GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

ZONING COMMISSION

PUBLIC HEARING

IN THE MATTER OF:
COMPREHENSIVE ZONING REGULATIONS
REVIEW: MIXED USE ZONES;
SETBACKS

Monday,
October 25, 2010

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

The Public Hearing of Case No. 08-06-13 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room, 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD Chairman
KONRAD SCHLATER Vice Chairman
PETER MAY Commissioner (NPS)
GREG SELFRIDGE Commissioner
MICHAEL TURNBULL Commissioner
FAIA, (AOC)
OFFICE OF ZONING STAFF PRESENT:

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

OFFICE OF PLANNING STAFF PRESENT:

MICHAEL GIULIONI
TRAVIS PARKER

This transcript constitutes the minutes from the Public Hearing held on October 25, 2010.
T-A-B-L-E  O-F  C-O-N-T-E-N-T-S

WELCOME:
Anthony Hood, Chairman ...............4


OP Presentation Part I:
Travis Parker ............................7
Michael Giulioni ........................8
Board Questions: ......................32

OP Presentation Part II:
Michael Giulioni ........................40
Board Questions: ......................64

OP Presentation Part III:
Michael Giulioni ........................75
Board Questions: ......................92

OP Presentation Part IV: ................105
Michael Giulioni ........................105
Travis Parker ............................108
Board Questions: ......................112

PUBLIC TESTIMONY:
Marilyn Simon .........................117
Alma Gates .............................123
Nancy MacWood ........................133
Cary Kadleccek ........................149
Board Questions: ......................156

Specifically Requested Material: .....164/165
Take Issues Back Up on 11/29/2010: ....166

ADJOURN:
Anthony Hood, Chairman ...............167
CHAIRMAN HOOD: Good evening, ladies and gentlemen. This is the Public Hearing of the Zoning Commission of the District of Columbia for Monday, October 25, 2010.

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

We are also joined by the Office of Zoning staff, Ms. Sharon Schellin, Ms. Donna Hanousek and Ms. Esther Bushman. Also, the Office of Planning staff, Mr. Parker and the gentleman to his right. What's your last name? I'm sorry.


CHAIRMAN HOOD: Okay. Also from the Office of Planning.

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

The subject of tonight's hearing is Zoning Commission Case No. 08-06-13. This is a request by the Office of Planning for the Commission to review and comment on Proposed Concepts for Text Amendments to Zoning Regulations.

This is one in a series of hearings on various subjects apparently under review as part of the broader review of the Zoning Regulations.

Tonight's hearing we will consider General Rules applicable to Mixed-Use and Setbacks.

Notice of the hearing was published in the DC Register on October 1, 2010 and copies of that announcement are available to my left on the wall near the door.

The hearing will be conducted in accordance with provisions of 11 DCMR 3021 as
follows: Preliminary matters; presentation by the Office of Planning; reports of other Government agencies, reports of the ANCs; organizations and persons in support; organizations and persons in opposition.

The following time constraints will be maintained in this hearing: ANCs, Government agencies and organizations 5 minutes, individuals 3 minutes.

Again, all persons appearing before the Commission are to fill out two witness cards. Those cards are located to my left on the table near the door.

Upon coming forward to speak to the Commission, please, give both cards to the reporter sitting to my right before taking a seat at the table.

To avoid any appearance of the contrary, the Commission requests that persons present not engage the Members of the Commission in conversation during any recess or at any time.
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?

MS. SCHELLIN: No, sir.

CHAIRMAN HOOD: Okay. I guess we will get right into it. I'll turn it over to the Office of Planning.

MR. PARKER: Good evening, Travis Parker with the Office of Planning. The majority of our presentation will be PowerPoint tonight, so if the lights could go down, that would be great. Thanks.

And the presentation tonight will be done by Michael Giulioni.

CHAIRMAN HOOD: Okay. Before Mr. Giulioni gets started, Mr. Parker, can we make sure that we get a copy of the PowerPoint presentation?
MR. PARKER: We will put one in the record. Absolutely.

CHAIRMAN HOOD: Thank you.

MR. GIULIONI: Can everybody hear me all right? Okay. So basically, before we get started, I want to just give you sort of a broad overview.

We are going to present in two large parts. Okay. So the first part is going to be reviewing the recommendations that apply to all zones within Title 11. And then I'm going to focus specifically on, I guess I have put, "Mixed-Use Zones," because we are encompassing actually a few different Zone Chapters which includes the Commercial, the CR Mixed-Use Zone, the SP Zones and the Waterfront Zones.

And so when we review those recommendations, I'm actually going to break it up a little bit more for discussion with respect to each actual subject area.

But the first part is going to be
kind of long, because it all interrelates.

All right. And of course, if you have any
questions throughout for clarity, please, feel
free to stop me.

So the first thing I'm going to do,
I'm going to talk a little bit about why are
we sort of talking about these universal
changes to lots, lot lines and the application
of yards. So I'm going to focus on some
problems that we encountered and then we are
going to actually go through each of the
subjects, yards, lot lines and lots and I'm
going to sort of flag problems, propose our
recommendations and go through examples, so
that you get a real sense of what we are
proposing based on examples that are here in
the District.

As we began to approach the Mixed-
Use Zone recommendations, what we found is
that when we were trying to actually model the
proposed recommendations, in terms of rear
setbacks and side setbacks, due to the lack of
clarity regarding, I guess, lot line definitions and how yards generally work, we couldn't actually find out well, what's going to happen if we propose changes to how setbacks work?

So from there, we basically resolve well, what we're going to have to do is evaluate lot lines, yards and lot types comprehensively for the entire District. And I think you will see that what we are proposing will hopefully clear things up a bit.

And I guess the example at the top is, you know, right now as far as lot lines go, we only have one definition for a type of lot line and that's a street frontage lot line.

So, you know, what are the problems with this? Generally, it makes things difficult to interpret and administer. There is a general lack of clarity, which is one of our objectives to fix through this initiative.
to improve clarity.

We have unpredictable outcomes. When it comes to zoning, I think, something I have heard clearly, when we go to meet with the community, is that we should know what is going to happen with our regulations.

And then the third problem is that in many instances the outcomes are actually inconsistent with the current policy objectives that are outlined in the Comprehensive Plan. So based on how, let's say the history of interpretation, we may be ending up with results that we do not desire any more.

Now, so I've sort of done this graphic here. I'm going to go through in order. I'm going to start with yards and then move on to lot lines and then talk about lots. But the idea of the cogs is that these things all work together. And so it's important to keep that in mind. And again, that's why we structured this part of the presentation like
that.

So our first problem, there is general confusion in the code and we cited this in the report. It has sort of come through BZA cases between a yard and a required yard. We actually don't have clear rules or definitions for what is a required yard versus what is a yard.

And generally, what we find is that if we look at our yard requirements that we currently have in the code, they are actually inconsistent with what is actually desired, which is a setback. A requirement that you sort of are removed from a lot line in a certain manner by a certain distance.

In many cases, we don't actually require a yard, which would be like an open space with grass clear from the ground to the sky.

So what we are proposing is that we start by adding a new terminology. And I have started already using it, so hopefully we all
become acclimated to that. And that is the term setback. And we would be adding three terms both the front, rear and a side setback.

And then we also want to clarify what is an existing yard. And we are going to clarify that for again the front, rear and side.

And important, the last point is that we want to separate regulations from definitions. So definition we just simply want to be to aid an interpretation versus a regulation which was, you know, an actual prescribed rule of what we want to achieve.

And this should hopefully become clear and this is something we generally try to do throughout all chapters that we have been looking at.

So this illustration is intended to sort of bring it all together and so I'm going to -- if you follow my pointer here, the basic idea is this:

Is that, you know, here we have
highlighted in the gray, we actually have our rear setback. Okay. And so it is a minimum requirement that a building must be behind, must be set behind.

Whereas, we still have a rear yard. You know, a yard is the space between the main building and a defined lot line. And this is important because we do have regulations in the code that are associated with the rear yard, that entire area, versus other ones that are associated with the setback.

Now, to lot lines. So for lot lines, I'm going to give you some context, sort of identify or review some policies that support our proposed recommendations and then give you some context, like help you understand well, why is this relevant to the District.

And then we are going to go through actually five examples and those are going to deal with both Residential and Mixed-Use areas
of the city. I'm going to highlight the problems that we currently have based on our definitions.

And again, we have used -- although they are not identified specifically, but these are all lots that exist here within the District. In some cases they may be vacant, but in other cases they are just lots and we have chosen not to highlight that there is or is not a building on it.

So our Comprehensive Plan, the 2006 Comprehensive Plan, gives us some pretty strong guidance about what we should be doing. We should be promoting infill while preserving character. And in the context of commercial areas, we want to create an appropriate street wall and those two policies, they basically focus on Urban Design Policy 3.1.6 and 3.1.7. They focus on ensuring that we have a continuous commercial street frontage and that we don't have often the terms used like a gap. So we want to make
that wall continuous.

I guess why this is important here in the District. Based on surveys of lots, in low to mod areas, what we found was that about 10 percent of lots are actually corner lots. And overall 20 percent are regular lots. So, you know, we can sort of say with pretty much confidence that 1 in 5 lots doesn't have clear direction regarding lot lines and where you should measure a setback from.

And in our Mixed-Use areas, we also found that about 20 percent of the lots in Mixed-Use areas, again, about a fifth are actually located on corners. And this is especially important because corners are sort of prime real estate. You know, they have, in effect, two fronts, two faces that we want to make sure we are addressing properly with our regulations.

So all in all, again, about 1 in 5 lots without adequate direction, clear direction.
So again, now, I'm going to go through each example. And basically, what I'm going to start by doing is I'm going to take you through each example. We've got five. And I'm going to sort of familiarize you with the context and then go through the problems based on that context. And then we are going to come back -- after I have actually presented what we are proposing, we are going to come back and see how our proposals improve the situation.

So our first example is a main street urban area. Let me just get my pointer here. So what we have here, this is a corner lot and the problem based on the current application of a rear lot line is that we don't know on a corner lot which is the appropriate lot line. It is actually left to the applicant to decide which to choose.

Now, in this context, what we feel is that in both instances it's really unnecessary because, again, what we have is we
have two streets, Street B, Street A and both of these streets, in a sense, we want to create a continuous wall.

We have an existing row building pattern here that we want to continue and then on our more main street face, we want to also fill that out.

Sorry, again, this is a Mixed-Use main street urban area. Travis wanted me to highlight that.

So, I guess, just a final point about this, the way we are sort of approaching is that really what we have here is two side lot lines. And there is no rear lot line. We have a side lot line here and a side lot line here.

So we are going to move on to the next slide. So in our second example, we are highlighting a type of lot that actually is quite common in the District. I can't give you specific numbers, but I think we all recognize them due to the L'Enfant Street
Plan, so this would be defined as a triangular lot under the District's current definition.

So within this context, we actually would have upwards of three options of where a setback could be drawn from. So I could actually place the front of my building along Street B, the setback would be along Street A.

I could place it along Street A and then my setback would be along Street B or I could maybe put my entrance here and then my rear would actually be against these abutting lots.

I think, generally, what you can see is that the applied setback based on the zone would result in really an impractical application of a setback based on the context. You would be setting back from the street.

And then I think also if we were to have this setback, basically, sorry, potential rear setback C, what we would end up with is a gap on the street wall. So this is really discouraging appropriate and compatible infill, which is something we want to address.
And our third example, we are now going to go to this is actually a residential context, a lot to mod residential context. And we have on this side got our potential side setback. And this generally makes sense. You know, we can see from this lot that we have two side yards. And that would be maintaining that pattern.

But again, we have a rear setback here which leaves us with an area to build which is highly limited and I don't think would allow us to set back in line with this building. And again, the question is sort of what are we setting back from?

Okay. And our fourth example, we are going to look at another main street commercial area. And we have got -- this is a highly regular lot. And again, these are more common than one would think. And so because it has upwards of seven sides, the question is okay, well, which is our rear?

And I have just hypothetically
chosen to hear both of which would result in,
I think, again, that gap in the street wall
that we don't necessarily desire.

So along Street B, we may have a
setback here if we were to choose that as our
rear lot line or along here, along Street C.
And in both contexts, really what we want to
do is maintain a main street building pattern.

And I think what is important here
is that where it makes most sense to put a
rear lot line, we are not assuring that. Here
we have an existing built out row house area.
And what would probably make the most sense
to have a setback along here, we are not
providing it.

And our final example, we are going
to do another low density area of the city.
We have a five-sided lot, an interior lot
here. And this house sort of has an
interesting orientation. The driveway and the
actual garage entrance is actually here.

So an applicant may be able to, in
their favor, say well, this is the front of my building. Therefore, this is my rear. They have a required rear setback where, in a sense, they are already set into it, which would result in this lot line becoming their side lot line and resulting in a minimal setback where we probably do want a larger one and no setback along this lot line here.

Okay. So now, I'm going to walk us through the actual proposed recommendations and we are going to actually then come back to those examples again.

So street frontage, we have actually truncated this as well, but the idea here is that we don't want to actually change the definition. What we actually want to change is the title terms.

So instead of a street frontage, we want to use street lot line and that's just, basically, for uniformity with all the lot line-related definitions. So this is going to be a lot line that abuts a street.
Under the current definition, there is actually a second sentence which is associated with, basically, where one gets to choose the front. And that actually has some relationship to choosing the front for the purposes of height. And we are actually going to take that. That is going to be maintained, but it is going to be codified within the regulations regarding height.

