit review by the Zoning Administrator, whereas Type 1 doesn't have benefits.

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

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

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

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

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

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

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

MR. PARKER: Well, fortunately or unfortunately, I think that responsibility is going to fall on the ANC. Because if you keep in mind, this interaction happens before the applicant comes to the Office of Zoning, before
they file. So, this is a requirement that they notify the ANC and that they meet.

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

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

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

MR. PARKER: Right.

CHAIRMAN HOOD: But I just think that to put that on the ANCs which is a voluntary group, I think that if we ask or we encourage developers to do that, I think they'll do it.
MR. PARKER: Have the developer notify the 200 -- yes.

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

MR. PARKER: Okay.

CHAIRMAN HOOD: Ms. Steingasser.

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

CHAIRMAN HOOD: Okay.

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

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

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

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

Let's open it up. Commissioners?

Mr. Turnbull.

COMMISSIONER TURNBULL: Thank you, Mr.
Chair.

Mr. Parker, going back to Recommendation Number 9. The second part of this. This is getting back to what we are now; that OAG has the best and final offer from the applicant? Is this basically in that same criteria?

MR. PARKER: Yes.

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

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

And that was made reference to another escrow
account that had been set up at GW years before
for -- I'm assuming that money is still in that
escrow account.

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

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

And so it gets back to, I guess, 2409
implementation. That implementation says the ZA
can do four things. After that he's supposed to
bring it back to a modification to the Zoning Commission. And I'm concerned. I mean, what you haven't addressed here and I'm concerned that the ZA -- you know, the ZA does a fine job for what he can. But I'm concerned about when he gets into interpretation of the zoning order and the amenities that are proffered especially with the community group, that he's not -- to me a lot of those things need to come back here and be discussed with the Zoning Commission and whatever parties were involved in setting those amenities and approving it.

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

MR. PARKER: I think that really gets to the point of not getting into the cost of these things. So, let's say our PUD proffered planting 10 trees in a park. Now, under the current -- under what you just said, the ZA could take
$20,000 in escrow --

COMMISSIONER TURNBULL: Right.

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

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

MR. PARKER: Not in --

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

MR. PARKER: Yes.
COMMISSIONER TURNBULL: Okay. Thank you.

CHAIRMAN HOOD: Any other questions?

Mr. May.

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

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

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

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

On Recommendation Number 8 the PUD time extension summary table. Why are you suggesting that there be no time limit for a Type 1? What's the logic there?
MR. PARKER: No time limits for special exceptions, variances. The Type 2 and Type 3 you're having a project approved that has more density than would be a matter-of-right. Type 1 does not. It may be different configuration but there's not more there than they could have gotten otherwise.

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

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

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

MR. PARKER: On variances.


MR. PARKER: I don't know.
COMMISSIONER MAY: Yes. I'm not sure.

I mean I think there are some time limits and I think that, frankly, I think that there should be even if there aren't. So, I think you need to look more closely at that.

MR. PARKER: Okay.

MS. BUSHMAN: Can I insert something here?

COMMISSIONER MAY: Sure.

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

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

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

Any other questions? Hold on. Let me go to Vice Chairman Schlater and then we'll hear from Director Weinbaum.
COMMISSIONER SCHLATER: In Recommendation Number 7 it says: "Require applicant to document community participation." What does that mean? What is that going to look like?

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

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

COMMISSIONER SCHLATER: Okay. I think that would be helpful. It's also, it would be helpful. I don't know if you can get to it but and I guess this is more of the burden of the ANCs. But I don't think we always get this level of detail to understand what issues were raised at
these community meetings in terms of what were the concerns that were raised, and whether they were ignored or incorporated into the revised plan.

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

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

I think we need to do a better job of postings in terms of the visibility of the posting. Sometimes they're put in windows that are on private property fairly far away from the sidewalk. And we just need to figure out a better way for it to be exclusively clear that there's going to be a hearing on some major zoning action.
And maybe that depends on which type you're going for. But I think we need to be a little bit better job. I think other jurisdictions a better job than we do on that.

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

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

I think on the other things I'm fully in support. Could you just go to the table that you included at the end of your presentation on the process summary? This was not included in our packet, correct?
MR. PARKER: It may not have been. We can make this available to you.

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

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

MR. PARKER: Yes.

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

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

The argument is the same for the Type 2. These are, Commissioner May doesn't like the term "minor." but these are lesser bonus increases that are predetermined within a range that keeps everything within its Comp Plan land use category.
So, that's the logic behind that. We're certainly open to your input on where you want a setdown but --

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

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

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

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

MR. PARKER: I guess I was wrong.

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

COMMISSIONER SCHLATER: Okay. Hand over.
DIRECTOR WEINBAUM: Just for clarification purposes. So, technically the decision could even be made on Type 1 by the Commissioners right at the end of the hearing. So, it wouldn't even have any kind of meeting, even a final action meeting.

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

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

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

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

COMMISSIONER MAY: Well, 30 minutes.

CHAIRMAN HOOD: Well, okay, 30 minutes.

I forgot. It depends on whether --

COMMISSIONER MAY: Yes.

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

DIRECTOR WEINBAUM: Yes.

COMMISSIONER SCHLATER: So, you wouldn't have a setdown for a Type 2 where you're getting additional density? Same logic, which is Comp Plan. I find the setdowns to actually be a useful step in the process and would not necessarily be supportive of doing away with it.
It identifies issues before a hearing that can be raised.

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

And I'm not sure I buy into the fact that Type 2 is that much different that Type 3. I understand the different categorization, but I don't know that they necessarily warrant different processes. I don't even know that Type 1 warrants a different process from Type 2 or Type 3, honestly. Because it's not just about density, I guess, would be my argument. It's about all the
other relief that you go through.

CHAIRMAN HOOD: Okay. Any other comments?

COMMISSIONER MAY: Mr. Chairman.

CHAIRMAN HOOD: Commissioner May.

