



OFFICE OF ZONING STAFF PRESENT:

SARA BARDIN, Director  
SHARON S. SCHELLIN, Secretary  
RICHARD NERO, Jr.  
ESTHER BUSHMAN, General Counsel  
ZELALEM HILL, Special Assistant  
NYAMBI NYAMBI, Chief Technology  
Officer

OFFICE OF PLANNING STAFF PRESENT:

HARRIET TREGONING, Director  
JENNIFER STEINGASSER, Deputy Director,  
Development Review & Historic  
Preservation  
JOEL LAWSON  
ELISE VITALE

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.

The transcript constitutes the  
minutes from the Public Hearing held on November  
04, 2013.

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

2 (6:00 p.m.)

3 CHAIRMAN HOOD: Good evening  
4 everyone. It's now 6 o'clock. We're going to  
5 start on time. Good evening, ladies and  
6 gentlemen. This is a public hearing of the  
7 zoning commission for the District of Columbia  
8 for Monday, November 4, 2013.

9 My name is Anthony Hood. I'm a  
10 Mayoral appointee. Joining me this evening are  
11 Vice Chair Marcy Cohen, she's a Mayoral  
12 appointee, Commissioner Robert Miller, he's a  
13 Mayoral appointee, Commissioner Peter May, he's  
14 appointed, representing the National Park  
15 Service, and Mr. Michael Turnbull. He's the  
16 Commissioner representing Architect of the  
17 Capitol.

18 I'm going to start from my left and  
19 let others on the bias introduce themselves.  
20 So, starting to my left, staff and everyone if  
21 you would introduce, even those sitting in the  
22 back, if you can introduce yourselves so the

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1 public will know exactly the good work that  
2 everybody does.

3 Make sure we're all on the mic.

4 MS. HILL: Zelalem Hill, Special  
5 Assistant, Office of Zoning.

6 MS. BUSHMAN: Esther Bushman,  
7 General Counsel, Office of Zoning.

8 MR. NERO: Richard Nero, Deputy  
9 Director, Office of Zoning.

10 MR. BERGSTEIN: Alan Bergstein,  
11 Office of the Attorney General for the District  
12 of Columbia.

13 MS. BARDIN: Sara Bardin, Director  
14 of the Office of Zoning.

15 MS. SCHELLIN: Sharon Schellin,  
16 Secretary to the Zoning Commission.

17 MR. NYAMBI: And I'm Nyambi,  
18 Nayambi, Chief Technology Officer for the Office  
19 of Zoning.

20 MS. TREGONING: Sorry. Harriet  
21 Tregoning, Director of the D.C. Office of  
22 Planning.

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1 MS. STEINGASSER: Jennifer  
2 Steingasser, D.C. Office of Planning.

3 MR. LAWSON: Joel Lawson, with the  
4 D.C. Office of Planning.

5 MS. VITALE: Elisa Vitale, with the  
6 D.C. Office of Planning.

7 CHAIRMAN HOOD: Okay, thank you,  
8 everyone, very much. I want to welcome both our  
9 directors from the Office of Zoning and the  
10 office of Planning who are with us here this  
11 evening.

12 This proceeding is being recorded by  
13 a court reporter and it's also webcast live.  
14 Accordingly, I must ask you to refrain from any  
15 disruptive noise or actions in the hearing room,  
16 including the display of any signs or objects.

17 The subject of this evening's  
18 hearing is Zoning Commission Case, Number 0806A.  
19 This is a request by the Office of Planning for  
20 comprehensive revisions and amendments to the  
21 zoning regulations.

22 The specific subject of tonight's

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1 hearing are proposed new Subtitles A, W, X, Y and  
2 Z. Again, the subtitles for this evening, A, W,  
3 X, Y and Z. Notice of today's hearing was  
4 published in the D.C. Register on September 20,  
5 2013, and copies of that announcement are  
6 available to my left, on the wall near the door.

7 The hearing will be conducted in  
8 accordance with Provisions 11 DCMR 3021 as  
9 follows. We will have preliminary matters,  
10 after which we will hear from the Chair of the  
11 Board of Zoning Adjustment. Then we will go to  
12 the presentation by the Office of Planning,  
13 reports of other government agencies, testimony  
14 from the public, questions by the Commissioner  
15 of the Office of Planning.

16 Okay, that's right. The following  
17 time restraints will be maintained in this  
18 hearing, Office of Planning up to 60 minutes,  
19 organizations 5 minutes, individuals 3 minutes.  
20 The Commission intends to adhere to the time  
21 limits as strictly as possible in order hear the  
22 case in a reasonable period of time.

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1           The Commission reserves the right to  
2           change the time limits for presentations, if  
3           necessary, and notes that no time shall recede.  
4           As noted in the Notice of Public Hearing, I will  
5           be calling witnesses in the order in which the  
6           Office of Zoning received a Notice of Intent to  
7           Testify.

8           After those witnesses have been  
9           called I will ask others who have registered to  
10          testify this evening and ask others in the  
11          audience if they wish to testify.

12          All persons appearing before the  
13          Commission are to fill out two witness cards. I  
14          would ask that you do that and pass them to the  
15          reporter before you come forward. These cards  
16          are located to my left on the table near the door.  
17          Upon coming forward to speak to the Commission,  
18          please give both cards to the reporter sitting  
19          to my right before taking a seat at the table.

20          When presenting information to the  
21          Commission, please turn on and speak into the  
22          microphone, first stating your name and home

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1 address. It would also be helpful if you would  
2 first identify the subtitle or subtitles to  
3 which your testimony relates. When you are  
4 finished speaking, please turn your microphone  
5 off so that your microphone is no longer picking  
6 up sound or background noise.

7 The decision of the Commission in  
8 this case must be based exclusively on the public  
9 record. To avoid any appearance to the  
10 contrary, the Commission requests that persons  
11 present not engage the members of the Commission  
12 in conversation during any recess or at any time.

13 In addition, there should be no  
14 direct contact whatsoever with any Commissioner  
15 concerning this matter, be it written,  
16 electronic, or by telephone. Any material  
17 received by a Commissioner will be discarded  
18 without being read and any calls will be ignored.

19 The staff will be available  
20 throughout the hearing to discuss procedural  
21 questions. As noted, testimony this evening  
22 will be limited to proposed new Subtitles A, W,

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1 X, Y and Z. If you have testimony on other  
2 subtitles and cannot come back on the scheduled  
3 hearing nights for those subtitles, you may hand  
4 in your written testimony or submit it before the  
5 hearing date. We will read it.

6 I would also ask that you not repeat  
7 testimony that has already been given. Rather  
8 than repeating the same comments, I would  
9 suggest that you state that you agree with  
10 testimony that has already been given and add any  
11 additional comments that we have not yet heard,  
12 at that time.

13 Please turn off all beepers and cell  
14 phones at this time as to not disrupt these  
15 proceedings. At this time, the Commission will  
16 consider any preliminary matters. Does the  
17 staff have any preliminary matters?

18 COURT REPORTER: No, sir.

19 CHAIRMAN HOOD: Okay, I do have one,  
20 for whatever time you're allotted, if you could  
21 look at the clock, when you hear the first  
22 buzzer, which means you will have one minute

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1 left. And we have a lot of folks who like to  
2 testify, at least we have on our sheet, so we want  
3 to be considerate of everyone.

4 We don't want to keep you here all  
5 night with us, unless you want to be, so I would  
6 ask that when you hear that first buzzer that you  
7 start winding it down. And when you hear that  
8 second buzzer you will stop. If you could do  
9 that for me that would be very helpful. My  
10 parents didn't raise me to be rude, but tonight  
11 I'm going to be the rudest guy in the room if you  
12 go passed that second buzzer, okay? So let's  
13 work together on that so we can hear from  
14 everybody.

15 All right, do we have agreement? I  
16 guess not, so I'm going to have to be rude. All  
17 right, so I'm going to ask the Chair of the BZA,  
18 I'm used to working with him so I guess I won't  
19 call him the Honorable Lloyd Jordan, but I will  
20 ask the Chair of our BZA if he can come forward.

21 And we appreciate your taking time  
22 out. We know you have a busy schedule tomorrow,

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1 and a hectic schedule, so we appreciate your  
2 coming down to provide testimony. You may  
3 begin.

4 BZA CHAIR JORDAN: All right, thank  
5 you, Mr. Chairman, Commissioners Cohen, May,  
6 Miller and Turnbull. I appreciate the  
7 opportunity, on behalf of the Board of Zoning  
8 Adjustment, to bring comments regarding  
9 Subtitle Y. You have those comments which have  
10 been submitted to you.

11 What the Board has been doing over  
12 the past year and a half, we've been working  
13 through different procedural issues, processes  
14 and practices of the Board of Zoning Adjustment  
15 in order to ensure that we come up with a more  
16 effective, efficient operation of the Board of  
17 Zoning Adjustment.

18 And so what you have in front of you  
19 is more of a roll-up-your-sleeve redline kind of  
20 perversion of some of our recommendations as it  
21 affects Subtitle Y.

22 Our mission, in looking at these

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1 particular practices was to identify those  
2 practices which we would call unnecessary delay  
3 in processing of zoning relief.

4 And those which were not appearing  
5 to be fair or equally balanced in allowing  
6 proponents and opponents to present issues to  
7 the Board. So each regulation or practice was  
8 examined with the intent to see if it's  
9 citizen-friendly and if it's equally fair to  
10 proponents and opponents.

11 And so the initial question that  
12 would answer whether the regulation was examined  
13 to determine if it was transparent, predictable  
14 and allows for review.

15 So, if you would, I'm to going just  
16 point out just some highlights of what you've  
17 already received in the Redline document of  
18 Subtitle Y from the Board. And so, if you would,  
19 if you, I'll just highlight those. If you wish  
20 to follow I'll say what page that I'm on.

21 Beginning with Page 4, just as a  
22 additive to the document under Title, Section

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1 101, excuse me, Page 5, Section 101.7, just  
2 wanted to make clear, in this regulation, as  
3 there's been some discussions of the Board's  
4 authority, the Board of Zoning Adjustment's  
5 authority, to issue supplemental rules within  
6 the confines of those proposed or presented by  
7 the Zoning Commission, and that recommendation  
8 is in accordance with D.C. Code 6-641.03.

9           Additionally, on Page, it would be  
10 page number 5, as a new section, excuse me, it  
11 would be Page 5 or 7. It's right after Section  
12 104.10, Section 104. I've added a new section  
13 for what's called Members Qualification for  
14 Electronic Attendance.

15           Initially, when the Board offered  
16 this, after doing research and finding out that  
17 other governmental entities throughout this  
18 country, and particularly other Boards of  
19 Adjustment, a zoning adjustment in other Boards  
20 of Zoning allow for electronic attendance, the  
21 submission was made.

22           But subsequent to that we, it was,

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1 the research found that the District of Columbia  
2 already provides for, the Council of the  
3 District of Columbia has already provided for  
4 electronic meetings. And that's contained in  
5 D.C. Code Section 2-577.

6 So I don't know if additional  
7 approval is necessary or even if there is  
8 authority to allow for any changes thereof, but  
9 Section D.C. Code 2-577 provides for the  
10 opportunity to use electronic meetings.

11 The electronic meetings are, as the  
12 provisions or regulations are in most, in all the  
13 jurisdictions, it's not something that becomes  
14 regular. It's something that becomes an  
15 exception to the rule based upon a lot of  
16 criteria. And that which we submitted under  
17 Section 104, thereafter Point 11, you'll see it  
18 after 104.11.

19 It sets the criteria when a member  
20 of the Board of Zoning Adjustment can attend  
21 electronically and the conditions thereof which  
22 allows for notice, rejection by the rest of the

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1 Board before it's allowed if there is an issue,  
2 but certain criteria.

3 Usually they're done in cases of  
4 emergency or there's an issue presented whether  
5 or not the Board's going to be able to operate  
6 properly if there's a quorum or the lack of  
7 quorum. And so that has been submitted to you.

8 Under Section 105 the Board's  
9 recommended a change as in Section 105 regarding  
10 ethics, just as a heads-up to the Zoning  
11 Commission, that the District of Columbia  
12 already has a ethics law. It has an Ethics  
13 Commission.

14 And just to be, we just want to  
15 recommend that the Zoning Commission look at  
16 simply referring to that so we don't get  
17 cross-wires, in regard to conflict in what might  
18 be considered allowed under D.C. law, what might  
19 be allowed in regard to ethics decisions coming  
20 from that particular commission that handles  
21 these.

22 So we don't want to have anything

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1 that, where someone can slip through the middle  
2 and say well, it's okay here but not okay there.  
3 So, simply, we already have a ethics law provided  
4 by the District of Columbia.

5 The other would be Section 200. I  
6 have it as my Page 11. I'm not certain what it  
7 may be for you but it's Section 200, added under  
8 a provision under Appearance and  
9 Representation.

10 I want to talk about this just so we  
11 really understand what the Board has been faced  
12 with. That is, if you can see the provision, it  
13 requires, it allows for owners or the owner's  
14 representative to participate in 223s on a  
15 regular basis, like we already have.

16 However, anything other than a 223,  
17 the person who's representing and from the Board  
18 out to certify that they have working knowledge  
19 of the zoning regulations.

20 It's absolutely essential that that  
21 person have working knowledge of the zoning  
22 regulations, particularly those who hold

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1 themselves out for hire. And we have citizens  
2 who become victims by those who have gotten their  
3 money and sit before the Board, and we learn  
4 that they don't really know what they're talking  
5 about.

6 But, more importantly, what it does,  
7 it works as a benefit for the neighborhoods  
8 because a lot of times the neighborhoods are up  
9 in arms over some provision or some request for  
10 relief that clearly can't happen.

11 But the person who is not  
12 comfortable or knowledgeable of the zoning  
13 regulations that put it forth, and the community  
14 realizes it can't happen, but you have an  
15 applicant now who's been pushing forth an effort  
16 that never, if someone had had the knowledge of  
17 the zoning regulations, would not have brought  
18 forth.

19 So please take a look at that and  
20 take strong consideration of that particular  
21 matter. And also it provides for a provision  
22 for it to be waived, if necessary.

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1           Section 200.7, the recommendation  
2           to add the words "substantial involvement" with  
3           those former members of the Board who may be  
4           involved afterwards, who try to represent in  
5           front of the Board.

6           The issue there is being consistent  
7           with the law of the District of Columbia and the  
8           numerous opinions of the Office of the Attorney  
9           General which requires that an exclusion, if  
10          you've had substantial involvement and not as we  
11          have stated here and as proposed in 200.7.

12          The next provision is under Section  
13          203 and, as you know, there's other changes.  
14          Some of them are minor. I'm just hitting the  
15          real ones I want to highlight for you.

16          Under Section 203, under Evidence,  
17          and that's to require the filing of evidence 21  
18          days in advance of a hearing and also requiring  
19          those people who are parties or persons who are  
20          seeking party status to also submit their  
21          documents ahead of time.

22          What we've learned is that people

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1 who seek party status, whether or not they get  
2 granted or not, and usually they're granted at  
3 the time of the hearing, may sit here and bring  
4 documents into evidence that a party has not had  
5 the opportunity to go, it really becomes unfair  
6 and, additionally, it may lead to unnecessary  
7 delay.

8           Moreover, with others, each person  
9 or parties knowing the existence of opposition,  
10 then it gives them an opportunity to try to  
11 meet, confer and work out their issues, and  
12 everybody can be on equal footing. And I'll  
13 come back to that when we confer a little bit  
14 later.

15           Added and, proposed adding a new  
16 Section 203.12 which allows for, to eliminate  
17 the practice of witnesses, prior to testifying  
18 before the Board, to stand and take a group  
19 swearing in of oath or affirmation which you got  
20 to try and track, in the back of your mind, who  
21 actually stood up and who didn't stand up and  
22 what it meant.

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1           But, in an effort to be more  
2 effective and efficient and to have more force  
3 of law, that we'd require the witness card to  
4 carry the affiant statement that they simply say  
5 that their statements that they're presenting is  
6 based upon their oath, as they would normally  
7 stand.

8           That way we can track it. That way  
9 we can come back to it any time we need to, and  
10 we have a record that someone actually did take  
11 the oath and affirmation.

12           Section 206.1, it's on my Page 14.  
13 I don't know how that printed out for you. That,  
14 it's a question, it's a bit confused and I'm  
15 going to ask the Zoning Commission or those who  
16 proposed this provision to see whether or not  
17 this is excluding paper filing of applications  
18 and not just limiting it to electronic.

19           It's just confusing, this  
20 provision, to me and to the Board, whether or  
21 not, and it's one of the questions that I, I don't  
22 necessarily understand it so I don't know if

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1 others will. Just to take a look at 206.1.

2 Under Page 19, and it's Section 301,  
3 Expedited Reviews, the Board's talked about this  
4 a lot. And many of you sat in some of our  
5 hearings on expedited reviews.

6 If a person has submitted all the  
7 requirements for a 223 Review and meet all the  
8 requirements of a Expedited Review, it's really  
9 a ministerial function.

10 And those 223s are taking up time on  
11 the docket and whether it's necessary even to  
12 hold a party up in regard to that, would like the  
13 zoning commission to take a serious look at  
14 whether or not that could be something that's  
15 deferred to the Office of Zoning through the  
16 director and/or something that the Zoning  
17 Administrator, if all the Is are dotted and Ts  
18 are crossed, can process.

19 Is it an unnecessary step, then, to  
20 have the Board hear expedited reviews if all the  
21 Is are dotted and Ts are crossed?

22 The, skipping now to 400.5, what's

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1 provided as 400.5, excuse me, it provides for the  
2 Order of Hearings and there needs to be some  
3 leeway in how the hearings are processed. As  
4 you know, we try to operate the hearings in an  
5 effective manner.

6 As written, 400.5 says that the  
7 hearings must be held in the order as they are  
8 listed on the docket sheet or the agenda. And  
9 there needs to be some leeway granted to the  
10 Office of Zoning, the director and,  
11 particularly, the presiding officer or the  
12 Chairman of the Board of Zoning Adjustment to  
13 manage that docket. Limiting it, as this  
14 provision does, just doesn't, won't provide for  
15 fairness.

16 Added a new provision, Section  
17 404.7, this has become very, very helpful to us.  
18 I'm going to say it's my Page 32. I don't know  
19 if it's your 32, but provision 404.7. This  
20 requires that persons who seek party status and  
21 parties actually attempt to resolve their issues  
22 before the hearing.

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1                   We have learned that this had worked  
2                   out fabulously for the Board and for the  
3                   citizens. And we've had matters where there are  
4                   10 oppositions, parties in oppositions, and we  
5                   would ask them to go out and try to resolve their  
6                   issue.

7                   And, remarkably, especially in a  
8                   certain area of town where you wouldn't think  
9                   that people would want to work together, came  
10                  back in the room and had a proposed agreement,  
11                  and it worked out.

12                  And it's been working very  
13                  consistently and very successfully when we seek,  
14                  have people do attempt to resolve. Sometimes we  
15                  find that people simply don't give each other the  
16                  courtesy to talk about an issue and just the  
17                  common courtesy of doing it.

18                  It's in line of what the courts  
19                  require in regards to some oppositions. Courts  
20                  require parties to meet and confer.

21                  This is the same type of provision  
22                  and it absolutely does work out well. We've had

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1 maybe a few that have not worked out but, for the  
2 majority part, they have been agreements worked  
3 out with the various parties or parties in  
4 opposition. So that added, that adds a new  
5 section, 404.7.

6 Section 407.6, it allows for the  
7 presiding officer or Chair to decide matters  
8 and motions, for the presiding officer or the  
9 Chair to render motions instead of necessarily  
10 having the full Board. But it also provides  
11 that if there are decisions made by the presiding  
12 officer and/or Chair that the Board can simply  
13 reverse that by a simple motion.

14 It'll allow for a more effective and  
15 efficient operation of motions. And we get  
16 motions all the time to the Board of Zoning  
17 Adjustment. And it also, under 407.7, to allow  
18 the Director of the Office of Zoning to grant  
19 continuances based upon certain criteria which  
20 has been offered here under, with the Redline  
21 changes.

22 On Page 37 we're adding, on my Page

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1 37 which would be right after 410, to add a  
2 consent calendar, allow for the Board of Zoning  
3 Adjustment to operate with a consent calendar.  
4 We basically try to operate with one and, as many  
5 of you know, there are times when there is no real  
6 controversy on something that's what you would  
7 call a slam/dunk.

8 It's very clear that the relief  
9 needs to be granted. There's no opposition,  
10 everybody's onboard. The A&C is onboard, the  
11 Office of Planning's onboard, Transportation's  
12 onboard. And we've, otherwise, it requires to  
13 have a full hearing on the matter, and we try to  
14 expedite it through a process of a hearing.

15 But to allow for a consent calendar  
16 which would be in conformity with most operating  
17 bodies to allow for a consent calendar, I'm not  
18 going to go into detail but it does specify and  
19 allows that. The recommendation is to allow  
20 that consent calendar.

21 On Page 38 or Section 501 it makes  
22 a recommendation to the Zoning Commission that

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1 designates the beneficiary of the decision of  
2 the governmental official, the beneficiary of  
3 that decision to actually be the real party of  
4 interest, to really be the ones to require to  
5 carry that proponent issue.

6 It's consistent with what happens in  
7 other jurisdictions, it's consistent with what  
8 happens, particularly in the courts, when a  
9 government official is involved. It allows the  
10 government to get their option to participate in  
11 that particular hearing or appeal, but it's an  
12 elective matter.

13 So when the Zoning Administrator,  
14 for instance, gives relief for a building owner  
15 or a developer of a building the real party in  
16 interest is the developer or the owner of the  
17 building. That's the real party in interest.  
18 But the government, our government, spends money  
19 and time and activity defending the interest of  
20 a department, of a developer or a owner of a  
21 building.

22 Here, it makes the owner of the

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1 building or the developer, or whoever the person  
2 receiving that beneficial interest of the  
3 decision that's being appealed to be the real  
4 party in interest and that they must carry on the  
5 appeal. And it certainly doesn't take anything  
6 away from the government because the government  
7 would have the opportunity, if it wants, to  
8 participate. They don't lose their party  
9 status.

10 Going down to Section 501.1, no,  
11 excuse me, 507.5, excuse me 507.5, it allows for,  
12 it just changed the wordings of what the Board  
13 actually does in regards to an appeal. The  
14 words have been, what has been used or said is  
15 that the Board, if we don't agree with, if we  
16 agree with the decision of the Zoning  
17 Administrator it says that the Board denies the  
18 appeal.

19 Well, we've already heard the  
20 appeal. We read all the documents, we had the  
21 hearing. We've already heard the appeal.  
22 We're not denying the appeal. The appeal has

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1 happened.

2 But, more importantly, what the  
3 action, what we're really doing is either  
4 affirming or reversing or modifying the decision  
5 of the Administrator, being appealed from. So  
6 that's what that change does.

7 507.6, again, adds for attempt to  
8 resolve regarding appeals. So moving to 600.3  
9 is another matter that has come before the Board  
10 in regards to appeals. And also, I am looking  
11 now, that we did not use it for the provision on  
12 applications.

13 But sometimes matters get withdrawn  
14 or matters are dismissed, and the party has paid  
15 money, paid a lot of money, and they don't get  
16 a full refund. The money's gone.

17 And so it doesn't encourage someone  
18 who may want to change their mind to really pull  
19 back their document, but out of a sense of  
20 fairness, as courts do, courts will assess a cost  
21 based upon how much time, effort and et cetera  
22 has gone on regarding a case to determine whether

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1 or not, what type of refund is given back or a  
2 cost assessed in a particular matter.

3 Here we have all or nothing. Once  
4 you file the money's gone. And that's what this  
5 provision says. It says there's no refund.

6 So it's just, I want to ask the  
7 Zoning Commission to take a look at it and see  
8 if there could be some type of sliding scale  
9 regarding refund. It's just something that the  
10 Board has discussed.

11 When we get to those problems, when  
12 we get to those matters and we're just, like, oh  
13 my goodness, they're going to lose all this, then  
14 we just dismiss this thing.

15 Those are some of the, I just wanted  
16 to highlight the matter but, certainly, we would  
17 like to ask the Board to consider all the changes  
18 recommended by the Board of Zoning Adjustment.  
19 And I'm here to answer questions if you wish,  
20 come back at any other time, if necessary, when  
21 you deliberate. I'd be glad to assist.

22 CHAIRMAN HOOD: Thank you, Mr.

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1 Chairman. I'm glad that you agreed to come back  
2 because I would like for us to withhold our  
3 questions of you at this point so we can get to  
4 the Office of Planning and then hear from others.

5 But there, I know I have a number of  
6 questions that I want to discuss. And I would  
7 like to use you as a resource at another time.

8 Maybe we'll try to get you in another  
9 time, if you don't have a major docket tomorrow.  
10 But I appreciate you coming in and giving us  
11 testimony. But I would ask my colleagues if we  
12 can reserve our questions for a later time  
13 because I have a few. I probably, this time I  
14 have more than Commissioner May. I'm not sure.

15 COMMISSIONER MAY: Oh, no.

16 CHAIRMAN HOOD: But we would like to  
17 have you back as a resource again at a later time.  
18 So we'll try to work that out with you. But  
19 thank you for coming in and providing us  
20 testimony.

21 BZA CHAIR JORDAN: Thank you for the  
22 opportunity. Thank you so much.

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1                   CHAIRMAN HOOD:    Okay, thank you.  
2                   Okay, I want to thank the Office of Planning for  
3                   giving us their time to do that.  I thought that  
4                   was very important because a lot of us, we go once  
5                   of month or so on the BZA and the Chairman's there  
6                   and the board members are there constantly.  So  
7                   we wanted to make sure we heard from them also.

8                   So let's go to Director Tregoning,  
9                   if you want to start us off.

10                  MS. TREGONING:    Thank you very  
11                  much,  Chairman Hood,  Commissioners May,  
12                  Turnbull, Cohen and Miller.  I'm very, very  
13                  delighted to be here this evening.

14                  You have scheduled ahead of you a  
15                  whole series of hearings on very, very important  
16                  matters.  And I'm honored to be able to be here  
17                  in front of you this evening to help kick off what  
18                  I know will be a very serious and important set  
19                  of conversations that occur in these chambers  
20                  over the next days and weeks as you hear  
21                  testimony and go over, section by section, the  
22                  different subtitles of the proposed new zoning

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1 regulations.

2 This is a zoning code that we've had  
3 in the city for a long time, 1958, to be specific.  
4 Many, many cities around the country have found  
5 that every 50 years or so it makes sense to  
6 update your zoning regulations and have. And  
7 those cities have done so, Baltimore, Denver,  
8 Philadelphia, New York and many others.

9 These were codes that were adopted  
10 before we had the right to vote in presidential  
11 elections, before we had home rule, before there  
12 was ever a Metro running in the District of  
13 Columbia. And there have been more than a  
14 thousand amendments to the current code.