So it's not going away, it's just being moved. Now, as far as the lot line, which currently is the line bounding the lot, we're going to try and bring some clarity and this is for interpretive purposes where a lot line is a single straight or curved line segment between two vertices of any angle that form the boundary of a lot.

And the idea there is where we have breaks in the lot, we want it to be clear where there is a change in angle, excuse me.

And Recommendation 5, here, these are two definitions that we are actually going
to be adding. And the first is side lot line and that's a lot line that intersects a frontage lot line or actually it should be street lot line. And a rear lot line is a lot line that does not intersect the frontage lot line or abut a street. And I've got some graphics that portray this, so it's easier to understand.

So we have got six examples here. And the first thing to run through is the street lot line. So here we have a basic standard interior lot which makes up most of the District. And so street lot line would be as it is, just the line that actually abuts the street.

In our second example, we have a corner lot and a corner lot would now have two street lot lines, both of them are street lot lines. A through lot would also have two street lot lines, interior lot. You know, it has a single street lot line, interior regular lot. And then a triangular lot would have --
it fronts on two streets, it would have two street lot lines. And the same for our final context here.

For side lot line, we have, in our standard example again, two side lot lines. A corner lot would actually have two side lot lines, because when you really look at many lots in the District, that’s what these are. You know, in terms of how the buildings address one another, one facing this street.

Our through lot would have two side lot lines. Our regular interior lot would have two side lot lines, because those are the only ones that intersect the street. And we would have two side lot lines here. We have a small break in the straight line here. And then we have two side lot lines on our final sort of corner regular example.

And then the final one, we have rear lot line. So in our standard lot, we have a single rear lot line and, as you would expect, it is opposite the front. Whereas, on
our corner and through lots, there would no longer be a rear lot line, as we are deeming those lot lines to not represent that relationship between lots.

And in our regular lot, we would actually have two lot lines that are rear. And again, in this context, there would be a triangular lot context. There would be no rear lot line.

And in our last irregular lot example, there would still be two rear lot lines.

So now what I'm going to do is I'm going to bring you back to all those examples and show you, okay, when we put them through or when we apply these new definitions, what do we get?

So on our first example, which again was a main street commercial area context, both of our lot lines opposing the street lot lines, so this lot line here and this lot line here, they would be deemed
street lot lines or excuse me side lot lines.

And so no rear setback would exist.

So when someone would go to the rule for rear setbacks, they would not have to apply it in this context.

And we think that would be good because, again, we would be filling out and maintaining a continuous street wall and achieving the policies that we have cited in the Comprehensive Plan or from the Comprehensive Plan.

And our triangular lot, which I think are challenging enough to work on, we would have the same benefits. We would have two side lot lines off of abutting what are also already side lot lines of the adjacent row building pattern. And no rear setback would be required. And it would allow for the appropriate build-out of this type of lot.

Now, in our detached building area, again, this was a single-family example, we would still have a side lot line and so we
would still apply an appropriate setback in this context. Whereas, the rear setback there is no rear lot line and, therefore, none would apply.

And our Example 4, which again is in a commercial main street area, what we would be doing is we would be facilitating a continuous street wall along Street C and Street B, because no rear setback would be required from either of those.

However, these two lot lines would now be deemed rear lot lines and, therefore, a setback would be required from both of them. And again, that would be where it would probably be most logical which is abutting the rear yards of the adjacent residential areas.

And I think the last point that I have sort of highlighted here is that, you know, this is a highly complex lot, but the application of what we are proposing is really straightforward. You apply the definitions and it's very clear for everyone what is going
to happen, predictability.

And our final example is a five-sided interior lot. And again, we would have two rear lot lines and, again, those are located abutting the rear of other lots, other lots here to the north and the south. So that would be appropriate.

But we would have two less restrictive side yards abutting the side yards of the adjacent buildings on either side. And again, we have sort of a complex, more complex lot here, but the application is very straightforward for applicants, for the Zoning Administrator and his staff to apply and it avoids confusion.

Okay. And I'm almost done with our first part of the presentation, but we are going to take you through the remaining element, which is lots.

So we do have in the current Title 11 four different lots types. We have corner, interior, through and triangular lot types.
And our changes in lot line definitions, basically, because what we are --
the general approach here is that we are
focusing on the relationship of lots to one
another. You know, we are defining lot lines
based on how lots face one another and face
the street.

Whereas, the current definitions
really don't have any basis in much of
anything that we can find. So two of those
definitions, you know, we are not -- a corner
lot will still exist, but for regulatory
purposes, a corner lot and a triangular lot
really serve no function right now.

So we would just remove those. And
I think part of the reason we are proposing to
do this is that our profession recommends
that, you know, when you maintain definitions
that are not used, they can actually
complicate interpretation, because well, why
do we have them there if we are not using
them?

So people might lean on them for evidence when actually there is no real purpose for them.

So again, what we are proposing is to remove corner and triangular lot definitions and we want to maintain and modify the interior lot and through lot definitions. The reason is that both of those definitions they help us as guide posts in applying our rules appropriately.

So you will see that further when we come back for the low to mod zones, which is where this actually has the most application as a through lot is necessary to apply certain tools appropriately, a through lot definition.

And so just a recap here of what is an interior lot. That is a lot that is abutting a single street, as you can see here. And actually, we are not changing the intent of a through lot, but we did find a problem
with our definition and so that is not represented in the report, but it is represented in the presentation.

And so what we are proposing is a through lot be defined as now is it's a lot with four distinct points where the side lot lines intersect street lot lines. So these are side lot lines and as each one intersects a street lot line, it assures us that we do have a through lot.

So I would like to pause now and answer any questions that you might have.

CHAIRMAN HOOD: Okay. Commissioners, let's open it up for any questions or comments. Anyone? Commissioner May?

COMMISSIONER MAY: Okay. I don't have a lot of questions about this part, but I guess can we go to one of your slides? It's Figure 9 in the report.

MR. GIULIONI: Let me find that.

COMMISSIONER MAY: Example 1, Main
Street Urban Area Setback --

MR. GIULIONI: Okay.


MR. GIULIONI: Okay.

COMMISSIONER MAY: Just so I understand what you imagine the context to be here, the idea is that what might be on Street B would be a commercial area?

MR. GIULIONI: Yes. It would be a main street frontage.

COMMISSIONER MAY: Okay. And then Street A might be residential?

MR. GIULIONI: Yes, in this context, it actually is residential. And here we have a row building pattern and you may have other contexts where you have a different pattern, but, again, we are sort of approaching it like the H Street Plan.

COMMISSIONER MAY: Yes.

MR. GIULIONI: Where each of -- any lot line that faces a street, in a sense, is a
face to the street. And we want to give it
the presence it deserves.

COMMISSIONER MAY: Yes. But of
course, in a totally residential context, it
is extremely common to have a rear yard --

MR. GIULIONI: Correct.

COMMISSIONER MAY: -- and a corner
lot like that.

MR. GIULIONI: And actually, we do
have a proposal and we sort of anticipated
that, but we felt it was more conducive to
bring it forward when we actually present the
low to mod language.

COMMISSIONER MAY: Okay.

MR. GIULIONI: But there will be a
means by which an effective rear yard will be
applied in a corner lot context when it is an
entirely residential area.

COMMISSIONER MAY: Okay. That
answers my question. And then if you could go
to your Example 3 for a second? There it is.

Tell me what your interpretation
would be of the property next door in terms of required setbacks there.

MR. GIULIONI: Within this context?

COMMISSIONER MAY: Yes.

MR. GIULIONI: Okay. We would actually have three side lot lines. We would have one, two and three and the remainder actually would be --

COMMISSIONER MAY: I'm not seeing that.

MR. GIULIONI: Oh, I'm sorry. I'm looking on the wrong one. My bad. Here we go. I'll step back. Okay. So we would have a side lot line here.

COMMISSIONER MAY: Yes.

MR. GIULIONI: We would have a second side lot line here.

COMMISSIONER MAY: Yes.

MR. GIULIONI: And we would have a third side lot line here. Then these would actually form our rear setback lines.

COMMISSIONER MAY: Okay. And if
that existing building were not there, theoretically, as long as if you honored the side lots, side line -- side lot setbacks --

MR. GIULIONI: Yes.

COMMISSIONER MAY: -- you could build a through, a property that fronts on both Street A and Street B?

MR. GIULIONI: Theoretically, you could. I don't know --

COMMISSIONER MAY: Have to deal with the rear setback from those couple --

MR. GIULIONI: Correct, correct. I guess, yes, theoretically, you could.

COMMISSIONER MAY: Okay. Thank you.

MR. GIULIONI: The real impact is that someone could choose which street they wanted to front.

COMMISSIONER MAY: Yes, that's probably the more likely practical one. But there are lots of unlikely, unpractical developments that occur around, so I'm just
trying to anticipate what bad things might happen, even with the best intended regulations. That's it.

CHAIRMAN HOOD: Any other questions?

COMMISSIONER TURNBULL: Yes.

CHAIRMAN HOOD: Mr. Turnbull?

COMMISSIONER TURNBULL: Yes, thank you, Mr. Chair. I just had one question, which was not really a question, I'm just looking for some clarification.

Looking at something on like you have got Figure 16 on page 17 of the OP report.

MR. GIULIONI: Let me go to that one.

COMMISSIONER TURNBULL: Well, I'm just curious, if we are looking at Street C, and assuming those are row houses, it is residential?

MR. GIULIONI: Actually --

COMMISSIONER TURNBULL: I'm just--
MR. GIULIONI: Sorry.

COMMISSIONER TURNBULL: -- wondering how do we relate and maybe it doesn't relate. I mean, I guess it doesn't really relate. We don't concern ourselves now where we have a lot of buildings that are built into the public space, as far as picking whole neighborhoods that the front porch and everything go beyond the lot line.

Does that affect anything of what you are proposing here, as far as lot line and the public space?

MR. GIULIONI: Not at all. I mean, those rights are granted through the actual Building Code portion of the DCMR. And so we wouldn't be changing that. And, I think right now, they just apply to residential uses are allotted certain --

COMMISSIONER TURNBULL: Right.

MR. GIULIONI: -- allowed projections. But, I mean, there will be a relationship, again, through the low to mod
text when we propose it. You know, if there
is a required setback, what we would like to
make sure is that people are given those same
projection allowances.

So if you are required to setback
from a street lot line, you should get the
same allowances, so that we can repeat the
same pattern that the District already has.

COMMISSIONER TURNBULL: I was going
to say we still are going to have some
projection allowances that we have now, that
are similar to what we have now going beyond
the lot line, above and --

MR. GIULIONI: I would say yes.
Travis? I don't think there is any intent on
our behalf to change those.

COMMISSIONER TURNBULL: Okay.

Thank you.

CHAIRMAN HOOD: Any other
questions? Okay. You can continue.

MR. GIULIONI: All right. So I'll
get set up here again. Because these issues
that we are about to get into, they are a little bit more focused on sort of the policy objective. They are more we are addressing changes that deal with policy.

And so, of course, they are a little bit more nuanced and we want to afford the appropriate time to talk about them.

So what I'm going to do, again, we have got, I think there is, one, two, three, four, we've got actually eight issues. But the first thing I'm going to do is take you through sort of the policy that has been shaping, I guess, a lot of what we did through the Commercial Working Group and some of the other working groups that have been incorporated into these recommendations.

So like why are we proposing what we are proposing? And then we are going to come back and actually tackle each of the subject areas, which are identified on this screen.

So I've just put this slide...
together. This sort of highlights and this isn't all of them, but this is some of the key policy guidance which we have used to shape our work. But what I have tried to do is we have distilled it down and I think we have covered this in the report as well into four key points about well, why are we making the changes that we are making, you know, in these parts of the city, the regulations that deal with these parts of the city.

So first off, there is a lot of direction about we want to remove barriers to infill development. We want to promote economic development. We want to promote housing, more housing options here in the District. We also want to ensure that where we have a built form that is good and -- excuse me.

Where we have a good built form in our city, we want to ensure that we are replicating that, that we are being consistent.
Whereas, the third point is dealing with there are some areas of the city where we don't have the quality of built form where we have in, I would say, the majority of the city. I think a lot of the District benefits from a really good compact-driven form, but some areas do not.

And what we want to do is make those areas that do not, more like the areas that do.

And then finally, another key message we got clear, both from our review of the Comp Plan and from the working group meetings, was the need to minimize impacts of changes in building density and land use within our Commercial or Mixed-Use areas and the surrounding Residential Zones.

And so that runs the gamut, again, of both the physical form, but it also deals with uses and how we manage those.

So for each topic, and this is an example, so for side setbacks, what I'm going
to do is I'm going to identify the issues associated with this subject. I'm going to put forward our proposals and then present our analysis of why we think this is a good idea.

So the side setback or side yards, as they are now commonly known, we have two different standards based on the different zones, the four zones I cited at the outset.

So we either have a 6 to 8 foot minimum requirement and then there is an additional standard that applies relative to building height. So you have to maintain a minimum standard of 6 to 8 feet, but then depending on the type of zone, as you go, as your building rises, you have to provide a further setback relative to the height of the building.

I think a key element here is that within Mixed-Use Zones, side setbacks are not required. You know, really the idea here is that if you provide one, this is how you should comply with the standard.
And really what you would find if you go around to a lot of the District's commercial main streets is that we don't need setbacks to ensure compatibility, because a lot of our existing main streets are well-built-out with continuous street walls.

And what we have, basically, found though is that if you were to apply the existing requirements, what we would end up with is setbacks which are generally inconsistent and undesirable with the existing built-form of the District.