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

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

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

And then if I can just backtrack just a little bit. When it comes to documenting the pre-application meetings and whatever has been done, I'm not really fond of the idea of getting a lot more paper or a lot more documentation of sort of the development of the project over time. I mean, I think to some extent that may help in deciding a given case, but I don't think that's something I want to see every single time. I think what I do want to see is some documentation of the fact that it was discussed early and often with the ANC or with anybody else. And so maybe there's some sort of standard reporting we can get. You know, a single sheet of paper that says that it was this box was checked off. They had the meeting with the ANC on this date. I don't really want to hear
every detail unless either the applicant or the ANC wants to bring that to us before the hearing.

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

CHAIRMAN HOOD: Director Weinbaum.

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

COMMISSIONER MAY: Yes. Something like that. Simple.


I want to thank you all for your
presentation. Let's go to report of other
government agencies.

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

SECRETARY SCHELLIN: Actually all three
of them.

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

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

    You know what? That person is an
opponent. Let me call the proponents first as
prescribed in the agenda.
Organizations and person in support.

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

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

CHAIRMAN HOOD: Okay. Good.

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

CHAIRMAN HOOD: Okay.

COMMISSIONER MAY: Mr. Chairman, could I ask a question about the ANC reports? We got several of them where they said that they didn't receive the report in time to be able to meet and talk. And was there some delay in getting the
report out to them or did it just because of the timing of it being --

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

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

MR. PARKER: I don't remember.

SECRETARY SCHELLIN: I think it was more like 30.

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

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

COMMISSIONER MAY: I mean, we don't have a lot more of these guidance hearings left,
right? Do we have any?

MR. PARKER: Two or three.

COMMISSIONER MAY: Two or three.

MR. PARKER: Yes.

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

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

MR. HUGHES: Thank you, Mr. Chair. Good evening, Mr. Chair, Members of the Commission. For the record, my name is Dennis Hughes with the law firm of Holland & Knight.

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

At the outset, I'd like to offer my appreciation to the Office of Planning staff that
organized and led the numerous PUD working group sessions I had the opportunity to attend. I believe these sessions were quite helpful for OP to hear from property owners, developers, advisory neighborhood commissioners and other interested District residents in terms of the larger concepts in issue.

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

While my personal experience with the processing of PUDs leads me to believe that the current system adequately allows the Zoning Commission to fairly balance public benefits and project amenities against requested flexibility, I can appreciate OP's objectives for revision to the process. I therefore wish to offer my general
support for the concepts presented for the proposed amendment to the PUD process and I certainly look forward to working with OP as the process continues to clarify how certain of these mechanisms will function.

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

With regard to Recommendations 1 and 6 in the final working group session discussions, I understood that for Type 2 and Type 3 PUDs involving density increases, one benefit of the new process is that an applicant could determine the amount of additional density necessary or desirable to move forward with a particular project, review a pre-established matrix of benefits and amenities and make the necessary calculations to arrive at the package of benefits and amenities needed to achieve the desired density.
For instance, in a nonresidential PUD if an applicant is determined to proceed with a 15 percent additional density, that applicant would arrive at a package of, say, 15 points from the benefit amenities list. The role the Zoning Commission would play in that process largely would be to verify that the proposed amenities in a PUD application satisfies the elements set forth in the benefits matrix.

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

And I would refer you to page 14 of the hearing report. That's the Recommendation 6 which talks about as a bullet assigning a minimum point threshold for Type 2 and 3 projects.
If I understand the current approach, I'm concerned that it unfairly burdens certain applicants, especially those not seeking or unable to maximize density as well as developers of smaller properties and does not provide the level of clarity for the process that OP and the working group are seeking to achieve.

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

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

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

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

Just quickly. Regarding Recommendation Number 8, I believe it is, time periods for PUD orders. I'd simply caution that a bright line limit of two time extensions for Type 2 and 3 PUDs may not be prudent, especially given that one of the criteria for such extensions is existing or pending litigation and such a firm limit may allow
a PUD to lapse while tied up in litigation.

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

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

Thank you for your consideration of these comments.

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

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

Vice Chairman Schlater.

COMMISSIONER SCHLATER: Mr. Hughes,
thank you for your testimony.

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

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

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

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

COMMISSIONER SCHLATER: Okay. Okay.

Thank you.

CHAIRMAN HOOD: Any other questions?

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

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

(Whereupon, off the record from 8:28
p.m. to 8:31 p.m.)

CHAIRMAN HOOD: We're back in session.

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

Am I pronouncing your name right?

COMMISSIONER RONNEBERG: Yes, you are.

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

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

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

So, I think I have everyone at the
table and we will actually want to start with Commissioner Ronneberg, ANC-6A02.

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

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

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

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

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

CHAIRMAN HOOD: Okay.

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

CHAIRMAN HOOD: All right.

MS. KAHLOW: I might be adding things.

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

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

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

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

I said I was in opposition. I actually like a lot of the changes that have been made to the proposed PUD regulations.
There is one, I do have one large problem the Type 3 PUDs. And I want to say our Commission will be voting on the recommendations of our Economic Development and Zoning Committee on October 14th, so you'll get an ANC recommendation at that point.

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

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

And here's the case study from Day Street Northeast Neighborhood Commission -- Neighborhood Commercial Overlay. This is the
Capitol Place PUD just south of Senate Square, just east of the SEC Building.

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

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

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

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

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

And so how did this happen? Well, in negotiations with the developer, what essentially happened was they valued the land not at what the zoning was but at what other developers got for their projects. So, they looked across the street what they got, which they actually owned too the SEC Building, and they said "Oh, they got 5.9 FAR there. How about at Senate Square they got 5.3
FAR over there. We should get something similar."

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

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

So, how could this be changed to make it better? I think for city-wide we have in the regulations now a two-stage PUD process that no one utilizes. Everything comes through as a consolidated PUD. And for these I think it would be useful to go back to that process where in stage 1 you'd have to show that the proposed map amendment is consistent with the City Council approved plans and you'd have to justify the need for the additional density. And then you'd go on to stage 2 where they design the building and so on.
And within neighborhood commercial overlays, I don't think Type 3 PUDs should be permitted at all because it goes against the spirit of keeping the neighborhood scale. And as far as potential restrictions in other zones I'll leave that for you to contemplation.