15 I love my friends in the legal  
16 profession but we sometimes call the current  
17 code a lawyer, Lanny's Lawyer Full Employment  
18 Act. It's very difficult to know what can be  
19 done with a piece of property.

20 And this was a code that saw a future  
21 for the city, not a future that necessarily  
22 turned out to be the case but it absolutely

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1 anticipated a future where automobiles would be  
2 ascendent and they were right about that, where  
3 everyone would enjoy automobilility.

4 And that the way that D.C. would  
5 survive and thrive would be by making it as easy  
6 as possible for people to commute into the city  
7 from the suburbs and then leave as quickly as  
8 possible at the end of the day.

9 It envisioned a downtown that was  
10 exclusively office buildings circled by  
11 surfaced parking lots with convenient moving  
12 sidewalks that would get you from the ring of  
13 parking into your downtown office with the uses  
14 very religiously separated.

15 That's not the, it's not a code that  
16 considered climate change, green buildings,  
17 sustainable development, living downtown,  
18 transit-oriented development, many, many things  
19 that are now very much a part of what we see as  
20 the future.

21 And the city is changing very much.  
22 We have demographics that the rest of the U.S.

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1 will have in, I'm sorry, in 2050. We have much  
2 smaller households compared to 1950. Our  
3 household size is much smaller, 3.2 in 1950, just  
4 over 2.1 today.

5 Forty-four percent of our  
6 households are single-person households. Only  
7 20 percent of our households have school-age  
8 children. We're a highly racially and  
9 ethnically diverse city and, increasingly,  
10 highly educated.

11 I will put a little asterisk by a  
12 couple of these statistics about household size  
13 and school-age children because we have some of  
14 the most aggressive school reform efforts, as  
15 you know, commissioners, and that they are  
16 beginning to have an effect on the percentage of  
17 households that have school-age kids and on  
18 household size.

19 And it's something that is very much  
20 bucking the trends that are happening everywhere  
21 else in the country, and we really think it's  
22 because of our very aggressive and dedicated

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1 school reform, but it's an amazing thing.

2 We're a growing city, not just in  
3 terms of households with children. But, in  
4 fact, kind of across the board, 60-year-olds  
5 increased by 7.2 percent in the last decade while  
6 20 to 34-year-olds increased by 23 percent.

7 We had, in 2010, recorded our very  
8 first decade of net population growth, in any  
9 decade, since WWII. So we'd been steadily  
10 declining until that point and our growth has  
11 really turned around. In fact, we grew as much  
12 in the two years after the 2010 census, between  
13 2010 and 2012, as we did in the entire decade of  
14 2000 to 2010.

15 Next, the household and population  
16 size are increasing. And you see, by the shape  
17 of this curve how dramatically different that  
18 our growth and our city is becoming. Households  
19 grew annually by 2.2 percent between 2007 and  
20 2012. During the same time period we had a job  
21 growth of 1.1 percent.

22 We're a growing and changing city

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1 and proposing a code that responds to this change  
2 and that'll shape the city of the future. And  
3 that's an important thing to think about, the  
4 future. Even with our kind of torrid growth  
5 we're still only building somewhere between 1  
6 and 5 percent of the built environment new in the  
7 District every year.

8           So it takes a long time for the kinds  
9 of changes that the zoning code envisions to  
10 actually be manifest in the city. It's going to  
11 take place fairly gradually because of that rate  
12 of growth.

13           We have a comprehensive plan that,  
14 and an ambition for our city, that has been  
15 wonderfully consistent over three mayors,  
16 several councils and, I'm happy to also say,  
17 several generations of this Zoning Commission to  
18 be an inclusive city, to deliberately manage  
19 growth and change, to make sure every  
20 neighborhood is successful, to connect the  
21 entire city, to build green and healthy, to make  
22 sure people everywhere have access to quality

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1 education and employment opportunities, to have  
2 affordable housing and provide transportation  
3 choices and to be diverse.

4           And this vision of an inclusive city  
5 really informs the proposals that are in front  
6 of you. Guidance on so many of these issues are  
7 provided by the comprehensive plan and addressed  
8 in these zoning changes, including  
9 sustainability, parking and transit,  
10 residential development, neighborhood  
11 commercial zones, a living downtown, how we  
12 handle industrial land, parks, recreation and  
13 open space.

14           And the zoning regulations  
15 themselves, that they need substantial revision  
16 and reorganization. They need to be simplified  
17 and updated.

18           The Zoning Commission has adopted  
19 zoning to implement many of the goals that are  
20 identified in the comprehensive plan, including  
21 H Street, Takoma, the Southeast Federal Center  
22 overlays, St. Elizabeth's zoning, text

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1 amendments to facilitate the development of the  
2 old convention center site, PUDs in almost all  
3 of the areas that have allowed for publicly  
4 vetted and carefully considered development in  
5 neighborhoods like Petworth, Brookland and  
6 central 14th Street.

7 So you're intimately familiar with  
8 both the comprehensive plan and with how zoning  
9 has positively affected our neighborhoods.

10 So now let's talk about the specific  
11 issues facing our city and how these zoning  
12 revisions will help to further the city's goals  
13 and objectives, beginning with the built  
14 environment. I mentioned before that we didn't  
15 even have the Metro when the zoning regulations  
16 in 1958 were adopted.

17 And what you see in front of you is  
18 how much of our residential development, in  
19 particular, but also our office development is  
20 occurring around Metro stations.

21 More than 80 percent of new housing  
22 units constructed were within a half a mile of

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1 Metro between 2000 and 2012 while 91 percent of  
2 the office space and 100 percent of the hotel  
3 rooms were within a half mile of Metro stations.  
4 Almost all of the development or zoning  
5 applications considered by the Commission are  
6 close to transit areas, and this review of zoning  
7 regulations is another critical way that policy  
8 related to transit-oriented development can be  
9 implemented to manage the growth and the change  
10 that are coming, and expected, in the city.

11 We're also all about creating great  
12 neighborhoods that are walkable and compact that  
13 preserve historic character and create great  
14 destinations and great convenience for people  
15 living in our neighborhoods.

16 We recently opened The Yards Park  
17 which was constructed through a partnership  
18 between the General Services Administration,  
19 the District of Columbia and Forest City  
20 Washington in accordance with the zoning that  
21 was established by this Commission.

22 It was a world class park space that

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1 now hosts visitors, residents, special events  
2 and 5-1/2 acres and a half, sorry, a quarter mile  
3 boardwalk. It's thanks to this action that city  
4 residents are able to enjoy this beautifully  
5 designed space. And it's that kind of amenity  
6 that we think needs to be included in every  
7 neighborhood and part of what makes those  
8 neighborhoods attractive and convenient for  
9 new residents.

10 I could go on about Petworth and  
11 Columbia Heights and the Southwest Waterfront  
12 but, in the interest of time, I'll try to move  
13 quickly on.

14 Built environment initiatives in  
15 low density areas that are part of this rezoning  
16 revisions include new requirements for pervious  
17 surfaces to be adopted and put in effect,  
18 facilitate the development of nonconforming  
19 in-fill lots, making accessory apartments  
20 easier to provide, modifying building hit  
21 measurement, et cetera.

22 For other zones we've adopted the

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1 Green Area Ratio. Extend, we propose to extend  
2 existing waterfront setback requirements to all  
3 zones to capture additional downtown density,  
4 especially for residential, to add additional  
5 buffering in industrial zones, particularly  
6 when they're adjacent to residential, to  
7 standardize PUDs, to protect solar panels and  
8 reduce barriers to the provision of green roofs  
9 and retain provisions of neighborhood  
10 commercial overlays, but consolidate them with  
11 base zones to make them much easier to use.

12 Our city's already distinguished  
13 itself as a leader, a national leader in many  
14 areas of urban sustainability. Business,  
15 government and community actions, citywide have  
16 made D.C. one of the most liveable and  
17 sustainable places in the country.

18 We have already more than 430  
19 certified, LEED-certified projects in the city,  
20 84 million square feet of LEED-certified  
21 building, two-thirds of which are gold or  
22 platinum and an amazing amount of other

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1 sustainability outcomes, including 100 percent  
2 of the District's own power procured from  
3 renewable sources and 8.5 percent of all the  
4 energy in the city from renewables.

5 To look at these buildings, as  
6 another example, this kind of shows you, per  
7 capita, how we are doing compared to a lot of  
8 other places. And the Zoning Commission has  
9 contributed greatly to these efforts. When we  
10 talk about LEED building, between 2010 and 2013  
11 PUD's proffered 41 LEED buildings.

12 And long before we had the Green  
13 Building Act the Zoning Commission basically  
14 paved the way with green buildings that were part  
15 of proffers. It kind of made it safe and  
16 demonstrated how it could be accomplished, to  
17 build green in the district, with excellent  
18 results.

19 Here's an example of green roof  
20 construction. For the last two years we've lead  
21 the nation, among cities of any size, with the  
22 number of green roofs that were added to our

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1 city. And here, again, the Zoning Commission  
2 lead the way through PUDs, providing a  
3 significant amount of green roof as early as  
4 2002. Our PUDs have proffered almost half a  
5 million square feet of green roof on their own.

6 Sustainability initiatives as part  
7 of the ZRR include the Green Area Ratio that's  
8 been adopted and put into effect. Pervious  
9 surface requirements adopted and in effect, TDM  
10 measures as part of any parking relief request,  
11 a minimum size and visual impact of surface  
12 parking where we have to have that including  
13 additional landscaping and tree canopy,  
14 buffering for industrial, et cetera, et cetera.

15 Let me talk very briefly about  
16 transportation. This is another area where  
17 we've seen unbelievably rapid progress in the  
18 city. We have the second highest share to  
19 non-automotive trips for commuters behind only  
20 New York City.

21 And you can see there, with the chart  
22 on the left, that actually 54.6 percent of all

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1 D.C. commute trips are non-car. And look how  
2 high the Bikeshare is. It's double what it was  
3 three years ago, and no other city is growing  
4 quite as fast as we are.

5 But transportation isn't just about  
6 having choices, which is really a wonderful  
7 thing. It's also about making D.C. more  
8 affordable. Transportation is the second  
9 largest household expense, second only to  
10 housing. Households spend an average of 19  
11 percent of their household income on  
12 transportation. But in the district, near  
13 transit that number is close to 9 percent.

14 So that means people have money to  
15 spend on other things and it gives their  
16 households resilience. In the case of economic  
17 hard times, whether their economy-wide or just  
18 a family hitting a bump in the road, it gives them  
19 a lot of flexibility that they don't have in  
20 other places.

21 And it really is, for many people,  
22 becoming kind of a luxury to have the choices

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1 that we have, so many of them, that not only are  
2 38.5 percent of all D.C. households now  
3 households that don't have any vehicles, a total  
4 of 82.4 percent of households have only one or  
5 fewer vehicles, only, again, New York City has  
6 a higher percentage of car-light household than  
7 the District.

8 And this is very, very different  
9 than it was in the city 10 years ago, 20 years  
10 ago, 30 years ago. And this number continues to  
11 evolve and change with many more multi-car  
12 households being able to live with one less car  
13 and, therefore, fewer cars out on the street.

14 Our transportation initiatives that  
15 are part of the ZRR include parking minimums are  
16 reduced or eliminated, increasing short and  
17 long-term bike parking, added changing  
18 facilities, TDM measures, facilitating shared  
19 parking and doing things to provide more  
20 neighborhoods serving retail and services so  
21 that you can meet more of your daily needs in  
22 walking distance.

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1           The best transportation policy,  
2           however, is a really good land use policy. And  
3           so there's not a lot that substitutes for putting  
4           convenience in every neighborhood and giving  
5           people access to daily needs, daily services.

6           So retail is a big part of that. Not  
7           just in sustainable D.C. do we have a Food Goal  
8           but, honestly, in almost every neighborhood  
9           people desire to have groceries or a quart of  
10          milk within walking distance. It's their  
11          definition of convenience.

12          The Zoning Commission here, along  
13          with the BZA, have done a lot to make food more  
14          available throughout the city. We have allowed  
15          and approved developments with grocery stores,  
16          new grocery stores, in many, many parts of the  
17          city, more than a dozen in just the last six  
18          years.

19          ZRR retail initiatives include  
20          facilitating walkable retail services,  
21          especially corner grocery stores, capturing  
22          additional density downtown, especially for

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1 residential, that will then in turn support new  
2 retail options, retaining and reinforcing new  
3 retail requirements in downtown and along major  
4 corridors, reducing parking impediments to new  
5 retail and slightly adjusting non-residential  
6 FAR zoning to reflect small site redevelopment  
7 and facilitate that redevelopment.

8 The biggest threat to a growing and  
9 inclusive city, at this point in our history, is  
10 the price of housing, the incredible expense of  
11 housing. And that's something that is  
12 critically I important to maintaining the  
13 diversity of the city and being a place where  
14 anyone can live if they want to be here.

15 The Comp plan includes a number of  
16 objectives related to affordable housing  
17 production. And there's been immense progress  
18 in carrying out these measures since 2010,  
19 including the adoption of inclusionary zoning  
20 requirements in 2009.

21 And, of course, through PUDs, you've  
22 regularly overseen the provision of additional

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1 affordable housing or housing at deeper levels  
2 of affordability than IZ provides. There were  
3 over 1500 affordable units added just in 2011 to  
4 2012 and there's 1700 now under construction.

5 As you know, Mayor Gray has put aside  
6 \$100 million for more affordability. But this  
7 is a problem that's going to take continued  
8 effort and attention, year-on-year, to be able  
9 to address.

10 Our demand is outstripping supply  
11 and really put a lot of price pressure on  
12 housing. And so that's an area that we need to  
13 continue to address.

14 We need diverse housing options to  
15 meet the changing needs of residents, including  
16 better utilization of our existing housing stock  
17 and ways to encourage new and full development  
18 and have new housing on larger development  
19 sites. Accessory units like English basements  
20 and alley dwellings and senior housing play a  
21 role in helping to preserve mixed income  
22 neighborhoods.

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1           ADUs are really an amazing example  
2           that are often in neighborhoods, Accessory  
3            Dwelling Units, with good access to jobs and  
4           transit. We have, the nature of our households  
5           has changed a lot, so in many of our  
6           neighborhoods we might have half the population  
7           density that we had in 1960. It might even be  
8           the same family in that house, but maybe down to  
9           one or two people, while that house might have  
10          had six or eight in 1960.

11           Everybody wants to be able to age in  
12          their own neighborhood, grow old in their own  
13          neighborhood, but part of the challenge is, on  
14          a fixed income, being able to afford to stay in  
15          that neighborhood. And also being able to feel  
16          comfortable as you get older, to live in a  
17          neighborhood where there are fewer people around  
18          you.

19           So accessory dwelling units help to  
20          make housing more affordable for seniors and for  
21          older households. It brings more income  
22          diversity into a neighborhood but it also puts

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1 more people in that neighborhood where  
2 neighbors can look after each other.

3 We're seeing more than a dozen  
4 places around the city where senior villages are  
5 forming informal associations to help people  
6 enable aging in place, which is so important.  
7 And we think accessory dwelling units are part  
8 of that picture.

9 So the housing initiatives include  
10 making those ADUs easier to provide, capturing  
11 additional density downtown, maintaining IZ  
12 requirements including an expanded downtown and  
13 removing some barriers to converting buildings  
14 to residential.

15 A big part of what this ZRR does is  
16 reorganize the zoning regulations to make them  
17 more friendly for users to combine some of the  
18 provisions, to make them easier to understand  
19 and find, so you don't have to hunt and peck all  
20 over the code.

21 So the structure includes new  
22 subtitles, tables and images, and replaces

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1 archaic uses with things, with user groups that  
2 are less likely to go out of fashion in just a  
3 few years or become obsolete.

4 To date we've done a lot on ZRR. I  
5 like to sometimes say this, we're in the  
6 beginning of the sixth year of a two-year zoning  
7 rewrite. We've been at it a while. If you  
8 recall, we began our first zoning commission  
9 roundtable, roundtables, on June 21st and July  
10 12th of 2007.

11 We did focus workgroups from 2007 to  
12 2011, 81 meetings, with more than a thousand  
13 participants, 36 task force meetings through  
14 2012, zoning commission hearings, 19 to date, 58  
15 ANC meetings and almost 200 public meetings to  
16 date.

17 Working groups covered 20 topic  
18 areas. It's been a lot, and a lot of very  
19 positive changes to the zoning proposals as a  
20 result of that outreach, a lot of community  
21 participation.

22 In the 40 public meetings that we

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1 held, 15 were public meetings with the zoning  
2 commission where guidance was given to the  
3 Office of Planning, 3 where proposed action was  
4 taken on general rules for parking, loading,  
5 height uses that the Green Area Ration and  
6 production, distribution and repair rules, two  
7 where final action was taken on parking,  
8 loading, GAR and industrial, and final text  
9 adopted for GAR height measurement and several  
10 administrative measures.

11 We've made lots of changes to the  
12 proposal as a result of the extensive input we've  
13 received, including changing our parking  
14 requirements to eliminate the transit zone  
15 concept. We removed the requirements for  
16 parking maximums which were originally  
17 proposed. We reinstated parking requirements  
18 for low-density residential.

19 We clarified TDM requirements for  
20 special exceptions to reduce the required  
21 amount. We added TDM and environmental  
22 measures for sites that were overparked. We

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1 adjusted requirements for private schools. We  
2 made corner stores by special exception rather  
3 than by right, except for groceries.

4 We allowed accessory apartments by  
5 special exception rather than by right in new or  
6 expanded accessory buildings. We established  
7 access requirements for accessory apartments  
8 and buildings. We retained the side yard at an  
9 8-foot minimum in low-density areas. We  
10 retained the number of residential stories at  
11 three, maximum.

12 We added new zones for row house flat  
13 zones to limit potential conversions. And I  
14 won't keep going, but we made many, many changes  
15 in response to the input that we've received in  
16 many areas, including campus plans,  
17 institutional uses, et cetera.

18 And I will just close by saying,  
19 before I turn it over to Jennifer, the comments  
20 that we've received have been really helpful and  
21 very voluminous, and we've made changes to  
22 almost every part of the proposal as a result.

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1           And I think what you have in front  
2 of you is a much better proposal, and I  
3 appreciate the input that we've gotten from so  
4 many sources to lead us to those changes. Now  
5 let me turn this over to Jennifer Steingasser,  
6 our Deputy Director, and she can go over the  
7 specific subtitles that you will be addressing  
8 this evening.

9           FEMALE PARTICIPANT:     Excuse me,  
10 what's TDM?

11          MS.     STEINGASSER:        TDM     is  
12 Transportation Demand Management.

13          FEMALE PARTICIPANT:     Thank you.  
14 And if you will be using more acronyms can you  
15 tell what those are so --

16          CHAIRMAN HOOD:     Okay --

17          MS.     STEINGASSER:     We'll try to do  
18 that.

19          CHAIRMAN HOOD:     Let me say this.  
20 We don't usually have a conversation. If you  
21 have an issue with something you don't  
22 understand, an acronym, just check with staff

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1 and they will get the message to me. But we will  
2 ask, for those who don't know, Ms. Steingasser,  
3 if you can tell them what TDM means. If we can  
4 get away from acronyms I'd appreciate it.

5 MS. STEINGASSER: we'll do our  
6 best.

7 CHAIRMAN HOOD: Okay, thank you.

8 MS. STEINGASSER: It's a profession  
9 of jargon. We'll try to do our best to stay  
10 away. I'm going to walk us through, really  
11 quickly, the subtitles that are being considered  
12 this evening and the major changes bases on the  
13 guidance provided from the Zoning Commission.

14 The reports that OP has filed are  
15 online and they walk the Commission through the  
16 major changes based on the guidance provided.  
17 It also starts with a brief history of how much  
18 involvement has already taken place on each  
19 particular case.

20 So Subtitle A is the Authority and  
21 Administration subtitle. It basically is a  
22 compilation of the existing Chapters 1 and 32,

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1 and it gets to the authorities and the  
2 administration of the Commission and the Board  
3 of Zoning Adjustment.

4 Our proposals include the  
5 reorganization of the new zone groups and group  
6 names. It addresses a coordinated and  
7 consolidated flexibility of the zoning  
8 administration, I'm sorry, the zoning  
9 administrator. And it clarifies building  
10 permits and investing and the zoning  
11 regulations.

12 Subtitle W could be thought of as  
13 Where. It's basically the mapping, all of what  
14 we currently have in the zoning regulations are  
15 a series of overlays. Those overlays are  
16 defined by certain geographies that are laid out  
17 by needs and bounds and, in some cases, squares  
18 and lots in other cases.

19 We're proposing that those all be  
20 consolidated into one particular subtitle.  
21 It'll make the use of the actual zone subtitles  
22 easier for the user because these will all be

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1 mapped and coordinated with the Office of Zoning  
2 on a computerized system. It allows for them,  
3 the user, once they've identified what that zone  
4 is, the geography won't be as important as the  
5 use.

6 Subtitle X is a subtitle of general  
7 provisions. And in this subtitle we've  
8 proposed to locate some of what you find in  
9 Chapter 2 right now which has to deal with the  
10 review of public school, I'm sorry, private  
11 schools, university campuses, the diplomatic  
12 overlay and the planned unit developments of  
13 Chapter 24.

14 We've proposed, because they are  
15 major procedures unto themselves, that they be  
16 put together in this one subtitle. Within it  
17 we've made some changes to the PUDs. We've  
18 incorporated all the actions that the Zoning  
19 Commission just recently took in Case 12-10.

20 We've also proposed that the PUDs  
21 pretty much remain as they are now, with some  
22 limitations on when a map amendment is

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1 considered and when it's not in the amount of  
2 votes.

3 Right now, if a map amendment is not  
4 associated with planning and development we're  
5 recommending that the Commission only take one  
6 vote and that there'll be no referral to the  
7 National Capital Planning Commission for  
8 federal interest because the limits and  
9 boundaries are established within this  
10 regulation and would not be considered a change  
11 to the zoning map or the zoning regulations.

12 If, however, there is a map  
13 amendment then that would require the standard  
14 two votes and referral. The Commission had also  
15 given us guidance to look at standardizing the  
16 density achievable at 20 percent. We've done  
17 that. There's a table in the report that lays  
18 out what exactly that means in terms of density  
19 increases. And that's probably something we'll  
20 expect to get some feedback from you, again, on  
21 as we continue into this procedure.

22 There had also been discussion very

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1 early on in 2010 on whether the benefits and  
2 amenities should be more prescriptive. We have  
3 since gotten away from that. We found it very  
4 difficult to anticipate the cost of that and to  
5 try to weigh that balance. The Commission was  
6 very, you were open to the idea but you were very  
7 tenuous in whether you were interested in going  
8 forward.

9           There was concern both with whether  
10 the low-hanging fruit would be that which  
11 everyone would go after and whether the PUD  
12 process would actually produce the developments  
13 desired.

14           We've also formalized the  
15 pre-application process for community input.  
16 This was a very big deal. We've extended the  
17 notice of intent to file. We've extended that  
18 to, I believe it was, 45 days. That's sent to  
19 each affected ANC.

20           The applicant is encouraged to meet  
21 with that ANC and to document that conversation  
22 and the changes that result from that particular

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1 meeting. And that would be prior to the case  
2 being set down.

3 Campus plans and school plans, we've  
4 tried to refine these as use groups. The  
5 original guidance of 2008 set this out as one  
6 institutional category. It included  
7 educational and religious non-profits. There  
8 was some concern by the Commission as well as the  
9 public, as well as OP as to whether that was  
10 fine-tuned enough.

11 We have since broken that group into  
12 three educational groups, college and  
13 universities, private education and public  
14 education. Public education includes  
15 traditional public schools as well as public  
16 charter schools.

17 The institutional category remained  
18 and we had general institutional, which includes  
19 non-profits and social service providers. And  
20 then we've also called out religious based  
21 places of worship with their related schools and  
22 residences.

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1                   We then also looked at campus plans.  
2                   We set some standards. We tried to clarify how  
3                   students were counted, how the Commission and  
4                   the community and the university could have a  
5                   more transparent conversation about the  
6                   impacts. Based on the recent history of campus  
7                   plans that have, the Commission and the  
8                   communities have gone through in the last couple  
9                   of years, there was a lot of opportunity to look  
10                  at what was beneficial and what kind of  
11                  information was needed.

12                  We also tried to put a limit on the  
13                  adjunct commercial uses and establish how the  
14                  Commission could evaluate that relationship.  
15                  We then proposed in our report some amendments  
16                  to what was actually advertised in the September  
17                  9th set down version.

18                  Recognizing that there should be, we  
19                  were trying to recognize the fact that what this  
20                  was after was trying to keep students on the  
21                  campus, so we didn't want them to be too  
22                  restrictive but we did want them not to be in

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1 conflict with the comprehensive plan and begin  
2 to compete with the commercial nodes that were  
3 supposed to be neighborhood serving.

4 The Commission asked us to also look  
5 at ways to address the issue of university use  
6 of commercial property so we've proposed a  
7 special exception for a university use when it's  
8 within a C1 or a C2A which are the neighborhood  
9 commercial, neighborhood serving commercial,  
10 typically located as small nodes in residential  
11 areas.

12 The reason we took that special  
13 exception approach, or it could also be  
14 incorporated within an existing campus plan, was  
15 because the university uses are a little bit  
16 different and they present a venue for uses that  
17 might otherwise not be permitted, such as mail  
18 sorting.

19 There's kind of these  
20 semi-industrial uses that are necessary to the  
21 operation of a large campus, like whether it's  
22 food, maintenance, those kind of uses that

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1 would, as an independent use, not be permitted  
2 in these zones. So we've proposed a special  
3 exception improvement to a campus plan.

4 We also took a look at Chanceries,  
5 and we worked with the Office of the Attorney  
6 General on this issue. What we've proposed is  
7 to remove the current diplomatic overlay to  
8 allow Chancery use and diplomatic use citywide  
9 in all of the lower density residential zones.  
10 We have proposed that the unofficial, we call,  
11 the one-third/two-thirds issue, that that be  
12 raised to 50 percent.

13 And what that one-third/two-third,  
14 now 50 percent, is is a unofficial rule that was  
15 used in the original diplomatic overlay to  
16 determine when a square, a full square in the  
17 city, was at a point that a Chancery use was  
18 considered compatible.

19 It has been very much to the  
20 advantage of the Chanceries and to the  
21 disadvantage of the neighborhoods because once  
22 a square was one-third institutional or office

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1 it became eligible for diplomatic use.

2 We've looked at some of that,  
3 issues, over the last year and determined that  
4 50 percent is really much more of a point at which  
5 a square becomes equally residential versus  
6 non-residential in use. So we've proposed to  
7 raise that. The, it would still be subject to  
8 the FM, Foreign Missions, BZA and the Foreign  
9 Missions Act.