So this graphic, it is intended to highlight sort of what is going on in our Mixed-Use Zone. So as you can see, on the far left, we have a list of all the different zones. We looked at the C-1 through the SP.

And then what we have done, we sort of invented these categories, but we have three broad categories. So we have buildings with no side yards. And you will see at the top here, just give me a moment, you know,
that runs the gamut of a few different common forms.

Like if you were to look at a photo aerial, they are not all built straight to the lot line. So we have a form like this with a little gap above the main street first story. But as you can see, that is almost 90 percent, you know. If we average it out, that reflects pretty much most of our buildings in Mixed-Use/Commercial areas.

Where we do have side yards -- actually, I'm going to pause on that. The first thing, I'm going to go to houses. Houses, they do exist in commercial areas. They reflect about 2 percent, you know, overall. What we find is C-1 Districts, which is kind of to be expected, it's a local commercial area.

We do have a higher concentration, but overall houses really make up a small amount. And what we are, basically, proposing, I think, better reflects, you know,
how our houses actually -- where houses are, where you would probably want a setback. It's more consistent with those areas of the city.

And so what we have in between is sort of buildings with side yards which run a wide sort of array of types. It isn't sort of a main street building that just has a small setback on the side. It's often pod-site developments that you would find in the more auto-oriented parts of the city.

We have stand-alone apartment buildings and garden apartments. So again, those are quite common in C-1. But in many instances, what we want to be promoting again is more of our compact urban form.

So why is this an issue? Well, what we did here is this is a model intended to help illustrate, well, okay, if we were to apply a setback, what would we get?

So I've taken the CR Zone and I have applied the standard based on a 60 foot high building. And as what you can see in the
center of the slide is based on that height, we would actually end up with quite a large gap, about 15 feet. What benefit this serves? I don't know.

You know, I think an important other thing to consider is that our setbacks are applied regardless of whether you have windows or not. So, you know, it's just like if you are providing a setback, this is how you will do it. You are not required to provide windows.

So what are we recommending? We are recommending that we just go with the standard 4 foot setback and that applies to the entire portion of the building that is setback. And again, this is if you choose to provide one.

It will ensure building compatibility where it is provided along urban main streets. It removes the potential for an unnecessary gap in the street wall. But it does provide a good basic standard for minimum
access, you know, if I had a dolly cart and I wanted to haul some goods to the rear of my building and load them in the back.

And again, I think the second main point is that this really only applies to the portion of the building that is setback. So right now, yard requirement applies to the entire side wall of the building. Whereas, what we want to do is just facilitate it if you just need a nook for purposes of service, you can just provide that.

And the idea here is again, it facilitates a minimum requirement for accessing maintenance and what we are doing is effectively replacing our court requirements, which we are proposing in a later recommendation to remove.

So what would happen if we do this?

So if we go to our model again, as you can see, you know, here is our 4 foot side yard. It allows for access from the front to the rear where we don't have an alley, if we so
chose to provide one.

And I think what is important to note is that as cited in sort of the bottom of the building is that we are vastly improving the ground floor street frontage for retail opportunities.

And the graph on the far right, that's just, you know, where do we get the 4 feet? It's a basic architectural standard that you would find in an architectural standards book. And so handicap accessible, it meets those minimum requirements.

And what we have here is a graphic that depicts one of our main streets. This is actually H Street, N.E. And so as you can see, what we are really trying to do is where we have existing buildings that have sort of what we commonly know now as courts, we want to facilitate additions that can be built in line with those, consistent, but that maintain a minimum requirement.

So in a sense, what we are trying
to do is replicate the patterns that we already have here in the District.

So our second subject is our rear setbacks. And so the issues that we found here, this is a slightly different sort of policy issue. And I guess one way to look at it is we are really using the Commission's direction on this one.

And this fits the clarity ease-of-use and relevance criteria, which were set out by the Commission to sort of give us overarching guidance in our work.

So what we are talking about here is making changes that we currently have eight different setback rules, rear setback rules when you take all the zones that I cited at the outset. And what we have found is that as we sort of began to look at redraft text, that this quantity of rules it is difficult to manage and it's unnecessarily elaborate.

You know, there are some nuances that we think are important to maintain. But
what we have also found is that we have all this variety right now, but we are still not able to implement certain plans that we have.

And so we are hoping that what we are proposing it gives us the protections that we need, but it actually also gives us a little bit more flexibility in terms of achieving the built form we desire.

And lastly, you know, again, I talked about this a little bit at the outset, is that we framed everything as yards, which is not actually what we are requiring. You know, just as an example, within the Commercial Districts, in many instances, you are not even required to provide a yard or setback for the lower 20 feet of the building.

So, you know, we are not requiring a yard. We are actually requiring a setback above. So we want to change the perspectives, so that everybody is clear on what we are doing and why.

And I think just to highlight in
the report, the C pages 26 and 27, what we have done is we have compiled a graphic representation of all the different rules for you to look at. So that sort of gives you a picture of where we are now.

And I have been using that as a guide, because, you know, even I spent a lot of time working on this, you still get confused. So hopefully we can simplify that.

So what are we recommending? I think to start off, our goal, in this instance, is to improve clarity, to make things easier to use and maintain relevance. So our goal is really to maintain the basic protections that we have.

You know, we are not starting from scratch here. But what we do want to do is standardize the eight rules into four, one of four options. And we are going to do that in four ways. These are different variables that go into the setback measurement requirements.

So the first is there is a setback
angle, which I'm going to illustrate within the coming slides, but the idea here is we have two angles. One that is at 3 inches per foot of height and one that is at 2.5 inches per foot of height. And we are going to go with the single standard.

We want to standardize the two-story exemption I briefly spoke of that exists on alleys. We want to, basically, allow in all Commercial Zones for an applicant to build up to the alley, should they so choose.

And we want to remove -- the standards currently apply relative to the use you are proposing, which we think is again hard to predict our results. It's a problem when we are dealing with existing buildings that are transferring the type of use. So if you have an existing commercial building and then it is shifting to residential, where does that leave us?

And again, we are going to reframe everything as a setback and not a yard
requirement. So I'm going to take you through this.

So these four graphics actually represent what it is we are proposing. So the first one, just give me a moment here, (A) is a basic straightforward what you would expect, you know, setback requirement that applies to the entire building right from the ground straight up. Very simple.

The second is where we desire it you would have a two-story exemption for the first 25 feet of building height and we are moving from 20 to 25 feet, because of associated recommendations in the Retail Working Group, which our goal is to lift the minimum ground floor to ceiling height requirements. So this is to help facilitate that and ensure there is no conflicts.

Our third example would be, again, you have a straight requirement, up to a certain point and then our 2.5 inches per foot angle applies. But we are just going to state
it as like an angular plane requirement.

So above a certain point at 78 degrees -- excuse me. Above a certain point, you will have to provide a setback that is a 78 degree angular plane.

And then the last, it sort of incorporates (B) and (C) where you get the allowance for the first two stories and then as your building gets higher, you are required to set it back in line with the angular plane.

So I'm going to break down. Okay. What happens to each element, you know, because we are changing four elements? So the first is, you know, what we found based on doing some shadow studies is that, you know, the 2.5 versus 3 inches, it results in a very nominal change in what actual shadow is cast.

And the first and foremost thing is that, you know, a building may cast a shadow in one of four directions. And so in many cases for three directions or for two directions, it is not even casting a shadow.
So if a rear yard actually runs -- a rear lot line runs north to south, the rear of the building is not casting a shadow in association with the rear yard.

And then you have the opposite instance which is a building that, you know, it's rear lot line is to the north, which is always in a constant shadow. You know, so really, this only has impact on, I don't want to say one-quarter buildings, because it's a function of the quantity of lots, but it only has an impact on one building orientation.

And then what we found is that two of the zones, they actually -- the standard is applied inconsistently. And so really by changing it, we are actually putting a more clear standard in effect. So by changing the CR and W, you know, really we would only be impacting buildings that are entirely residential.

And so these were cited in the report, but the idea here is what you are
seeing is both at the summer solstice and the
winter solstice. So here we have a building
to the south, you know, and it is casting a
shadow to the north. Here you have the
angular setback requirement.

And as you can see in the summer,
here is our -- this shows the shadow cast, in
both instances, at peak sun, both of the
buildings that are to the north are in full
sun.

And then if we go to the winter
solstice at midday, what we see is we do see a
shadow cast up the building to the north. But
as you can see, it's almost imperceptible to
the eye. I actually measured it. It is under
3 feet. So we have this variation between the
two standards, 2.5 versus 3. But really we
are not getting much of a different result,
except some unnecessary complication.

And then when it comes to our CR
and W Zones, the way the CR and W Zones work
is, you know, if you have a building that is
all residential, well, the setback, the
minimum requirement (A) starts from the
ground. But if you actually start adding
commercial uses to the base floors, it
actually pushes up where the angular plane
starts and so really it has no impact.

And this is where the 3 inch
standard applies. So yes, it has some impact
where the building is all residential, but, in
many instances, and these areas do facilitate
a lot of commercial use, it doesn't actually
have any impact at all.

Now, as far as the two-story
exemption, the idea here again is that what we
want to do is allow any building that fronts
on an alley to actually build to the alley.
This doesn't eliminate setback requirements
for loading or parking that, I think, have
been brought forward to you already. This is
just base building setbacks.

So what we are talking about here
is in the C-1 Zone, you are actually required
to measure the lower part to the center line of the alley. And so what the hatched area shows is what we would be allowing. We would actually be allowing you to build right to the lot line. Whereas now, based on a 15 foot alley, which is the most common alley size in the District, you would actually have to provide a 12.5 foot setback.

    In C-2, you would have to provide a 7.5 and in C-3-A, you would have to provide a 4.5 foot. So what we are saying is let's just let applicants build right to the lot line, if they aren't required to provide any loading setback.

    And so why do we propose this? Well, we went out and we looked at areas within the District and these are all Commercial Districts that actually face upon Residence Districts. And so what did we end up with when we do have a setback?

    Well, sometimes we have a setback that is not really adequate for parking, but
you have somebody straddling the alley and the setback area. We have sort of an area that could just be enclosed in the building, because it is used for storage anyway and fenced off and we have garbage storage in the rear.

Whereas, we found these other examples where we have a full build-out where, you know, the building is allowed to go right to the lot line and that may be plain, but it actually allows the owner to encompass their garbage/trash storage within the actual building. And as you can see here, abutting a residential area, I think that's a practical approach to a rear setback.

And now our final element is, you know, let's start looking at this again as a setback and not a yard. And I think why do we want to do this? Well, because it allows us predictability, so that we know where the setback is going to be applied. But it gives applicants flexibility to work within that
envelope.

It is not just again a standard requirement from the ground all the way up to the height limit. And this is actually consistent with the Lewis Plan. He actually did sort of represent this in the plan and I think that was included in the report where you would actually control building bulk, the maximum FAR, using multiple controls. One of which was an angular plane requirement.

So these three graphics here are intended to portray what I'm talking about. So in each instance, we have the same setback envelope, that's the dashed line. But what you are enabled to do within your maximum FAR requirements is build-out anywhere within that limit and it always assures us the same protections. So again, predictable and flexible.

The next issue was courts and I think I'm going to take a break after this one, just so you know.
So I guess what we found is that the existing standards don't actually replicate again our built form. In many cases by expanding a nonconforming courts, you are required to go for a variance. And so it actually does the exact opposite of what we want. It incentivizes one to fill in their court.

And I think a key element, too, is the court standards are actually quite impractical when you want to create just small spaces for building services or if you wanted a small setback, so that you could just have a secondary window that serves like a bathroom.

You know, I just can't provide a 4 foot minimum. I have to provide -- the minimum starts somewhere around 15 feet. So on a small infill lot, that kind of again is counterproductive, because where we want some natural air/light, it's actually impractical to provide it.

And so what we are proposing, and I
touched on this earlier, is just that we regulate courts through our setback requirements, through the 4 foot standard minimum requirement, if provided.

So again, the proposed setbacks would supplant the width requirements that take place between the building and the lot lines, so that would be our setback. And then it's not like we are -- it's not that there are no longer protections. The Building Code, the actual Building Code, actually does have court requirements.

So if you provide an interior court that doesn't face the lot line, you are still required to maintain a minimum area and those are located in the minimum light/air standards of the Building Code.

So we are going to pause again and answer any questions you might have.

CHAIRMAN HOOD: Okay. Commissioners, do we have any questions, comments?
COMMISSIONER MAY: Yes.

CHAIRMAN HOOD: Commissioner May?

COMMISSIONER MAY: Sorry, I've got to find my place. You were suggesting with the angular plane that it would be consolidated at 2.5 inches rather than 3 inches per foot.

MR. GIULIONI: That's correct, yes.

COMMISSIONER MAY: Tell me why one and not the other?

MR. GIULIONI: I think the idea there was that it's actually the standard that is more consistently applied. Again, the graphic I --

COMMISSIONER MAY: Where?

MR. GIULIONI: Oh --

COMMISSIONER MAY: Nationally here?

MR. GIULIONI: No, no.

COMMISSIONER MAY: Or where?

MR. GIULIONI: If you compare the -- these again are existing standards that exist within the code. And our goal wasn't to
remove those protections. It was just to make them easier to use. And so the 2.5 inch per foot requirement, it is like standard. It is required standardly.

In the Commercial Zones, you must provide it. Whereas, in the zones where the 3 inch standard applies, the CR and the W, it is a function of your building height. So you may or may not provide it. So that's one reason.