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

CHAIRMAN HOOD: Thank you very much.

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

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

MS. KAHLOW: Thank you.

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

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

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

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

I want to start by saying that I've never been in a process with less respect, less respect for public comments. And that partially explains why you have only four or five public
witnesses today and why you did on the height and all the others.

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

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

And with respect to the PUDs one, the two major issues we raised were not in any of your materials. One is omnibus PUDs which is a brand new animal, for lack of a better term, that was used in the G.W. Campus plan for 20 noncontiguous squares to basically get around the requirements of the FAR cap for universities. They promised Office of Planning that they would deal with it in the university group in the Office of Planning,
and the PUD group never happened. It's not going to be addressed. It needs to be addressed because other universities are looking at it now.

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

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

Now, vis-à-vis the PUD recommendations
in front of you. Recommendation 2, we're opposed
to the standard 30 percent density increase for
nonresidential FAR.

For Recommendation 5, that's the most
important one. There are three kinds of things:
Benefits, which are for the public at
large;

Amenities that immediately impact the
community, and;

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

The proposal in front of you is only
about the first. And, in fact, some of those
public benefits, as many of you pointed out today,
are already law. And even if they put it a little
bit above, it's still not going to do it. The
main purpose of the PUD is to provide amenities
to the immediate impacted community and
mitigation. There's nothing in this document that
describes either of those. That's the process we
need to think about, what will work and what will
work better. Because I agree, some ANCs, some communities are more sophisticated than others. But we need to have something. There is such a huge impact when you have a PUD on the immediate community especially if they're little townhouses.

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

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

Recommendations 9 and 10. We've been extremely dissatisfied with the performance of the
Zoning Administrator and we would like the Office of Zoning, which is much more competent, to actually assume responsibility for PUDs in terms of what amenities have been delivered, in auditing, etcetera.

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

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

Now, to give an example, I used one other example besides the big 2 of things we talked about that were really important to our community. And that was, what about other agencies providing their reports? When we had
this omnibus PUD we desperately needed the Department of Transportation to tell us what the effect was on all of the streets. They never did. We weren't able -- they submitted some things. We couldn't cross examine them. We say hold up the process until the rest of the city that is where it is essential fills their obligations.

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

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

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

Thank you.

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

Ms. Simon.

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

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

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

This critical function of our zoning
regulations is primary if we are to improve our regulations for PUDs.

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

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

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

First, the Zoning Commission should have access to input from the community prior to the setdown meeting. This should not be limited
to the applicants or OP's summary of the community concerns. They should read the comments of the ANC, community organizations and individuals prior to the setdown meeting.

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

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

A good presentation requires hiring expert witnesses. It involves hundreds of hours of volunteer time and it's difficult to be able to
do this without certainty about being able to use all this work.

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

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

OP's proposal for a bonus density for
PUDs above inclusionary zoning is excessive. In approving inclusionary zoning, the Zoning Commission provided a 20 percent bonus density with an associated public benefit of new affordable housing spread throughout the city. IZ allowed the increase in density and required a specific public benefit in exchange: The provision of affordable units. This preempted a portion of the increase in density that might be consistent with the Comprehensive Plan and appropriate for the area and it mandated the specific benefit rather than the menu of benefits that would be provided as part of the PUD process.

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

Further, it is clear that the bonus density proposed is inconsistent with the Comprehensive Plan. For example, it would allow a
floor area ratio of 3.5 in a C-2-A zone which it's
listed in the Comprehensive Plan as one of the
categories that can be designated for low density
commercial.

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

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

For PUDs that do not involved the map
amendment OP suggested eliminating a setdown meeting is appropriate. As noted below, the bonus density that OP provides is excessive and in some zones would be inconsistent with the associated category and the Future Land Use Map.

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

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

OP lists a third category, PUDs with project specific rezoning. In the working group, the majority of participants stated that we should not even be considering associated map amendments with PUDs. Including associated map amendments in the PUD process destroys any predictability that
the homeowners have had about neighboring development. Rather than adhering to the limits of bonus height and density contemplated for PUDs, the applicant simply picks the zone which provides him with a heightened density that he desires.

My written comments have points about the remaining several issues.

Thank you very much.

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

Okay. Ms Gates.

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

The Committee of One Hundred's testimony was drafted by Laura Richards and me. Both of us are members of the Zoning Review Task
Force and participated in the work groups on Planned Unit Developments.

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

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

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

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

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

Skipping ahead.

The Committee of One Hundred notes that the working group discussed without resolution whether a fourth PUD tier was needed to deal with
very large sites such as St. Elizabeths, the McMillan site and Poplar Point.

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

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

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

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

The R-5-B problem. Currently PUDs in R-5-B residential districts are limited to one acre or 43,560 square feet. Under the proposed PUD regulations, the B-5 District would have the same standards as applied to the higher density zones. 15,000 square feet or about one-third of what was previously required for development depending on the amount and types of public benefits provided.

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

Setting a new matter-of-right density allowance under the PUD regulation might well encourage more PUDs in the R-5-B district as a developer could realize significantly more profit while the community is faced with considerably more density.
At the first work group meeting a list of PUD issues was identified, and I've attached those. Probably the most consistent theme across the six meetings was the need for greater public participation throughout the PUD review process. Considerable discussion took place on returning to a previous practice which allowed input to the Zoning Commission prior to the setdown hearings. It was felt this would provide ANC's with greater involvement in the PUD process.

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

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

Public benefits have proven a prickly issue in PUD's negotiations. The preliminary list drawn up by the Office of Planning appears to be a
means of acquiring expanded public services through the zoning process. This is a slippery slope and one the Zoning Commission should consider carefully being mindful not to set in place benefits that encourage District agencies to support development projects that would result in budget savings to that agency.

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

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

In any event, points should be awarded only for benefits to the general public for the
immediately surrounding neighborhood and no points should be awarded by amenities that affect only the project. That apparently is the intent of the recommendations, but clarification is needed.