10 We have gotten some unofficial  
11 feedback that, perhaps, some of the way we worded  
12 some of the special exception and variance  
13 issues should actually be referred to more in  
14 terms of flexibility. So that kind of language,  
15 we'll probably be working with, with the Office  
16 of the Attorney General in the future.

17 Subtitle Y and Subtitle Z get to the  
18 issues of the general rules and procedures of the  
19 Board's, the Board of Zoning Adjustment and  
20 Subtitle Y and the Zoning Commission itself in  
21 Subtitle Z.

22 Those regulations were worked

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1 through with the Office of Zoning and we'll be  
2 working with them and the Office of the Attorney  
3 General and the Commission and the Board to  
4 clarify those rules as we move into the future.  
5 That is all we --

6 CHAIRMAN HOOD: Okay. You can turn  
7 the lights, thank you. Let me thank Director  
8 Tregoning and also Ms. Steingasser. But just  
9 for a quick note, Ms. Steingasser, can you tell  
10 us what Zoning Commission Case 12-11 was?

11 MS. STEINGASSER: That was a case  
12 the Commission heard at the end of last year  
13 where we took two cases forward. One was 12-10,  
14 which was that Green Area Ratio impervious  
15 surface.

16 The other was an administrative set  
17 of regulations that looked at, that included  
18 PUDs, how we measure height, and there was a  
19 third issue in there, and it was a quite clean-up  
20 that we wanted. We felt it was important enough  
21 that we wanted to bring it ahead of the zoning  
22 rewrite and move it into the existing codes of

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1 the grouping.

2 CHAIRMAN HOOD: Okay. Thank you  
3 very much. I want to thank both of you, Director  
4 and Deputy Director, for your presentation to  
5 us. What the Commission has decided to do is  
6 we're not going to ask our questions because it  
7 may take a while.

8 So what we would like to do is to hear  
9 from the public. So we're going to start  
10 hearing from testimony and we'll ask our  
11 questions on the back end. Is that okay with  
12 everybody? Okay.

13 I'm going to list the names in which  
14 you called in. We're going to have Mr. David  
15 Alpert, Tom Smith, Gayle Trotter, David Bardin,  
16 Gary Peterson, Barbara Kahlow, Larry Hargrove  
17 and Ellen McCarthy. I think we have eight  
18 seats.

19 An announcement that I failed to  
20 mention earlier, the Commission has agreed also,  
21 because we're here every night, we want to be  
22 comfortable, we don't want to start going to

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1 sleep at 11:30, so we're not going to wear ties.

2 We're going to come in loosely and,  
3 I'm not going to say we wear our summer dress code  
4 because it's short-sleeves and that's really not  
5 the time of year to do that. But you can come  
6 now and relax.

7 You don't have to wear a tie, you  
8 don't have to look all fancy for us. So we want  
9 you to come in in your relaxed attire, okay, from  
10 this point on. And I see, Mr. Cochran has  
11 already took note of it.

12 Okay, if you could begin. What I  
13 think I'm going to do, I'd like to start to my  
14 left, starting from my left to my right. And Mr.  
15 Alpert, I know you were first on the list, but  
16 I'm going to start from my left to my right and  
17 you will be last, okay? All right, Mr.  
18 Peterson.

19 MR. PETERSON: Thank you, Mr.  
20 Chairman. I have filed a letter which has a few  
21 technical corrections that should be made, and  
22 I'm not going to discuss those because I'm sure

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1 they'll be picked up by the Office of Planning.

2 A couple things I would like to  
3 discuss, however, are the party status  
4 requirements. And those are in both Subtitles  
5 Y and Z. First of all, the criteria for party  
6 status keeps referring to persons or individuals  
7 and the Capitol Hill Restoration Society is an  
8 organization. And there are a number of parts  
9 of that that you have to state, you know, how  
10 close you are to the property, things, what  
11 property you own, things like that.

12 And we don't fit any of those  
13 criteria. So I think the criteria for obtaining  
14 party status needs to be changed because  
15 otherwise, it would appear to me, someone could  
16 object just based on the fact that we don't meet  
17 the requirements and the regulations.

18 The second thing on party status is  
19 when party status is granted. I think it's too  
20 burdensome and there's also a problem with  
21 waiting until the hearing. This is for both the  
22 BZA and the Zoning Commission to grant party

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1 status.

2 We had an instance where we've had  
3 an expert witness ready to testify before the  
4 Commission. We came in with a couple  
5 neighborhood groups and, collectively, to  
6 present evidence and to testify, and we were  
7 denied party status. And so we had already paid  
8 for an expert, had them show up, incurred  
9 expenses and then had party status denied. I  
10 think that should be changed, in some way, that  
11 party status is acknowledged earlier on in the  
12 process, in some fashion.

13 And then, also, as a subsidiary of  
14 that, when you talk about service, the service  
15 refers to only service to parties. So if you've  
16 applied for party status you don't get, you're  
17 not, it doesn't automatically mean you get  
18 service of things.

19 So that's another reason why either  
20 of the service part needs to be changed. But I  
21 would suggest resolving party status early on  
22 would be the better solution.

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1           And then I'd like to call your  
2 attention, it's to Subtitle X. It's Page X34  
3 that is referring to the proffer of benefits and  
4 amenities.

5           And, ultimately, you are to get  
6 advice on this from the Office of the Attorney  
7 General. However, in Section 308.14, it says  
8 that their opinion that they give you will be,  
9 is treated as a confidential attorney/client  
10 communication.

11           And I think that really goes against  
12 the transparency of this organization in letting  
13 us know why you've made a decision. If you're  
14 relying on the OAG that opinion should be part  
15 of the record.

16           CHAIRMAN HOOD: I think we made a  
17 mistake. You actually have 50, 40 seconds.

18           MR. PETERSON: I'm --

19           CHAIRMAN HOOD: Okay.

20           MR. PETERSON: I'm --

21           CHAIRMAN HOOD: All right, thank  
22 you very much. Mr. Bardin?

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1 MR. PETERSON: -- finished.

2 CHAIRMAN HOOD: Okay, thanks.

3 MR. BARDIN: Good evening, Chairman  
4 Hood, members of the Committee. I'm testifying  
5 tonight about Subtitle A, Authority and  
6 Applicability and, specifically, the  
7 interpretation provision where I'm asking you to  
8 add two concepts, two phrases, to what has always  
9 been in these zoning regulations.

10 The two concepts are urban tree  
11 canopy and sustainability. The place that they  
12 would be fitted into is a list of the minimum  
13 standards, criteria, with which we interpret all  
14 of the zoning regulations that follow. So it  
15 does two things. On the one hand everything in  
16 the detail is minimal and, in appropriate cases,  
17 the Zoning Commission or the Board of Zoning  
18 Adjustment, as the case may be, might consider  
19 going further.

20 And in any event, these two concepts  
21 are part of what we now think of as part of the  
22 zoning regulations of the District of Columbia.

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1 I don't have to tell you that, 1958, there was  
2 no question that we had a vast tree canopy with  
3 a city of trees, not to mention, back in the 20s,  
4 when Secretary of Commerce Herbert Hoover first  
5 pushed for the original zoning code.

6 But nowadays it's a big issue, and  
7 I think we want to focus on it. And  
8 sustainability has increasingly been a matter of  
9 attention. You've heard the director speak  
10 about it tonight. You know that Office of  
11 Planning and Department of Environment are  
12 pushing it. So I'm urging you to add those two  
13 concepts, and that's all the testimony for  
14 tonight.

15 Tomorrow I'm scheduled to testify on  
16 my proposed definitions of these two concepts  
17 which would be new, as well as a request that you  
18 amend the definition of another term. Thank you  
19 very much.

20 CHAIRMAN HOOD: Okay, thank you.  
21 Next?

22 FEMALE PARTICIPANT: Could

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1 everybody state their name, please? Just, some  
2 of us don't know you well or at all.

3 MS. TROTTER: Chairman Hood,  
4 Commissioners May, Cohen, Miller and Turnbull,  
5 thank you very much for your time tonight. I am  
6 Gayle Trotter. I am the Vice Chair of ANC 3D.  
7 I am also the chair of our Zoning Committee for  
8 our ANC.

9 Our commission has 10 commissioners  
10 on it, representing approximately 20,000  
11 residents. We oversee four universities,  
12 Georgetown University, American University,  
13 George Washington University at Mount Vernon and  
14 the Wesley Theological Seminary.

15 We also have five private schools in  
16 our ANC that we oversee, Georgetown Day School,  
17 the Lab School, The Field School, the River  
18 School and St. Patrick's.

19 So, as you can see, we are very  
20 intimately involved with the campus planning  
21 process. And these are issues that come before  
22 our commission frequently, almost every month.

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1 We have a deep interest in these proposed changes  
2 to the zoning rules and we all believe strongly  
3 that the campus plan rules definitely need to be  
4 updated.

5 We have very closely reviewed the  
6 proposals of the Office of Planning and we  
7 believe that, while the proposals, some of them  
8 are very good and offer a good way to fix some  
9 of the problems, there is a lot left to be desired  
10 with the revisions. Office of Planning has  
11 not gone far enough to fix these problems.

12 Our current process is  
13 unnecessarily confrontational between the  
14 university and the neighbors, and we value these  
15 universities in our midst. They enrich our  
16 lives, they enrich our communities.

17 But right now, the way the process  
18 is set up, we are wasting an enormous amount of  
19 resources, not just money but also time.

20 And when we look at the way the  
21 campus plan process has been handled in the past  
22 we understand that we need more transparency in

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1 the process, and that's not just a buzz word.

2 We really need the input of the  
3 neighbors, we need to understand what the  
4 universities are doing in this process and we  
5 need to have more communication and dialog.

6 We need a balanced process that  
7 protects the needs of the neighbors and also  
8 respects that universities in this day and age  
9 need to respond to the changing educational  
10 marketplace that they need to be flexible and  
11 respond to.

12 Now we, as in our experience, we see  
13 that universities generally come up with overly  
14 ambitious plans. And when they do this it makes  
15 it very difficult for the commissioners who have  
16 to review all of the plans and also for neighbors  
17 who have limited amount of time to engage on  
18 these issues to understand their plans, and it  
19 really can drag out the process.

20 Now, we think that maybe we should  
21 set some kind of a deadline on the proposal and  
22 also maybe allow the plans to stretch more than

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1 10 years at a time. We are definitely in favor  
2 of consolidating all of these rules applying to  
3 the campus planning process into one section.  
4 That was a good change.

5 We support the new rules applying  
6 not only to universities but also to private  
7 schools and we applaud the new requirement to  
8 have a review by the DDOE and a report issued that  
9 we can reflect upon because in our community  
10 storm water management is really a vital issue.

11 So having DDOE's input on this would  
12 be very helpful, not only for the commissioners  
13 but also for the residents to understand the  
14 impact of any proposed changes.

15 We also have some resolutions that  
16 we adopted on the further processing issues and  
17 also the university use of commercial property.  
18 Commissioner Smith, who's also on our  
19 commission, will address those in his testimony.

20 Now further on, the specific  
21 proposals being put forward to you today in  
22 Section 101.3(b) the Commission opposes the new

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1 rule allowing up to 10 percent of the gross  
2 floor-area of the total campus plan floor ratio  
3 to commercial use in residential areas.

4 I have attached, our testimony  
5 attaches the resolution that our ANC adopted at  
6 our meeting earlier this month, which goes into  
7 more depth about that. But, because of time  
8 constraints, I'll just leave it at that.

9 We also support that there should be  
10 a continuing consideration on a case-by-case  
11 basis by the Zoning Commission of any uses of  
12 commercial space by universities.

13 In Section 101.18 we oppose this,  
14 which allows the zoning administrator to  
15 unilaterally amend an approved campus plan.  
16 This goes completely against the type of  
17 transparency and dialog that we want to have  
18 between the universities and the neighbors as  
19 well.

20 Any proposed change should be  
21 submitted back to the ANC so that the neighbors  
22 have input on the things at hand.

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1 CHAIRMAN HOOD: Thank you. Next.

2 MR. SMITH: My name's Tom Smith, ANC  
3 Commissioner at 3D/O2 and I'm here tonight to  
4 also talk about Subtitle X. As commissioner for  
5 3D/O2 I represent residents of Spring Valley,  
6 located immediately adjacent to the AU Main  
7 Campus, the Washington College of Law and the  
8 Wesley Theological Seminary.

9 In the 30 years I've lived in Spring  
10 Valley AU has grown beyond its main campus  
11 borders, purchasing both residential and  
12 commercial property in Spring Valley to enlarge  
13 its footprint. This expansion has displaced  
14 neighborhoods serving retail, medical offices  
15 and other business services.

16 The changes in the new campus plan  
17 rules, as proposed by OP are a good beginning but  
18 fall far short of what is needed to create a set  
19 of balanced rules and far short of what we should  
20 expect as part of a major revision of the city's  
21 zoning rules.

22 OP has outlined four objectives for

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1 the new rules that look good on paper, but there  
2 is little in the new rules that will achieve  
3 those objectives. I want to focus my comments  
4 on two issues tonight. First, the Zoning  
5 Commission needs to revisit its rules on second  
6 stage further processings. The new rules  
7 propose no real change, yet experience shows the  
8 current rules are severely flawed. As  
9 a reminder, the AU campus plan proceedings  
10 included a campus plan and four separate further  
11 processings that were being held simultaneously  
12 for more than 750,000 gross square feet of new  
13 construction.

14 This is a significant amount for any  
15 low-density residential neighborhood. On one  
16 major project that already received second stage  
17 approval in 2012 ground will not be broken for  
18 more than another year and the university is  
19 already talking about making significant  
20 changes to its building plans.

21 ANC 3D has suggested that second  
22 stage further processings be filed only once the

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1 Zoning Commission has issued its order in a  
2 campus plan case. This would create a more  
3 orderly, consistent and transparent process  
4 while at the same time ensuring the type of  
5 review by the ANC and the Zoning Commission that  
6 residents have a right to expect.

7 Second, OP should be applauded for  
8 new rules requiring a special exception to use  
9 commercially zoned property for educational  
10 purposes. This is a significant change that may  
11 check the matter of right rules that enable a  
12 university to displace existing neighborhoods  
13 serving retail. But the rules do not go far  
14 enough.

15 The rules give the applicant the  
16 option to include its use of commercial property  
17 in the campus plan and the Zoning Commission he  
18 option to consider uses of commercial property  
19 as part of the campus plan review process.  
20 Neither should be optional. These commercial  
21 properties are only a few blocks from the main  
22 campus.

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1           There is a link between what happens  
2           in these commercially zoned buildings and what  
3           happens on the main campus and in our  
4           neighborhoods, including parking and  
5           transportation impacts.

6           The Zoning Commission cannot  
7           adequately assess the overall impact of a campus  
8           plan if you limit your review of the university's  
9           facilities in our neighborhoods.

10          The failure to consider these  
11          impacts is inherently unfair to residents living  
12          in the neighboring R-1 districts and  
13          counterproductive to achieving the objectives  
14          outlined by OP in their proposed new rules.  
15          Thank you.

16                   CHAIRMAN HOOD:   Okay, thank you.  
17          Next?

18                   MS. KAHLLOW:   I'm Barbara Kahlow.  I  
19          live at 800 25th Street, NW.  I am testifying on  
20          behalf of the West End Citizens Association, the  
21          oldest citizen's organization in the Foggy  
22          Bottom West End area of Ward 2.

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1           The WCA is primarily interested in  
2 maintaining and improving the quality of life  
3 for the existing residential community in Foggy  
4 Bottom West End. Before the Commission's  
5 deadline we submitted detailed section by  
6 section comments.

7           We also testified at four zoning  
8 commission hearings on ZRR and three city  
9 council hearings on ZRR. I hope those  
10 testimonies are in the hearing record. If not,  
11 I'd be happy to supply them.

12           Tonight I will cover, first,  
13 procedural issues and substantive issues.  
14 First, in term, I sound like a broken record. I  
15 want to reiterate the WCA recommendations, one,  
16 that the Commission require OP to produce  
17 Redline version. The crosswalks are neither  
18 equivalent nor sufficient.

19           Two, and the most important, that  
20 the Commission require OP to produce an  
21 identification of an explanation for each and  
22 every substantive change for public review and

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1 before any commission vote on the proposed text.  
2 Tonight I will providing you an important  
3 example of this problem so you can better  
4 understand it.

5 And then, three, that the Commission  
6 continue the current easy to understand and use  
7 zoning categories since the WCA opposes OP's  
8 very complex replacement zones. For example,  
9 from 3 low-density residential zoned to 20.

10 An identification of an explanation  
11 for substantive changes is essential. For  
12 example, OP has identified its proposed  
13 expansion of the downtown and amplifications has  
14 not identified its proposed expansion of the  
15 downtown amplifications. This proposal, for  
16 example, limiting parking requirements.

17 My review of the set down ZRR text  
18 was frustrating, time consuming and, frankly,  
19 unable to be completed without this essential  
20 aid. It is unreasonable to ask the public to  
21 search the current zoning provisions and enact  
22 a comp plan protections and then compare them

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1 without these proposed ZRR test.

2 The most serious issue for our  
3 neighborhood is OP's attempt to redefine large  
4 parts of our neighborhood, including where  
5 long-term and short-term residents reside, as  
6 being part of the downtown. The WECA repeatedly  
7 and successfully fought to contain the  
8 boundaries of the central employment area and  
9 contends that a change in law is required before  
10 OP's redefinition, including its expanded  
11 transferrable development rights. TDR and its  
12 receiving zones can be legally included in ZRR.

13 I raised this issue in OP's December  
14 13, 2012 ZRR public meeting in Anacostia and I'm,  
15 was assured by Ms. Tregoning during the question  
16 and answer period that ZRR would not include any  
17 language inconsistent with prior law.

18 I asked the Commission to compare  
19 three things, one, the statutory definition for  
20 the CEA, as indicated in the detailed section by  
21 section on Page 2 of our comments.

22 Two, the Page 3-11, the map and the

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1 2006 comprehensive plan that shows the actual  
2 boundaries and, three, OP's two ZRR maps, also  
3 cited in our section by section, Figures 4 and  
4 20. Proposed expansion is clear and not  
5 identified anywhere to you. How would you know  
6 this except for that I'm telling you?

7 In terms of substantive issues on a  
8 related matter in Title X, the OP proposes OP's  
9 new allowable increases in density, percent non  
10 and residential uses and height for PUDs. In  
11 addition, since much of the West End is zoned C2C  
12 OP's automatic height increases from 90 to 110  
13 feet and C2C zones would dramatically change the  
14 character of this mixed use neighborhood.

15 The next most important substantive  
16 issue is OP's proposed revised rules governing  
17 future acceptable PUD benefits and amenities.  
18 I'm happy to say some change is not enough.  
19 Attached to today's testimony is another copy of  
20 my detailed WCA testimony from October 4, 2010  
21 where we talked about the kinds of amenities our  
22 neighborhood is used to. And we think that we

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1 should continue to be able to have those.

2 The WCA strongly recommends the  
3 Commission continue to allow identification of  
4 non-public PUD benefits and amenities which are  
5 desired for an immediately impacted community.  
6 The WCA assisted the ANC in preparing a  
7 resolution which they passed unanimously and it  
8 should be given great weight.

9 Lastly, the WCA asks the Commission  
10 to require OP to add the coverage areas which we  
11 recommended for ZRR in 2007, such as an  
12 identification of provisions governing Omnibus  
13 PUDs, especially for campus plans where they're  
14 non-contiguous areas, sequencing to the  
15 Environmental Policy Act, sequencing for other  
16 review agencies.

17 And tonight I learned that there's  
18 yet another change, there' more changes, to the  
19 Campus Plan Rules in the 99 version, which I read  
20 in the library, which I read in the Office of  
21 Zoning, which I read online. How are we  
22 supposed to know with testimony today and those

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1 changes to the campus plans since we had no  
2 knowledge of it? Thank you for considering our  
3 views.

4 CHAIRMAN HOOD: Okay, thank you.  
5 Next.

6 MR. HARGROVE: Chairman Hood and  
7 members of the Commission, I'm Larry Hargrove.  
8 I'm testifying on my own behalf and that of my  
9 wife, Ann Hughes Hargrove, who is prevented by  
10 illness from attending tonight.

11 We've owned a home in Adams Morgan  
12 for half a century and Ann is, was a member of  
13 the task force. I'm currently looking on the  
14 current copy that's planned in which these  
15 proposed regulations are intended to implement.

16 Today I want to address only one  
17 narrow subject related to Subtitles Y and Z and  
18 that is procedures for dealing with cases  
19 remanded to an agency from the Court of Appeals,  
20 especially to the BZA. Remand happens with some  
21 frequency. So far as I've been able to discern,  
22 the proposed regulations, like the existing

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1 ones, do not prescribe how the remanded case is  
2 to be handled or on what schedule.

3 The fashionable results of this have  
4 been that a remanded case may disappear into a  
5 sort of procedural black hold, sometimes  
6 emerging only two or three or more years later.  
7 And the current and proposed regulations do not  
8 inform the parties as to what will be their  
9 rights or what will be the governing procedures  
10 when the case finally does re-emerge.

11 The new regulations should  
12 prescribe procedures for the Board's handling of  
13 these remanded cases, just as they do in the BZA  
14 case, for example, for application zoning  
15 appeals, Chancery cases and so on. Drafting  
16 these procedures, we suggest, should be based on  
17 the following two considerations.

18 One, an ordered delay of this sort  
19 is injurious to the parties and undermines the  
20 integrity of the judicial and administrative  
21 processes. A remanded case, unlike a newly  
22 filed case is one in which the parties have

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1 already suffered the cost of significant time  
2 elapsed in prosecution of the case.

3 A remanded case should, therefore,  
4 be given preferential treatment in scheduling  
5 and there should be a finite time limit between  
6 remand by the court and the initiation of the  
7 case by the agency. I would suggest, perhaps,  
8 60 days.

9 Two, in general the same procedures  
10 for hearing and argument should be followed in  
11 the case of a remand as were applicable to the  
12 remanded issue or issues in the first instance.  
13 A remand by the Court of Appeals is a statement  
14 that the agency's previous determination was, in  
15 some particular respect, deficient.

16 The interest of all concerned in  
17 getting the decision on that issue or issues  
18 right the second time is not less compelling on  
19 a remand than it was in the first instance and  
20 there should be no cutting of corners on the due  
21 process afforded toward reaching that end.

22 So we would urge the Commission to

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1 request OP, working with the Office of Zoning,  
2 to draft regulations responding to these needs.  
3 Thank you, sir.

4 CHAIRMAN HOOD: Okay, thank you.  
5 Next?

6 MR. ALPERT: Thank you very much,  
7 Chairman Hood and members of the Commission. My  
8 name is David Alpert. I live in, on Church  
9 Street in Dupont Circle in an historic townhouse  
10 along with my wife and 10-week-old daughter.

11 Our neighborhood is a wonderful one  
12 with multi-generational residents, many shops  
13 within walking distance, large apartment  
14 buildings, single-family townhouses and  
15 everything in between and even a theater and a  
16 zoning commissioner.

17 But the authors of the 1958 zoning  
18 code felt that our neighborhood was  
19 inappropriate, obsolete and should be forbidden  
20 and, in many sections of the code, indeed, make  
21 it illegal to construct blocks like ours.

22 But we now know that the authors of

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1 this code were mistaken about the future of this  
2 city and mistaken in their statements that they  
3 made at the time. Increasingly, Baby Boomers  
4 who wanted to move into the suburbs want to move  
5 back to the city. And young people, the  
6 children of those Baby Boomers, want to remain  
7 in the city and raise their families, as we are  
8 doing.

9 But we face a very severe problem and  
10 danger, that the city could become essentially  
11 a gated city accessible only to the most affluent  
12 and most privileged among us because, as prices  
13 continue to rise and other zoning restrictions  
14 place the dream of being able to live in the city  
15 and raise a family out of reach.

16 So I hope you will not only consider  
17 in the subsequent hearings the needs of all the  
18 people who testified who will have very  
19 important points of view to consider but also all  
20 of the residents of our city and the potential  
21 residents who don't was the financial or family  
22 freedom to be able to spend so much time speaking

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1 to you.

2 I think that the Office of Planning,  
3 in crafting many of their proposals, has tried  
4 to keep in mind these disparate groups as well.  
5 And when I differ from their recommendations, as  
6 we'll discuss in subsequent nights, it's where  
7 I think that they have been too ready to put aside  
8 the needs of the groups that might be being  
9 pushed out by the sorts of changes in our city  
10 that, if unchecked, will indeed make the city out  
11 of reach for so many people.

12 There is an urgency to pass this  
13 zoning update. It has been five years in the  
14 making now, hundreds of community meetings, and  
15 every year these problems become more and more  
16 acute and closer and closer as more  
17 neighborhoods see longtime residents being  
18 pushed out and young people who want to start  
19 their careers or families in the city unable to  
20 do so.

21 I wanted to also talk to a  
22 particular, talk about two other

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1 recommendations, subtitles Y and Z, which is  
2 that one way to hear voices of more residents  
3 would be to make it easier for more people to give  
4 you their comments.

5 Right now, if someone wants to talk  
6 to their council member or they need to reach a  
7 council member they can send an email. If they  
8 want to give comments to the National Capital  
9 Planning Committee they can fill out a Web form.

10 But if they want to talk to you  
11 they'd have to write a testimony, print it out,  
12 sign it, scan it back in, create a PDF and submit  
13 it to you.

14 I believe the Office of Zoning is  
15 concerned with making sure they can authenticate  
16 people's comments and I'm not looking to  
17 suddenly start a deluge of completely  
18 unattributed mass emails to all of you, but it  
19 is important for you to be able to make sure you  
20 can hear from people who, for whom all of these  
21 steps create a speed bump that is too significant  
22 that it deters them from commenting.

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1 I think you can very simply continue  
2 to require the name and address and other  
3 elements that are required in Y and Z but not  
4 require them to create a PDF and not require them  
5 to sign electronic communications. And in my  
6 testimony I point out the specific sections that  
7 could be amended in a very minor way to make this  
8 possible.

9 As I said before, it has been five  
10 years. This was actually one of the first  
11 issues that I was tracking when I started the  
12 website, Greater Greater Washington, which I  
13 run.

14 And at the time it was actually, what  
15 OP said about the process was we were going to  
16 have these hearings before the Zoning Commission  
17 in 2008/2009, make the, essentially, the large  
18 scale policy decisions about whether to reduce  
19 parking units, whether to allow accessory  
20 dwelling, whether to change this or that. And  
21 then the subsequent round of hearings would be  
22 to just decide the specifics and the actual code.

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1           But another one to, another three  
2 years have now passed where they've had multiple  
3 levels of public input. And public input is  
4 good, and OP has made a number of changes in  
5 response to that input.