The other reason is that it is the more stringent standard and so we sort of erred on the side of caution there that -- or sorry, the more permissive standard. And so we erred on the side of caution there in terms of creating less nonconformities.

COMMISSIONER MAY: Right. And allowing more development. Okay. My one question about courts was interior courts, but you are saying that the IBC Regulations are going to address that?

MR. GIULIONI: Yes, they do in two
ways. I guess there is a court standard. You know, if you provide a court, it functions very similarly, relative to the height of the building.

But then there is also standards associated with fire protection and I'm just going to sort of talk about that a bit later, but, you know, the more window area you have, you are kind of required to separate the building faces, because the more window area you have, if there is a fire, it spreads more. And so you want to separate those walls.

COMMISSIONER MAY: Right.

MR. GIULIONI: There is kind of a natural protection there.

COMMISSIONER MAY: Yes. I think when it comes to any sort of decision making on this, it would be helpful to see some examples of what we would actually expect as a result of letting it be controlled exclusively by IBC.

The reason I say that is that, you
know, there are, as you said, these variables between the amount of window opening and the separation distance.

MR. GIULIONI: Yes.

COMMISSIONER MAY: And one can, you know, keep the window openings to a minimum and create really inhospitable places and then minimize the court size, maximize the footprint. Not that the resulting unit is necessarily going to be that marketable, but I don't think that that's really the sole concern that we have.

So I would like to see what we expect might actually result. You know, there is going to be a minimum size of windows no matter what, so, you know, what is that going to translate to in terms of courts?

Okay. I'm -- I think we only got as far as Recommendation 10, right? That's where you stopped is courts, 10, right?

MR. GIULIONI: Yes.

COMMISSIONER MAY: Okay. So I have
no more questions until we get to 11. Thanks.

   CHAIRMAN HOOD: Okay. Any other comments or questions on this section? Commissioner Turnbull?

   COMMISSIONER TURNBULL: Thank you, Mr. Chair. Getting back to when you started with Figure 22, on page 23 was a chart showing Zones C-1 through SP.

   MR. GIULIONI: Yes.

   COMMISSIONER TURNBULL: And then--

   MR. GIULIONI: This is with respect to setbacks.

   COMMISSIONER TURNBULL: Setbacks, right. Maybe I just need you to clarify what I heard. I think you are saying that regardless, these pictures now are like existing conditions.

   MR. GIULIONI: Correct.

   COMMISSIONER TURNBULL: But you are saying that governing all of these situations now would be the minimum of the 4 foot site?

   MR. GIULIONI: That's the intent.
And I think that comes from a reading of the Comprehensive Plan. You know, in most -- there is specific guidance that the areas where we have sort of more pod-site development, we do want to promote infill that is consistent with the more urban compact areas of the city.

COMMISSIONER TURNBULL: But I'm just curious.

MR. GIULIONI: Sure.

COMMISSIONER TURNBULL: The sort of little cartoon that you have drawn here in the middle --

MR. GIULIONI: Yes.

COMMISSIONER TURNBULL: -- for the sort of like garden buildings show significant -- they show a lot more land around them. You are saying that that is going to go away?

MR. GIULIONI: Well, actually, no. It's not going to necessarily go away. We are just prescribing a minimum. Nobody is obligated to build to the minimum requirement.
It is afforded to them should they so choose.

So --

COMMISSIONER TURNBULL: And did I hear you say the minimum is optional?

MR. GIULIONI: Yes. And it currently is optional in the existing code. You are not required to provide a side yard. It's if provided, you shall meet this minimum standard.

COMMISSIONER TURNBULL: And so now it is going to be 4 feet?

MR. GIULIONI: If provided, correct.

COMMISSIONER TURNBULL: If provided at all?

MR. GIULIONI: Right.

COMMISSIONER TURNBULL: So again, the same option if provided. Okay. Thank you.

MR. GIULIONI: Are we ready to go, Anthony?

CHAIRMAN HOOD: Commissioner
Turnbull, are you finished?

COMMISSIONER TURNBULL: Oh, yes.

Thank you.

CHAIRMAN HOOD: Okay. I have to look at real live examples. Let's look at page 34 of your report. And about halfway through the page, up under Figure 32.

MR. GIULIONI: Okay.

CHAIRMAN HOOD: And what we just went through was setback on the side. What would happen here, just give me a visualization and try to talk me through a visualization, it's like the third picture down on the left hand side.

MR. GIULIONI: Okay.

CHAIRMAN HOOD: How would that work in what we just saw?

MR. GIULIONI: Well, what this example represents is what we would be now allowing. It's that these are examples. At a certain point in the District's history, there are actually -- you know, on a corner lot you
had 100 percent lot occupancy and you had the right to build out to the alley line.

And so what we are essentially saying is that we should allow the lower examples to be replicated where desired by the applicant on the interior parts of a block. So actually if you are looking at Figure 32, the figure that is on the lower left hand corner, that's actually within an interior of a block.

It's an example where the applicant has built right to the lot line. And again, this is again they aren't required to. We are saying, you know, we think it is pragmatic in certain instances that if people want to incorporate their storage there, that they be allowed to do so.

The setbacks that are provided aren't necessarily providing a benefit for the District. And in certain cases, I think, actually the SP Zones, they actually facilitate an allowance that you may do this,
you know, through an exception request and conditional on that you put the storage within the building.

So it's something that, you know, we sort of do get some direction from within the existing code.

CHAIRMAN HOOD: Have we talked with DDOT about this? Because, you know, now we are using alleys for a lot of things. You've got trash trucks that go down alleys. And I know one of the concerns that we have heard on the Commission is when those trucks go down those alleys, you know, will they clear? And I think that's a major concern.

MR. GIULIONI: This doesn't -- I guess, an important element is that, you know, with zoning we have a lot of laws working at the same time. And there is still a minimum requirement that you be setback from the center line of the alley, but I'm actually going to have to defer to Travis on whether that is required in association with your
loading or whether that is just in general.

I will just say, one, we did try to -- we spoke with DDOT about, you know, is there a minimum alley width requirement, like that we could sort of set? And it doesn't appear as though that is something they feel comfortable prescribing, because it is often a function of the context that you are dealing with.

I think when they are dealing with a large scale project, they can make those decisions. You know, so if a PUD is coming forward, they can look at the site in its context and make those types of decisions.

But when we are talking about infill, which is a lot of what these recommendations, I think, are going to be dealing with, it's a little harder to prescribe a standard that works citywide.

CHAIRMAN HOOD: And have we also talked with the Fire Department and those kind of people who may have to gain access?
MR. GIULIONI: No, but that's a good idea.

CHAIRMAN HOOD: Okay. All right. Okay. Any other comments or questions? Okay. Thank you. You can proceed.

MR. GIULIONI: All right. Okay. So the first issue we would like to talk about is how we managed the application of the floor area ratio split requirement. And this just impacts two zones, our C-2-A and C-2-B Zones.

And what we are talking about here is within those zones, you are permitted up to a maximum nonresidential FAR of 1.5. And what we found, based on our analysis, is that in many cases this is somewhat impractical on smaller lots or existing lots with buildings that are already built-out on the site.

The reason it's a problem is it doesn't allow for us to -- allow the applicant to build-out to the full two stories of nonresidential occupancy. And this really is more associated with existing buildings.
If you take the existing standards, you know, the idea is that well, if you got a building which occupied a ground floor of 75 percent, you would get two stories. But as many of our buildings don't necessarily meet that ground floor lot occupancy standard, it kind of creates a conflict.

And then we also have a conflict in that you are not required to maintain a minimum ground floor lot occupancy, so I can go up to 100 percent in certain instances. Often, I don't think that's actually the case.

It is more around 87 percent.

But, you know, if I'm allowed to go up to a certain capacity, the goal here is to sort of make it commensurate that you can build a full second story on top, because we think that's the intent.

Now, on top of the intent, what we found is that there is a series of policies all of which deal with promoting second floor sort of office uses and uses related to our
sort of creative action agenda and things of that nature.

And there actually was a specific action in the Comp Plan which identified the need to look at how we could address the need to fulfill the demand for more local office space in our Mixed-Use areas of the city.

So what we are recommending, and first off we are recommending, this will apply only to lots that are less than 10,000 square feet in area, which make up the vast majority, and I'm going to get into that, is that with an existing building, regardless of your existing lot occupancy, you would be allowed a full two stories of nonresidential GFA as a matter-of-right.

So I could just proceed right to go with the Building Department and apply for a full two stories, even if I was exceeding the 1.5 FAR requirement.

And then when you are proposing a new building on a lot that is less than 10,000
square feet, you would be allowed to -- if you were to construct residential uses as a part of your project, you would also be allowed to construct a full two stories of nonresidential GFA.

So the idea here is that there is sort of an incentive that well, you know, if you provide the residential, you get that two floors of nonresidential.

And we do feel that there are instances though that you would also -- we would also want to allow, through special exception, the right to have an entire building that is nonresidential uses. So that would be a new building that is just two stories of nonresidential use or greater. But again, that would be through special exception and it would be based on tests related to the market area within which the lot is located.

So I think what is important here, we have sort of put together some, I think, very informative analysis about these areas of
the city. So first off, C-2-A and C-2-B, 90 percent of the buildings are existing. And I'm sure some of these areas are actually historic areas, so we are not talking about clearing out or razing the city here. We are talking about working within the existing fabric that we have.

Most of our lots are 10,000 square feet or less. You know, when you actually add up all of the lots, and my next graphic is going to illustrate this, you know, 90 percent of all of our commercial lots are less than 9,500 square feet in area. And 80 percent are less than 4,500 square feet.

So as you can see in a very small percentile, 10 percent we have a 5,000 square foot drop in size.

Overall, this actually would result in a minimum cumulative increase in nonresidential FAR. It's not swinging everything now in favor of nonresidential FAR.

And I think generally what you would find is
that when you look at the balance of residential uses that surround our commercial areas to the actual commercial uses within them, we are not creating a huge swing here.

So let's look through some graphics to help clarify the impact.

So this is a histogram, okay, and it is intended to help us understand. Let's get the pointer here. So the idea is each of these bars represents the quantity of lots between a certain size range.

Okay. So we have 1,200 lots at our top, our most common lot size that are between, I think this is about, 1,500 and about 1,600 or something or sorry, 1,900. So between about 1,500 square feet and 1,900 square feet, we have 1,200 lots.

So each of these bars, that's what we are representing. So as you can see, you know, the vast majority of our lots are under 4,500 square feet. We do have some between the 4,500 and 9,500, but it's a lot more
limited.

And so what we tried to do is quantify, okay, well, what would happen then? So if you add up that, based on the lot size, little bit of extra area that everybody is getting, how much would it amount to?

So the first table we have here, which is in your package, in the report package, actually shows that, okay, if we take what we know about how many lots actually exceed 1.5 FAR, existing buildings, and they were allowed to shift, you know, the existing building space totally to nonresidential, what would happen?

So the numbers on the right show that, basically, between both zones, we would end up with about a 3 percent increase. Okay. So again, it's not substandard, but this does impact a lot of lots. It impacts like somewhere in the range of about 1,000 lots, I think.

And then this graphic is intended
to represent, well, okay, if we were to assume that you were to clear every commercial area in the city of all buildings and rebuild from scratch, how much would you be allowing a shift in nonresidential floor area?

So that would amount, theoretically, to 17 percent, but this would be contingent on a lot of redevelopment happening all at once. So I think, you know, again, we sort of have a benefit here in that it provides us flexibility to a relatively high concentration of lots, but the cumulative impacts in terms of shift in nonresidential floor space is nominal.

Our next issue is lot occupancy. So similar to the FAR discussion we just had, existing and new buildings are often treated the same, so that's a problem when we are changing uses between use types within existing structures.

In many cases, a lot of our work with our neighborhood planners, the smaller
plans show that what we are dealing with is, Georgia Avenue is a great example, where you have very small lots that have very shallow depth and the lot occupancy requirements just aren't practical in those contexts, and as well on corner lots, we have many corner lots that, again, are prime real estate and we aren't able to facilitate a full build-out and get those fully built-out street walls, which the Comp Plan directs us to do.

And part of what has helped us sort of see this problem is that in terms of variance analyses, what we see is that 1 in 5 building bulk variances is associated with occupancy.

So variance is supposed to be for a special circumstances, you know, where somebody is dealing with a lot that is sort of different. You know, it's dealing with a problem. Whereas, this more appears to be well, this is the standard case that we have lots that aren't able to comply with the
standard.

And again, I'm going to go through an explanation, like between our other bulk standards and the Building Code requirements, we are somewhat duplicating regulations here, both in protection to the people who occupy the building and to the surroundings.

So what we are proposing is to remove lot occupancy as a regulation within the identified zones, CR, SP, W and C. And what we want to do is we want to rely on our existing tools, which we think do a pretty good job, but then we also want to propose some new tools and I'm going to get to one of those later, which will help us sort of control impacts on surrounding areas.

And the basic rational here is that, you know, Building and Housing Codes they really deal with protections for building occupants. The District's Housing Code as well as the Building Code both have provisions for minimum window areas and minimum building
separation requirements, which get at the same basic intent.

So what I have tried to do here is put together a little graphic which illustrates how the Building Code works. And in the report, there is a more detailed analysis which shows two scenarios. But what is important to understand here is that, you know, again, Building Code and Housing Code requirements relative to the size of a room that is, you know, a habitable room, which would be a living room or a bedroom.

Based on the area of this space, you are required to provide a minimum window area. So you can't just close off a wall and that makes good sense.