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

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

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

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

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

The extensive reliance on design review requires the development of published standards or...
benchmarks. Again, OP sought to create predictability but design review without articulated standards risks decisions premised on principle, the principle of: I don't know much about art but I know what I like.

Thank you for the opportunity to comment.

CHAIRMAN HOOD: Thank you very much.

Ms. Richards.

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

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

We also support the recommended temporary Certificate of Occupancy pending delivery of promised benefits. However, we ask
the Zoning Commission to radically increase either
the number of points necessary to get the
requested zoning relief or else to insist that
communities and the public get substantially more
bang for the point than OP proposes in its
suggested list.

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

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

Other listed items are insultingly low.

It is well documented that John Rockefeller
passed out dimes as tips and souvenirs. That
practice has been revised in OP's list. One point for ten square feet of garden space in exchange for 1,000 square feet of building space. Two points for Silver LEED certification, nothing for senior citizens. And I'm in that group now so I have a personal and vested interest in it.

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

And finally, we want to prohibit points for development elements that are required by building codes, insurance standards, other regulations or that are the norm for a particular type of project. For instance, no points should
be awarded for landscaping a Class A office building or high income condominiums.

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

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

Minimum lot size. Penn Branch was very disappointed that OP recommended no increase in minimum PUD lot sizes. I think that at the beginning of this process, people thought everyone agrees the PUD process is flawed. And the big
things people thought was, well, maybe we'll get like real PUDs that are several acres. You know, and maybe we'll fix the benefits, and those were key and neither one of them happened.

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

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

We cannot understand why an initiative that announced as a principle goal that increase of transparency and trust has turned instead to a discretionary zoning regime, it's executed behind
closed doors. The recommendations by the principles underpinning the Zucker Report, Paul Zucker openly advocated combining planning and zoning functions and replacing the public adjudicatory process with informal discretion. The Council never adopted the Zucker Report but it would appear that OP intends to foist it upon the District by self-produced recommendations.

TOD and PUDs. The recommendations do not preserve the 2006 Comp Plan's provisions for a case-by-case determination as to whether areas surrounding a Metro Station is suitable for TOD development. TOD and PUDs are integrally related. PUDs are the primary tool for implementing TOD principles and PUD applicants often invoke TOD as the basis for their proposal being granted.

The Comp Plan nevertheless provides that every site potentially designated for TOD must be individually evaluated before being developed in this manner. The recommendations assume that a PUD proposal that invokes TOD
principles is self justifying without the need for further scrutiny or any consideration being given to neighborhood conformity. This is an especially alarming aspect of the recommendations in light of OP's proposed Comp Plan amendment presented to the Council.

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

Other issues. We now believe in IZ bonus density plus PUD bonus density, one or the other. And we're pretty emphatic about that.
Proposed Type 1 PUDs are special exceptions and should be treated as such. As proposed they are totally exempt from adverse impact review. That's just not, you know, fair.

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

Thank you.

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

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

Thank you very much.

CHAIRMAN HOOD: Okay. I want to thank
you all for your testimony.

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

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

MS. KAHLow: Very little.

CHAIRMAN HOOD: I can take that.

Wasn't yes or no, but very little. I'll take
that.

Ms. Simon.

MS. SIMON: Yes, there were several
although there were some where we felt that they
either didn't go far enough or went too far.

CHAIRMAN HOOD: Ms. Gates.

MS. GATES: Some, yes.

CHAIRMAN HOOD: Okay.

Ms. Richards.

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

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

And let me just say that one of the things that was mentioned to me at another hearing was that the reason we didn't -- I think it was
height. The reason we didn't have so many people here was because through all the work groups and the task force they were building more of a consensus. Is that an accurate statement?

MS. KAHLOW: No.

CHAIRMAN HOOD: Okay.

MS. KAHLOW: I assume you want one word.

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

MS. KAHLOW: I can just say with respect to this and others, we as a community, a variety of people across the city have gotten together and expressed frustration with this process. And we all know each other pretty well right now because we've all been in the same room talking about this and, hey, thank goodness you took it away, all the dangerous stuff out of that
height line so then we didn't have to testify here. The dangerous stuff was in it.

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

But let me just say this about the task force. When I was there the few meetings that I came to the folks who attended, the whole participants of the task force, I strongly don't believe that the Office of Planning can push any of them away. I think it would be the other way around. So that's just my belief. I may be wrong. But we have some folks in there who are very convicted to the process. They will not let the Office of Planning -- now somebody may tell me they're discouraged. But to move them away; they wanted to have another bite of the apple and they were coming either to the oversight hearing, Office of Planning.
I don't know, Ms. Gates, you're disagreeing with me?

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

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

CHAIRMAN HOOD: Okay. I did not know it got down to five or six.
MS. GATES: And I want to say one more thing if I might about ANCs. Having been an ANC commissioner and having been before, not the Zoning Commission so much but the BZA on a monthly basis when I was the Chair, I'm very discouraged with the amount of training ANCs are getting. So they don't come because they don't know what they're supposed to do. They don't know how to put together a case. They don't know the purpose of the zoning really. And I'm hoping that after this election in November we will see a change there and you will see more ANCs in front of you.

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

We've already talked to the Director, the new Director of the Office of Zoning. I think you're going to see that, kind of like what we used to do with the ANCs. We just actually had that discussion this week or last week. I think that rest assured and even with the new administration, we've already started that
discussion. I think you're going to see that where, you know, everybody -- the ANCs are welcome to come down. The Office of Zoning's office is going to do a presentation to present. I think we're getting ready to go back to that. So --

MS. GATES: Thank you.

CHAIRMAN HOOD: -- just hold tight.

MS. GATES: Thank you.

CHAIRMAN HOOD: The party status at setdown. That was discussed and I'm trying to think of when that was discussed. But that was something that has been tossed around for awhile. And I can't remember where we left off but maybe, Mr. Parker, you can help me?