6           Some I agree with, some I think they  
7 have caved unnecessarily. But what I wanted to  
8 urge all of you is that now that it has been so  
9 long it is time to let this current process  
10 conclude and then move forward with the zoning  
11 update, with whatever changes you think are  
12 necessary, allow this to go into effect because  
13 there really isn't the opportunity for more  
14 delay.

15           CHAIRMAN HOOD: Thank you. Thank  
16 you very much. Okay, commissioners, any  
17 questions of this panel? Commissioner May?

18           COMMISSIONER MAY: Yes, I have a  
19 few, and I hope they're quick and quick answers.  
20 The, Ms. Trotter, the, you proposed a 10 percent  
21 cap on commercial use. I saw that in your  
22 letters as well. What, I mean, presumably

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1 because it's too high, so do you have a  
2 recommendation for what percent it, you think it  
3 should be?

4 MS. TROTTER: Not a particular  
5 percentage, but just the idea that anything has  
6 to go through the process where it's done on a  
7 case by case basis. So the 10 percent is too  
8 high, so that should be lowered, and we don't  
9 have a set, we didn't, our commission didn't --

10 COMMISSIONER MAY: But there should  
11 be a cap.

12 MS. TROTTER: Yes.

13 COMMISSIONER MAY: Okay, I just  
14 want to be clear about that because, I mean,  
15 there is, I think there is provision for the  
16 process. It's just a question of where you cap.

17 Okay, so Mr. Smith, with regard to  
18 the, or Commissioner Smith, with regard to the  
19 commercial use outside of the campus plan  
20 context, as I understand it, it's an either/or.

21 It's either in the campus plan and  
22 you plan for it and it's handled in that, what

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1 is essentially a special exception process, or  
2 that there will be a separate special exception  
3 for placing a commercial use in C1 and C2 zones,  
4 which, I guess, now are N zones.

5 MR. SMITH: M?

6 COMMISSIONER MAY: M --

7 MR. SMITH: N, as in --

8 MS. TROTTER: Meaning --

9 MR. SMITH: -- neighborhood?

10 MS. TROTTER: -- zones.

11 COMMISSIONER MAY: Mixed use.

12 CHAIRMAN HOOD: Still not right.

13 MS. TROTTER: M, for Mixed use?

14 COMMISSIONER MAY: Yes.

15 MS. TROTTER: Neighborhood mixed  
16 use are those zones which are currently covered  
17 by overlays.

18 COMMISSIONER MAY: Oh, okay. Try  
19 to keep it straight. Yes, so anyway, but you  
20 think that special exception process that's, the  
21 separate special exception process, to allow  
22 that use in those other zones is not sufficient?

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1 MR. SMITH: No, I don't.

2 COMMISSIONER MAY: Okay, so, I  
3 mean, how would you have them do it? I mean,  
4 everything has to be done in 10, you know, 10  
5 years in advance potentially? Or what if  
6 something comes up and they want to move  
7 something off-campus halfway through? They're  
8 out of luck until next campus plan renewal or do  
9 they have a --

10 MR. SMITH: There's an amendment  
11 process.

12 COMMISSIONER MAY: So that would be  
13 a special exception.

14 MR. SMITH: Well, what I'm saying,  
15 in my best language, which is consistent with the  
16 ANC's --

17 COMMISSIONER MAY: Yes, I noticed.

18 MR. SMITH: -- is that the campus  
19 plan process, when they submit their campus plan  
20 document to you --

21 COMMISSIONER MAY: Yes.

22 MR. SMITH: -- currently, they

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1 submit, they do not include any of the commercial  
2 property that they currently use.

3 COMMISSIONER MAY: I'm well aware  
4 of it.

5 MR. SMITH: Okay? And what we're  
6 saying is they should be including that as part  
7 of the campus plan process.

8 COMMISSIONER MAY: Right.

9 MR. SMITH: Because how that  
10 property is used affects the neighborhood,  
11 including --

12 COMMISSIONER MAY: No, and I don't,  
13 I understand that --

14 MR. SMITH: Okay, so that's what  
15 I'm saying.

16 COMMISSIONER MAY: -- completely.  
17 All I'm --

18 MR. SMITH: Okay.

19 COMMISSIONER MAY: I'm just trying  
20 to understand, well what happens when you're  
21 five years in and they see a need and an  
22 opportunity to use some other commercial space.

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1 MR. SMITH: Right.

2 COMMISSIONER MAY: You would  
3 suggest that they have to amend the campus plan?

4 MR. SMITH: No, what, I think the  
5 language, though, PO's suggested would cover  
6 that because they would be required to get the  
7 special exception, okay.

8 COMMISSIONER MAY: Right.

9 MR. SMITH: So that's why we  
10 embraced that idea. But what we're saying is  
11 that the overall approach that's being taken to  
12 the commercial property owned by the university  
13 is not complete.

14 COMMISSIONER MAY: Okay, so I mean,  
15 it sounds like you're actually fairly close to  
16 being in sync.

17 MR. SMITH: I think so.

18 COMMISSIONER MAY: Okay.

19 MR. SMITH: I think so.

20 COMMISSIONER MAY: All right.

21 MR. SMITH: I would say,  
22 Commissioner May, if you go back 20 years ago,

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1 actually let me take that back, 12 years ago to  
2 the Zoning Commission, the Zoning Commission,  
3 when they did the campus plan for AU in the past  
4 generation did consider impacts of commercial  
5 property. They made a conclusion that it could  
6 be done.

7 You all, when you did a campus plan,  
8 made a conclusion that it couldn't be done. So  
9 what we're saying is let's be very clear, let's  
10 not make it vary by who's sitting on the  
11 Commission. Let's have some very clear rules  
12 of the road going forward.

13 COMMISSIONER MAY: Okay, thanks.  
14 So, Ms. Kahlow, I'm a little confused by your  
15 emphasis on the essential employment area which,  
16 as you state, is defined by statute and what's  
17 being defined here as zones, not essential  
18 employment area. So, I mean, does the statute  
19 dictate that it follow what we decide in terms  
20 of zones?

21 MS. KAHLOW: I think it's an attempt  
22 to backdoor and avoid a statutory change. If

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1 you look at the whole idea, this essential  
2 employment area was downtown, not in a  
3 residential neighborhood.

4 By redefining what downtown is and  
5 what transfer with development rights are into  
6 lots and lots of squares, you've basically  
7 turned us into downtown, and that's what she  
8 calls us, downtown.

9 And that's not what we are. So this  
10 is a way of not amending the statute to do what  
11 they have intended to do. And I think they need  
12 to amend the statute.

13 COMMISSIONER MAY: So what is it  
14 that they, oh, all right, I guess I need to  
15 understand more about what the CDA is --

16 MS. KAHLOW: We testified six times  
17 in front of the National Capital Planning  
18 Commission after the city council agreed with  
19 us.

20 And, finally, NCPC said okay, we'll  
21 let you have what you want, which is a very small  
22 CEA, not in your neighborhood. And Mr. Miller

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1 was there. He knows that.

2 COMMISSIONER MAY: Okay. Thanks.

3 That's it for me.

4 CHAIRMAN HOOD: Okay, Vice Chair.

5 VICE CHAIR COHEN: Thank you, Mr.  
6 Chairman. Again, I have a question for Ms.  
7 Trotter and Mr. Smith with regard, again, to the  
8 commercial space. I'm not sure I understand  
9 what the problem is as long as it's on campus.

10 One of the things that I would be  
11 concerned about is there are uses such as like  
12 a bio-tech facility that may end up being more  
13 of a commercial venture but takes advantage of  
14 its location on a campus, close to resources.  
15 That would be prohibited by use. So I guess I'm  
16 --

17 MR. SMITH: No, what we suggest in  
18 our testimony, we're talking about the  
19 commercial uses on campus, am I correct?

20 VICE CHAIR COHEN: Right.

21 MR. SMITH: Okay, what we're  
22 suggesting is that you would take that up on a

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1 case by case basis. In other words, that you  
2 would not set a floor or a ceiling, whatever you  
3 want to call it.

4 But, rather, the way you do it now,  
5 when the university comes forward with using a  
6 residentially zoned property on campus for a  
7 commercial purpose, you take that up on a case  
8 by case basis now. We're saying you should  
9 continue to do it that way. That's all.

10 VICE CHAIR COHEN: Thank you. I  
11 have no other questions.

12 CHAIRMAN HOOD: Okay, thank you.  
13 Next, Mr. Miller?

14 COMMISSIONER MILLER: Thank you,  
15 Mr. Chairman. I don't have any questions. I  
16 thank you, each of you, for your testimony.  
17 It's very clear and very thoughtful. And I may  
18 have some questions of the Office of Planning  
19 about their reaction to some of the testimony.  
20 But I appreciate all of your commitment to the  
21 city.

22 CHAIRMAN HOOD: Okay, Commissioner

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1       Turnbull.

2                       COMMISSIONER TURNBULL: Thank you,  
3       Mr. Chair. I've just got one question for  
4       Commissioners Trotter and Smith. And I have  
5       kind of struggled through the campus plan, the  
6       whole thing of campus plans.

7                       What you would like to see, somehow,  
8       is basically a campus plan come forward as a  
9       campus plan, no second stage, just a clean campus  
10      plan or a second stage processing, no?

11                      MR. SMITH: What we want to see is  
12      when the campus, yes, in answer to your question,  
13      yes, actually.

14                      COMMISSIONER TURNBULL: Okay.

15                      MR. SMITH: But what we want to see  
16      is that the campus plan, that the university puts  
17      forward its first stage campus plan, it is  
18      reviewed and once you've made that decision on  
19      that campus plan that then we go to the second  
20      stage. Not to have multiple proceedings  
21      running at that same time, as we have with the  
22      AU campus plan. It is too overwhelming. It's

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1 overwhelming for you, for us, for the residents  
2 and it's just not very efficient.

3 COMMISSIONER TURNBULL: Do you  
4 think, and I think in the case of AU, it,  
5 obviously, that was an aggressive plan to moving  
6 it with the floor. Do you think there is an  
7 opportunity if there was, they have a deadline  
8 to meet, either it's their academic needs, if  
9 there was one project that wanted to be part of  
10 the first stage or are you saying none at all?

11 MR. SMITH: I think the position  
12 that the ANC took, and I would agree with this  
13 from my own perspective, is that it would be none  
14 at all. And, you know, there is, this also comes  
15 down to what OP says is one of the higher  
16 priorities of the campus planning process, which  
17 is effective planning.

18 So I think the question you have to  
19 ask and that we have to ask as the ANC  
20 commissioners is how effective is this planning  
21 process that's going forward.

22 How do you wake up one day and decide

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1 that you need to build this major dorm, for  
2 example, and it has to be open tomorrow? I mean,  
3 what kind of planning is that?

4 If you've planned it for several  
5 years ahead of schedule then you could have  
6 always come back and amended that campus plan  
7 before you had to submit your new campus plan as  
8 part of the cycle.

9 And that's also, I think, one of the  
10 values in extending the length of the campus plan  
11 process is that it does force some of these  
12 discussions but it also opens up the potential  
13 for an amendment to the campus plan process.

14 It makes it so that neighbors,  
15 residents, don't have to every, I mean, we're  
16 looking at beginning a new campus plan. I hate  
17 to say this but, as a resident, as a neighbor,  
18 as a neighborhood, I'm in about five or six  
19 years.

20 And do you think any of us really  
21 want to go through that again? I mean, we don't.  
22 And so somewhere along the line it would be

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1 helpful to address that piece of it as well.

2 COMMISSIONER TURNBULL: So are you  
3 guys, are you looking at campus plans to be  
4 longer than a 10-year period?

5 MR. SMITH: I think our position  
6 would be that that should be an option on the  
7 table. This is something that we did do, as you  
8 may recall, with the Wesley Theological  
9 Seminary. The community, as a Seminary, agreed  
10 and they came to you all and asked you all for,  
11 I believe it was, a 15-year campus plan.

12 MS. TROTTER: And my single member  
13 district is closer to Georgetown University.  
14 And when we look at the issues that have gone on  
15 with Georgetown University, the university is  
16 trying very hard to be a good neighbor to Foxhole  
17 Village and Foxhole Road and Reservoir Road.

18 And we just feel like these changes  
19 that we're suggesting, that the Commission has  
20 adopted for your consideration would help all of  
21 us to have a less confrontational process.

22 And the idea that the university's

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1 can pull back from these overly ambitious plans  
2 as well, as Commissioner Smith was saying, would  
3 just benefit us all in terms of resources of time  
4 and money as well.

5 And so extending that timeframe on  
6 the campus plan and also, as I mentioned in my  
7 testimony, setting a deadline on when it should  
8 be resolved would be helpful for all parties.

9 And we're just trying to create an  
10 environment of consensus that reflects the  
11 interests, a balanced interest, of the  
12 universities and the neighbors as well. And  
13 that's why we feel so strongly about the  
14 resolutions that we've passed and bring before  
15 you tonight.

16 COMMISSIONER TURNBULL: Okay,  
17 thank you.

18 CHAIRMAN HOOD: Okay, I really  
19 appreciate, as my colleague, Commissioner  
20 Miller mentioned, all your testimony. It has  
21 been very helpful. I have a lot of questions.  
22 Ms. Kahlow, you can see I have question marks on

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1 some of your testimony that I want to ask the  
2 Office of Planning.

3 MS. KAHLOW: Thank you.

4 CHAIRMAN HOOD: I dare not ask you  
5 because I want to make sure that I hear from  
6 people. That's what my goal is tonight, to  
7 listen to the public.

8 But I will ask this, and everybody  
9 can just tell me, if you don't mind, can you just  
10 tell me which ward you live in? Mr. Peterson?  
11 I probably already know but I just want it for  
12 the record.

13 MR. PETERSON: I'm in, I live in  
14 Ward --

15 CHAIRMAN HOOD: Use your  
16 microphone.

17 MR. BARDIN: I'm David Bardin.

18 MR. PETERSON: I'm Gary Peterson.  
19 I live in Ward 6.

20 CHAIRMAN HOOD: Okay.

21 MR. BARDIN: I'm David Bardin. I  
22 live in Ward 3, former ANC 3F04.

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1 MS. TROTTER: Gayle Trotter, Ward  
2 3, ANC 3D.

3 CHAIRMAN HOOD: Okay.

4 MR. SMITH: Tom Smith, Ward 3.

5 CHAIRMAN HOOD: Okay.

6 MS. KAHLOW: Barbara Kahlow, Ward  
7 2.

8 MR. HARGROVE: Larry Hargrove, I  
9 live in Adams Morgan, Ward 1, ANC 1C.

10 CHAIRMAN HOOD: Okay.

11 MR. ALPERT: David Alpert, Ward 2.

12 CHAIRMAN HOOD: Ward 2. All right,  
13 any other questions? Commissioner May?

14 COMMISSIONER MAY: Not a question,  
15 but a comment. I'm so eager to get down to  
16 business and ask questions that I sort of skipped  
17 over and I see, I just wanted to echo  
18 Commissioner Miller's compliment and the  
19 Chairman's compliment for everybody who  
20 testified and everybody who provided comments in  
21 advance.

22 I found everything exceedingly

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1 helpful, very clearly written, directed to the  
2 specific sections, sometimes citing exact  
3 paragraphs, much, very easy to follow and  
4 concise, which is really, really important too.  
5 So I'm just very, very grateful that we're  
6 getting off to a really good start.

7 I hope it continues in the same vein,  
8 and I thank you for coming out tonight and coming  
9 back again, since we're making everybody come  
10 back again on other nights that they want to hit  
11 all these different topics. So that's all.

12 CHAIRMAN HOOD: Okay, thank you all  
13 for your testimony. We appreciate it. Okay,  
14 I'm going to ask Ms. Nancy MacWood, Kris Auden,  
15 Dr. John Cavanaugh, Katherine Witt, Marilyn  
16 Simon, Florence Harmon, Christopher Collins and  
17 Paul Tummonds. That's eight.

18 VICE CHAIR COHEN: Five, six, okay.  
19 All right.

20 CHAIRMAN HOOD: That's supposed to  
21 be eight, but maybe some people are not here. So  
22 let me just make sure I filled up the table.

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1 Okay, Holly Mohammed? Holly Mohammed, Loretta  
2 Neuman and Alma Gates.

3 Okay, this time, since I usually  
4 start from my left and Ms. Gates is not here, so  
5 I'm going to start from my right. Maybe we'll  
6 switch it up a little bit. I'll start from my  
7 right and just go down. Mr. Collins.

8 MR. COLLINS: Good evening, Mr.  
9 Chair and members of the Commission. My name is  
10 Christopher Collins with the law firm of Holland  
11 & Knight.

12 I'm here to testify on Subtitle X,  
13 Chapter 200 with regard to Chanceries. And I  
14 can be very brief. I submitted a letter dated  
15 October 28th that when through some of concerns  
16 that we have, and that's in the record.

17 But in summary, the proposal is, in  
18 many respects, contrary to the express language  
19 of the Foreign Missions Act and the intent of  
20 Congress in enacting that act.

21 And the proposal that's before you,  
22 I understand, does not have the input of either

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1 the State Department or the National Capital  
2 Planning Commission.

3 And so I would ask that you table  
4 Subtitle X, Chapter 200 and any other sections  
5 that deal with Chanceries in order to allow for  
6 a full review and discussion with input from the  
7 State Department and the NCPC. Thank you.

8 CHAIRMAN HOOD: Okay, thank you.  
9 Next.

10 MS. SIMON: My name is Marilyn Simon  
11 and I'm speaking tonight on behalf of Friendship  
12 Neighborhood Association. FNA has been  
13 involved in the zoning rewrite since July, 2007  
14 and over the past six years I have testified  
15 before the Zoning Commission on many sections of  
16 the proposed zoning code.

17 We ask that our previous testimony  
18 on the zoning rewrite be included in the record.  
19 This process began with the revised  
20 comprehensive plan which required a revision of  
21 the zoning regulations so that the regulations  
22 would reflect policy changes in the comp plan.

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1 Ease of use was another goal of the ZRR.

2           Instead of a revision OP did a total  
3 rewrite of the zoning regulations. The revised  
4 document, if approved, implements many broad  
5 policy changes which were not part of the comp  
6 plan and fails to implement some of the major  
7 policies listed in the implementation element of  
8 the comp plan for implementation the ZRR.

9           The addition of diagrams makes some  
10 of the provisions clearer and the inclusion of  
11 some hyperlinks makes navigation, at times,  
12 easier but many find that, on balance, the new  
13 regulations are difficult to use, more difficult  
14 than the current regulations.

15           More importantly, regulations  
16 should be clear and should be enforceable. The  
17 advertised text was lacking in these areas.  
18 Lack of clarity is obvious from some of the  
19 provisions, including a few provisions where I  
20 asked OP what they intended to in that section  
21 and OP could not answer the question.

22           So the loss of enforceability stems

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1 from the shift for requiring special exception  
2 to allowing this as our development standards as  
3 a matter of right, sometimes with conditions.

4 The enforcement and reporting  
5 mechanisms available through the special  
6 exception process were not incorporated into the  
7 regulations so in many instances there is no  
8 mechanism to assure continued compliance.  
9 Further, the conditions were frequently  
10 inadequate to protect neighboring properties  
11 from negative impact.

12 The deficiencies in this document  
13 cannot be addressed with a few line edits,  
14 especially given the compressed hearing  
15 schedule.

16 The ZRR was a multi-year process but  
17 concerns about the amount of time that has passed  
18 since the process began should not lead the  
19 Commission to rush to adoption of regulations  
20 that, one, do not implement the comp plan  
21 policies that were to be implemented through the  
22 ZRR.

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1           Two, include new policies that were  
2 not in the comp plan, some inconsistent with  
3 explicit policies in the comp plan and, three,  
4 include regulations that lack clarity and lack  
5 enforcement mechanisms.

6           FNA has submitted specific  
7 recommendations on Subtitles X and Z. Given the  
8 limited time available access and comments on  
9 any section of the September 9th's draft should  
10 not be interpreted as concurrent with the  
11 proposed language.

12           In this section we were concerned  
13 that OP did not implement the recommendations by  
14 many of the working groups to increase the  
15 minimum land area for PUDs in some zones.

16           The proposed regulations have a  
17 minimum land area of 15,000 square feet for a PUD  
18 in commercial zones in Friendship Heights. The  
19 minimum land area should be increased to at least  
20 one acre in those zones. PUDs were originally  
21 conceived to develop large tracts of land more  
22 creatively than could be done as a matter of

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1 right. Having a minimum land area of 15,000  
2 square feet for low and moderate, low and  
3 medium-density development meets this flat  
4 zoning.

5 Section 305.5 defines additional  
6 market rate housing to be of public benefit which  
7 could be used to justify additional density.  
8 This should be omitted, especially when it is  
9 cited in a residential zone. Increased  
10 residential density should not be available as  
11 an amenity to justify that very increase in  
12 density.

13 Section 305.7 limits off-site  
14 benefits to areas within the same ANC as a PUD  
15 site. ANCs are quite large. For example, in  
16 our ANC this would mean that a PUD amenity might  
17 be over a mile away from the project, in a  
18 different neighborhood, and would not benefit  
19 the neighbors who are impacted by the project.

20 Further, ANCs are redistricted with  
21 every census. We suggest that any offsite PUD  
22 amenities, if allowed, be within a quarter-mile

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1 of the project. We also ask that the Zoning  
2 Commission reconsider being allowed to read  
3 letters from the public prior to a set down  
4 meeting so that they can benefit from the  
5 additional knowledge about the area and issues  
6 of concern to the community, and can provide  
7 guidance to developers on what they might  
8 consider changing in the pre-hearing  
9 submission, perhaps resulting in a less  
10 contentious project.

11 We also think it is critical that  
12 agency reports be available in advance and ask  
13 that the recent proposed edits on inclusion of  
14 agency reports, the open set down reports be  
15 reversed. Thank you.

16 CHAIRMAN HOOD: Thank you. Next.

17 MR. TUMMONDS: Good evening, Mr.  
18 Chairman, members of the Commission. I'm Paul  
19 Tummonds, with the law firm Goulston & Storrs.  
20 This evening I am also here as DCBIA, as  
21 representative from the ZRR task force.

22 Before I provide comments and some

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1 specific provisions of Subtitle A and X I want  
2 to commend the Office of Planning and  
3 acknowledge the work that they have done taking  
4 on the daunting task of the rewriting of the  
5 District's zoning regulations.

6 From the very beginning of the  
7 rewrite process I have participated in numerous  
8 working groups and dozens of task force  
9 meetings. My firsthand experience with this  
10 process is that the Office of Planning  
11 representatives spent a huge amount of time and  
12 energy discussing and explaining the rationale  
13 for a proposed modification or refinement to the  
14 current zoning regulations and have actively  
15 sought comments from stakeholders in this  
16 process.

17 I found the OP representatives have  
18 thoughtfully reviewed comments that they have  
19 received and have often modified their proposals  
20 in response to those comments. I believe the  
21 Office of Planning has done exactly what we would  
22 expect of a world class planning department.

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1 They researched best practices of what other  
2 jurisdictions in the region, the country and  
3 even in the world were doing and then sought to  
4 tailor those practices to our unique city.

5 They have pushed us to take a look  
6 at new ideas for the District while still  
7 retaining protections and standards that  
8 maintain and foster the vitality and vibrancy  
9 that we aspire to have in all of our  
10 neighborhoods.

11 Now, with regards to the specifics  
12 of this evening, Subtitle A, Authority and  
13 Applicability. The effective date of the  
14 proposed zoning regulations is unknown, which  
15 provides a great deal of anxiety for D.C. guide  
16 members as they contemplate new development  
17 projects.

18 Accordingly, the proposed  
19 regulations need to enumerate time lines for  
20 transition to the new regulations that will  
21 clearly establish when property owners will be  
22 subject to the new regulations and allow design,

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1 development and zoning review that is currently  
2 underway to continue to proceed under those  
3 existing regulations.

4 In our October 28, 2013 written  
5 submission to the record we proposed specific  
6 additions to the text of the zoning regulations  
7 which include phase-in language for projects  
8 that have begun as zoning for historic review  
9 process. These phase-in proposals are based on  
10 the language that was recently adopted by the  
11 Zoning Commission with regards to the GAR.

12 Given the significant learning  
13 curve that we expect everyone, including land  
14 use attorneys, will have with understanding  
15 these new regulations and the recent experience  
16 that we have had with the implementation of the  
17 IZ and GAR regulations, it is entirely  
18 appropriate for the Zoning Commission to  
19 establish a date-certain as to when these  
20 regulations will become effective.

21 In order to give all the parties  
22 sufficient time to truly understand the new

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1 zoning regulations and their impact, this  
2 date-certain must be at least six months after  
3 the zone, final zoning regulations are published  
4 in the D.C Register.

5 With regards to the campus plan  
6 procedure, Dr. Cavanaugh, of the Consortium, is  
7 here to discuss in detail some of the concerns  
8 that universities have. But, more importantly,  
9 we believe draft zoning regulations which will  
10 require special exception approval for college  
11 or university uses in the low-density commercial  
12 zones, in fact, improperly treat a college or a  
13 university use different than a similar use.

14 For example, a college or university  
15 general counsel's office would not be permitted  
16 in the C1 or C2A zone while a law firm office  
17 would. Similarly, for an architect's office.  
18 Moreover, a theater that would be permitted in  
19 the C2A zone as a matter of right, such as the  
20 Gala Theater, the Studio Theater, those would  
21 not be permitted as a matter of right in the C2A  
22 zone, like AU's Greenberg Theater at 4200

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1 Wisconsin Avenue.

2 DCBIA believes that this provision  
3 should be deleted from the draft zoning  
4 regulations as it clearly reflects a  
5 discriminatory intent to treat college and  
6 university uses differently than similarly  
7 situated users of real estate.

8 Thank you for your time this  
9 evening. The issues that I have highlighted in  
10 my testimony are addressed in greater detail in  
11 our written submission, and I look forward to  
12 answering any questions you may have.

13 CHAIRMAN HOOD: Great. Thank you.  
14 Next.

15 MS. HARMON: Chairman Hood and  
16 members of the Zoning Commission, for the  
17 record, I am Florence Harmon, Chair of the  
18 Advisory Neighborhood Commission ANC 2A. ANC  
19 2A includes both Foggy Bottom and West End  
20 neighborhoods.

21 The ANC has filed its resolution  
22 dealing with the zoning regulations review and

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1 I'd like to summarize some of the highlights.  
2 First and foremost, ANC 2A opposes Office of  
3 Planning's new allowable increases in density  
4 percent non-residential uses and height for  
5 planned unit developments. In addition, since  
6 much of the West End is zoned C2C, Office of  
7 Planning's automatic height increase from 90 to  
8 110 feet in C2C zones would dramatically change  
9 the character of this mixed used area.

10 And we would note that there is a  
11 rapid growth of residential use in the West End  
12 area and our concern with some of these proposals  
13 is that it seems to assume that it's mainly  
14 commercial only.