Now, there is also other regulations that say well, okay, based on the greater window area you have, you know, as window area gets greater, you are also required to maintain a minimum separation from a lot line or another building. So in a
sense, it's, I don't want to say self-regulating, a control which is more a function of what is going on in the building.

So, you know, if I have a secondary space here, well, maybe I should be able to go a little closer to the lot line. Whereas, if I'm providing a primary room that is intended to provide light to its occupants, well, maybe I should be separated further. So it's a different way of doing it and I think it's more appropriate to the context that I identified where you have got those smaller lots that are challenging to infill, to do infill construction.

The next two builds off the occupancy. This is one of the tools that we are proposing to actually help assure the protection of surrounding areas to a building. So if you are building within a zone, we want to, again, provide those protections to the surrounding residential areas.

And what I have cited here is a
list of all the different land use policies. And I think there is even more within the report. And there is a host of them and they all have to do with controlling the physical relationship of new buildings within Commercial and Mixed-use Zones and the surrounding residential areas. So there is plenty to support this approach.

Now, what we have tried to do though is, the great thing again, the District Zoning Code already has a tool that does this and it is located in the ARTS, Uptown/ARTS Overlay.

So what we did is we did an analysis of that existing tool and we sort of said, okay, well, how can we apply this throughout the city? And, unfortunately, we did identify some problems with the existing tool. And I'm going to sort of highlight those and then show you what we are proposing.

So the existing tool, a problem is that the way it is applied is it is relative
to a Resident Zone versus, you know, the Commercial Zone that you are in. And the reason this is a problem is that by using the general term Residence Zone, what we may have is a Residence Zone which is actually at the same height as the Mixed-Use Zone.

And so requiring some form of angular setback doesn't really make much sense because, well, how is there an impact in terms of, you know, providing a smooth transition to a surrounding low scale area? So that was the challenge with the existing regulation.

And the second element is that the application occurs relative to your lot line. So if I'm building within this zone, this is the lot line which separates me from a Residence Zone and regardless of how far my alley or how large the alley separation is, I'm always measuring from the same point.

And that is also kind of impractical, in that, well, if there is a 30 foot alley between me and my neighbor, there
is already a natural buffer there. And if you
read a lot of the Comp Plan language, that is
what it is dealing with is providing, you
know, space separation, providing visual
separation from the larger scale building to
the lower scale buildings.

So what we are proposing, and
instead of trying to explain it, we are
basically proposing a zone-to-zone transition
requirement. And so the idea is that similar
to the ARTS Overlay, that you would apply it
relative to, you know, if I'm in this zone and
I'm abutting a Residence Zone, I have to be
abutting an actual lower scale zone, you would
start measuring from the actual opposing lot
line within the Resident Zone.

Okay. And what we have -- the next
element is that what we are proposing is that
it's relative always to the height of this
zone. So if through later changes, through
small area plan processes, the height of this
zone changes, well, it's going to change how
the law is applied in this zone, so it's flexible for future changes.

So the idea is that 10 feet above this point, you will draw an angular plane at 45 degrees and within this area you are required to meet that additional setback requirement.

So this context I have shown here is an alley context, you know, where we have sort of a natural break in between, that's again providing us a natural buffer. But then where there is no alley, the zone boundary line, in a sense, is the separating lot line and so you get a more strict standard, if you will.

So in terms of the existing CR/ART Zone, we are proposing that we standardize it there as well. In a sense, the CR/ART Zone will apply the standard as we are proposing it. Within the report, there is a more detailed analysis of how this would impact that area.
Generally, what we found is that it wouldn't, in that the areas where there would be any change in the application of the standard as it currently is written, those areas are either built-out or they are abutting sort of District or, I think, federally-owned land.

And then the areas where there is vacant property, we lucked out in that the standard would be exactly the same.

Sort of now looking at it from a historical perspective, about well, okay, how will applicants be able to deal with this? Well, I think we have got great history here in D.C. of applying the same tool, but we apply it from the street frontage and we also have applied it in the ARTS District, so, you know, between the Height Act and the ARTS District requirements, we do have some experience doing this.

More recently, it was implemented in the Capitol Gateway Overlay, again,
relative to street frontage. And Toronto, Ontario, they have been doing this since 1986 and it is a highly common tool for helping ensure compatibility between existing commercial areas and surrounding residences.

So we are going to pause again before we go into the last part and answer any questions.

CHAIRMAN HOOD: All right. Colleagues, any questions? Commissioner May?

COMMISSIONER MAY: Sure. I'm a little confused about the Recommendation 11 where you are proposing that you could build-out two full floors, but if the lot occupancy in C-2-A is limited to 60 percent, that would only be 1.2.

Are you saying that the lot occupancy wouldn't be limited?

MR. GIULIONI: But we are proposing to remove the lot occupancy.

COMMISSIONER MAY: Remove the lot occupancy entirely?
MR. GIULIONI: No, no. There is no lot occupancy for commercial floors.

COMMISSIONER MAY: Oh, sorry.

MR. GIULIONI: In any Commercial Zone.

COMMISSIONER MAY: Okay. So there is no --

MR. GIULIONI: Lot area is 100 percent.

COMMISSIONER MAY: It's 100 percent.

MR. GIULIONI: In all Commercial Zones now.

COMMISSIONER MAY: I got it.

MR. GIULIONI: I think that's something that is important here.

COMMISSIONER MAY: Got it. Okay. Right. That's what I was -- and why would you allow the full second story of commercial use in a -- sorry, a full commercial use of the building as a special exception only for new construction?
Why wouldn't you want to apply that to existing buildings? You are providing, in essence, an incentive to tear down the building.

MR. GIULIONI: No. The main recommendation is for existing buildings. If you have got an existing building --

COMMISSIONER MAY: Yes.

MR. GIULIONI: -- and you are at 80 percent lot occupancy, so two full stories would be, you know, 1.6 FAR.

COMMISSIONER MAY: Right.

MR. GIULIONI: You can do that as a matter-of-right. So it's a matter-of-right for existing buildings. So there is no incentive to tear down existing buildings.

COMMISSIONER MAY: But -- okay. Maybe I'm reading this wrong.

MR. GIULIONI: The more strict standard is actually for new buildings.

COMMISSIONER MAY: Or is a special exception on that.
MR. GIULIONI: Yes.

COMMISSIONER MAY: I've got it.

Okay.

MR. GIULIONI: It's actually a special exception for new buildings.

COMMISSIONER MAY: Got it. All right. All right. Let's talk about the example where you showed the IBC sort of diagram with the setback requirements. Yes, and that one, now, if you imagine it on the right, the diagram on the right that the required separation E were actually a required separation between two parts of the same building.

MR. GIULIONI: Yes.

COMMISSIONER MAY: And so you would wind up with -- and you provide a very helpful chart on this Figure No. 40, which shows an example, you know, 25 percent window openings, the minimum required separation being 15 feet and the resulting lot occupancy at 85 percent.

But if you imagine that's the case
that you have got right there, you could
easily face that with something else and that
15 feet separation applies for both wings of
the same building. So you could get up into
the 90 percent lot occupancy and still meet
IBC?

MR. GIULIONI: I'm not sure.

COMMISSIONER MAY: Are you
following me?

MR. GIULIONI: No, but if you want
to repeat it, I'm listening.

COMMISSIONER MAY: Okay. Just
imagine that what you have got there, if you
take the line that is the property line and
consider that a mirror line.

MR. GIULIONI: This line here?

COMMISSIONER MAY: Yes.

MR. GIULIONI: Okay.

COMMISSIONER MAY: And you flip the
whole thing over, so you've got, you know,
basically another wing of the same building.

MR. GIULIONI: Right.
COMMISSIONER MAY: And they are facing a court now and the court is only 15 feet.

MR. GIULIONI: Well, sorry, that's important. This actually gets back to your earlier question. If I'm on the same piece of property, this line becomes an imaginary property line that it is measured to a center point between two building faces.

So even if there is not a property line, I'm still required to maintain that separation relative to the window area. So it would be, you know, I mean --

COMMISSIONER MAY: Another 15 feet?

MR. GIULIONI: Correct. So you would have a 30 foot total separation.

COMMISSIONER MAY: I think again there needs to be some sort of actual work out examples of this.

MR. GIULIONI: Sure.

COMMISSIONER MAY: Because I mean, we have some existing examples and some new
buildings that are built with 30 feet separation for residential. And they are some of my least favorite buildings. So I am just a little bit concerned about how this is actually going to work out, so I would be very interested in seeing examples of that.

MR. GIULIONI: Sorry, just to be clear, examples like modeled examples or examples --

COMMISSIONER MAY: Well, you know, you did this sample in Figure 40 where you actually did some of the calculations.

MR. GIULIONI: Sure.

COMMISSIONER MAY: Now, I don't know if that is all worked out with all of the IBC requirements, but it would be interesting to see sort of a typical floor plate or even the most extreme floor plate you could come up with based on IBC and what is the result going to be.

Because if we are not going to see it in terms of lot occupancy as a limit, I
want to have some comfort that the IBC is
going to get us somewhere close to that.

I would also like to know whether there are, you know, any kinds of exceptions in the IBC that allow those to be manipulated like, you know, fire curtains with fusible links and things like that that create the fire separation and allow you to reduce some of the distances.

I don't know if you can do any of that in a residential setting, but if there are any sort of tricks to get around it, I think we would want to know it before we simply rely on that. Okay. Thanks.

CHAIRMAN HOOD: Okay. Anyone else?

Commissioner Turnbull?

COMMISSIONER TURNBULL: Thank you, Mr. Chair. I would like to continue on with that same question that Commissioner May had brought up on the IBC.

I guess I'm getting a little muddy here between Zoning and Building Code.
MR. GIULIONI: That's because they both deal with buildings.

COMMISSIONER TURNBULL: Right. But I guess I'm wondering what are we looking at? What are we going to see? What is BZA or someone going to be looking at when we start getting back to all these policy actions? Is it getting to be more -- it sounds like you are making it more complicated for them to try to --

MR. GIULIONI: No. I think if anything, these requirements apply right now whether we change the Zoning Code or not. I think that's an important consideration. These regulations, both within the Housing Code and within the Building Code, they exist and they operate independently, you know, as it stands.

COMMISSIONER TURNBULL: Right. No, we understand that.

MR. GIULIONI: So in the context of lot occupancy, we would be simply removing the
need for an applicant to have to address an additional standard because the would already be relying on another standard of a different title of the DCMR.

COMMISSIONER TURNBULL: But I guess what Commissioner May started to get at, are we looking for reassurances? How are -- what is the Zoning Commission or the BZA going to see relative to this for reassurances that these other issues are being met?

MR. GIULIONI: Okay.

COMMISSIONER TURNBULL: Or are we not concerning ourselves with that?

MR. GIULIONI: I think the issue that we ran across here is that lot occupancy was put in place in zoning before there was a Building Code. And it right said, you know, residential portions of structures needs some separation, need some, you know, controls on light and air, etcetera.

Now, we have -- new buildings that are going up are limited to a functional lot
occupancy, as Mike showed in Figure 40, of 75 to 85 percent. And these Districts that we are talking about have lot occupancies for these areas anywhere from 75 to 100 percent.

So what we are finding is that the functional controls in the building are about the same or less than the controls that were put in in 1920 in the Zoning Code. And moreover, one of the sort of fundamental things that we have been trying to do in our zoning review is identify these instances where we have different rules for the same structure based on the use that is in the structure.

Because what we want to encourage through our Zoning Code is reuse and readaptability of existing buildings. We have got -- our city is not a green field where most of the buildings are going to be new. Our city is an adaptive city where we are going to be reusing old structures and changing old structures.
And one of the fundamental principles that we are trying to get away from the old code, the old code is based on what we want to see in new buildings. And it didn't match what we had on the ground.

We are trying to draw up a code here that describes the buildings that we have on the ground in a way that we will be able to reuse them. And most of our commercial buildings, in these zones especially, are more than 75 percent lot occupancy, more than 80 percent lot occupancy.

So if you want to adopt an existing building in these zones for residential, you have to get a variance. Not to build a new building, to adapt an existing building.

And I think that's what we are trying to avoid. We are trying to avoid the Zoning Commission or the BZA having to look at variances to change the use of existing buildings back and forth from commercial and residential. And we are, I guess, saying to...
you that new buildings going up we don't have to worry about as much, because the functional limitation on the residential floors is the same or greater than what is in our Zoning Code.

COMMISSIONER TURNBULL: Okay. I guess there is a lot of times and I think you may find this on the BZA, you get into some really strange situations that although we are not ruling on Building Code issues, they are sort of underlying some of our zoning or how we are looking at this.

So okay. All right. Thank you.

CHAIRMAN HOOD: Anybody else? Okay. Continue. I think this is the last one, isn't it, or two more?

MR. GIULIONI: No, I think actually this will be the last sort of block.

So I'm going to handle one more and then I'm going to send it over to Travis.

So our first one here is our plaza requirements. And right now, this regulation,
which is basically applied only in CR Zones, so if you are in a CR Zone, new construction is required to create a plaza situation.

Our analysis has found that in many cases the guidelines that are there are too vague about what is, in a sense, intended, like what you want to create. There is conflicts with other regulations, specifically, the CR/ARTS District. You know, it has a minimum building wall requirement that you will build a minimum amount of a building to the lot line. And then we are telling an applicant that you have to provide open space, so, you know, we are creating conflict there.

The spaces that we get, you know, again, because the guidelines are vague, sometimes they are good. The survey that Dan Emerine in our office did found that we do actually have some great spaces that were created as a result of this, but in most -- but on the other side of the coin, we have
many spaces that are not good necessarily.