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

MS. STEINGASSER: I think it's been discussed in many forums. The BZA has had similar issues of trying to offer some kind of equity to the neighborhoods who are taking off work and
using their vacation time and having to pay an
attorney to come and sit through only to find the
other cases have overflowed or they're not getting
party status. So, they have to come fully
prepared.

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

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

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

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

The time the notice is sent out is when
the public hearing notice is sent out.
CHAIRMAN HOOD: But apparently from what the testimony, this was a process or practice that was done prior. But I just don't remember it. It must have been done some years ago.

MS. SIMON: Yes.

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

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

MS. KAHLOW: Actually --

MS. SIMON: I raised two issues.

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

MS. SIMON: Yes. In the past the
Zoning Commission did read letters from the public prior to the setdown meeting and it informed discussion, and it was very useful.

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

I don't think that it's ever been the case in my recollection that you actually determined party status prior to the setdown. You usually would have a pretty good idea. Particularly, a very long-standing community organization might know. But in some neighborhoods there aren't long-standing community
organizations. And when people see the danger of an inappropriate PUD in their neighborhood, they get together and they are less certain that they'll get party status.

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

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

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

Came back at 33 percent. You rejected it. No setdown at 33 percent. Finally, came back at 51 percent. You set it down. They ended up
not building it, they ended up building the Ritz. But it was the input from the communities that showed you what was going on, and that was how I got persuaded to send you the stuff today in advance.

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

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

CHAIRMAN HOOD: Okay. Let's --

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

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

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

CHAIRMAN HOOD: Were you able to present your case?

COMMISSIONER RONNEBERG: In the three minutes.

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

COMMISSIONER RONNEBERG: No.

COMMISSIONER MAY: Mr. Chairman, can I ask a question? I'm not sure we answered this
issue before. But I'm trying to understand OAG's issue with when a record begins. Does that happen when something is setdown?

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

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

SECRETARY SCHELLIN: Correct. There really is no record.

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

SECRETARY SCHELLIN: It does.

COMMISSIONER MAY: Okay. So, if we're establishing procedures now by which contact with ANC is mandated in advance of something coming
before us, it seems that we could also mandate that there be a submission of an ANC report or something like that to the Office of Planning that would be included in the setdown report. Right?

SECRETARY SCHELLIN: Correct.

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

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

COMMISSIONER MAY: Yes.

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

COMMISSIONER MAY: Okay.

MS. KAHLOW: Mr. May, can I say though that it should not just be the ANCs. The civil associations often spend the monies since they're the ones that can sue and they often have much more detailed information that should be available.
COMMISSIONER MAY: Okay. Well, I'm not sure what to do about that.

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

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

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

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

SECRETARY SCHELLIN: it would work for
most hearings but not all because not every month
do we have two hearings -- do we have two meetings
like October, December.

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

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

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

SECRETARY SCHELLIN: Right, which is we
wait until the applicant files a pre-hearing
statement.

COMMISSIONER MAY: Okay. So --

SECRETARY SCHELLIN: So it's not on us.

COMMISSIONER MAY: All right. So, once
they file the pre-hearing statement, then we can
establish a date for both a meeting to take up --

SECRETARY SCHELLIN: Yes.

COMMISSIONER MAY: -- party status applications and a hearing.

SECRETARY SCHELLIN: Correct.

COMMISSIONER MAY: Yes. Okay.

CHAIRMAN HOOD: So, that's something we can look at. Maybe we'll look at Wednesday. No, I'm just joking.

Last thing. I think a lot of good points. I'm going to go to my colleagues, but I think I've gotten to see a lot of points like pitting the agency against agency for those dollars. I think a lot of good points have been brought up by all of you.

But let me just say this to you, Commissioner. You know, I know this may not be beneficial to you, but I want to apologize about giving you just three minutes.

Typically, I don't normally do that. Especially, if it's an ANC Commissioner. Even
though you were in another area, you might not have got -- I don't apologize for not giving party status because you might have been a mile away or something, I don't know. But, you know, not to give you more than three minutes and you're an ANC Commissioner, I don't know what the case was. Was I Chairing? I just want to know was I Chairing that hearing?

COMMISSIONER RONNEBERG: I don't want to rat you out but you were.

CHAIRMAN HOOD: And I only gave you three minutes?

COMMISSIONER RONNEBERG: Possibly five. I may be --

CHAIRMAN HOOD: Okay. Now, that's the difference. Oh, remember now, you're on the record. Because I know Anthony Hood and Anthony Hood doesn't usually do that.

Now five minutes, and you got to remember when you got your back turned to the audience, so anyway.
And let me ask this. Ms. Bushman, from a legal respective, can the City Council legislate zoning?

MS. BUSHMAN: No, it cannot.

CHAIRMAN HOOD: And somebody said the law. We are under the Home Rule Charter. Actually get in trouble for every time I mention it that the City Council cannot legislate zoning with some Councilmembers. But that has been what I've been advised of, it cannot legislate zoning.

And that goes to something, I think, Ms. Kahlow had mentioned.

Okay. Let me open it up to my colleagues. Did you have something?

MS. RICHARDS: Oh, I just wanted to comment that I think Ms. Kahlow's point went to the Comp Plan.

MS. KAHLOW: Yes, it did not go.

CHAIRMAN HOOD: Okay.

MS. KAHLOW: It was legalized --

CHAIRMAN HOOD: Okay. You know, I'm
definitely not going to question your expertise.

Okay.

Let me open it up for any comments.

Mr. May.

COMMISSIONER MAY: Yes. I don't have so much questions for the panel. But I was interested in hearing the Office of Planning respond to some of the issues that were raised. And, in particular, Ms. Kahlow's issue with regard to the omnibus PUDs, the G.W. case. And also the issue of benefits to the affected community. And then also Ms. Simon's statement with regard to C-2-A FAR jumping all the way up to 3.5 in your proposed scheme.

And then I'm not sure who made the statement, but the statement about lot size minimums or our minimum lot size of 15,000 being exceptionally low compared to other cities.

So, if you can answer on any of those now or later. Now, if you can do it.

MR. PARKER: Yes. I can talk about a
few of those.