15 The next most substantive important  
16 issue is OP's proposed revised rules governing  
17 future acceptable PUD benefits and amenities.  
18 We've had long-term experience with identifying  
19 and negotiating appropriate PUD amenities for  
20 our neighborhood, most of which do include  
21 upgrades of public land or governmental services  
22 which we believe should be paid by the tax

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1 payers, paid by tax payer funds, not developers.

2 An example of a recent amenity that  
3 the ANC 2A negotiated was the amenity that  
4 supported the Foggy Bottom West End Village, an  
5 established non-profit that serves the needs of  
6 many elderly in our community and sort of  
7 supports the stated goals of Office of Planning  
8 tonight.

9 Mayor Gray recently cut the  
10 ceremonial ribbon, marking the start of this  
11 aging-in-place non-profit and it was PUD amenity  
12 monies that provided the seed money for this  
13 valuable non-profit to begin operations in our  
14 neighborhood.

15 Therefore, we strongly recommend  
16 the Commission continue to allow the  
17 identification of non-public PUD benefits and  
18 amenities, let the ANC continue to do that. We  
19 also urge the Zoning Commission to give  
20 attention to our concerns articulated in our  
21 resolution, our October 16, 2013 resolution to  
22 give our ANC's position great weight.

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1 I'd also like to personally thank  
2 Sharon Schellin and Donna Hanousek, I'm sorry,  
3 I just massacred her names, but I am not a zoning  
4 attorney. I do not have an in-depth background  
5 and I cannot tell you how incredibly helpful they  
6 were to me from the numerous phone calls I made  
7 to try to sort out where our issues belonged  
8 during this process. So thank you very much.

9 CHAIRMAN HOOD: Okay, thank you.  
10 Next.

11 DR. CAVANAUGH: Good evening,  
12 Chairman Hood, members of the Commission. My  
13 name is John Cavanaugh and I am the President and  
14 CEO of the Consortium of Universities of the  
15 Washington Metropolitan Area.

16 I thank you for the opportunity to  
17 comment this evening around the proposed changes  
18 in the zoning regulations and also deeply  
19 appreciate all of the time and energy that you've  
20 put into what is a very difficult and complex  
21 task. Recently we have also filed a document  
22 providing some details of specific concerns we

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1 have so I will not reiterate all of those  
2 details, but refer you to that for them.

3 For purposes of my testimony this  
4 evening I'm just going to highlight four of our  
5 major concerns around Subtitle X. I'd like to  
6 reiterate Paul Tummonds' comment earlier about  
7 university uses in commercial zones. He  
8 clearly articulated our concerns with that so  
9 I'm not going to, in the interest of time, I'm  
10 not going to repeat the comments he made but  
11 simply ask for fair treatment around that  
12 particular issue.

13 With regard to commercial uses on  
14 university campuses, university campuses often  
15 do include retail and service establishments  
16 that serves students, faculty and staff of the  
17 university as well as neighbors in the nearby  
18 neighborhoods with amenities such as sandwich  
19 and coffee shops and small grocery and  
20 convenience stores.

21 In many cases these uses are also  
22 open to the public and help contribute to the

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1 vibrancy of the neighboring communities. The  
2 proposed regulations would limit commercial  
3 uses on campus to those with, and I quote,  
4 "demonstrated and necessary relationship  
5 between commercial use and university  
6 function".

7 The recommended language is overly  
8 restrictive as it requires such commercial uses  
9 to be located as "internally central to the  
10 campus as possible" and would only permit them  
11 if there was a "demonstrated and necessary  
12 relationship".

13 The Consortium recommends that the  
14 Commission relax this language to allow  
15 consideration of the relationship of such  
16 commercial use as not only to the university's  
17 operation and academic mission but also to the  
18 student experience and to the good of the  
19 surrounding neighborhood.

20 In many circumstances, neighborhood  
21 serving retail uses is at the periphery of the  
22 campus would be viewed as an amenity for both the

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1 university and the neighborhood.

2           The third point we'd like to comment  
3 on is the building height measurement. The  
4 draft regulations carry forward the recently  
5 adopted requirement that building height be  
6 measured from the midpoint of the building  
7 facade along the street or lot line nearest to  
8 a public street.

9           The application of this new  
10 requirement has proven to be a challenge when  
11 applied at the large or highly dense campuses for  
12 buildings in the interior of the campus that do  
13 not have a clear facade that is "closest to a  
14 public street".

15           The Consortium recommends that the  
16 Commission return to the longstanding practice  
17 of permitting the property owner to select the  
18 most appropriate front for measuring building  
19 height. The Commission would still, of course,  
20 retain the ultimate discretion to conclude  
21 whether the building height is appropriate as  
22 part of this special exemption review process.

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1           In terms of the changes for the  
2 Floor-Area Ration calculation, the proposed  
3 changes would deprive universities of  
4 significant well-established development  
5 rights and undermine the core principle of the  
6 District's campus planning scheme, which is that  
7 universities should focus development on  
8 existing campuses, that is, focus on density.

9           For decades the campus planning  
10 regulations have granted universities  
11 additional density rights to permit growth  
12 within their campus boundaries in order to avoid  
13 encroaching on surrounding residential  
14 neighborhoods.

15           And you heard earlier in Ms.  
16 Tregoning's presentation, the notion that a goal  
17 should be to keep students on campus as much as  
18 possible and to encourage that higher density  
19 development on campus.

20           The proposed regulation which would  
21 be retroactively applied to universities within  
22 existing campuses would reduce the amount of

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1 permitted development on large campuses and  
2 would take away existing density that these  
3 campuses have relied on as being available for  
4 decades.

5 This concludes our testimony this  
6 evening and, in closing, I, again, draw your  
7 attention to our previously submitted document.  
8 And thank you, again, for your attention and your  
9 dedication to these revisions. Thank you very  
10 much.

11 CHAIRMAN HOOD: Thank you very  
12 much. Next.

13 MS. MACWOOD: Good evening,  
14 Chairman Hood, members of the Commission. I'm  
15 Nancy MacWood, representing the Committee of  
16 100.

17 Since this is the first hearing on  
18 the zoning code text amendments I want to express  
19 our hopes for how you will approach the  
20 significant task and offer some context that may  
21 be helpful as you hear conflicting views on many  
22 of the Office of Planning's proposals.

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1           There is a little red bit of candor  
2           in the implementation element of the  
3           comprehensive plan. The statement describes  
4           the document as a city plan but adds that its  
5           implementation is dependent, in large part, on  
6           the Zoning Commission. The legal concept that  
7           zoning laws should not be inconsistent with comp  
8           plan policy seems, at times, as less a  
9           restriction than an archaic check-off.

10           But D.C. residents are increasingly  
11           aware of the significance of the comp plan and  
12           we wanted to inform your deliberations, and not  
13           just a phrase from a policy but the intent the  
14           body of the policies that are relevant to a  
15           zoning topic.

16           The Committee of 100 also urges  
17           caution. The city has experienced an unusual  
18           growth spurt but an unprecedented recession  
19           contributed to the large population growth rate  
20           increase. And the CFO has told Council that  
21           population growth rates are declining and they  
22           forecast a 0.8 percent rate in FY 2017.

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1           It would be a terrible mistake to  
2 base land use law on an assumption about an  
3 unstable trend. Similarly, we should not leap  
4 to assume that the comp plan targets for  
5 development are not sound.

6           We have large parcels, vacant or  
7 underdeveloped land and unmet capacity within  
8 current zoning limits. There is no need to act  
9 quickly to make drastic decisions about use of  
10 developed land based on short-term trends or  
11 market interests.

12           Most importantly, the Zoning  
13 Commission should not make policy and should be  
14 skeptical of zoning proposals that clearly were  
15 not considered by the Council when it adopted the  
16 comp plan. Likewise, we hope you will use  
17 caution for adopting unproven planning theories  
18 that have not been analyzed using D.C. facts.

19           Our city has some unique aspects  
20 which may render some proposed zoning changes  
21 based on theory actually quite unreasonable.  
22 Whether or not they are in vogue right now within

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1 the planning industry, most of our zoning  
2 concepts are working.

3 You will hear a lot about affordable  
4 housing throughout these hearings and we hope  
5 you will find that there are meaningful  
6 opportunities that aren't being fully explored.  
7 Token proposals will not achieve the goal of  
8 reversing the trend of expensive market rate  
9 housing, out of reach for most D.C. residents.

10 And, finally, we urge you to use your  
11 common sense as you evaluate the enormous task  
12 before you. You know that there are different  
13 challenges faced by neighborhoods and that each  
14 has different strengths.

15 We hope you will look for practical  
16 proposals that don't jeopardize what is working  
17 and not for judicious changes that are unlikely  
18 to have unintended consequences.

19 The mission is not to transform the  
20 city but to translate the Council's land use plan  
21 into regulations. The task is manageable if you  
22 approach it from the perspective that we don't

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1 want solutions for problems that the Council has  
2 not identified and proposed a solution.

3 Since I have provided you with  
4 detailed bullets I want to highlight a few areas  
5 with regard to Subtitles A, X and Y. Many of  
6 these topics will be considered again in other  
7 Subtitle hearings.

8 One of the most ill-considered  
9 proposals is the consolidation of overlays with  
10 underlying zones. The Office of Planning is  
11 ignoring the comp plan policies that endorse  
12 overlays and encourage more of them.

13 OP has been tone-deaf to residents  
14 who spent years creating overlays and stand by  
15 them. By definition, overlays distinguish  
16 underlying zoning proposed provisions. They  
17 work. The Zoning Commission should reject this  
18 significant change.

19 Apartment zones should be  
20 identified as residential zones. These zones  
21 are residential and they share the attributes of  
22 our neighborhoods. The Office of Planning is

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1 stressing in the purpose statements for Subtitle  
2 F that these zones are intended for  
3 institutional semi-public buildings. But the  
4 residents and neighborhoods zoned R5 would say  
5 that they live in multi-family neighborhoods.

6 This potential transformation of  
7 multi-family zones into a non-residential zone  
8 should not be allowed, and the Zoning Commission  
9 should make that point by inserting residential  
10 into the title.

11 The zoning administrator's  
12 authority to grant deviations and modifications  
13 to development standards is missing a very  
14 important requirement. The ZA should be  
15 required to notify the relevant ANC that he is  
16 considering taking action, and again, when he  
17 takes action. The ZA's action is appealable to  
18 the BZA but only if an appeal is filed timely.

19 The lack of notice requirement puts  
20 an ANC at a terrible disadvantage if it finds  
21 that the ZA's action was unwarranted or harmful.  
22 ANC should not be expected to constantly monitor

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1 the D.C. Register in order to represent  
2 neighborhoods and the ZA should be transparent  
3 in actions he takes that affect an ANC area.

4 I think my time has expired so I'll  
5 have to just submit the rest of my testimony.

6 CHAIRMAN HOOD: Yes, thank you.  
7 Thank you very much. Next.

8 MS. NEUMANN: Good evening.

9 CHAIRMAN HOOD: Is your microphone  
10 on? No, it's not.

11 MS. NEUMANN: Oh, okay, thank you.  
12 My name's Loretta Neumann. I'm representing  
13 Neighbors, Incorporated. I live in Ward 4.  
14 Neighbors, Inc. is a non-profit D.C. corporation  
15 founded in 1958 to foster and maintain  
16 integrated neighborhoods in north Washington,  
17 D.C.

18 We include several neighborhoods,  
19 including my own of Takoma, but also Shepherd  
20 Park, Manor Park and Brightwood. I am a  
21 longtime resident of the area. I am past  
22 president of Neighbors, Inc. I've been an ANC

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1 commissioner. I've been active on many  
2 organizations including the Committee of 100.  
3 And I have worked on many zoning matters in our  
4 ward.

5 Our current Board was not even  
6 elected until September at our membership  
7 meeting and didn't have its first meeting until  
8 last week. And so we couldn't respond in time  
9 and, in fact, hadn't decided to until we saw,  
10 several of us, this document led to us by our ANC  
11 commissioner, which is the ZRR rewrite.

12 We were shocked at the thickness of  
13 it but also surprised because when you open it  
14 up all you see, and you can tell I've been  
15 reviewing this considerably in this one week  
16 I've had, all this text, and yet there's no way  
17 to tell where the, what the changes are, what's  
18 being added, what's taken out, what's revised.  
19 We were very disturbed because there are a number  
20 of changes we were told were going to be made.  
21 We can't tell whether they are being made.  
22 Excuse me.

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1 I went online to the OP Summary of  
2 General Changes and I found it to be so vague that  
3 it's virtually useless. So it doesn't tell us  
4 what these mean.

5 I would expect, and I think the, on  
6 the previous panel a woman I don't know, but she  
7 said exactly what I feel, is that there should  
8 be like a Redline version that shows you what the  
9 changes are. If not, a tracking and then maybe  
10 a side-by-side version, this side is what, the  
11 way we're proposing and this is what we'll  
12 change. And not just saying in generalities,  
13 but specifically in terms of feet and density and  
14 FAR and all of that, what are the changes that  
15 are being proposed.

16 We were also surprised to find a  
17 whole new section we didn't even know about.  
18 And I did attend a lot of the meetings that OP  
19 had. I was on a co-regional working group early  
20 in the zoning process. At the Takoma one I do  
21 not recall them ever mentioning that there is a  
22 new Takoma neighborhood mixed use zone which we

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1 discovered in this book.

2 And I will be testifying next week  
3 on it, but I do have some concerns about it, but,  
4 again, we can't tell what the changes are,  
5 whether it's the same, is it different than  
6 what we currently have. I have checked with  
7 other organizations around these and found them  
8 to be equally perplexed.

9 Despite the fact that OP has spent  
10 several years in developing the proposed changes  
11 residents of D.C. have not been supplied  
12 sufficient information to make an informed  
13 decision.

14 Clearly, more time and attention is  
15 needed. The hearings this week are too cursory  
16 to provide sufficient response from the  
17 community. I'm sorry, I have a little bit of a  
18 cold.

19 Therefore we cannot, Neighbors,  
20 Inc., and will not respond now to the ZRR  
21 document developed by the Office of Planning  
22 but we do have some suggestions to make.

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1           Our major recommendation is that the  
2 Zoning Commission consider these hearings as  
3 merely preliminary and that you delay any  
4 further consideration for at least six months,  
5 until the Office of Planning has provided new  
6 text that reflects the concerns of the citizens.

7           During this time the Commission  
8 should require OP to immediately prepare a new  
9 document for citizen review that clearly shows  
10 the changes that are being proposed from current  
11 zoning. The current cross-walk that OP Web site  
12 has is still too general to be of use for most  
13 residents.

14           Two, direct OP to meet in smaller  
15 groups, at least at the ANC level to discuss the  
16 ZRR document with the ANCs and go through it with  
17 them and community leaders and residents who  
18 seek clarifications of the text to try to develop  
19 a consensus position.

20           Three, alternatively or in addition  
21 to face-to-face meetings, ask OP to provide an  
22 online means of direct communication via a Chat

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1 function or a webinar in which community  
2 residents can raise questions to OP and discuss  
3 their concerns, make further recommendations,  
4 et cetera.

5 Therefore, as proposed in your  
6 announcement of these hearings, hold another set  
7 of hearings to receive public response to the  
8 zoning text proposed by OP. Thank you, again,  
9 for the opportunity to testify.

10 CHAIRMAN HOOD: Okay, thank you.  
11 Next.

12 MS. GATES: Good evening, members  
13 of the Zoning Commission. My name is Alma  
14 Gates. Tonight I want to address Subtitle X,  
15 Section 102, Private School Plans and Special  
16 Exception Requirements.

17 On December 11, 2008 the Office of  
18 Planning informed the Zoning Commission in many  
19 instances the impact of smaller institutions are  
20 just as wide-ranging if not as pervasive as those  
21 of other large institutional uses. Therefore,  
22 in the interest of consistency and

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1 predictability, OP recommends that they be  
2 regulated within the same comprehensive  
3 framework of regulations.

4 OP also noted that many private  
5 schools don't come back to the BZA, preserving  
6 relief for years, and it would be useful to have  
7 periodic reporting on how Special Exception  
8 conditions are being met. Recommendation,  
9 Subtitle X substantially expands the  
10 application criteria for special exceptions for  
11 private schools over current Section 206  
12 requirements. This is a good thing.

13 These would be further enhanced by  
14 a reporting requirement and establishment of a  
15 clean hands threshold which would be filed  
16 annually with the Compliance Officer in the  
17 Office of Zoning.

18 The group I represent, Neighbors  
19 United Trust, was formed in response to the  
20 proposed establishment of a junior high school  
21 for 60 7th and 8th graders in the midst of a  
22 residential neighborhood. The property, one of

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1 the original Victorian homes on MacArthur  
2 Boulevard, was built for a family of six.  
3 Nevertheless, the BZA granted the special  
4 exception with a list of conditions and the  
5 junior high has settled into its surroundings.

6 This zoning relief has worked  
7 because then it will serve as a constant reminder  
8 there are conditions associated with zoning  
9 approval and the school understands it must  
10 abide by its BZA order.

11 Quarterly meetings are faithfully  
12 attended and have proven to be an excellent  
13 lesson in how we handle relations, away from the  
14 school and neighbors to discuss our different  
15 culture, what's working, what isn't.

16 Recommendation, special exception  
17 conditions should be clearly constructed and  
18 worded to protect neighborhood quality of life  
19 and ensure enforceability. Quarterly meetings  
20 are strongly suggested as a requirement for  
21 private school's special exception approval.

22 A major issue faced by private

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1 schools is faculty/staff parking. While  
2 Subtitle X, Section 101.8 gave requirements for  
3 location or parking facilities, the actual  
4 formula for numbers of spaces is found in  
5 Subtitle C.

6 The new private school parking  
7 formula was highly contested by the task force  
8 but objections fell on deaf ears. It is  
9 unreasonable of OP to change the basis of the  
10 parking formula until it can demonstrate there  
11 is a need for change and the change will not  
12 result in an otherwise objectionable condition.

13 Recommendation, retain current  
14 parking formulas for private schools and  
15 Reference Zones, Subtitle X, Student Driving and  
16 Parking Policy, should be clearly outlined in  
17 the school's operations manual and made a  
18 condition of special exception approval.

19 Finally, staff caps, Section 101.15  
20 refers to full and part-time employee counts.  
21 Some time ago, the matter of private school  
22 part-time employees was addressed by the BZA and

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1 it was decided full-time equivalent, part-time  
2 faculty staff counts represent employment  
3 policies at budgetary considerations.  
4 However, these individuals represent a real  
5 neighborhood presence when on campus.

6 Recommendation, each faculty and  
7 staff member of private schools would, will be  
8 counted as one employee for purposes of  
9 establishing total counts. Clinicians and  
10 volunteers who are on campus more than two days  
11 a week will be included in the total  
12 faculty/staff count.

13 I have some additional, just random  
14 areas but I will leave them for later. Thank  
15 you.

16 CHAIRMAN HOOD: Okay, thank you.  
17 Commissioners, any questions? Vice Chair?

18 VICE CHAIR COHEN: Thank you, Mr.  
19 Chairman. I want to be considered a nice person  
20 too, so thank all of you for coming here tonight.  
21 I really appreciate it, everybody out there  
22 who's testifying tonight.

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1 I have a question for Ms. Simon.  
2 One of the things that, when I came into this  
3 position, I felt that it was a difficult document  
4 to use. And one of the things that I was pleased  
5 with the Office of Planning is that they started  
6 showing, actually drawings, pictures. And I  
7 felt that that did simplify quite a bit. I'd  
8 like your comment about that.

9 MS. SIMON: I think that, as I said,  
10 the diagrams that they included were definitely  
11 and improvement over the old technology where  
12 you basically had to rely on text to see exactly  
13 where side yards would be measured and how  
14 various things would be measured. That was an  
15 improvement.

16 But still, most people consider it  
17 very, very difficult to use, and it's not just  
18 because we're familiar with the old text. It's  
19 more difficult to use.

20 VICE CHAIR COHEN: And, again, I  
21 think that, from my perspective, it's because I  
22 don't have maybe the baggage or the knowledge to

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1 the extent that people who have been doing this  
2 for 20 years, like our Chairman, I mean, is it  
3 20 years?

4 CHAIRMAN HOOD: No, it's 16, and  
5 after this is might be sooner, but it will still  
6 be 16.

7 VICE CHAIR COHEN: Well that's a lot  
8 of time compared to my coming up to my third year.  
9 So I felt that there was a lot of simplification  
10 but that's, of course, a matter of opinion as  
11 well as you've used the old and I'm using mostly  
12 the now and new.

13 So I have a question for Ms. MacWood.  
14 I know you said that we should not rely on some  
15 of the policies that are in vogue today.  
16 However, I don't believe that we also have the  
17 luxury of ignoring what's happening, so there  
18 has to be a balance.

19 So I would like for you to, at least,  
20 describe to me some of the areas that you think  
21 we should be looking at so that we do continue  
22 to have a city that is liveable. I mean, if we

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1 don't do some of the things that the zoning  
2 rewrite is doing I think, maybe some other people  
3 may think, that we are becoming like the deniers  
4 of global warming. So I would like to hear some  
5 comments from you.

6 MS. MACWOOD: The context of my  
7 comment was that, one, we need to evaluate some  
8 of those theories within the D.C. context. We  
9 need to apply facts about D.C. For example, I  
10 suppose the most obvious zoning topic to bring  
11 up would be parking because there are a lot of  
12 national theories about parking and congestion.

13 Well, in D.C., one of the unique  
14 things about D.C. is that while we have more jobs  
15 than we have D.C. residents, the vast majority  
16 of our jobs are held by people who live outside  
17 of D.C. So a lot of our congestion is not caused  
18 by our own residents, so when you're creating  
19 zoning laws regarding parking you have to be able  
20 to put into that sort of context of what's  
21 creating the situation.

22 The other is that we have a lot of,

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1 and I know Ms. Tregoning said that the transit  
2 zones have been eliminated from the text, but  
3 there still are parking requirements, minimum  
4 parking requirements, that would be relieved up  
5 to 50 percent based on transit zones, really,  
6 being near a Metro station.

7 I mean, one of the things the comp  
8 plan says is that, yes, by all means, go ahead  
9 and look at that but look at it within the  
10 context, do a study is actually what they called  
11 for, neighborhood by neighborhood, Metro  
12 station by Metro station to determine whether  
13 there is, what the situation is in that  
14 particular neighborhood.

15 Is there unmet need at the Metros or  
16 a capacity that hasn't been met, is there  
17 economic development that can be jump-started by  
18 having transit zone policies. It's different  
19 for different neighborhoods and that was the  
20 point that I was trying to make.

21 VICE CHAIR COHEN: Thank you.  
22 That's all my questions.

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1                   CHAIRMAN HOOD:    Okay, any other  
2                   questions?  Commissioner May?

3                   COMMISSIONER MAY:  Thank you.  So,  
4                   Mr. Thomas, Mr. Cavanaugh, you guys could,  
5                   either one of you could try to answer this, maybe  
6                   both.  So I understand that you have an  
7                   objection to the requirement to treat commercial  
8                   use or a university use in a commercial area as  
9                   part of the overall campus plan or as a special  
10                  exception process.

11                  But, clearly, you must understand  
12                  that this has been an issue and it has been a  
13                  problem for certain neighbors.  And you must  
14                  also understand, in principle, that a  
15                  university, as an organic hold, has many  
16                  functions.

17                  And while it's simple enough to say  
18                  that the general counsel could be in a commercial  
19                  office building somewhere else, not every  
20                  operation is going to be as completely separable  
21                  as what the general counsel might do and there  
22                  may be interaction with the university, whether

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1 it's shuttle buses or other vehicles going back  
2 and forth or, frankly, just even displacement of  
3 other local retail, conceivably. That's even  
4 come up in the past.

5 So there has to be something else.  
6 I mean, you can't just come up and say, no, we  
7 don't like this and it's discriminatory, which,  
8 I think that's a bit over the top. Tell me what  
9 you would suggest. You don't have to tell me  
10 now. You can come up with something else.

11 But if you think that's an onerous  
12 requirement, suggest something else that rests  
13 this issue and satisfy the concern that doing  
14 this just sort of spreads out the universities,  
15 I mean, it makes the universities operations  
16 kind of sprawl out and encompass more of a  
17 neighborhood and cause greater impacts. So, I  
18 mean, do you have other ideas?

19 MR. SMITH: Well, I think, first I  
20 would start with the idea that the vast majority  
21 of what we kind of usually associate the  
22 university uses with, students coming to and

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1 from class, those do occur on the campus. When  
2 you look at the university's use of some of these  
3 C1 and C2A zones they are pretty much  
4 indistinguishable from the permitted matter of  
5 right uses.

6 So to have a, we have the C2A zone  
7 on Wisconsin Avenue and Tenley, it is right by  
8 the Metro station. It makes sense to have  
9 office use there. We say that the zoning  
10 regulations allow that. I think that there are  
11 certain instances which obviously have, even use  
12 of the AU Law School which was a really, a  
13 distinct fact pattern about 4801 Massachusetts  
14 Avenue because it was one instance where you had  
15 a discreet --

16 COMMISSIONER MAY: All right, so  
17 how do you catch that one thing that --

18 MR. SMITH: I think it needs to be  
19 tied more to, like, the ability for the, it is  
20 when you have the, I would say, the true academic  
21 use, when there are people, students in large  
22 part, that are going to that --

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1                   COMMISSIONER MAY:       So what I  
2 suggest is that you put your highly developed  
3 zoning thinking cap on and come up with some  
4 language that might actually separate --

5                   MR. SMITH:    Okay.

6                   COMMISSIONER MAY:   -- between these  
7 uses that are not academic or that wouldn't, be  
8 certain not to have impacts.  I'm not sure that  
9 it's going to be persuasive for many of the  
10 neighbors --

11                  MR. SMITH:    Sure.

12                  COMMISSIONER MAY:  -- but it's a lot  
13 more effective than simply saying, no, we think  
14 it should just be allowed because we know there  
15 have been impacts.

16                  MR. SMITH:    Sure.  I mean, we'll be  
17 happy to put our heads together and submit some  
18 ideas.

19                  COMMISSIONER MAY:   Okay.  I do  
20 appreciate that.  Ms. MacWood, with regard to  
21 your overall preference to maintain the current  
22 overlay system and zone designations, generally

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1 speaking, is if by, you know, I didn't compare  
2 everything line by line, but generally speaking,  
3 the overlay and the new zones that have been  
4 created that are customize seem to reflect all  
5 of the restrictions that were in the overlays.

6 So is it your concern that maybe they  
7 don't, that they're not as complete as the  
8 overlays were? Or is it just your concern that  
9 they, that it's a more confusing way of  
10 describing the zoning of these properties that  
11 have both a zone and an overlay or, in some cases,  
12 two overlays?