And the final sort of problem with this is it really assumes large scale development. You know, if I'm dealing -- again, I showed you our chart of lot sizes. If I have a lot size under 5,000 square feet, requiring an open space requirement really isn't practical in that context.

So what we are recommending here is we are going to retain the basic regulation as a requirement, so it's going to be made available to all zones, Mixed-Use Zones to apply, but we are not applying it in this instance or through the review process.

But we want to modify the requirements, so that only if you have a lot that is greater than 10,000 square feet must you comply with the plaza requirements. We are only going to count spaces that are open to the sky, you know, only those space will qualify as plaza space.

We are going to reduce the area
requirement to 8 percent of the lot size. And we are going to, you know, bring more clarity to what it is, to standards that actually make good space, so that as an applicant fulfills their requirements, we know we are going to get a good result every time.

And as a sort of housekeeping component, we are going to remove the plaza requirements that currently exist in the ARTS Overlay, so when the text comes forward, you won't see that requirement there.

So now, I'm going to turn it over to Travis, who is going to handle our final subject, which is use concentration.

MR. PARKER: So right now, the code really has two strategies for handling or for controlling uses and controlling the concentration of uses in the District. 90 percent of the time that's done by just saying a use that we want to review or want to avoid is a special exception.

But in our current neighborhood
Commercial Overlays, we have an additional tool that we use where we have sort of a special exception light where if the corridor is under 25 percent concentration, a couple corridors have 50 percent, then the use is, in this case restaurants, going as a matter-of-right.

If the corridor at the current time measures above 25 percent, then those uses have to go through a special exception process.

Back in 2008, we first started talking about this issue and the Commission, at the time, basically, said this existing standard is causing a lot of problems. It is difficult to understand and enforce, go away and look at it and recommend us some changes.

So we spent a lot of time on this and in the Commercial Working Group, we, you know, threw out a bunch of different ideas, different ways that jurisdictions do that and relooked at our existing way. And people
generally found that of the several different options that we looked at, the existing was the preferred method.

But there are many, many issues that we need to resolve if we are going to continue to use the existing 25 percent linear frontage.

And just as a little history, I think this was in the report, when this was created, it was created, it was basically copied off what San Francisco was doing at the time. They were creating a very similar change where they, you know, limited uses when neighborhoods crossed the threshold.

Within about five years of adopting that, San Francisco took it away and they basically said, you know, this isn't working. This is too hard to enforce. And San Francisco went back to a system where they just did it neighborhood-by-neighborhood. This neighborhood is matter-of-right. This neighborhood is a special exception. And they
regularly go in and update, you know, which
ones are matter-of-right and which ones are
special exception.

We haven't done that. We have kept
it in place, but I think that what we have
found, from our research, is that we really
have two options. We either need to go the
San Francisco route and do it neighborhood-by-
neighborhood special exception or not special
exception or if we are going to keep it, we
need to strengthen the program and we need to
solve a bunch of issues.

First, what qualifies and what
doesn't as meeting that limit? We need to
establish a baseline of total street frontage.
We need to have better date management. We
need to solve the property -- vesting of
property rights. And we need to determine
scale of application.

A lot of this was done recently for
the ARTS Overlay. You, I think, all have
recently been involved with the case in the
ARTS Overlay where they have tried to solve a bunch of these problems. And I think to a great extent have done so successfully.

But I'm going to run through basically each of these things. In order to limit the percentage of street frontage, I think, we have to solve these issues:

We need a precise delineation of the uses. We need clear guidance on how to measure street frontage, both total and as it applies to those particular uses. We need to outline the standards for the vesting of property rights. And we need to greatly limit the geographic scope of the limitation and measure based on smaller blocks of land than entire, you know, 20 and 30 block corridors.

So I think there is a lot of issues there, but I think maybe hopefully it was clear in our report what we were recommending and what needs to be done, but we're happy to answer some questions on that.
Mr. Parker and Mr. Giulioni. Did I get your name right?

MR. GIULIONI: Yes.

CHAIRMAN HOOD: Okay. Mr. Parker, let's look at Exhibit, I guess this is, 4, a letter from ANC-6B. They particularly go to your Recommendation 15. I don't know if you had a chance to see that letter.

MR. PARKER: I don't have that letter.

CHAIRMAN HOOD: You don't have it? Let me read to you the last part of it, which I think is what they are requesting for us to do and we haven't heard from those who want to testify.

It says "Therefore, we believe the Zoning Commission should consider the issues of limitations on retail use separate and apart from the issues concerning Mixed-Use Zones. If the Office of Planning and the Zoning Commission are going to undertake a review of these issues, it needs to be in a
hearing devoted to the specific issue, not mixed in with a number of technical issues. I thank you in advance for considering our recommendations in this matter."

And it basically goes to that whole Recommendation 15. And I don't know if that's something that we might need to look at, but that's what they are requesting that we not mix it in specifically and deal with the limitations of the retail use separate and apart.

They are basically asking that to be a hearing all by itself. Any thoughts on that?

MR. PARKER: I think the last count of official issues that we are dealing with in the Zoning Regulations is 1,200,015. I guess we have tried to organize these issues by type. And this is an issue that is a Mixed-Use Zone issue. It is a commercial corridor issue. It needs our recommendations for commercial corridors.
We are happy to have -- you know, if this warrants additional hearing time, we are happy to have it. But I think this is the appropriate context in which to start considering it.

CHAIRMAN HOOD: Okay. Is anyone here from 6B? Okay. Thank you. Commissioners, any last questions, comments? Okay. Let's go to the -- I probably could call the witness list. Let me just do it and see if I miss anybody.

Ms. Simon, Ms. Gates, Ms. MacWood, President, I think you are still the President of Cleveland Park. Are you testifying? Everybody who is testifying raise your hand and let me see.

Okay. So I missed one person. I don't know his name. What's the gentleman's name? Cary? Mr. Cary? Kadlecek. Okay. So the four of you all can come forward in that order. Four, there's four.

It really shows the commitment when
I can -- don't need the sign-in sheet. That's good. The only issue that I have, I don't know whether you like what you see, don't like what you see, so before you start, if you could just let us know where you are and we will start with Ms. Simon when she gets ready, I guess, unless you all have a particular order you would like to go in?

So we will just start right to my left and come right on over to my right. Start with Ms. Simon and then Ms. Gates, Ms. MacWood and the gentleman.

MS. SIMON: Can Nancy go first?

CHAIRMAN HOOD: Okay.

MS. MacWOOD: Okay. I want to make -- ask a question.

CHAIRMAN HOOD: Sure.

MS. MacWOOD: Just one. Mr. Chair, since we had a very long presentation, there are an awful lot of recommendations that we are going to try to address. There is a very long report notice as well. And since we are
-- there are only four of us, could we not be timed?

CHAIRMAN HOOD: Oh, we --

MS. MacWOOD: We all have written testimony, I mean.

CHAIRMAN HOOD: I was thinking you would ask for maybe an extra minute or two, but not be timed? I mean, this is passionate, so we may be here all night. But I'll tell you what, we'll be considerate and I would ask you all to be considerate, so we can get through it.

MS. MacWOOD: Sure.

CHAIRMAN HOOD: We will start off with everybody is getting five minutes, I believe, right?

MS. SCHELLIN: Yes.

CHAIRMAN HOOD: If you go up to seven or eight, that would be fine. Okay? Okay. We may squeeze another two in. Let's see how it goes. Okay. We will start with you, Ms. Simon.
1

MS. SIMON: All right. My name is Marilyn Simon and I am speaking on behalf of Friendship Neighborhood Association.

It is difficult to assess the impact of many of these recommendations advertised in the public notice, since the new definitions will apply in all zones and will interact with recommendations and proposed languages in many other sections.

There does, however, seem to be a general theme in many of these recommendations and that is to increase the allowable footprint for many sites and to provide matter-of-right development possibilities on sites that would currently need to be combined with adjoining lots to support a development project without having a negative impact on the light and air of neighboring property owners.

Another thing is to discourage development that has no break in the street wall, based on the assumption that having
impenetrable blocks regardless of block size
in medium and high density Mixed-Use Zones is
desirable.

To fulfill these goals, the Office
of Planning has reviewed several special cases
providing an overly simplistic analysis
focusing only on a few specific Comprehensive
Plan policies and recommending that these
special cases be addressed with global changes
to matter-of-right zoning envelope.

In spite of several assurances that
these recommendations are consistent with the
Comp Plan, this seems to be little analysis of
the impact of these changes outside of these
special cases.

In Recommendation 11, to allow
existing buildings in a C-2-A or C-2-B Zone to
have commercial use equal to the greater of
1.5 FAR or two full stories as a matter-of-
right or new construction to allow a second
story of commercial use as a special exception
in mixed-use buildings -- excuse me, as a
matter-of-right in mixed-use or as a special exception in commercial buildings, seems to be a solution in search of a problem.

It seems to focus on mixed-use buildings that have lot occupancies above 75 percent and do not have any significant amount of space in the first two floors associated with the residential use above.

Further, it seems to encourage new commercial buildings in Mixed-Use Zones to increase lot occupancy above 75 percent up to 100 percent in order to obtain the increased FAR that becomes available with this change.

As an example, some commercial corridors have C-2-A Zones along the corridor next to low-density residential neighborhoods. This proposed change provides an incentive to push the commercial-only buildings closer to the rear yards of these single-family homes.

Recommendation 12, to rely on existing Building Code Regulations rather than residential lot occupancy to deal with light
and air considerations for residential buildings in Mixed-Use Zones fails to take into account the concerns that were raised by the working group.

The working group suggested that the 100 percent lot occupancy for commercial uses is not working well and that a lower limit on lot occupancy for commercial uses should be implemented, one that considers light and air access for neighboring properties and ensures provision of open space to ensure respect for surrounding buildings and the character of the neighborhood.

Recommendation 13, to modify the Transition Regulations, does not fully address the Comp Plan provisions requiring buffers between high-density areas and low-density and moderate-density residential neighborhoods.

For example, policy, land use 2.4.4 Heights and Densities in Regional Centers specifically mentions the use of buffer areas, as does policy LU 2.3.4, Transitional and
Buffer Zone Districts.

Even keeping in mind the need to preserve existing buffer zones and implement new ones, as necessary, the recommendations do not appear to be adequate for protecting low and moderate-density neighborhoods where no buffer zone is possible.

For example, the angular plane is defined to begin at the property line or the center of the alley from a height which is 10 feet above the maximum permitted height in the neighboring zone.

As we know, prevailing heights in many low-density Residential Zones are well below the maximum allowed, adding 10 feet and then moving up at a 45 degree angle from the middle of the alley can produce a building wall that will loom menacingly above the dwelling on the other side of the alley.

In summary, I ask that you exercise caution in providing guidance on global recommendations whose impact cannot yet be
evaluated in each of the zones where these changes will affect the zoning envelope and also that you consider the cumulative impact on our urban environment on the light and air of neighboring properties of a large number of the proposed changes, each of which provides, as a matter-of-right, more flexibility to expand the footprint, reduce buffers, increase density.

And I also ask that we consider future requests for Map changes, that you recognize the need for buffer zones it restricts and to not assume that the loose Transition Regulations proposed tonight or even more stringent Transition Regulations can substitute for the Buffer Zone Districts, which currently exist or which should be included in new regional centers or in street car zoning.

Thank you very much.

CHAIRMAN HOOD: Thank you very much. Ms. Gates?
MS. GATES: Good evening, Members of the Commission. I am Alma Gates, a Member of the Zoning Rewrite Task Force and representing Neighbors United Trust at tonight's hearing.

The trust was established by a group of residents of the Palisades neighborhood who support the Comprehensive Plan guidance principles for creating successful neighborhoods.

The residential character of neighborhoods must be protected, maintained and improved. Many District neighborhoods possess social, economic, historic and physical qualities that make them unique and desirable places in which to live.

Many neighborhoods include commercial and institutional uses that contribute to their character. Neighborhood businesses, Retail Districts, schools, parks and recreational facilities, houses of worship and other public facilities all make our
communities more liveable.

Confidence in Government begins at the neighborhood level. It is built block-by-block based on day-to-day relationships and experiences. Meaningful citizen participation and quality response of neighborhood services are essential to sustain successful neighborhoods.

Throughout the Zoning Rewrite process, the working groups have been informed of development policies from other cities. Yet, the District of Columbia is built and has identifiable neighborhoods. True, there are areas of the city that need development, but that development needs definition that is consistent with neighboring areas of the city that have contributed to the uniqueness of the city and been protected by a Zoning Code that has evolved and changed since 1958.

Careful attention needs to be paid to the changes proposed in this chapter, lest we evolve into the city that lost its
character.

In the material presented to the Task Force, OP noted the District has a unique and historic street pattern of great and diagonal streets in the older parts of the city and more curvilinear streets beyond. This street pattern has resulted in a wide variety of lot shapes through strict rectilinear lots in the older parts of the city to irregular polygons in the more suburban areas around the borders of the city.

OP is proposing blanket changes to definitions under this chapter that ensure development on those irregular, nonconforming or oddly-shaped lots and would apply those changes to all lots in all zones.

In other words, all lots are being reduced to the lowest common denominator instead of requiring some lots to seek a variance. The notion of ensuring every lot fits Cinderella's slipper was raised continuously in the low to moderate
Residential Working Group and the Task Force thinking one size can't fit all and does not comport with the Comprehensive Plan.

The residential character of neighborhoods must be protected, maintained and improved. Many District neighborhoods possess qualities that make them unique and desirable places in which to live. These qualities can lead to development and redevelopment pressures that threaten the very qualities that make neighborhoods attractive.