Ms. Kahlow and I have had several discussions on omnibus PUDs. The issue is adjacency of property. The zoning regulations say that a PUD can be multiple properties that are adjacent, but it allows for crossing alleys and streets.

The issue with G.W. was that there was a large swath of area. All of those properties were adjacent in that they crossed alleys and streets. The issue raised by Ms. Kahlow is that there were also properties not owned by G.W. that were within this area.

I think the judgment was at the time that this didn't affect the adjacency of these parcels. There have been multiple other examples of donut PUDs like Capper/Carrollsburg in Southeast. There were nearly 20 properties unowned by that development that were within that larger PUD. And other examples of the same thing.

So, I think that we have a disagreement
about what adjacency is. I think I agree with her point that unadjacent properties in two different parts, you know separated by other properties should not be. We disagree that G.W. falls into that category.

To the second point of benefits occurring to the community. I just did a count while we were sitting here. There are 25 possible benefits on our proposed list and, based on my estimation of what benefits the local community, I counted 16 of those. So about two thirds of the ones on our list I would judge to have a benefit to the surrounding community.

So, even though that there is a chance that a developer could pick most of their benefits off the other thirds, we are providing a system where the majority of benefits identified, the majority of benefits available have some benefit to the surrounding community. And I think that setting up parameters saying 50 percent or two thirds of every project must fall within these
takes flexibility away from the Zoning Commission and even the neighborhood who may have a desire for an environmental building or something that has a broader impact.

And Mr. Cochran --

MR. COCHRAN: We imagine that it would also be possible for a neighborhood, an ANC, specific group to propose certain neighborhood-specific amenities that could then be ranked ordered, valued with the same point system as long as it's approved by you all, the Zoning Commission.

We've tried to do some of that in the past when we've talked to particular neighborhoods and asked them to informally give us a list of what they would consider amenities, benefits that they would like to see PUD applicants proffer for the neighborhood. But we, unfortunately, have been met with a fair amount of resistance on that in the past.

MR. PARKER: Yes. I think Mr. Cochran
brings up a great point that -- I lost my train of thought.

Yes. That we expect to and plan to amend the list regularly. That, again, is a living document. We want to have ANC contributions. We want to have regular updates to this list to keep the benefits local.

The other issues that you -- yes. Lot size. We'll look at our best practice cities to see what minimum lot sizes are available.

Okay. Yes. Well, yes. I won't go there. But we'll provide input.

MS. STEINGASSER: One of the things I'll add just for context on minimum lot size is we're a confined and historic city. And because of the L'Enfant plan we have a lot of odd-shaped lots and we have a lot of historic landmark structures. And part of what we were trying to do is to allow either through the Type 1 or the Type 2 the redevelopment or re-adaptive reuse of those sites. And having an overly large suburban scale
PUD standard makes it impossible to get those things back in view. So, that was one of the angles we were trying to figure out.

COMMISSIONER MAY: My question was solely limited to the idea that whether this really is that exceptional. Because we're certainly not the only city that's old and historic and confined. We're confined in one way that other cities are not. So, but I mean that's basic question and you answered.

MS. STEINGASSER: And we have a distribution that we can bring in and show you.

COMMISSIONER MAY: Okay. Then the last question I have which is sort of the overall tone of this that I'd like the Office of Planning to respond a little is this notion that over the course of the various meetings with the working groups, the specific concerns of neighbors are being either ignored or beaten down by the process. And to hear statements like that is kind of discouraging because after the first couple of
chapters when we received text, edited text, I was actually quite encouraged that the process seemed to be going very well because we went from highly attended, somewhat contentious discussions on certain issues to relatively straightforward hearings on specific text. Now granted it took a couple of years between, you know, from one to the other and I don't know when this one is going to come back with actual text. But I thought that the process was probably going reasonable well. To have it suggested that, in fact, no, neighborhoods are being routinely ignored it's kind of disheartening.

I can understand if you get to a point where you listen to them and you simply came down a different way, I would hope with some support that goes beyond simply your office. But I get the sense that people who we rely on to come and give us honest testimony and criticism all the time that their views would be listened to and taken very seriously and addressed.
MR. PARKER: I think you hit on two important things there. First, you know, when we had the first height guidance hearing back in 2008 there were a lot of people that came and said we aren't happy. We haven't been heard. By the time we got to the text last month we were in a better place. And I think that this is the very first time that you have seen anything about PUDs. In another year when we see text, we may or may not be in a better place, but I think we'll be closer.

The other thing is we hear from the working group and the task force a variety of opinions. There was no consensus on the working group about one right way to go. There was no consensus on the task force about one way to go.

We hear a lot of opinions. We take a lot of opinions into account. We try to find the best response that solves the problems that were identified, that's respectful of the city's existing practices and other constraints that adopts the best practices. So, we take everything
that we hear into account, certainly. We don't always agree with it. We don't always adopt it.

I mean, tonight we heard just on the one issue of the -- I lost my -- but anyway. On several different issues we've heard several different opinions from opponents. So, you see the position that we're in. We certainly hear the input and we weigh it the best we can.

COMMISSIONER MAY: I would agree. We didn't hear unanimity on all the issues. But I was interested in the sort of general theme about what attention your paying to the views that are being expressed.

I think one of the sort of general theme that I would note that seem to be something of a common thread is this concern about the layering on of bonus density under a PUD with IZ and the interaction between those and what that does to the resulting zone. And how big that makes things, makes projects within those neighborhoods. And I think we need to understand
that better.

I'm not saying that you're proposing is
wrong but clearly some people think that it's too
much. So somehow we need to understand that
better before we're able to make ultimately
decisions about that.

MR. PARKER: Well, I think the thing to
keep in mind here is that we're talking in this
process about discretionary projects. And making
a judgment about whether density is wrong or
right, in terms of PUDs is in your hands. Right?
I mean, if we're going --

COMMISSIONER MAY: We tend to operate
much better with some strict guidelines.