13 MS. MACWOOD: Well, take, let's  
14 take, for example, the neighborhood commercial  
15 overlays. What's happened is that some of the  
16 general purpose statements have been  
17 transferred over to some of the specific  
18 overlays. Some of the specific overlay  
19 statements have been transferred over to the  
20 general purpose statements for all of them.

21 The hierarchy of the purpose  
22 statements has been changed. There's been the

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1 addition of the underlying zone purposes that  
2 have been added into it. And what it does,  
3 substantively, is that it dilutes the intent of  
4 the overlay because now it's no longer standing  
5 alone with very discreet purposes and  
6 intentions. It's now that, plus all these other  
7 things that were part of the underlying zone.

8 And the whole purpose of overlays is  
9 to distinguish them from the general zoning.  
10 And it's when a neighborhood or a commercial area  
11 or whatever, wherever the overlay is, when it's  
12 determined that the general provisions haven't  
13 been working. They're not meeting the specific  
14 needs or interests of that particular area and  
15 so that's why, and bottom up zoning.

16 And I think one of the, I mean, it  
17 really does substantively change things. But -

18 COMMISSIONER MAY: I'm sorry --

19 MS. MACWOOD: But even more  
20 important --

21 COMMISSIONER MAY: You said it  
22 really does substantively change?

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1 MS. MACWOOD: It does because it's  
2 diluting the principles.

3 COMMISSIONER MAY: But can you do  
4 things under the new zone designation that you  
5 couldn't do under the old overlay in any of these  
6 examples?

7 MS. MACWOOD: Well, with the  
8 category system, yes, absolutely, because  
9 you're adding in, for example, in the  
10 neighborhood commercial overlay districts  
11 they've gone from having a discreet list of  
12 retail and service uses, which is the whole point  
13 of them --

14 COMMISSIONER MAY: Right.

15 MS. MACWOOD: -- is to have  
16 neighborhood serving retail and service uses to  
17 taking, for example, a pet shop. I'll use that  
18 as an example. A pet shop is one of the discreet  
19 uses that is currently allowed, but the Office  
20 of Planning has taken that and expanded that.

21 Well, that fits into the category of  
22 this larger category so now all of the uses

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1 within that larger category are now allowable.  
2 Hotels and lodging, which are currently not  
3 allowed in neighborhood commercial overlay  
4 districts, have been added in. So you've got  
5 more competing uses that are authorized.

6 COMMISSIONER MAY: So, I think, I  
7 mean, I don't want to predict exactly how this  
8 is going to go but it seems like the renaming and  
9 the restructuring is a critical piece of what's  
10 being proposed here. And if it's not fitting  
11 the bill it would be helpful to know how it might  
12 be changed to do the job more effectively rather  
13 than simply saying, no, you've got to go back to  
14 where you were before.

15 I'm not sure, you know, maybe we will  
16 go back there. But it might also be good to know  
17 how you might change what we have now. And I  
18 don't want to just keep giving assignments out  
19 to people who come before us, but, you know,  
20 sometimes it's very helpful, even if it's just  
21 anecdotal. You know, in this circumstance,  
22 this is what will happen, and this is what we're

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1 concerned about. It gives us something meaty to  
2 latch onto, if you understand.

3 MS. MACWOOD: I'm happy to do that.  
4 The other thing I would point out though is,  
5 while it's fine for me to do that, these overlays  
6 were developed by people in communities and it  
7 seems, it's very surprising and certainly I  
8 think it's going to be surprising to them that  
9 they haven't been conferred with.

10 They haven't been brought into this  
11 process and have it discussed with them, do you  
12 want your overlay changed and do you want it  
13 changed in this particular way, this is what  
14 we're talking about doing.

15 Because, quite to the contrary, what  
16 the Office of Planning told all of the  
17 communities that had overlays is we are changing  
18 nothing. And this is a change.

19 MS. NEUMANN: Well, can I have,  
20 because that was my comment about the Takoma one  
21 that turned out, I didn't even know until I  
22 opened this book and I'm going through it and all

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1 of a sudden I see Takoma, and it's been turned  
2 into a neighborhood commercial area or  
3 something. N2, I think, is our code number.  
4 And I don't know what it means. I plan to look  
5 at it more --

6 COMMISSIONER MAY: In theory, it's  
7 supposed to mean the underlying zone you had  
8 before, plus the overlay. That's what it's  
9 supposed to mean.

10 MS. NEUMANN: Well, that's what I'm  
11 told, and I'm going to look very closely and I'll  
12 be back next week --

13 COMMISSIONER MAY: Right.

14 MS. NEUMANN: -- to let you know.

15 COMMISSIONER MAY: Okay. Thank  
16 you.

17 CHAIRMAN HOOD: Okay, any other  
18 questions? Mr. Turnbull?

19 COMMISSIONER TURNBULL: Thank you,  
20 Mr. Chairman. Ms. MacWood, don't mean to keep  
21 putting you on the spot here. One of your, you  
22 didn't get a chance to talk about it, but one of

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1 your items in your paper was the, you were  
2 concerned about the policy considerations on  
3 PUDs, and you were very concerned.

4 One of your comments is, "Are we  
5 maintaining outdated incentives for  
6 developers?"

7 MS. MACWOOD: Yes.

8 COMMISSIONER TURNBULL: I wonder if  
9 you might get into that.

10 MS. MACWOOD: Well, I intended to  
11 get more into it when we discuss Subtitle I,  
12 but, you know, we're with --

13 COMMISSIONER TURNBULL: Well here  
14 I'm merely talking about the C2C or you had other  
15 items about that too.

16 MS. MACWOOD: Right, right, the C2C  
17 and the C4 and C5. What we seem to be doing is  
18 we are giving developers in downtown, and,  
19 again, we're, as Barbara Kahlow said, the  
20 proposals expand downtown area threefold.

21 And then what we're doing with many  
22 of these zones is we are, we would be offering

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1 developers the maximum height under the Height  
2 Act. Then we would also be, and that would just  
3 simply be by right.

4 But then, as far as FAR is concerned  
5 we'd be saying the proposal is that if you  
6 provide all residential or if you provide more  
7 residential than you're required, there are a  
8 few zones where there's a small amount  
9 residential, but it's required. But in the vast  
10 number of zones that are being proposed downtown  
11 there's no residential that's being required.

12 So if you provide all residential or  
13 more than what is required or you use TDRs then  
14 you get unlimited FAR. And there's no leverage  
15 for this. Well, what are the citizens of D.C.  
16 getting for this? We're giving all of this  
17 density, just simply giving it away. There's no  
18 incentive to do a PUD. There's barely any  
19 incentive for affordable housing.

20 There are only 3, I believe, of the  
21 11 zones that are being proposed, maybe 4, that  
22 are even requiring any inclusionary zoning, and

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1 it's minimal. And they are not in, it's not  
2 being required in the zones that are being  
3 offered the maximum density, both in terms of  
4 height and FAR.

5 So what we're incentivizing is  
6 market rate housing. And everyone in the city  
7 is saying that's not what we want. So that's why  
8 I really hoped to bring this to your attention,  
9 because I think it's something that, we are  
10 missing an opportunity.

11 COMMISSIONER TURNBULL: Okay,  
12 thank you. Ms. Neumann, you made a comment and  
13 you were echoing Ms. Kahlow's comment, and I  
14 think Mr. Alpert made a comment too about  
15 communication. And you're finding it difficult  
16 to go through all of this.

17 You talked and, I think, Ms. Kahlow  
18 had, you brought up her comment about the  
19 redline. Do you see that as a useful tool,  
20 having something out there that compares --

21 MS. NEUMANN: Yes, absolutely.  
22 That's what I've asked for in here. Either,

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1 there are different ways it can be done but I  
2 think that, for me, what would be the easiest is  
3 to have this one page. Instead of having 900  
4 pages we'll have 1800 pages, I guess, but you  
5 have one page and then if there is a change you  
6 show it on this side.

7 Or if this, I shouldn't be showing  
8 a drawing because I don't know if there are any  
9 drawings in the current one, but there is some  
10 text here. But if you have something then the  
11 other, it says what the changes are.

12 I know that it probably wouldn't be  
13 easy to do but it has to be easier for us just  
14 to understand this, if it is done, and it's  
15 easier for them to do it than for most of us.  
16 Because I know zoning reasonably well in my  
17 neighborhood but not well enough to, I don't know  
18 if I could still, not well enough to do this on  
19 my own.

20 And for all these different  
21 categories and for all these different Subtitles  
22 and sections, it's just, I'm spending, you can

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1 see, I've been working at it but it's really  
2 hard.

3 And we're not paid to do this. I'm  
4 a citizen. I'm not a paid lawyer or anything.  
5 And I print out my own stuff normally but this  
6 is a lot of paper and a lot of ink out of my little  
7 cranky little copier/printer. I couldn't do  
8 this and, thankfully, my ANC Chairman had, got  
9 a copy and lent it to me.

10 I went online, and I'm not good  
11 online. I really do prefer seeing a real  
12 document. I did find a couple places where I did  
13 like, that you mentioned, about poking through.  
14 You can get a few things that way, so that was  
15 helpful.

16 But otherwise, and I actually think  
17 that's what you could do. Maybe that's another  
18 way to do it, say, you poke on this and then that  
19 brings up, online, what the change is. So if it  
20 was 100 and, it was 90 feet and now it's going  
21 to be 120 feet, then say, don't just say it's  
22 going to increase the height.

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1 I mean, that's largely what a lot of  
2 this stuff says. Or density, if it's going to  
3 be a FAR change then say what the change is, 1.2  
4 to 2.0 --

5 COMMISSIONER TURNBULL: So a little  
6 bit more, some more explanation on some of the  
7 things that are changing.

8 MS. NEUMANN: Exactly, but it isn't  
9 here. It is not here and it's not online either.  
10 I've tried.

11 COMMISSIONER TURNBULL: Okay.

12 CHAIRMAN HOOD: Okay, Commissioner  
13 Miller?

14 COMMISSIONER MILLER: Thank you,  
15 Mr. Chairman. Again, I want to thank each of you  
16 for your testimony and written comments that you  
17 submitted. They're very helpful and I will have  
18 questions about some of them that I'll be  
19 proposing to the Office of Planning.

20 But, Ms. Gates, could you just take  
21 a minute to expound upon why you think that the  
22 proposed new parking formula for private schools

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1 which is based on the square footage?

2 MS. GATES: Why I think it should be  
3 made to?

4 COMMISSIONER MILLER: Why, no, why,  
5 yes, why you think the current formula, which is  
6 based on use by faculty and staff at the lower  
7 grades and then uses a common large base --

8 MS. GATES: It's based on fact.  
9 You can actually do a count and sort of figure  
10 out how many people are coming every day. As a  
11 rule, teachers do not take public  
12 transportation. They have all kinds of junk to  
13 transport to school, projects, book, what have  
14 you, so they drive.

15 And we've just seen an increase in  
16 parking. And, basing it on the formula that is  
17 being proposed doesn't give me the same sense of  
18 comfort that the current one does, and even that  
19 isn't terrific because I know their schools.  
20 And the one that I talked about in my testimony  
21 is maxed out right now. It has absolutely not  
22 one space left.

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1                   COMMISSIONER MILLER: Yes, I mean,  
2 I can see, conceptually, why you might be think  
3 and why I might share your concern that the  
4 current, I might share your feeling, the concern  
5 that the current formula provides more  
6 protection because it's based on actual uses or  
7 potential use of parking at the school.

8                   But have you actually gone and  
9 looked at some of the schools in your  
10 neighborhood and applied what the square footage  
11 formula would produce in terms of permission  
12 versus what the current use space provides and  
13 come up with a different number?

14                  MS. GATES: The only way I could do  
15 that would be if the school were to give me the  
16 total number of square feet is occupies. That's  
17 what it's based on.

18                  COMMISSIONER MILLER: Don't they  
19 have that, isn't that in the record in some of  
20 these zoning cases?

21                  MS. GATES: Pardon?

22                  COMMISSIONER MILLER: That's not in

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1 the record in some of these zoning cases?

2 VICE CHAIR COHEN: OP had done a  
3 spreadsheet for some schools, and for the most  
4 part in that spreadsheet the new requirement was  
5 significantly lower than the old requirement.

6 COMMISSIONER MILLER: Okay.

7 VICE CHAIR COHEN: But there was a  
8 problem with their spreadsheet, though, because  
9 they applied the elementary school formula for  
10 high schools too and, obviously, the parking  
11 requirement currently at the high schools is a  
12 lot higher than elementary schools. But OP  
13 could probably get you a copy of that.

14 COMMISSIONER MILLER: Thank you.  
15 I will be asking them about that and other  
16 issues. Thank you.

17 CHAIRMAN HOOD: Okay, no other  
18 questions? Ms. Neumann, let me just ask, I  
19 think it was you, was it you that asked us to,  
20 forgive me because I go after everyone else, did  
21 you ask us to maybe delay anything for six  
22 months? Is that what you said? Was that --

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1 MS. NEUMANN: Yes, at least six  
2 months.

3 CHAIRMAN HOOD: And the reason  
4 being that you just found out about this recently  
5 or --

6 MS. NEUMANN: No, I've been  
7 involved for years, and as everybody else has.  
8 It's just that I know that people don't really  
9 know what this is about. And so they've had  
10 meetings but it's still been generalities for  
11 the most part. A lot of, there's been a lot of  
12 good stuff. I don't want to totally, be totally  
13 critical, but sufficiently critical that it  
14 needs more time.

15 And, we've waited this long, what's  
16 another six months to do it right for something  
17 that's so important to our city? That's all.

18 CHAIRMAN HOOD: You know, and we  
19 pretty much started this in 2007, right?

20 MS. NEUMANN: Yes, I started then  
21 too.

22 CHAIRMAN HOOD: Okay, and my

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1 rationale, my question to you is how do we  
2 achieve getting folks involved before we make  
3 the decision because my experience, in the 16  
4 years I've been here, when we do something, and  
5 I'm in the neighborhood too. I'm a community  
6 guy too.

7 And the first thing they say is,  
8 after we did it, Anthony Hood, have you all lost  
9 your mind? And I'll tell you the reason why, is  
10 because when you try to get people to come to all  
11 those charettes and everything the Office of  
12 Planning had, I think the Office of Planning went  
13 out, at our request, to the different wards.

14 And I'm not sure what we we're going  
15 to do, but I can, I know that intensive actions  
16 have been made to try to make sure that this  
17 information is out there. We're doing a ZRR,  
18 come down and get involved. Personally, I know  
19 I've asked my community, please come down and get  
20 involved, see what's going on and what's  
21 happening. What suggestions do you have for us  
22 to improve that?

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1 MS. NEUMANN: That's why I was  
2 suggesting, perhaps, not everybody can go to the  
3 meetings. They've got children. I'm lucky I'm  
4 older and I don't have anybody to worry about  
5 that way and I've got a very forgiving husband.  
6 So I can go to those meetings. And a lot came  
7 to Takoma. I also went to the one at Wilson.  
8 I've been to several, to the one downtown. And  
9 a lot of people did come.

10 But the fact that a lot of people  
11 showed up and were just, there were lots of  
12 pictures on the wall and then we could write on  
13 little stickies and put them stickies around and  
14 then we'd chat, chat, chat and then we'd leave.  
15 I don't know if all the things that we were told  
16 that were going to be done are reflected by this  
17 document. That's my problem.

18 CHAIRMAN HOOD: Okay.

19 MS. NEUMANN: It's all generalities  
20 and that's all I'm saying is if there's some way,  
21 and, again, a webinar and a Chat kind of thing  
22 could work for people who are unable to go to

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1 meetings. I'm sure you get more, don't feel  
2 like you're having these hearings and you're  
3 hearing from everybody in the city about their  
4 concerns because you're not. They're not --

5 CHAIRMAN HOOD: Well, if you  
6 noticed, one of my questions is the Ward question  
7 and I'm going to ask this again right after this  
8 question because I know pretty much what I see  
9 and who's coming down quite a bit. And I'm  
10 looking for the silence, I'm looking for the who  
11 do not speak on these zoning issues, who are  
12 going to be affected. That's what this  
13 commission is looking for.

14 Let me just ask this right quick.  
15 Thank you, Ms. Neumann. Ms. Gates,  
16 Commissioner Miller's already asked you about  
17 that. I will ask Office of Planning. It says  
18 prior school plans were not discussed or  
19 reviewed by the ZRR. I guess one of my questions  
20 is, I will ask the Office of Planning, why. And  
21 I don't want to get tied up with our questions  
22 because I want to hear from the public.

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1           But let me, while I have you, Ms.  
2 MacWood, I agree with you on the RA. I was glad  
3 to see, that was something I had noticed, but  
4 help me understand when it says the, and this is  
5 full 6.1. It talks about the phrase, "wishes to  
6 orally recite its written report should replace  
7 with wishes to testify based on his written  
8 report". Could you help me with that a little  
9 bit?

10           MS. GATES: Oh, regarding the ANCs?

11           CHAIRMAN HOOD: Right, the ANCs.  
12 Sorry.

13           MS. GATES: It seemed very strange  
14 wording to me, and incredibly restrictive. The  
15 way I would interpret that is an ANC  
16 commissioner, who is a party to a case, could  
17 come and testify but they would be limited to  
18 simply be reciting the ANC resolution. That is  
19 not the expectation, I think, of most ANCs, how  
20 they're going to present this. So I thought the  
21 language was overly restrictive and simply  
22 needed to be broadened.

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1                   CHAIRMAN HOOD: I thought that's  
2 what you thought also, and that's one of my  
3 questions. Okay, thank you very much. Any  
4 other questions? Thank you all. The Vice  
5 Chair's going to call the next --

6                   FEMALE PARTICIPANT: The wards.

7                   VICE CHAIR COHEN: Yes, our wards?

8                   CHAIRMAN HOOD: Oh, well, you know  
9 what, I probably think I have it right, anyone  
10 lives in a ward other than 1, 2, 3, 4 and 6? See,  
11 I'm pretty good. Thank you. The Vice Chair  
12 will --

13                  VICE CHAIR COHEN: Okay, I'm going  
14 to apologize up front, if I mispronounce your  
15 last name but I really didn't mispronounce Ms.  
16 Judi Jones, David Avitabile, Dr. Gene Batiste,  
17 Elaine Mittleman. This is a tough one, Peter  
18 Espenschied?

19                  MALE PARTICIPANT: Way to go.

20                  FEMALE PARTICIPANT: I'm sorry, I  
21 think you're too close to the mic.

22                  VICE CHAIR COHEN: Elaine

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1 Mittleman, Larry Werner and John Chelen.

2 MR. CHELEN: Should I wait? I was  
3 the last one called there are not enough chairs  
4 over here --

5 VICE CHAIR COHEN: Oh, I'm sorry.  
6 I thought, you know. I will start with Elaine  
7 Mittleman on the left.

8 MS. MITTLEMAN: Is my mic on? I  
9 can't tell. Okay, thank you. I'm Elaine  
10 Mittleman and I'm an attorney. And first of all  
11 I'd like to express my thanks to Donna Hanousek  
12 who helped me try to use your Web site which I  
13 somehow have trouble with. So she was very,  
14 very nice and patient with me.

15 I'm an attorney but I don't really  
16 do zoning law. But I, the extent I've dealt with  
17 you is from the Skyland case, so my comments are  
18 based on my experience with the Skyland case  
19 which was Number 0903.

20 First is that I think that they, the  
21 PUD application, it was a PUD, I guess you all  
22 know that. The PUD application, I think, should

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1 include verification of the owner. From my  
2 point of view there was an issue about who owned  
3 the property. The applicant was Skyland  
4 Holdings, LLC, which was not the owner.

5 And when I raised that issue I  
6 researched other jurisdictions, and a lot of the  
7 other jurisdictions seemed to have a requirement  
8 that a deed or something be attached, a physical  
9 piece of paper, to the application. And I think  
10 that would have been helpful here.

11 And when I did raise the issue, in  
12 other words, it wasn't addressed in the first  
13 submissions, and I think that you all asked that  
14 there be a document provided based on my enquiry.  
15 And there was, I think it was Exhibit 109 which  
16 purported to show who had title to the property  
17 and, but it was submitted later and I never had  
18 the opportunity to comment on it.

19 And I don't, from my point of view,  
20 this is controversial, but I'm just saying I  
21 don't think that the document that was submitted  
22 shows that the District has title. So it would

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1 have been helpful to start off, day one, with who  
2 was the owner of the property.

3 This may never come up again because  
4 you wouldn't think people would be applying for  
5 a PUD if they didn't own the property but I just  
6 think that would be a very helpful thing to do.  
7 I think there's still an issue because the  
8 recorder of these records do not show that the  
9 District has title.

10 Secondly, and kind of in contention  
11 with that is the issue of recording the covenant.  
12 For the Skyland case the covenant that was  
13 recorded has the District as both the grantor and  
14 the grantee.

15 And I don't, I just don't see how  
16 that's a valid covenant. I'm not an expert in  
17 covenants but when you have the same party on  
18 both sides I don't think that's effective. So  
19 I think there should be some process to verify  
20 that, whether covenants can be enforced.

21 And then the third issue is that with  
22 the PUD application the people at Skyland, which

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1 was the property owners, the business owners and  
2 the tenants, they did not receive notice. The  
3 people that get notice is ANC and then property  
4 owners within 200 feet, which was like the  
5 property owners down the street.

6 So they were involved but yet the  
7 people at Skyland were basically left out of the  
8 process. I guess they could have acted but I  
9 think they should have received notice  
10 originally. Thank you.

11 CHAIRMAN HOOD: Thank you. Next.

12 MR. WERNER: I'm Larry Werner. I'm  
13 a --

14 CHAIRMAN HOOD: Make sure your  
15 microphone is on.

16 MR. WERNER: I'm sorry. It must  
17 have been on before. I'm Larry Werner. I'm a  
18 citizen of Ward 3 and I'm somewhere between  
19 confused and frustrated. I think Lewis Carroll  
20 had a great deal to do with what's transpired.

21 We are going through the looking  
22 glass and down the rabbit hole and it's as simple

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1 as the city is doing so well now and has been so  
2 successful in its growth pattern that we need to  
3 change the zoning rules. There's something  
4 wrong with that. And I have, in my testimony,  
5 a number of examples but let me just add one from  
6 tonight.

7 Right now the average family is one  
8 or two in some of these larger areas such as where  
9 older people are still residing in homes they've  
10 lived in for years. But the average household  
11 in the city is 3.2, but Ms. Tregoning says that,  
12 in 1960, that household was probably six or eight  
13 people.

14 Now, all those numbers may be  
15 correct but they don't add up very well, and I  
16 think it's typical of the kind of structure that  
17 underlays a zoning revision that is not in  
18 compliance with the comprehensive plan. It is  
19 not what was requested originally which was to  
20 revise the existing code. Instead, it makes  
21 massive changes and it does it in many ways, far  
22 too often, under cover.

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1           There may no longer be a transit zone  
2 but there's still, all the rules and changes that  
3 apply to transit zones are still there. We  
4 don't need parking because we have too few cars,  
5 but we don't count the number of vehicles as the  
6 DMV does, which is increasing.           And, oh,  
7 by the way, in every area where there's a transit  
8 zone we are now seeing the city imposing  
9 16-hour-a-day,           7-day-a-week           parking  
10 restrictions so that the people who live in those  
11 areas who don't, supposedly, need the cars and  
12 won't have them are there.

13           Other people have talked very  
14 effectively about the problems about the  
15 overlays, et cetera but, just in general, if the  
16 structure of a plan is bad and if, when you go  
17 to it, you can't find what was changed, you can't  
18 find the purpose of it and you can relate purpose  
19 to the new structure there's something wrong.

20           And I just implore you, let's not  
21 rush this through. It's too important. It's  
22 too vital. And it's too massive for the city.

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1 We don't need this much change this quickly. We  
2 have time for public participation.

3 CHAIRMAN HOOD: Thank you. Next.

4 MS. JONES: Good evening. I hope I  
5 get four minutes, like the first group did. But  
6 my name is Judi Jones. I'm an ANC in Ward 4,  
7 4B07, and I had kind of a prepared text except  
8 that this transition, and I have a couple of  
9 questions for OP because I just found out tonight  
10 that the Industrial zone in my area is now a part  
11 of the new zoning regs and I was not notified of  
12 that.

13 And so I'm, I want to talk about  
14 PUDs. There were a couple of things in there  
15 that I think have, can be changed. But, for the  
16 most part, we have eight to ten developments or  
17 proposed developments in 4B and only one of those  
18 is a PUD. And they are, it has been a nightmare  
19 processing that PUD.

20 They have been allowed to sell parts  
21 of that PUD and, therefore, we have to  
22 renegotiate that PUD. So I don't see any

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1 changes happening that I saw in the PUD process  
2 that the Office of Planning has planned.

3 Also, there are, you have campus  
4 plans. There are a limited number of industrial  
5 zones in the city. I have one in my SMD. And  
6 there should be a process, a planned process, for  
7 those industrial zones as well as overlays and  
8 PUDs. And I am advocating that you add that in  
9 to the Office of Planning rewrite, the zoning  
10 rewrite, because what I heard tonight, I didn't  
11 like.

12 The general uses for a zone for  
13 commercial, industrial and repair, which is  
14 counterintuitive to your green, environmentally  
15 sustainable green process that you included in  
16 the zoning rewrite. It has private clubs. We  
17 have just closed, we finally got the land sold  
18 from a private club when I first moved in that  
19 area.

20 So I'm not, I will be back tomorrow  
21 for the use of it, but I have just learned that  
22 the industrial zone in my area, which I have

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1 asked Office of Planning to help me with for two  
2 and a half years, is now included in the zoning  
3 rewrite under another name.

4 So I just want to, otherwise, I agree  
5 with Nancy MacWood and the comments of Loretta  
6 Neumann. She has the copy I've been looking for  
7 in order to read and get this done. It has been  
8 a process getting this done. So I'm not really  
9 happy with the outcome as of yet. Thank you.

10 CHAIRMAN HOOD: Thank you. Next.

11 MR. ESPENSCHIED: I'm Peter  
12 Espenschied. I'm a member of the Ward 3  
13 Democratic Community and the Cleveland Park  
14 Citizens Association which I represent at the  
15 Federation of Citizens Associations.  
16 Previously, I've been Vice President of the  
17 Cleveland Park Citizens Association and served  
18 three terms as an ANC commissioner.

19 I am here speaking only for myself.  
20 My testimony applies to Subtitles A and X. In  
21 a unified city it is not feasible for each  
22 neighborhood to have complete autonomy, nor even

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1 for individual neighborhoods to function as  
2 separately incorporated small villages like  
3 those of nearby Montgomery County, but who knows  
4 what opportunities statehood will bring.

5           However, the Office of Planning's  
6 massive proposed zoning revision would swing the  
7 pendulum to the opposite extreme. It is a  
8 top-down plan. It is top-down planning with no  
9 content originated by affected communities and  
10 little attention paid to the reactions of  
11 residents when told what is planned.