These pressures must be controlled to ensure that neighborhood character is preserved and enhanced.

Recommendation 1, add definitions related to the term setback. Rather than measuring out from the rear of the building or structure for a specified distance, OP is recommending measuring from the rear lot line in and adding a front setback to the definition's list.

Measuring in from the rear lot line
was attempted by Toye Bello, a former Zoning Administrator, in BZA Case No. 17285 where a 30 foot high mechanically stabilized earthen structure was built to level off a rear yard. Mr. Bello maintained that by measuring from the outside in, the earthen structure did not occupy the 25 foot rear yard or contribute to lot occupancy and, therefore, did not qualify as a structure in a rear yard.

The BZA did not agree with Mr. Bello and the Court of Appeals upheld the BZA's decision.

How will this change in terminology setback affect the light and air that is currently ensured under the required rear yard setback? If the definitions are to be applied across all Zone Districts, Residential Districts may be looking at new separation requirements and more allowable lot coverage or density, since a structure can be created in the space between the required setback and the building's facade or yard.
Does it appear that OP is actually proposing changes to lot occupancy if building separation requirements are lessened and accessory buildings can be constructed in a rear yard? This will become more clear in the rationale found in Recommendation 2, modify existing definitions of yards.

Does the new definition for front yard assume the facade facing the lot line is the front of the building or structure? Can OP explain how the removal of the definitions for yard and yard rear depth of will lead to stability in established neighborhoods?

How will the removal of the requirement that a yard must be for the full width of the lot and shall be unoccupied, not encouraged or promote greater lot occupancy?

How effective will a description with that regulatory language be?

We have learned that existing Residential Zone Districts in the R-1-A through R-5-A will be combined into one
category, low to moderate-density residential. And the proposed definitions would apply across the entire category.

For R-1-A Zone Districts, it is the degree of separation, setbacks, yards, light and air that has given those developments their low-density character. Does OP propose a single identity for all properties in the R-1-A through R-5-A Zone Districts?

Recommendation 3, modify and clarify the definitions for lot lines. The proposed definition of a lot line may be clear to some, but it seems unnecessarily cumbersome compared with the definition it is meant to replace.

OP explained that it is difficult to determine some lot lines because of the shape of the lot. Perhaps a survey is the appropriate means of determining lot lines into difficult cases rather than attempting to determine them through definition.

Recommendation 4, modify the use of
the term street frontage and its definition. By adding a street lot line, OP is proposing new construction would be pulled forward to the front of the property along the street lot line and at the same time is proposing to remove the definition of yard rear depth of. This would allow a larger building footprint and create more density for residential neighborhoods.

Recommendation 5, establish definitions for side lot lines and rear lot lines. Establish the following definitions for side lot lines and rear lot lines. Lot line side, a lot line that intersects a street lot line.

While the lot line definition seems to make sense, they also seem out of context. If only the description is used, it is difficult to know to what it relates. In other words, if I say a lot line that intersects a street lot line, what am I talking about?
Recommendation 6, remove the definitions for corner lots and triangular lots. The existing definitions for corner and triangular lots contain descriptive language and a requirement for a maximum angle that is to be formed when two streets converge.

Based on tonight's presentation, I had a question. If a corner lot is not an interior lot, how can it no longer have a function?

Recommendation 7, modify the definitions for interior lot and through lot. The definitions for an interior -- excuse me. The existing definition for an interior lot is a lot other than a corner lot or triangular lot. If the definitions for corner and triangular lots are to be removed, can the definitions for an interior lot still have a practical purpose in applying regulations and, therefore, be maintained?

The testimony of Neighbors United Trust focuses on definitions and how OP's
proposed terminology will change guidance upon which the public in every Residential Zone has relied.

The new definitions have the potential to encourage greater density and lot coverage in Residential Zones by providing more room for a larger building footprint. It appears OP is attempting to use the back door to introduce these concepts, rather than presenting them in each District chapter where they may be of significant consequence.

If the Zoning Commission should withhold -- excuse me. The Zoning Commission should withhold approval of definitions until the individual measurement rules within specific Zone Districts are known and until it is clear that the proposed definition changes will ensure consistency with the Comprehensive Plan. Thank you.

CHAIRMAN HOOD: Thank you. Next, Ms. MacWood?

MS. MacWOOD: Good evening. I'm
Nancy MacWood representing the Committee of 100 tonight.

The committee urges the Zoning Commission to schedule at least one hearing on the relationship of the proposed zoning changes to the Comprehensive Plan. We think you will find that in many cases the Comp Plan policies would lead you to make different decisions.

Concerning the proposal Zone, Commercial and Mixed-Use, yard versus setbacks, the committee questions what a change in terminology accomplishes. Yard is a well-understood zoning concept that is used throughout the Comp Plan. Why change it?

If yard is replaced with setback, the new definition and rules using the term should be clear that the required open space extends the full length or width of the applicable lot line and the full depth or width of the structure.

We wonder why OP is recommending
that the yard definition no longer include an open area extending the full length of the applicable lot line? The point of a yard is to preserve open space and keep it free from structure. That isn't an arbitrary goal, but aims to maintain light, air and ventilation, privacy, the ability to have a screening like trees and shrubs that enhance the environment and, generally, contribute to the health and welfare of District residents.

The committee urges the Zoning Commission to maintain yards as the applicable zoning tool and should reject any definition changes.

Lot lines. The current definition of lot line is a much clearer definition than what is suggested by OP. We urge the Zoning Commission to retain the current language. Lot lines are the lines bounding a lot or the singular version of lot line is a boundary of the lot.

The committee recommends that since
we will have front, rear and side yard requirements, the definitions for each lot line should use the same language.

A front lot line also known as the street line would be a lot line separating a lot from the street.

A rear lot line is generally parallel to the front lot line bounding the lot.

And a side lot line is any lot line that is neither a front nor a rear lot line.

The committee urges the Zoning Commission to retain the definition for corner lots. We see no compelling reason to eliminate this standard lot definition and there may be continuing need to refer to corner lots and applying use requirements.

Keep in mind that the Zoning Commission has endorsed introducing matter-of-right retail office and institutional uses into Residential Zones with only undefined performance standards as controls. Corner
lots may be particularly susceptible to undesirable impacts and, thus, specifically cited for enhanced controls.

Side yards and courts. The committee is concerned that many of these recommendations will result in new buildings that do not continue a District standard for air, light and privacy.

The District has not approached living conditions from the standpoint of what is the lowest standard we can impose, but rather what are the standards that will provide comfortable living conditions. The thrust of OP's recommendations seems to be to maximize development potential at expense of residential quality of life.

The Committee of 100 would have no objection to reducing the side yard requirements for existing or new buildings, if no windows or openings are allowed where 4 foot side yards are provided.

The current minimum standards of 6
to 12 feet for side yards and 6 to 15 feet for open courts ensure, at a minimum, that residents paying low or high rents will not be subjected to apartment that may have windows allowing no ventilation, light or reasonable privacy.

We think that pressure for greater density is not a persuasive reason for reducing the side yard requirement that has a material effect on health and welfare of residents beyond fire control standards.

Rear yard. The committee has no immediate objection to consolidating the rear yard formula 2.5 inches per foot of building height as long as the applicable minimal rear yards remain. But we urge the Zoning Commission to require more information, including pictures of a variety of lots where this change would apply, charts demonstrating what the rear yard would be at allowable heights in each of the zones using the current formula and the proposed formula and pictures.
showing how applying a 78 degree angle to the yard requirement would change the actual setback on actual lots.

Since there are different objectives and protections for development in each of the zones, those purposes should be carefully weighed in considering whether the rear yard requirements should change for each zone.

We do strongly object to the recommendation that there be no rear yard requirement at grade for buildings on alleys in C-1, C-2-A and C-3-A. Many low to moderate-density commercial areas have narrow alleys separating the Commercial Zone from a Residential Zone.

In many of these areas, there is limited public parking and no proper off-street loading, particularly in Historic Districts, as you know there are no requirements.

The rear yards provide some off-
street parking and loading capacity for neighborhood businesses. It would be a terrible result if the commercial buildings were allowed to absorb this space. Eliminating what little off-street space there is would exacerbate the multiple demands on the street. This is an ill-conceived recommendation and we urge you to reject it.

We also cannot support the suggestion that single-family dwellings and alleys in these C Zones should not be subject to the standard rear yard requirements for single-family dwellings. It is not credible that a multi-family building would be converted to a single-family home in the C Zone and that the owner would be confronted with frustration over nonconforming rear yard.

This scenario does not merit a rule change.

We also don't agree with the Office of Planning that any use in the zone, such as the single-family dwelling in the C Zone should have similar allowances simply because
they share a zone classification.

Zoning provides hierarchies of area requirements based on use in order to provide a variety of living and working experiences and to protect health and welfare of light, air and privacy.

Courts. The recommendation to replace court rules with proposed setback concept calls into question what OP really means by setback. If a side setback would replace a court, which is required when part of the building is on the side lot line, how could the same side setback ensure that there would be no structure in the side setback area?

Using a single standard to replace two different standards raises at least one issue. If OP actually -- is OP actually proposing to keep all setbacks formerly yards free from structure? Is OP -- excuse me.

Keep in mind that OP is also proposing to eliminate from the yard
definition its application to the entire length or width of the lot line. Adding further confusion is the OP's suggestion that the replacement dimension for courts would only be a distance measurement from the lot line and would not require that this distance be maintained along the lot line to produce an actual open space.

The Zoning Commission should ask OP to explain clearly and fully what they are proposing and how it will differ from current open space requirements.

The committee has grave doubts that the setback notion is going in the direction that we could support. We are also not convinced that an average of five variance cases per year is a burden on the BZA that merits this confusing change.

Bonus FAR in C-2-A and C-2-B. There is a big difference between applying the OP recommendation to allow existing buildings to occupy a second full story and raising the
FAR to accomplish the same thing in new buildings.

The existing building application raises a couple of issues. Will there be parking and loading impacts on converting residential to commercial? Perhaps more important, do the split floors provide affordable housing?

What will happen to the residents who now occupy these apartments? How many building owners are seeking variances and where are these buildings located? Is there another pattern perhaps that appears, such as code violations, which should be dealt with in another way and not through zoning changes.

The committee does not support the proposal to raise the matter-of-right FAR for commercial in C-2-A and C-2-B. This is not about inheriting a problem, but creating one when a developer wants to fully occupy a lot with structure.

The District has longstanding rules
that relate lot occupancy to FAR. If a developer wants to get these rules relaxed, he may get some relief through Inclusionary Zoning or he can file for a PUD, engage in a public process and offer public benefits commensurate with density bonuses.

The OP recommendation gives developers an incentive to build to the maximum footprint, because that will give them a matter-of-right bonus for commercial density and no requirement to provide public benefits or create an exemplary project or achieve a greater building envelope through IZ.

The current rules aren't arbitrary. They encourage developers to maintain some open space on lots, which, as we know, has a positive impact on the environment.

In Recommendation 12, OP complains that commercial lot occupancy can go up to 100 percent, which doesn't allow any permeable space, so what good is lot occupancy?

The benefit is that in C-2-A and C-
2-B, a developer can't get an additional full floor commercial at 100 percent, so they might limit lot occupancy and incorporate environmental community aspects into the resulting open space.

Yet, here OP is proposing to change the very rule that encourages permeable space. Is this the direction the Zoning Commission endorses for the city? What would be the effect on building design and environmental concerns?

Will every new building or building addition involve 100 percent lot occupancy for the first two floors of commercial building, especially in C-2-A where alley lots would no longer have rear yard requirements?

What happens to buffering? What happens to scale and massing?

Eliminate Lot Occupancy Zoning Regulations in all Nonresidential Zones. This is the most predictable recommendation in this series. OP has systematically persuaded the
Zoning Commission to get rid of residential lot occupancy and replace it with footprints that will result in more lot coverage than is currently allowed.

This is happening in conflict with the Comp Plan policy to recommend sliding scale for maximum lot occupancy in Residential Zones to reduce excessive building mass and in Historic Districts to preserve the established form of development as evidenced by lot coverage and yard requirements.

Now, OP wants you to abandon the directive of the Home Rule Act that cites the preservation of light and air as one of the main purposes of zoning.

OP argues that side and rear yard requirements do just as effectively protect light and air in Commercial Zones, but hasn't OP just recommended that side yards, which are not required in Commercial Zones, be reduced to 4 feet where they do exist and that rear yards also be reduced for eliminating some
zones.

Then they proposed the Building Codes, which are designed to provide minimum acceptable levels of safety for construction and occupancy, are good substitutes for Zoning Lot Occupancy Rules. We disagree.

This is once again an effort to increase lot occupancy with no concern for privacy or standards that relate to public policy goals beyond the minimum required for safety. This is the foot in the door for removing arguments concerning light and air from zoning regulatory proceedings.

We think the Zoning Commission won't need much persuading to reject this notion.

Finally, eating and drinking restrictions in overlays. The committee urges the Zoning Commission to accept Option 1, which clarifies the application of restricted uses in primarily Neighborhood Commercial Overlay Zones.
The first four suggestions under Option 1 are already being implemented. No. 5 was adjusted several years ago by the Cleveland Park Community Association and is a fair and logical way to update the actual percentage of restricted uses.

No. 6 should be reconsidered. The last three Zoning Administrators have rejected the notion of applying the Nonconforming Use Vacancy Rule to a conforming use. Restaurants and bars are conforming uses in the NCOD areas and, as such, there is no danger that if a particular business closes, the restaurant use can never be reinstated, which is the issue necessitating the Vacancy Rule for Nonconforming Uses.