MR. PARKER: I'm sure you do. But if
we are setting new IZ guidelines at 40 percent,
we'd have to be a lot more firm about this 40
percent is appropriate in every neighborhood that
it's being applied. We're setting a standard.
All we're doing is setting a standard for whether
you're going to go through Type 2 process or Type
Someone can apply now under the current rules, someone can apply under the future rules for 100 percent bonus density. It's ultimately down to the Commission to decide whether that's appropriate in the neighborhood and the surrounding.

All that we've done with our 20 and 30 percent is define the process to go through.

Does that make sense?

COMMISSIONER MAY: Well, I guess in theory, but I'm not sure that really is -- that's it's really. I think I want to see those charts that we talked about before and I think I need to understand better just how the IZ provisions work or how they will work in conjunction with this.

CHAIRMAN HOOD: Okay. Any other questions or comments for this panel?

COMMISSIONER TURNBULL: I just have one comment. I would echo what Commissioner May has said. I think and what's disheartening to the
people who on the panel is that I think without charts and tables, I think there's this fear of what these numbers really are. What's this quantity of this additional zoning and the impact on the neighborhood?

It sounds like a very fearsome number that we're allowing developers to go to. And I think that's sort of our uncertainty too is that, you know, we need a little more explanation. We need a little bit more guidance as to how this -- where these numbers are really going.

MR. COCHRAN: Commissioner, if I could mention it?

The approximate numbers can be ascertained in those charts given on the Y axis. Those numbers are there. But we'll certainly be following up on that.

One of the reasons that we proposed the density increase was our concern that with only two, possibly three zones giving enough bonus density after IZ to permit of a PUD, we were very
concerned that that would encourage every PUD applicant to come in and ask for a zone change which would then give them even more possibility for a density increase.

So, what we were looking for was something that would comport with the classifications in the Comprehensive Plan on what types of land use categories fit with what types of FAR that wouldn't go beyond that, but that would still give enough of a possibility of a density increase for PUD to not make it necessary for a developer to go and ask for a new zone. Because we had a range from 7 to 43 percent on the bonus density in the residential zones.

So, we did try to average that out at 20 percent and accomplish --

COMMISSIONER TURNBULL: I think in theory, you know, it is a way to go. I think what you're hearing from the panel is that there's a lot of uncertainty as to whether, you know, if they really -- it sounds forbidding. It sounds
like there's more to this than -- it sounds like
you're trying to slip something over on them.

MR. COCHRAN: In terms of that I would
invite you to go to the zoning review website.
Summaries of each of the working group meetings,
each of the task force meetings are on that
website. So, you can judge for yourself whether
we have listened to or not listened to the people
who came to those meetings.

COMMISSIONER TURNBULL: There was one
comment made and I forget who made it about the
bus routes and streetcars which will be transit
oriented development, as I'm not sure.

MS. RICHARDS: It was my comment, sir,
and we're very concerned. We are very concerned.
We've expressed this before the Council as well
and stated it here before about the interplay
between -- well, first TOD and TOD has proposed
the expanded long bus routes and streetcar routes
and that change is proposed to be made to the
Comp Plan without Council oversight or vote.
And since everything that's like designated, you know, a TOD then becomes ripe for PUD development. We very much would like to see the Comp Plan provisioned for case-by-case review of TOD sites preserved in the zoning regulations regarding PUDs.

COMMISSIONER TURNBULL: Is that in the works? I mean, I --

MR. PARKER: There will always be case-by-case review of PUD. And there isn't any encouragement of PUDs in TOD versus non-TOD. So, we have in our sustainability recommendations and you've seen that we're going to be proposing TOD zoning that will have, you know, standards for how to develop facing a Metro, different parking standards --

COMMISSIONER TURNBULL: Right.

MR. PARKER: -- etcetera. But the PUD recommendations don't make any distinction between TOD and non-TOD zoning.

COMMISSIONER TURNBULL: Thank you.
MS. RICHARDS: I'll be happy to follow
up with that and provide additional written
testimony.

CHAIRMAN HOOD: Okay. Vice Chairman
Schlater.

COMMISSIONER SCHLATER: I just want to
thank the panelists for coming out tonight. It's
been a long night. You obviously put a lot of
thought and effort into your recommendations. And
I just want you to know that it's extremely
helpful to this one Commissioner to have it. I
agree with a lot of your points. And we'll be
reiterating them when we give guidance on these
recommendations.

So, thank you.

CHAIRMAN HOOD: Okay. Any other
questions, Commissioner May?

COMMISSIONER MAY: No. I just wanted
to respond to something Mr. Cochran had said.

You know, if there are things that you
have, other materials that you have, summaries of
meetings or whatever, that demonstrate the case about the range of options that you've heard and so on, I suggest that you all might just submit something to that effect. Because, frankly, it's much more reliable and consistent if we see that information here at the Zoning Commission rather than having to go out and do research on our own, which generally is discouraged.

Thanks.

MS. GATES: Mr. May, may -- may --

CHAIRMAN HOOD: Sure.

MS. GATES: Would it be safe to say the question you're asking is why should a community not be fearful of the density you're proposing?

COMMISSIONER MAY: That's not really the question I was asking.

MS. GATES: Well, you were talking about --

COMMISSIONER MAY: I mean, but I was just talking right now. What I just said or earlier?
MS. GATES: Earlier.

COMMISSIONER MAY: Okay. Yes. I mean I want to understand better what they're proposing versus what exists now. That was the purpose of the chart.

MS. GATES: Well, I think it would be very helpful, you or a member of the Zoning Commission and deal with this on a regular basis. Communities don't. And when they hear about the density increase, when they've made the kind of investment they have in their community, this scares them.

So, the clearer the chart is, the better for everyone.

COMMISSIONER MAY: I agree. Thank you.

MS. KAHLOW: Can I add something to Mr. May's colloquy with Mr. Cochran?

Unfortunately, the Office of Planning's lists do not include all of the issues that were raised. I went through the first two and most of the issues I raised were not listed. So, you have
a problem in that they are not complete.

COMMISIONER MAY: Okay. But you provided some of that in your testimony, right?