12           When OP managers attend  
13 neighborhood meetings their positions have been  
14 that of explaining what will be done with only  
15 a thin veneer of listening to what residents do  
16 or don't want. OP is using the desirability of  
17 specific minor repairs of the zoning code as an  
18 excuse for a wholesale revision of that code.

19           This is a meta example of fixing  
20 something that isn't broken and it is in many  
21 ways expressive of contempt for the  
22 comprehensive plan. The zoning code has

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1       functioned well over its 50 plus years,  
2       providing with continual minor improvements the  
3       background for the city's development that  
4       successfully continues today.

5               Here are two easy examples of  
6       proposed revisions that are totally unnecessary  
7       and would have predictably bad results.  
8       Example one, the neighborhood commercial  
9       overlays district where a community-generated  
10      concept that has worked well for over 20 years.  
11      It is endorsed in detail by the comprehensive  
12      plan.

13             It provides a presence, excuse me,  
14      preserves a balance of community, of commercial  
15      offerings, plenty of restaurants and bars, but  
16      also retail shops and services that are so valued  
17      by neighborhood residents. But the particulars  
18      of the various NCODs are different from each  
19      other, reflecting the different needs and  
20      different desires of different neighborhoods.

21             OP would smooch these all together  
22      in one standardized new zone. Why?

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1 CHAIRMAN HOOD: May I just ask that  
2 you --

3 MR. ESPENSCHIED: May I continue?

4 CHAIRMAN HOOD: No, that's it.  
5 Everybody else is, we, everybody else was doing  
6 the same time, so I want make sure, you can, if  
7 we don't already it, if we don't already have  
8 your testimony you can submit it and we'll read  
9 it. If we already have it, we'll read it.  
10 Okay, next.

11 MR. BAAD: Good evening, my name is  
12 David Baad and I'm the Assistant Headmaster of  
13 St. Albans School. I'm here to read the  
14 testimony of Vance Wilson, Headmaster of St.  
15 Albans, who is very sorry he could not be here  
16 tonight to read it himself. This is his  
17 testimony.

18 "Good evening Chairman Hood and  
19 members of the Commission. My name is Vance  
20 Wilson. Since 1999 I have served as Headmaster  
21 of St. Albans School, one of three private  
22 schools that are part of the Protestant

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1 Episcopal Cathedral Foundation located on the  
2 grounds of the Washington National Cathedral.

3 I also served as the head of the D.C.  
4 Oversight Committee of Independent Education,  
5 an association of independent private schools in  
6 the Greater Washington Region including 25  
7 schools in the District of Columbia.

8 My deep concern about the new zoning  
9 regulations for independent schools is the  
10 burden they will put on us. We will have  
11 considerably more paperwork and more research to  
12 do for all projects, no matter the scale. The  
13 new requirements clump together independent  
14 schools and area colleges and universities.  
15 This seems unfair.

16 We simply do not have the staffs  
17 comparable to those of area colleges. Our  
18 campuses, our student bodies, our faculty, our  
19 budgets and our future renovation and  
20 construction projects are not on the scale of  
21 local colleges and universities. Our budgets  
22 are extremely tight. Our non-teaching staffs

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1 are lean. Adding to the staff means taking away  
2 from the faculty. These regulations will make  
3 us less effective in the classroom.

4 Let me comment specifically.  
5 First, the Commission should recognize that  
6 private nursery, elementary and secondary  
7 schools are not the same as colleges and  
8 universities. And the Commission should delete  
9 Section 104.1(e) which requires private schools  
10 to supply campus plan information under Section  
11 101.15 with its applications.

12 For the first time ever regulations  
13 would require every special exemption  
14 application for a nursery school and elementary  
15 school or high school to submit the same campus  
16 plan information that a university or college  
17 files, regardless of the scope of the request.

18 Second, the Commission should  
19 delete the new standards introduced on 104.2 and  
20 104.5. The new Section 104.2 requires private  
21 schools to calculate FAR for existing and  
22 proposed buildings on their grounds. However,

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1 most private schools are located in residential  
2 zone districts that are not subject to FAR  
3 limitations. This would be an expensive  
4 undertaking for existing schools and serve  
5 little purpose. We therefore recommend  
6 deleting this provision.

7 Third, certain accessory uses  
8 traditionally associated with private schools,  
9 such as daytime care and before and after school  
10 programs, have been eliminated under the new  
11 regulations without explanation.

12 It appears that daytime care  
13 facilities, which encompass child development  
14 centers and before and after school programs are  
15 only permitted as an accessory use in the new R2  
16 district if certain conditions are met.

17 They can only be located in the  
18 principle residence of the caregiver, only a  
19 member of the caregiver's immediate family  
20 residing on the premise can be employed at the  
21 facility and only mechanical equipment that is  
22 permissible for purely domestic or household

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1 purposes is allowed.

2 Daytime care facilities will no  
3 longer be permitted as an accessory use to either  
4 a religious institution or a private school for  
5 use by its teachers and staff because they will  
6 not be able to meet these very restrictive  
7 conditions. These conditions should be  
8 redrafted to allow daytime care facilities in  
9 private schools and religious institutions.

10 Teaching is a science, an art, a  
11 great human enterprise. Every adult carries  
12 around, inside his head, a story about some  
13 teacher who affected him. Always, these  
14 stories speak of some kind of direct emotional  
15 attention, she cared for me after we lost, he  
16 talked to me when I was lonely, he carried me atop  
17 his back, she disciplined me when I needed it.  
18 She said something I've never forgotten.

19 My duty, as head of the D.C.  
20 Oversight Committee of Independent Education,  
21 as head of St. Albans School, as a teacher, is  
22 to allow these stories to be told. Increased

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1 regulations will take away from the education we  
2 provide students, one on one, day after day.

3 Private schools in the area are  
4 educating students well. Please help them  
5 continue to be as good as they can. Thank you  
6 for the opportunity to present these comments  
7 this evening."

8 CHAIRMAN HOOD: All right, thank  
9 you. Next.

10 MR. LAYMAN: My name is Will --

11 CHAIRMAN HOOD: -- microphone on.

12 MR. LAYMAN: My name is Will Layman.  
13 I'm the Director of Advancement at the Field  
14 School, which is another one of the independent  
15 schools located in D.C. in ANC 3D. We currently  
16 enroll 357 students and we've had two recent  
17 experiences in requesting and receiving changes  
18 to our zoning that, I think, demonstrate the  
19 wisdom in not requiring a full campus plan for  
20 nearly all private school zoning approvals.

21 Field has fewer than 100 employees.  
22 We can't employ professional campus planners or

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1 in-house legal staff. In fact, in our recent  
2 presentations and work before the BZA I was the  
3 primary strategist, along with our head of  
4 school and our outside council. I teach class,  
5 an English class every day. I lead the school's  
6 jazz ensemble. But here I am tonight.

7 In 2012 the Field School admitted  
8 its first ever sixth grade. We'd been a 7  
9 through 12 school prior to that. And this did  
10 not entail expanding our enrollment, increasing  
11 our traffic, having any construction done or any  
12 changes at all to the footprint or landscape of  
13 our school.

14 As a result we were able to get  
15 approval from the BZA to change the statement on  
16 our zoning order to allow for the presence of  
17 sixth graders on our campus without the expense  
18 of a campus plan or a full hearing before the BZA.  
19 It just made sense.

20 In 2013, this is the second story,  
21 Field sought to expand its potential enrollment  
22 from 320 students to as many as 400, an effort

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1 that would be supported by a building project.  
2 In this case, of course, we hired the necessary  
3 outside consultants and experts, at great  
4 expense, to present our plans to our neighbors,  
5 to the ANC where we actually won overwhelming  
6 approval and to the various D.C. regulatory  
7 agencies, DDOT, Office of Planning, and so on  
8 and, ultimately, to the BZA itself.

9 And while this second effort  
10 required greater expense and effort by our very  
11 small school it still did not require as complete  
12 an effort as what would be required for nearly  
13 every zoning change by a private school under the  
14 new regulations.

15 Rather, our two experiences  
16 demonstrate that the current system which allows  
17 for a proportional effort by schools, depending  
18 on the extent of the change being made to their  
19 properties or the extent to which there will be  
20 a change and the affect that the school will have  
21 on its neighbors, that proportional approach is  
22 working very well for these smaller schools.

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1           The system is currently configured  
2           and is proposed by the changes that are suggested  
3           by our group, Independent Education. It  
4           requires private schools to make their case  
5           clearly and completely but not require that we,  
6           with our limited resources and our relatively  
7           limited ability to engage in campus planning,  
8           relative to colleges and universities. It  
9           would not require us to act like a university in  
10          every case.

11           And this just makes sense. And in  
12          the recent cases involving my school, the Field  
13          School, it allowed a small school to make  
14          important changes that expanded the services  
15          that we can offer to the D.C. community without  
16          incurring outrageous or even prohibitive  
17          expense. Thanks for your time.

18           CHAIRMAN HOOD: Thank you. Next.

19           DR. BATISTE: Good evening,  
20          Chairman Hood and members of the Commission.  
21          For the record, my name is Dr. Gene Batiste, and  
22          I'm the Executive Director of Independent

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1 Education. Independent Education is an  
2 association of independent schools in the  
3 Washington, D.C. region. We are here tonight on  
4 behalf of 25 of our member schools that are  
5 located within the District of Columbia.

6 Our D.C. based independent schools  
7 enroll more than 12,000 students which saves the  
8 District approximately \$130 million in public  
9 school per pupil expenditures. We serve many  
10 different types of students using different  
11 educational strategies and approaches, and  
12 provide families with a wide range of  
13 educational options.

14 We are committed to the educational  
15 excellence in safe, supportive environments and  
16 we have high expectations for every student,  
17 regardless of ability. More than 20 percent of  
18 our students receive some form of financial  
19 assistance and that financial assistance totals  
20 nearly \$50 million.

21 Independent schools provide nearly  
22 3000 jobs in the District. Our schools are the

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1 fourth largest non-profit employer in the  
2 District of Columbia. We provide an array of  
3 local community services including summer  
4 programs that are open to all children in the  
5 District of Columbia and a number of our campus  
6 facilities are used for a variety of purposes,  
7 including athletics, technology and the arts.

8 Our member schools are non-profit  
9 organizations that are governed by Boards of  
10 Trustees and independently financed. Unlike  
11 colleges and universities, our schools do not  
12 have professional staff devoted to campus  
13 planning and land development.

14 When our schools seek new zoning  
15 approvals the efforts are led by staff who are  
16 diverted from their full-time jobs educating our  
17 students or raising funds to support financial  
18 aid in order to focus on application and  
19 community outreach process.

20 Many of our schools also have  
21 limited financial resources and the reports and  
22 consultants required for these approvals divert

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1 funds from our educational mission. For these  
2 reasons, we ask the Zoning Commission to remove  
3 the requirement of a full campus plan for most  
4 independent school zoning approvals.

5 Such a requirement would impose an  
6 onerous and undue burden on our member schools,  
7 our teachers and staff and our limited  
8 resources. Instead, we ask that the Commission  
9 adopt regulations that simply require  
10 independent schools in the District to provide  
11 information that is proportionate to the  
12 requested zoning relief.

13 This is how the existing process  
14 works and it provides the Board of Zoning  
15 Adjustment, city agencies and community groups  
16 with the appropriate information to evaluate any  
17 potential impacts. Thank you for your time.

18 CHAIRMAN HOOD: Thank you. Next.

19 MR. AVITABILE: Thank you. Good  
20 evening, Chairman Hood and members of the  
21 Commission. For the record, I am David  
22 Avitabile, with Goulston & Storrs. I am also

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1 here this evening on behalf of Independent  
2 Education and the Consortium of universities.  
3 Thank you for considering our comments and  
4 suggestions on the rewrite and my comments on  
5 Subtitles A and X.

6 First, as you've heard, we asked the  
7 Commission to keep the existing system in place  
8 for reviewing private school uses. As you've  
9 heard, most independent schools do not have the  
10 professional staff or resources to engage in  
11 complex and detailed master planning efforts.

12 Furthermore, the scope and scale of  
13 development on these campuses, which are largely  
14 already built out, do not warrant a full campus  
15 plan. Most development or change consists of a  
16 modest enrollment increase or a new one-off  
17 building here or there. And the existing impact  
18 based proportional analysis is sufficient to  
19 evaluate the appropriateness of the school's  
20 expansion.

21 To the extent that campus plans are  
22 required for independent schools, they should be

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1 reserved for the establishment of new schools or  
2 new campuses. As you've also heard, we asked  
3 the Commission to review the requirement for  
4 private schools to certify their FAR.

5 Again, most private schools are  
6 located in low-density residential zones  
7 without an FAR limitation so the requirement  
8 does not even really serve a purpose and it can  
9 be actually quite expensive to bring in a  
10 consultant to come through and document exactly  
11 what the gross floor area of the building  
12 currently is.

13 We also endorse the changes proposed  
14 by OP in its October 25th report on Subtitles A  
15 and X, eliminating theoretical lot requirements  
16 and simplifying height measurement on  
17 institutional campuses. The commons sense  
18 changes reflect the realities of development on  
19 university and private school campuses without  
20 diminishing the protections afforded by the  
21 zoning regulations.

22 To that end, we also urge the Zoning

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1 Commission to reconsider the proposed  
2 requirement to exclude private streets from FAR  
3 calculations for institutional campuses. I  
4 know Dr. Cavanaugh addressed this earlier, but  
5 please allow me to expand briefly.

6 Similar to theoretical lots, the  
7 requirement to exclude private streets from the  
8 FAR calculations doesn't make sense when applied  
9 on a campus setting. Unlike the street network  
10 in a PUD or other common development where an  
11 orderly grid system is devised should  
12 effectively extend the public street network for  
13 the benefit of multiple homeowners, a campus  
14 roadway is different.

15 Campus roadways are often ad hoc  
16 networks that have been in place for decades and  
17 vary over time. They are completely internal to  
18 the campus and are not open to thru traffic or  
19 public use. Rather, they are used often only as  
20 limited, for limited access to buildings for  
21 service and loading. In many cases the  
22 vehicular use is actually subordinate to

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1 pedestrian use of these roadways.

2           It's an apples and oranges situation  
3 and it doesn't make sense to apply the PUD rule  
4 on private street networks that's evolved over  
5 the last couple of years to campus roadways as  
6 well. Also, as detailed in the Consortium's  
7 letter that's in the record, the proposed  
8 regulation would eat away at the FAR increase  
9 that's been purposely afforded to campuses in  
10 order to allow them to accommodate their space  
11 needs within their campus boundaries and avoid  
12 encroaching on surrounding residential  
13 neighborhoods.

14           We also endorse the proposed  
15 modifications in that October 25th report that  
16 would allow the zoning administrator to have  
17 discretion to approve minor modifications to  
18 university campus plans and private schools.  
19 We do not, and also support the concept that  
20 those would, of course, be referred back to the  
21 Zoning Commission to ensure that they're  
22 consistent with the approved plan.

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1 I do want to note, however, that for  
2 that flexibility to private schools the language  
3 needs to be tweaked to allow the permits that  
4 authorized by BZA order, which would be how the  
5 private school is approved, basically tweak it  
6 to allow for referral back to the BZA as well.  
7 And that's all I have. Thank you.

8 CHAIRMAN HOOD: Thank you very  
9 much. Thank you all. Mr. Espenschied, if you  
10 could provide your testimony, if you haven't  
11 already done so, we'll look at the ending of your  
12 testimony at the appropriate time.  
13 Commissioners, any questions at this time?  
14 Vice Chair?

15 VICE CHAIR COHEN: Mr. Espenschied,  
16 I have a question for you, if I understood you  
17 correctly. The comprehensive plan is a very  
18 broad plan, in my estimation and experience and  
19 you did indicate that there was some  
20 discrepancies between the zoning rewrite and the  
21 comprehensive plan. Can you elaborate, please?

22 MR. ESPENSCHIED: Yes, I would

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1 first refer you to remarks that addressed that  
2 directly from Nancy MacWood. The comprehensive  
3 plan very explicitly and extensively endorses  
4 the neighborhood commercial overlay districts  
5 and, in fact, encourages expansion of them to  
6 other areas of the city where they may be desired  
7 by the community.

8 The tone, I would say, and the  
9 overall effect of the proposed zoning rewrite  
10 goes in completely the other direction by  
11 ignoring the distinctions among neighborhood  
12 commercial overlays, which is one of the most  
13 important aspects of them, and essentially  
14 merging them with larger zoning so that the  
15 individuality and, particularly, the community,  
16 I would almost say, control because they are all  
17 generated from community concerns, they start  
18 there, disappears.

19 I don't know if that adequately  
20 answers your question but I think there's a very  
21 large problem there.

22 VICE CHAIR COHEN: Thank you. I

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1 have no more questions.

2 CHAIRMAN HOOD: Okay, any other  
3 questions of the, Commissioner Miller?

4 COMMISSIONER MILLER: Thank you,  
5 Mr. Chairman. Thank you, too, for your  
6 testimony. I don't mean to be focusing on this  
7 one issue because I don't want to get overly  
8 importance in my own mind, but since I have the  
9 Field representative, St. Albans representative  
10 and IE, which I didn't even know existed until  
11 tonight, which I think it's good that it does  
12 exist, and they have an Education Association.

13 The question I have is have you done  
14 a calculation as to how the new private school  
15 parking formula would affect the number of  
16 parking spaces that are currently allowed at  
17 your schools? Under the existing formula would  
18 you have more? Would you be required to have  
19 more spaces or less spaces?

20 MR. BAAD: I think it depends. I,  
21 actually, I wasn't aware of that change. I  
22 hadn't focused on it until earlier today when I

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1 was reviewing the OP reports. But I do think one  
2 of the OP reports in Subtitle C includes a table  
3 that specifically calls out how the change would  
4 be implemented and it shows some schools would  
5 require more parking, some schools would require  
6 less parking.

7 Brief glance, it looked like it was  
8 50/50 as to whether it was more or less,  
9 depending upon the school. So I think it's  
10 Appendix B to their report on Subtitle C.

11 COMMISSIONER MILLER: I thank you  
12 for that testimony, for that answer. And, yes,  
13 I think it's important that we make sure there's,  
14 as we go through this, that we want to have the  
15 protections there for the surrounding  
16 residential communities.

17 But we want to also be able to retain  
18 the flexibility that allows communities and the  
19 Zoning Commission to, and the BZA to craft  
20 formulas and responses that address the specific  
21 needs of the school and the needs or the  
22 protections of that adjacent residential area.

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1 So it's a balancing act that we always struggle  
2 with but we need the flexibility to have, to make  
3 that balancing work.

4 CHAIRMAN HOOD: Okay, any other  
5 comments, questions? Ms. Jones, I know your  
6 work. You're in Ward 4, right? I know of your  
7 work and I know you're very involved. I didn't  
8 hear you say that you didn't know about the  
9 zoning, right? You just don't agree with it?

10 MS. JONES: I knew about zoning  
11 rewrite. They had a series of meetings last  
12 year and this year about the zoning rewrite.  
13 What I didn't know is that there is an industrial  
14 area in my SMD. And what I didn't know was that  
15 it was included in the zoning rewrite until  
16 tonight.

17 And that is part of the problem. I  
18 wasn't notified, it wasn't processed through, I  
19 have SMD meetings monthly and it wasn't  
20 processed through the SMD meeting. They know,  
21 I had, we had formed a Lamond Community  
22 Corporation to address the redesign of that

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1 industrial area. They weren't notified of it.

2 So I am surprised to see it involved  
3 and immersed in the overlay and that the  
4 information is coming out piecemeal, even after  
5 the community meetings. So I have been trying  
6 to work with the Office of Planning in order to  
7 redesign that industrial area.

8 And throughout the city it is, there  
9 are very few industrial areas in the city and  
10 they are fewer of them than there are campus  
11 plans or campuses to plan. And so I'm urging  
12 that there be a process by which the industrial  
13 areas have PUD process or an overlay process.

14 CHAIRMAN HOOD: Okay. All right.  
15 Okay, so thank you.

16 MS. JONES: Thank you.

17 CHAIRMAN HOOD: Any other questions  
18 or concerns? Okay, thank you. Thank you all  
19 very much. We appreciate all your testimony.  
20 Okay, hopefully I don't mess this name up, John  
21 Chillin? Chelen? Chelen? Okay, Clifton  
22 Seagroves, Benedicte Aubrun, Cheryl Cort, Renee

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1 Bowser and John Timp or Tinpe, ANC 2C, John T-I,  
2 oh, okay, Tinpe, okay. He'll correct me when he  
3 comes up.

4 Now I think I have a few seats left.  
5 Is there anyone else who would like to testify  
6 tonight? Okay, you can come forward, or did I  
7 give up all the seats? No.

8 Is there anyone else who would like  
9 to testify, if you can come forward. Okay, this  
10 is the last call because what I plan on doing is  
11 closing the record or closing the testimony  
12 list, so we can ask our questions of the Office  
13 of Planning.

14 Commissioners, be thinking how long  
15 you want to go. Plan on doing 10-minute rounds  
16 so we can try to get as much of this done as  
17 possible this evening. If the Office of  
18 Planning is all right. I know it's late. I  
19 appreciate your diligence. We plan on going to  
20 maybe about 11:15/11:30. A lot of us ride  
21 bicycles and take mass transit. I don't think  
22 any of us up here drive, do we? Okay. All

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1 right, so we're already saving the carbon  
2 footprint.

3 Okay, is there anyone else who would  
4 like to testify? Okay, we want to, let me ask  
5 my colleagues, disagree? We're going to cut the  
6 list off here. We're going to ask our questions  
7 and if we don't finish tonight, it gets too late  
8 and Office of Planning wants to take a break and  
9 we all want to go, we will find a overflow date  
10 where we'll, all we're going to do is continue  
11 in these Subtitles A, W, X, Y and Z, is ask our  
12 questions of the Office of Planning, okay?

13 All right, we're all on the same  
14 page. Let's start, let's start from my left and  
15 go to the right. Thanks.

16 MS. BRAY: Thank you, Chairman  
17 Hood. My name is Kinley Bray. I'm with the law  
18 firm of Arent Fox and I'm testifying on behalf  
19 of the Sheridan-Kalorama Neighborhood  
20 Coalition. I've been working with SKNC for  
21 about seven years on various issues related to  
22 the diplomatic map overlay.

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1 I had not intended to testify  
2 tonight because, frankly, we're quite pleased  
3 with the amendments that have been proposed by  
4 the Office of Planning as they relate to  
5 diplomatic map overlays.

6 But, as the suggestion was made in  
7 the earlier round of persons testifying that the  
8 issues related to diplomatic map and the  
9 location of Chanceries in residential zones be  
10 tabled, I felt that it was important to step up  
11 and say that the very organization who  
12 originally brought the map amendment, seeking to  
13 remove several squares which were largely  
14 miscategorized as institutional in nature, when  
15 in fact they're residential in nature, that case  
16 was actually tabled by the Zoning Commission in  
17 2005.

18 And it has yet to be resolved. It's  
19 a still pending map amendment. The direction of  
20 the Zoning Commission gave, at the time, was that  
21 the Office of Planning go back and study the  
22 unofficial one-third/two-third rule to see if it

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1 still applied and to make an attempt to codify  
2 that rule.

3 And over the past six years we've had  
4 various meetings with the Office of Planning,  
5 with the Office of the Attorney General to try  
6 to resolve that issue to the satisfaction of  
7 Sheridan-Kalorama. And I'm pleased to say that  
8 in the last year we have made significant  
9 progress, and that is embodied in the text that  
10 you see before you tonight, and it's noted in  
11 OP's report.

12 So I wanted to thank the Office of  
13 Planning for their tireless work on this  
14 particular matter and state, for the record,  
15 that the Sheridan-Kalorama Neighborhood  
16 Commission is certainly in support of the  
17 proposed 50 percent rule because that does  
18 represent a true tipping point, the point at  
19 which a square shifts from institutional, from  
20 residential, strictly residential, to  
21 institutional where there are various  
22 non-residential uses that have crept into that.

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1           And if that is the threshold for  
2 determining where a Chancery is appropriate in  
3 a low-density residential zone, then,  
4 certainly, one-third, it has always been  
5 Sheridan-Kalorama's position that one-third is  
6 too low and 50 percent represents a reasonable  
7 compromise where there is clearly no argument  
8 that there is a significant portion of  
9 institutional uses within a low-density  
10 residential square and, at that point, a  
11 Chancery may be appropriate.

12           And so we support the text as  
13 written.

14           CHAIRMAN HOOD:     Okay, Thank you  
15 very much. Next. Is your microphone? It's  
16 lit up, so there you go.

17           MS. BOWSER: Yes, thank you. Good  
18 evening, and thank you for holding these  
19 hearings. My name is Renee Bowser. I'm Vice  
20 Chair of the Advisory Neighborhood Commission  
21 4D and Commissioner of Single Membership 4D02.

22           I'm testifying on behalf of ANC 4D

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1 which passed a resolution on October 15, 2013 at  
2 a duly noted monthly meeting before a quorum  
3 urging the Zoning Commission to adopt procedural  
4 regulations which will allow advisory  
5 neighborhood commissions to provide more  
6 studied input in taking positions on matters  
7 before the Zoning Commission and Board of Zoning  
8 Adjustment on which ANCs are afforded great  
9 weight.

10 So these proposals are with regard  
11 to Subtitle Y, for BZA procedures and Subtitle  
12 Z, for the Zoning Commission procedures. At the  
13 outset, ANC 4D would request, and let me say that  
14 on October 25th we submitted a resolution on the  
15 proposals that we are urging the Commission to  
16 adopt.

17 But at the outset we requested  
18 additional public hearing dates as which the  
19 public and ANCs can testify on the sweeping  
20 1100-page zoning rewrite. Such additional  
21 hearing dates should be scheduled only after  
22 ANCs across D.C. are given more time to discuss

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1 the proposed changes, in detail, with their  
2 constituents including evaluating their impact  
3 on their communities, review studies and reports  
4 and draft provisions to be voted on by their  
5 commissions for great weight considerations.

6 ANC's were not given adequate time to  
7 evaluate the final draft of the rewrite. As the  
8 final draft was set down in September and copies  
9 of the final draft were available in public  
10 libraries and on disc to, one disc to each ANC,  
11 in October.

12 So it's only been a month or less.  
13 Accordingly, we're requesting an additional  
14 90-day period to review and formulate positions  
15 on the final draft of changes before the  
16 scheduling of additional hearings.

17 I had concentrated and brought to my  
18 ANC several issues. But, I'm learning here  
19 tonight, there are other important proposed  
20 changes that would impact our neighborhood that  
21 we did not have time to go through.

22 And on Tuesday, October 29th, we met

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1 with, the ANCs met with Council Chair Mendelsohn  
2 and many of the ANCs commissioners were unaware  
3 of all the changes that may possibly go into  
4 effect.