There is a simple way to mark the vacancy. DCRA requires businesses to notify the Department within 30 days of closing a business. There are penalties, including fines and imprisonment, for not complying.

DCRA notification of vacancy should
satisfy the Zoning Administrator that the business has closed and should be removed from the restricted use list. It is not fair to other property owners who may wish to lease to or open a restricted use business that another property owner can use the vacancy for an extended period of time to prevent them from opening a restricted use business.

Restaurants and bars are not a protected category of business and they shouldn't become one.

That concludes my remarks. Thank you very much for the opportunity to testify.

CHAIRMAN HOOD: Okay. Thank you very much. Mr. Kadlecek?

MR. KADLECEK: Yes, Kadlecek. Good evening, Members of the Commission. My name is Cary Kadlecek. I'm an attorney with the Law Firm of Goulston & Storrs and I have participated in the Zoning Rewrite Working Groups.

At Goulston & Storrs, we have nine
attorneys who practice Land Use and Zoning Law in the District of Columbia. Collectively, we have more than 150 years of experience representing developers, individual homeowners, universities, institutions and other landowners. As you can imagine, we are intimately familiar with the Zoning Regulations.

I am here tonight to present testimony on the Comprehensive Zoning Regulation Review concerning setbacks and Mixed-Use Zones.

We would like to commend the Office of Planning for their thorough analysis of the issues and for their thoughtful responses to the problems raised by the existing Zoning Regulations.

We support the vast majority of OP's proposals. Nevertheless, I would like to provide a few comments on several of the specific proposals offered in the OP report.

First, concerning adding setbacks
and eliminating yards. We support this proposed change. In my written testimony, I have addressed this issue in more detail. Although we support the proposed setback definitions, we do have some suggestions to offer the Commission.

For each of the four setback definitions offered, the way to measure a particular setback should also be included, so that setbacks on irregularly-shaped lots can be consistently measured.

For example, the mean horizontal distance is a tool for measuring rear yards and we believe this would be an effective tool for measuring setbacks.

Including measurement tools such as this would also account for the proposed removal of the definition of depth of rear yard.

Concerning Recommendation 4, we support the change that allows the property owner to choose which street is the front.
However, we request that the Commission include language that allows the owner to change the front at a later time, provided that all other provisions of the Zoning Regulations are met.

There are instances when a property is redeveloped that necessitate a building's frontage to change. The current Zoning Regulations are not clear that the owner may make this change.

With respect to the proposed changes to the Mixed-Use Zone requirements, we support those changes and believe that they will provide some much needed clarity to regulations in the C, CR, SP and W Zones.

I have addressed some of these issues in greater detail in my written testimony, but some are worth mentioning now.

Courts have always caused confusion when they are already regulated by the Building Code. We therefore offer our strong support for the recommendation to eliminate
the specific regulation of courts and to allow courts to be regulated through setbacks and the Building Code.

Duplicative regulation is unnecessary, wasteful and sometimes contradictory. This change would also alleviate the burden on the BZA from having to hear numerous court cases when, in fact, the provided court already allows adequate air and light because of the Building Code.

The commercial use FAR limitation in the C-2-A and C-2-B Zones has often created problems for building owners and developers resulting in under-used land. For this reason, we particularly support Recommendation 11, the proposal to allow a full second story of commercial use in the C-2-A and C-2-B Zones.

A commercial FAR limit of 1.5 frequently results in a new building for which second floor commercial use is infeasible and impractical because it must be split with
By allowing a second full floor of commercial use, the Zoning Regulations would encourage more and better mixed-use buildings while eliminating the unnecessary burden of variance cases on the BZA.

However, we would like to note that we support this change for all building sizes, not just those under 10,000 square feet, because the same complications of half residential and half commercial second floors can and do arise with larger buildings too.

Finally, regarding use concentration, we do not support any limits on concentrations of restaurants and drinking establishments, no matter how they are measured. The market liquor licenses and other regulations already have the effect of limiting concentrations of such uses.

However, if these uses are going to be regulated, we believe that block-by-block, as is now the case for the ARTS Overlay, is a
more efficient and sensible way to regulate such uses.

In addition, any new regulation should be very explicit about when a property owner vests his right to a restaurant or bar use. In fact, we believe that the ownership vests his right upon applying for a building permit because it would create the most certainty for the owner and for other owners considering the same use.

In addition, any new regulations should be very clear about what the restricted uses are. In the ARTS Overlay, for instance, many establishments, such as theaters, are being counted as eating and drinking establishments when they clearly do not primarily operate in this way.

Any new regulation should provide a more restrictive definition on what constitutes an eating or drinking establishment for purposes of limitation.

I thank the Commission for their
time and for the opportunity to speak.

    CHAIRMAN HOOD: Okay. I want to thank you all for your testimony. Let's see if we have any questions of this panel. Any questions or comments?

    COMMISSIONER TURNBULL: I just had one.

    CHAIRMAN HOOD: Mr. Turnbull?

    COMMISSIONER TURNBULL: Ms. Gates, since most of your comments were mainly on the definition area, will you be submitting anything on the mixed-use portion?

    MS. GATES: No.

    COMMISSIONER TURNBULL: Okay.

    CHAIRMAN HOOD: And I did have one question. This whole process is supposed to make life a lot easier and I'm not sure who, it might have been you, Ms. MacWood, said that an additional five cases for the BZA, and this seems to be confusing.

    Does this seem like it is getting simpler or is it getting more confusing?
MS. MacWOOD: Well, certainly based on these recommendations tonight, I can tell you, I have been working on zoning for 10 years. I'm a Member of the Task Force. I have been an ANC Commissioner working on lots of different types of cases.

And it took an enormous amount of time to go through both the 60 page report, which we were given as Task Force Members, and also these recommendations tonight. And I think that's why you are not hearing from more people. I mean, there is sort of the dual problem.

One is that all of this material is so complicated. How this is going to make the process simpler is beyond comprehension, quite frankly.

But the other problem is that no one knows this is going on or what these changes are going to be. There has not been one citywide meeting that has been organized by the Office of Planning, none of the ANCs
citywide. We had numerous meetings citywide or by wards during the Comprehensive Plan cycle.

We have not had one. People don't understand what is going on. They don't have any comprehension. And I can tell you there is a situation in my ANC right now in Woodley Park where the Zoning Administrator approved a subdivision of a lot and it was nearly compliant, but it is not entirely compliant.

So it required the Zoning Administrator to make a decision. People in the neighborhood found out about that. They were furious that the lot was being subdivided. Then the next thing that happened, while they were in the process of trying to appeal to the BZA, is the house that was on the lot got demolished.

And the proposal is for two very large houses that are not in scale with the neighborhood that are going to be built on that property, those two properties now. With
these zoning changes, that is going to become a matter-of-right situation. And we are going to have demolitions all over the city, I fear, because you are building in incentives for developers to do just this sort of thing.

CHAIRMAN HOOD: Okay. All right. Any other questions for this panel? Comments?

COMMISSIONER MAY: Mr. Chairman?

CHAIRMAN HOOD: Commissioner May?

COMMISSIONER MAY: I didn't get a copy of the last gentleman's testimony. I don't know if that was -- okay, thanks. That's what I need.

CHAIRMAN HOOD: All right. Any other questions? Okay. I want to thank this panel. It shows that you all have really been on it and, obviously, from your testimony, I'm sure my colleagues, when we deliberate, we will be looking at some of this when we get to our next step. But I want to thank you all for putting in the time.

As Ms. MacWood has already
mentioned, it's a lot of time that you all have put in and we greatly appreciate you giving us a different perspective, some more insight from what the community feels. So we appreciate that.

Okay. Ms. Schellin, do we have any dates or do we need to make any dates?

MS. SCHELLIN: Yes. I was just advised by OP that ANC-2F asked that the record be left open for two weeks.

CHAIRMAN HOOD: 2F? Okay.

MS. SCHELLIN: I don't think we have the request, but he received it directly, because I don't see anything in our records.

MR. PARKER: They had meant to come today, but hadn't had a chance to have an ANC meeting.

CHAIRMAN HOOD: Okay. So --

MR. PARKER: And didn't have a chance even to get in touch with those. We talked earlier this afternoon.

CHAIRMAN HOOD: Okay. So we will
leave the record open at least for two weeks for ANC-2F.

Let me ask this, Mr. Parker, and this just came up tonight, you know how the chairman then has a potential new mode it's doing town hall meetings. And I forgot, I think it was Ms. Gates or Ms. MacWood just mentioned, is Office of Planning -- I know you have been doing the work groups.

And I know you have been doing the Task Force and I know you are doing a lot of stuff. And I think what she just said was a great idea about a citywide meeting with maybe the ANCs, maybe that will help ease some of what is going on until we get there.

Because I will tell you, if I'm here, this Commissioner is prepared to stop at any time. But right now, I'm trying to -- we are still feeling our way, too.

MR. PARKER: Yes.

CHAIRMAN HOOD: There is still some issues that we have, but we are feeling our
way. But I think that the guys that sit up here with me, at any point, we don't mind putting the brakes on. So I want to make sure that is clear.

But I think she brought up a good idea and you can take this back to OP. And, you know, I know you all have been doing the work force -- I mean, the Task Force and the work groups. And I hate to throw out another idea, but it may be good to do a citywide town hall, who knows, for information or purpose.

Maybe not just an exchange, but to make sure and get attention, because I will tell you that in the community meetings that I go to, I encourage everyone to participate in the work groups and get involved, because I tell them this is the time to do it now.

But this is the second time I have heard, look in the room, this is why people are not participating, which is scary. It really is.

I mean, you take it for what it is
worth, that's just my two cents.

MR. PARKER: We appreciate that.

CHAIRMAN HOOD: Commissioner Turnbull?

COMMISSIONER TURNBULL: Yes, thank you, Mr. Chair. I would go along with your comments. I guess tonight's one issue or presentation had me a little bit struggling with the definitions and the terms. And I think some of the people that were up here testifying, I think, sort of echoed some of the things that were in the back of my mind about some issues.

I guess the other thing that I am concerned about is, especially with this, and we have done it in the past and again we have not done it tonight, but, I really think that the Chair of the BZA, I mean, this is a Zoning Commission decision, but I really think I would like the Chair of the BZA or someone that she designates be here, because a lot of these things are going to be BZA issues.
And they really get into the thick of it. I mean, we all participate on it, but I would like to see them here. I mean, they have done that before. They have come here, Marc did and Ruthanne did. And so I would like to see them here to offer comments, because I think this is a Zoning Commission issue in the greater sense, but the BZA bears the brunt of a lot of this and I would like to get their input at one of our hearings or all of our hearings on this.

CHAIRMAN HOOD: I think that's a great idea. We need to go back to that. I'm going to ask Ms. Schellin to help me work with that. I'll be down here with BZA myself tomorrow, so I'll mention it. But we just need to know when.

And you are right, I think we mentioned that once before, because I know Marc was definitely coming and also Ruthanne was coming, so we want to see if Meridith can arrange her schedule so she can be with us on
these nights, so that's a good comment. We'll try to make that happen. Right, Ms. Schellin?

All right. Anything else?

MS. SCHELLIN: We also need OP to submit the PowerPoint presentation for the record. And other than that, is there anything else you want, you guys are looking for?

CHAIRMAN HOOD: Other than to look at the OP town hall meeting, I think that would be great.

MS. SCHELLIN: So other than that, then the record would be closed.

CHAIRMAN HOOD: I think that's a great idea. I really do.

COMMISSIONER MAY: We might want to give the one ANC-6B, which had requested there be a hearing just about Recommendation 15, I'm not really that sympathetic to that. I mean, we have to handle a lot of hearings. But I do want to -- if they have something substantive to say about it, I would like to give them the
opportunity to say it now.

So I would like to keep the record open and see if we can get some further comment from them. I don't know if they can do that within two weeks, but --

MS. SCHELLIN: So we can leave it open for them also.

CHAIRMAN HOOD: Right. We will probably have to contact them though, right?

MS. SCHELLIN: Right.

MR. PARKER: Yes, I can reach out to 6B.

CHAIRMAN HOOD: Okay.

MR. PARKER: Yes. But I think leaving it open for any ANC for the next --

MR. GIULIONI: I would agree, any ANC.

MS. SCHELLIN: Any ANC?

CHAIRMAN HOOD: Any ANC.

MS. SCHELLIN: Okay. So just the ANCs then. Okay. Until we will say, how about if we just change that to November 15th
then instead of the -- we will make it November 15th? Three weeks?

CHAIRMAN HOOD: Yes, hopefully.

MS. SCHELLIN: And we can take this up at our November 29th meeting, because this will be a guidance.

CHAIRMAN HOOD: Right. Okay.

MR. PARKER: November 29th?

MS. SCHELLIN: November 29th.

MR. PARKER: Okay. And so I'm sorry, what date does the record close for submittal?

MS. SCHELLIN: November 15th.

MR. PARKER: November 15th.

MS. SCHELLIN: For the ANCs and for the PowerPoint presentation. Other than that, it's closed for everybody else.

CHAIRMAN HOOD: Okay. Do we have anything else?

MS. SCHELLIN: No, sir.

CHAIRMAN HOOD: Okay. I want to thank everyone for their participation
tonight, especially those who came in and
provided testimony. We really appreciate it.

And this hearing is adjourned.

(Whereupon, the Public Hearing was
concluded at 9:00 p.m.)