MS. KAHLOW: Some. I only had five minutes. But I have more I could write. I mean, I had a list of six things here that--

COMMISIONER MAY: We're going to have the record open for the ANC reports. What are we going to do about other information?

CHAIRMAN HOOD: I'm hearing, you only had five minutes and I heard earlier I only gave somebody three minutes. I know good well tonight I gave everybody more than five minutes.

MS. KAHLOW: Yes, you did. You did, Mr. Hood. Thank you very much but I'm saying I can go on and on. You were great. Thank you.

CHAIRMAN HOOD: Because I don't want next month that I didn't do that because I know how we operate.

MS. KAHLOW: You did. You did.

CHAIRMAN HOOD: Okay. And,
Commissioner May, you said you had a question. Were you asking something?

COMMISSIONER MAY: No. I mean, we still have the open question of the ANC requests to keep the record open.

CHAIRMAN HOOD: Yes. We're still going to do it. Yes.

COMMISSIONER MAY: And we should probably address the question whether we would accept all information or just the reports from the ANCs who'd asked it.

CHAIRMAN HOOD: Someone else. I hard two people say they wanted to supplement something, some of your questions. Maybe we could just go with that. And the ANCs that requested -- I guess, if we just -- I don't know. What do you all think? Leave it all open. Just leave it open.

SECRETARY SCHELLIN: Until October 25th?

CHAIRMAN HOOD: 25th. Let me do this
first. Let me go back to Commissioner Ronneberg.

Do you have anything else that you wanted to say?

COMMISSIONER RONNEBERG: No, sir. I had very limited testimony.

CHAIRMAN HOOD: Was it three -- no, I'm just -- okay.

So, that's it. Any other questions for this panel?

Again, as we've already stated by Commission -- Vice Chairman Schlater has already mentioned. You all were very helpful. You know, your comments will not go on deaf ears, trust us.

So, I appreciate you all coming out and providing some other twists to things that we may be able to look at. We greatly appreciate it.

Thank you.

Okay. Let's come up with a time factor before -- you say August 25th?

SECRETARY SCHELLIN: Right.

CHAIRMAN HOOD: I'm sorry, October
25th. It might be August.

SECRETARY SCHELLIN: I was agreeing with you.

October 25th for the record to be open until 3:00 p.m. on that day for anyone to submit additional testimony including the ANCs. Actually, anyone. And then were you looking for the Office of Planning to provide responses to that plus additional information you requested?

CHAIRMAN HOOD: I'm not sure. Commissioners, do we want responses from Office of Planning or can we wait until we get our --

SECRETARY SCHELLIN: The next step for the Office of Planning is the worksheet.

CHAIRMAN HOOD: Worksheet. We usually get a worksheet.

COMMISSIONER MAY: I don't think there was anything that I asked them that was unanswered per se. There were a few extra pieces of information that we asked for, charts and such.

SECRETARY SCHELLIN: Some charts.
COMMISSIONER MAY: I mean, not responses per se, but just the additional material requested.

SECRETARY SCHELLIN: So, when do you think you guys can provide that?

MS. STEINGASSER: We could provide it within the week.

SECRETARY SCHELLIN: Okay. So, the same day, October 25th?

MS. STEINGASSER: 25th is fine.

SECRETARY SCHELLIN: Okay.

CHAIRMAN HOOD: And I think the information that was provided tonight by this panel about -- by the panel tonight I think we can -- we can use what we have -- the materials we have here in our deliberations.

SECRETARY SCHELLIN: Do we want to--

CHAIRMAN HOOD: Except for whatever you're going to need.

SECRETARY SCHELLIN: -- put this on for November 29th? Is that going to give you guys
enough time to -- isn't that Thanksgiving?

CHAIRMAN HOOD: The 29th.

MR. PARKER: We can have the worksheet on the 25th or on October 25th as well.

SECRETARY SCHELLIN: So, you actually want to take it up at our November 8th meeting or the November 29th meeting?

MR. PARKER: November 8th?

SECRETARY SCHELLIN: November 8th?

CHAIRMAN HOOD: The sooner the better.

SECRETARY SCHELLIN: The sooner the better. Okay. All right. I thought they might need more time because they need to work with OAG. So, November 8th?

MR. PARKER: Do we have to do anything -- just the worksheet and --

SECRETARY SCHELLIN: Just the worksheet that you worked with OAG.

MR. PARKER: No, we'll be fine.

SECRETARY SCHELLIN: Okay. So, I'll put it on the November 8th meeting agenda then.
CHAIRMAN HOOD: Is everybody here November the 8th?

SECRETARY SCHELLIN: Let me check.

CHAIRMAN HOOD: Do we have a lot of stuff already for November the 8th?

SECRETARY SCHELLIN: I'm not that scheduled out but right now I don't have a lot. But right now no one is scheduled to be out. So, if they are, they haven't told me.

CHAIRMAN HOOD: Well, Mr. May will be out.

SECRETARY SCHELLIN: Mr. May is not going to be here?

COMMISSIONER MAY: I think my wife would understand if I missed her birthday for zoning.

CHAIRMAN HOOD: Mr. May is going to be in trouble.

COMMISSIONER MAY: I've missed so many other things at this point.

SECRETARY SCHELLIN: First it was the anniversary, now it's her birthday.
CHAIRMAN HOOD: Hopefully, she's not watching the webcast live. I can guarantee you that.

COMMISSIONER MAY: She often works on her birthday and misses it too so --

CHAIRMAN HOOD: Okay.

SECRETARY SCHELLIN: So, we're good for the 8th. Maybe we should just have her come down and sit in the audience. We'll all celebrate her birthday. Okay.

COMMISSIONER MAY: You know, maybe I could get her to tune in and we could all sing to her.

SECRETARY SCHELLIN: She may not enjoy that.

CHAIRMAN HOOD: Okay. So, anything else, Ms. Schellin?

COMMISSIONER MAY: No, but my sons -- my sons will definitely --

CHAIRMAN HOOD: We just might do that. Okay. I want to thank everyone for
their participation tonight. And this hearing is
adjourned.

(Whereupon, the above matter was
concluded at 9:51 p.m.)