5 ANC 4D proposes a procedural change  
6 in the length of time agency reports are due  
7 before the Commission holds public hearings  
8 pursuant to DCMR Title 11 3012, the Zoning  
9 Commission may request the Office of Planning  
10 and other public agencies to provide information  
11 and assistance in contested cases and  
12 rule-making cases to be heard by the Commission.

13 At DCMR Title 11 3012.5, ANCs are  
14 authorized to participate in the contested case  
15 in rule-making case process and file written  
16 report. Currently, pursuant to Title 11  
17 3012.3, the director of Office of Planning can  
18 file a report up to ten days before the hearing.  
19 ANC 4D believes that the filing of agency reports  
20 so close to hearing dates deprives ANCs of the  
21 opportunity to consider public agency reports in  
22 their ANC decision making.

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1                   Therefore, ANC 4D urges the Zoning  
2 Commission to change what is currently DCMR  
3 Title 11 3012.3 to provide that written reports  
4 by the director of Office of Planning and other  
5 agencies must be filed at least 60 days in  
6 advance of public hearings.

7                   ANC 4D proposes a similar procedural  
8 change in the length of time agency reports are  
9 due to the Board of Zoning Adjustment prior to  
10 public hearings.

11                   Pursuant to DCMR Title 11 3100 BZA  
12 has jurisdiction to grant variances and special  
13 exceptions. BZA can refer applications for  
14 variances and special exceptions to any public  
15 agency for a report or recommendation. ANCs are  
16 part of this process and are to be accorded great  
17 weight.

18                   Yet DCMR Title 11 3114.2 authorizes  
19 public agencies to file their reports or  
20 recommendations up to 7 days prior to the hearing  
21 date. ANC, again, believes that the filing of  
22 agency reports so, even closer, to the hearing

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1 dates deprives ANCs of the opportunity to  
2 consider public agency reports in ANC decision  
3 making.

4 Therefore, ANC 4D urges the  
5 Commission to change what is currently Title 11  
6 3114.2 so as to provide that reports for  
7 recommendations must be filed 60 days in advance  
8 of public hearing.

9 Finally, and very importantly,  
10 there have been situations which the Board of  
11 Zoning Adjustment has issued oral decisions in  
12 proceedings, but it's failed to issue a written  
13 decision until long after the oral decision.

14 CHAIRMAN HOOD: Ms. Bowser, I'm  
15 going to have to cut you off.

16 MS. BOWSER: Have I been given five  
17 minutes? Okay.

18 CHAIRMAN HOOD: Five minutes start  
19 at, yes, we --

20 MS. BOWSER: Can I just say that  
21 we're asking that --

22 CHAIRMAN HOOD: Ms. Bowser, Ms.

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1 Bowser, now I'm, I did that to Mr. Espenschied.  
2 I'm going to have to cut you off. We have your  
3 testimony, okay? Next.

4 MR. LUMPUY: Good evening, Chairman  
5 Hood and members of the Commission. I won't  
6 speak as long. I speak only to one issue and  
7 it's one issue that has -- oh, my name is Lumpuy,  
8 Carlos Lumpuy, and I'll try not to speak about  
9 myself, Champlain Street, N.W., 18th and  
10 Columbia Road or what today we call Adams Morgan.  
11 I've been there since 1960.

12 Fifty-three years, I've seen  
13 changes on my street and the reason I'm here is  
14 to speak to one issue, and one issue only. And  
15 that is uniformity of height on an urban street.  
16 Uniformity of height on an urban street. In  
17 1987 I participated at the Zoning Commission  
18 hearing at the District Building when we were  
19 down-zoned from commercial to residential.

20 And we were told at that time exactly  
21 how high we could build on an area so expansive  
22 as Florida Avenue to Euclid Street and from

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1 Champlain Street all the way to 16th Street. I  
2 complied. Both of my projects are matter of  
3 right on Champlain Street, facing each other,  
4 The Erie at 2351 and the Eden at 2360.

5 We have to live with the decisions  
6 that the BZA makes and the Zoning Commission  
7 makes. And when you do, you pit neighbor  
8 against neighbor because you give favoritism to  
9 some property owners. And they come with the  
10 returns and then you raise the height limit, so  
11 then we have a street, today, which now has  
12 buildings higher and lower than others.

13 Why can't we have fair play and the  
14 rule of law? Why can't we do what Abraham  
15 Lincoln told us, government exists only to do  
16 what citizens cannot do for themselves? And  
17 that includes zoning and land use regulations.  
18 And zoning and land use regulations includes  
19 uniformity of height. Uniformity of height is  
20 important.

21 Individual property owners,  
22 citizens, tenants, property owners, they can't

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1 do anything about it. We look to you. But you  
2 have failed Champlain Street and you have failed  
3 Champlain Street big time. You have pitted  
4 neighbor against neighbor.

5 We have lawsuits, we have new  
6 tenants associations fighting with owners.  
7 Why? Because it is your job. You are the  
8 policemen of property owners, and you have  
9 failed in your job. You're not social workers.  
10 You must learn to say the word, No. If you don't  
11 know how to say the word, No, you don't belong  
12 in government.

13 We must have fair play and the rule  
14 of law. That's all we ask as property owners.  
15 Just give us a fair playing field. Give us a  
16 fair playing field. Stop with the variances and  
17 the exemptions and have a uniformity of code.  
18 Thank you.

19 CHAIRMAN HOOD: All right, thank  
20 you. Next.

21 MR. TINPE: Hello, thank you very  
22 much. I'm John Tinpe, ANC for 2C and I represent

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1 an area that is increasingly popular with  
2 residences as well as commerce. And we, our  
3 area's a mixed commercial and residential area.

4 And it seems like, more increasingly  
5 so, the commercial part of it prevails over the  
6 residential part, such as the full motion signs  
7 that went up on Verizon, for instance, that  
8 reflect light into the residential windows.  
9 Recently some parking spaces have been removed  
10 in favor of a payment to the DCR for \$21,000 a  
11 year so that his company could have their parking  
12 over there.

13 So things like that are happening in  
14 the neighborhood, so we would like to, when you  
15 make these reviews, to consider the residences'  
16 rights carefully when making rulings and with  
17 reviewing the regulations. Thank you very  
18 much.

19 CHAIRMAN HOOD: Thank you. Next.

20 MS. CORT: Good evening, Chairman  
21 Hood and members of the Zoning Commission. My  
22 name is Cheryl Cort. I'm with the Coalition for

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1 Smarter Growth.

2 And I just wanted to, first of all,  
3 thank the Zoning Commission, the zoning office  
4 staff and the Office of Planning for about five  
5 years of hard work and extensive public outreach  
6 in all sorts of different ways, touching  
7 thousands of D.C. residents on a fairly obscure  
8 topic for every day residents.

9 And just wanted to say that, given  
10 the length of this effort, which, I'm exhausted  
11 by, having been on the comprehensive plan task  
12 force as well which came out with its report in  
13 2006.

14 We are hopeful that we can move  
15 forward with wrapping up this final set of  
16 hearings after dozens and dozens of hearings and  
17 all sorts of outreach to move quickly to revise  
18 these zoning regulations after so many years.

19 We're eager to see a zoning code that  
20 will make our city more walkable, more  
21 sustainable, affordable, and a code that's more  
22 understandable. And we think that the proposed

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1 code, overall, is going to do that for us.

2           Regarding tonight's topic I wanted  
3 to note, for Subtitle X, related to planned unit  
4 development benefits, a couple of concerns about  
5 some provisions. We suggest eliminating the  
6 provision for three or more bedroom units as a  
7 public benefit. We think that should be  
8 reserved for affordable housing and perhaps for  
9 a three-bedroom unit, affordable housing, not  
10 market rate.

11           We think that the, we'd like to see  
12 clarification of the affordable housing public  
13 regarding income level. I still haven't been  
14 able to locate the definition of low-income and  
15 moderate-income housing. It's supposed to be  
16 in the inclusionary zoning section of Subtitle  
17 C, but I haven't been able to find it and it  
18 wasn't in Subtitle B which refers to Subtitle C.

19           Presumably, low-income is 50  
20 percent AMI and moderate income is 80 percent  
21 AMI. The, we would like to see preference for  
22 the low-income households, that 50 percent AMI,

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1 as what we should be pursuing under a planned  
2 unit development as that is particularly  
3 beneficial, as opposed to 80 percent AMI.

4           Regarding Subtitle X and housing  
5 linkage we suggest eliminating the section I've  
6 noted here, 306.2(b) that limits being able to  
7 institute, essentially, affordability into a  
8 PUD related to a housing linkage for office space  
9 in a bonus density, basically.

10           And a note on WMTA property. It  
11 seems that it's not appropriate to limit this  
12 housing language program related to WMTA  
13 property.

14           And, further, we suggest that we  
15 reconsider some of the provisions that are all  
16 carried over from the existing zoning code  
17 related to the housing linkage program for  
18 office space to perhaps maybe look at a fee going  
19 to the housing production trust fund as a simpler  
20 way to address linking the benefits of this bonus  
21 density for office to affordability.

22           Also note that there's a dwelling

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1 unit size minimum of 850 square feet which I  
2 don't quite understand, given this is far, a  
3 larger size than the standards that we have for  
4 minimums for rezoning units. And the rental  
5 unit term of 20 years, we'd suggest that we  
6 follow the inclusionary standard of life of the  
7 building.

8 Lastly we'd like to address the  
9 provisions or Subtitle Y and Z related to filing  
10 documents electronically and we suggest  
11 eliminating the requirement to contain the  
12 signature of the originator as David Alpert had  
13 previously testified.

14 We think that email communications  
15 are a standard way that people communicate today  
16 and that it should be to provide email comments.  
17 It is common in other jurisdictions, NCPC, to  
18 provide input officially on cases.

19 And we ask that the provision for  
20 requiring a signature be removed from the  
21 standards for providing acceptable testimony  
22 electronically to the BZA and to the zoning

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1 commission. Thank you for your consideration.

2 CHAIRMAN HOOD: Okay, thank you.

3 Next.

4 MS. AUBRUN: Good evening, Mr.  
5 Chairman and members of the Commission. My  
6 name is Benedicte Aubrun. I am a long-term  
7 resident of Washington, D.C., more specifically  
8 at the Adams Morgan area, Ward 1. I wanted to  
9 thank the Commission for the opportunity to  
10 testify on a very important topic today.

11 My testimony will be brief as I am  
12 here to urge the commission to allow more time  
13 for the residents to review the new zoning  
14 regulations report that was presented by the  
15 Office of Planning a little more than a month  
16 ago.

17 Indeed, how can she resident's,  
18 without the proper expertise in zoning, can  
19 review and comment on such a massive document of  
20 1000 pages in such short time. This process is  
21 not sufficiently collegial for there to be  
22 informed citizens' participation.

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1                   Citizens review is further  
2 complicated by failure of the OP staff to  
3 indicate where the changes were made and are  
4 being made for each date on the zoning  
5 regulations rewrite as we go through this  
6 process. Listening to Chairman Hood, I am,  
7 myself, very involved in the community as a  
8 volunteer. And the amount of work required  
9 should be compared to a full-time job.

10                   I can see why people are afraid of  
11 getting involved, because of the extreme  
12 difficulty to dissect the OP's document. So I  
13 am asking the Commission what could be done to  
14 continue assisting ANCs and residents willing to  
15 work on that matter, to be more familiar and  
16 educated on such a complex topic ZRR is.

17                   The public feels lost and needs to relate  
18 to the process, understand what the impacts of  
19 the new zoning report will have on each  
20 neighborhood. Tonight shows us there is still  
21 some discrepancies that need to be addressed.

22                   It is my understanding that some

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1 ANCs have passed resolution requesting the  
2 Zoning Commission to delay on its final  
3 decision, to allow more time for review.  
4 Massive public reach out and input are crucial  
5 to make our city liveable and better city. I  
6 concur with Nancy MacWood, Ms. Neumann, Mr.  
7 Hargrove testimonies. I will email and updated  
8 version of my testimony. Thank you very much.

9 CHAIRMAN HOOD: Okay, Thank you.  
10 Next.

11 MR. SEAGROVES: Good evening. My  
12 name is Cliff Seagroves and I'm here to tonight  
13 on behalf of the United States Office of Foreign  
14 Missions. As the Zoning Commission is aware,  
15 Section 206 of the Foreign Missions Act, which  
16 has been both federal and D.C. law for three  
17 decades, applies to the location, replacement  
18 and expansion of Chanceries in the District of  
19 Columbia.

20 This section explicitly states  
21 where Chanceries are permitted to locate and  
22 provides that any determination concerning the

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1 location of a Chancery or an appeal of an  
2 administrative decision with respect to a  
3 Chancery base it in whole in part upon any zoning  
4 or map. So it bases it solely on the six  
5 criteria established under the act.

6 It is federal law that serves as the  
7 authority under which these types of cases are  
8 reviewed. D.C. zoning regulations, as a  
9 result, under the law, are required to be  
10 consistent with the requirements of the act.  
11 The Languages of Foreign Missions Act leaves  
12 little doubt that Congress wished to create a  
13 comprehensive process with a fair and  
14 expeditious decision of issues relating to  
15 foreign Chanceries in the District of Columbia

16 . With this said, the Department has  
17 stated it only recently became aware of the  
18 significant changes the Office of Planning is  
19 proposing with respect to Chancery use cases.  
20 We're still reviewing and analyzing those  
21 provisions, but I can be sure, tonight, that we  
22 believe the vast majority of what the Office of

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1 Planning has proposed is widely inconsistent  
2 with the requirements of the Foreign Missions  
3 Act and therefore would consistent a violation  
4 of federal law and, for that matter, D.C. law.

5 This is unfortunate, given the  
6 explicit requirement that any regulations,  
7 proceedings or other actions of the Zoning  
8 Commission and the Board of Zoning Adjustment  
9 affecting the location, replacement of  
10 expansion of Chanceries be consistent with the  
11 Foreign Missions act.

12 New week the Department of State  
13 will have its first opportunity to discuss the  
14 Office of Planning's proposed revisions with the  
15 Office of Planning concerning Chancery phases.  
16 Therefore I am requesting that further review by  
17 the Zoning Commission of all proposed changes to  
18 the zoning regulations concerning Chanceries be  
19 tabled until these issues can be appropriately  
20 assesse.

21 I didn't intend to bring this up  
22 tonight, but in response to other statements I

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1 believe it is important that the Commission also  
2 review some of the history concerning how the  
3 Foreign Missions Act came to be, specifically,  
4 the environments associated with the location of  
5 Chanceries. This came out of the history with  
6 the last time the District government attempted  
7 to restrict the location of Chanceries in lower  
8 density residential areas.

9 That culminated in the District's  
10 Location of Chanceries Act of 1979, a piece of  
11 legislation that went down as the first time the  
12 Congress used its authority to, the power of  
13 disapproval of an act by the D.C. City Council.

14 So we look, we are concerned that  
15 some of the changes that are proposed are very  
16 similar to where we once were and we understand,  
17 certainly, the concerns expresses by others with  
18 respect to this issue, but I cannot understate  
19 or highlight enough the seriousness in which the  
20 Department of State views the impact of some of  
21 these actions, that they could have with respect  
22 to our conduct of foreign relations. Thank you.

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1 CHAIRMAN HOOD: Thank you. Next.

2 MR. CHELEN: Hello. My name's John  
3 Chelen. I am a nearly 40-year-resident of Ward  
4 3 in Cleveland Park. Today I'm going to testify  
5 on behalf of the Ward 3 Democrats which perhaps  
6 is the most fairly represented group of  
7 grassroots activists in the city.

8 I was fortunate enough to be invited  
9 to be the Chair of the zoning task force for the  
10 Ward 3 Democrats. But I'm going to also go a  
11 little bit further than that because, in my own  
12 personal right, I served as the most immediate  
13 prior president of the Cleveland Park Citizens  
14 Association and I also served as legal counsel  
15 to the Cleveland Park Business Association.

16 So I think I can synthesize the  
17 viewpoints of a range of interests in Cleveland  
18 Park. Now my own personal background is that  
19 I'm a lawyer. I have been involved for nearly  
20 30,40 years on international, national,  
21 environmental energy and transportation issues.

22 I've done strategic planning for the

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1 World Bank. Vice President Al Gore personally  
2 announced two of my major initiatives, and I  
3 think I have a fairly decent understanding of  
4 federal regulatory procedure. I have received  
5 awards, I have sat in a similar position as you  
6 all have on federal regulatory matters.

7 I cut my teeth on zoning, though, in  
8 the contentious battle over the giant  
9 development. It nearly tore apart the  
10 neighborhood, I'm pretty sure you all recognize  
11 the history of what went on there. I was  
12 fortunate enough to survive that. I can't say  
13 that I was radicalized but it lead people to  
14 invite me to Chair the Ward 3 Dem Zoning Task  
15 Force.

16 I had prepared written testimony  
17 that I was going to read this evening, but I'm  
18 going to forego that. And, I beg your  
19 forbearance if I'm not as articulate as this  
20 situation has called for. But I believe you  
21 have a significant problem on your hands.

22 I don't believe you have been

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1 offered up the methodology, the research, the  
2 public participation, the professional writing,  
3 the collaboration, any of the things that we know  
4 are called for in a fundamentally fair  
5 regulatory development process.

6 You've seen this tonight. You've  
7 seen a sampling of people with different points  
8 of view. I think this is replicated on a very  
9 deep, harmful basis across the city. In our  
10 task force we split into tiger teams to take on  
11 the essential issues that zoning had to face in  
12 this rewrite. We had a team on ADUs, on parking,  
13 overlays, PUDs, et cetera.

14 I learned quite a bit because we had  
15 some very expert people working on that task  
16 force. Every time I looked at an issue and when  
17 it had been proposed I saw deep flaws. And, to  
18 this day, I've not seen these flaws remedied.  
19 You've heard very clear testimony about the  
20 inadequacy of the process.

21 One of the simple things we called  
22 for was the publication of black letter law, a

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1 complete revised text with adequate time for the  
2 community to review and analyze it. Obviously,  
3 that was not presented. Was there a need for  
4 haste? No, because you yourselves know that  
5 PUDs are generally successively obtained.  
6 There is nobody who is suffering now under an  
7 inadequate code or set of regulations.

8           You've heard from other people here,  
9 ask about why does the formula need to be changed  
10 when we were so successful. I could offer you  
11 my interpretation. I could go into some of the  
12 theories behind this, but I don't believe that  
13 the simple matter of how you integrate Metro has  
14 been well thought out.

15           From my own thinking, as a  
16 transportation planner, I look at things such as  
17 intermodal transitions. It is at the location  
18 of Metros where we should actually have more  
19 parking. That's how you get people out of cars  
20 and into Metros. And we don't have an  
21 alternative that's going to harm the developers.  
22 They've already received an increase in the

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1 value of their real estate holdings because of  
2 the location of the Metro.

3 I could go on and on and on. I  
4 intend to revise my written testimony. I hope  
5 I'm given the opportunity to submit it to you,  
6 and lay out some of these deeper problems. I  
7 think you have to go back and read the letter  
8 submitted to you by council member Cheh and  
9 council member Evans, representatives of the  
10 environmental interests and the business  
11 development of this community. And they call to  
12 task the procedure, the theory and the ability  
13 for OP to have developed and given you anything  
14 of worthwhile note.

15 The same thing is true from other  
16 letters that we have received as well. I think  
17 you have to go back, read those letters, read  
18 those resolutions passed by the Ward 3  
19 Democrats, by the Plea of Parts Citizens'  
20 Association. I thank you very much for my  
21 opportunity to testify.

22 CHAIRMAN HOOD: Okay, thank you

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1 very much. And on that note, while the witness  
2 list is cut off today for the Subtitles A, W, X,  
3 Y and Z, you still can submit, as you asked to  
4 do, you still can submit something in writing on  
5 the Subtitle A, W, X, Y and Z. Do we have a  
6 cut-off date for that, Michele? Not a cut-off  
7 date.

8 Okay, so that's how we'll move in  
9 that fashion. While we won't hear anymore  
10 testimony, this is the last panel on the  
11 Subtitles A, W, X, Y and Z, we will take written  
12 testimony. Okay, let's open up any questions of  
13 this panel.

14 Question? Come on.

15 VICE CHAIR COHEN: No, I'm just  
16 curious, Mr. Chelen, you know, you have a vast  
17 amount of knowledge that is useful. Have you  
18 participated from 2007 onwards to share that or  
19 did you just get involved?

20 MR. CHELEN: I did not testify, I  
21 did not participate in the beginning. I was  
22 highly involved in the Citizens' Association,

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1 trying to build bridges between a fractured  
2 community, and I discovered how many people were  
3 misled on what was being proposed and what the  
4 arguments were. That took my time.

5 But then, discovering the Ward 3  
6 Dems, I then began to dig into this. And I  
7 attended several of the public sessions that  
8 were held. I asked Ms. Tregoning specific  
9 questions such as the flawed basis of the  
10 projection that we have less vehicles being  
11 owned in the city. Received a very incoherent  
12 answer and asked why we weren't using DMV  
13 statistics. I received no answer.

14 That was what I saw time and time  
15 again in the times I did publicly participate.  
16 I wish I had the opportunity to have been  
17 involved years back. I had worked with some of  
18 the leading national advocacy groups on federal  
19 regulatory policy, working with ALIRA and OMB  
20 and some of the leading political advocates as  
21 well.

22 And, I'll tell you, I would've

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1 raised a ruckus if I had seen the kind of  
2 procedure that was being done and set forth here.

3 VICE CHAIR COHEN: Thank you.

4 CHAIRMAN HOOD: Okay, any other  
5 questions? Okay, let me just ask, Mr.  
6 Seagroves, you mentioned that next week the  
7 Department of State will be looking at these  
8 regulations. Is this their first time?

9 MR. SEAGROVES: We are having a  
10 meeting next week with the Office of Planning to  
11 discuss --

12 CHAIRMAN HOOD: So is this the first  
13 meeting?

14 MR. SEAGROVES: Correct.

15 CHAIRMAN HOOD: Okay. All right,  
16 any other questions? Okay, I want to thank this  
17 panel. We appreciate your testimony.

18 Okay, commissioners, take a deep  
19 breath. What I will suggest is that we take  
20 maybe 10-minute rounds. Office of Planning, if  
21 you all are ready, the panel will try to go in  
22 the same order. Well, our normal order.

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1           We'll start with Commissioner May,  
2 Vice Chair Cohen, oh, you need, okay, we're going  
3 to take a three-minute break. The court  
4 reporter needs a break. Okay, let's go off the  
5 record for a few moments.

6           We're back on the record. I'm going  
7 to start with Commissioner May.

8           COMMISSIONER MAY: Okay, so first  
9 question I have, I think, goes to a little bit,  
10 some of the feedback we heard tonight about the  
11 desire for a mark-up. I know that this is sort  
12 of a complete restructuring. It's hard to do a  
13 mark-up. But, at the very least, is it possible  
14 to get some sort of commentary on it that  
15 indicates where we have substantial changes?

16           Because it looks like a lot of the  
17 language is just converted from old numbers to  
18 new numbering, or slightly restructured, and  
19 there really is no substantive change, and, but  
20 it's very hard to know that. So is it possible  
21 to get that kind of annotation?

22           MS. STEINGASSER: We can take

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1 another stab at it. We have, not only the  
2 cross-walks, we have facts sheets that we've put  
3 out, and then, of course, in our reports. This  
4 document is a continuum. That's what you have  
5 before you. So, but we're happy to take another  
6 stab at putting everything together and we'll do  
7 it --

8 COMMISSIONER MAY: I mean, I'd  
9 rather not see another stand alone document but  
10 have it kind of side by side with the existing.  
11 I know it's hard --

12 MS. STEINGASSER: A side by side,  
13 I'll be honest, is impossible. I don't even  
14 want to fill the --

15 COMMISSIONER MAY: No, I'm not even  
16 saying the side, I'm not even talking about a  
17 side by side. I'm just talking about a mark-up  
18 of the text with commentary kind of on the side  
19 where this section is unchanged or, you know.

20 MS. STEINGASSER: From our existing  
21 --

22 COMMISSIONER MAY: Yes.

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1 MS. STEINGASSER: -- eleventh. I  
2 mean, we can go through the Subtitles, through  
3 the chapters, and try to work through it that  
4 way.

5 COMMISSIONER MAY: Yes, but, I  
6 mean, chapter by chapter, even, would be, okay.  
7 Something like that would be, I think would be  
8 helpful.

9 MS. STEINGASSER: But I want to be  
10 clear. I want to be very clear on what the  
11 expectation is. It won't be line by line by line  
12 by line.

13 COMMISSIONER MAY: And I'm not --

14 MS. STEINGASSER: It'll be like  
15 sections or chapters.

16 COMMISSIONER MAY: I understand.  
17 That's not really --

18 MS. STEINGASSER: Okay.

19 COMMISSIONER MAY: -- practical.  
20 And that's why I wasn't asking for it. So, just  
21 out of curiosity, when we're all done with this  
22 are we going to be, I mean, because we're, it

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1 feels like we're adding a lot of complexity to  
2 the structure and a lot of chapters.

3 And I know that when you go online  
4 now and read zoning regs, because of the way it's  
5 done, it's chapter by chapter. It's all these  
6 Word documents that you have to pull up, one at  
7 a time. It's a very, very difficult document to  
8 read online. Didn't it used to be, when it was  
9 just the regs that were published by the zoning  
10 office, is there any hope that we're going to  
11 wind up with a decent version of it, kind of like  
12 what you were actually reviewing?

13 Because I'm reviewing it chapter,  
14 I'm sorry, Subtitle by Subtitle using the  
15 electronic version and it's very easy to  
16 understand and to find things and so on. Really  
17 hard to do that on the standard Web site for  
18 reading regs like this.

19 MS. STEINGASSER: I'm not quite, we  
20 have a compiled version.

21 COMMISSIONER MAY: I know. I know,  
22 I'm not talking about the one that we're

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1 reviewing. I'm talking about when it's finally  
2 published is it going to be as difficult to read  
3 --

4 MS. STEINGASSER: Oh, no.

5 COMMISSIONER MAY: -- as the  
6 current regulations are now --

7 MS. STEINGASSER: Oh, I see, .

8 COMMISSIONER MAY: -- online,  
9 because of the way they are published online by  
10 whatever, whoever does it. Sharon, who  
11 actually publishes it? What office is that?

12 MS. SCHELLIN: It's ODAI, the  
13 Office of Documents is really in charge.

14 COMMISSIONER MAY: ODAI. Yes, I  
15 mean, if it's going to wind up in their format  
16 it's going to be a nightmare to read  
17 electronically.

18 MS. STEINGASSER: Well, the ODA Web  
19 site, yes, is very difficult to maneuver. The  
20 Office of Zoning's ability to post things  
21 functionally is, I think, much greater. And I  
22 think we'll be working with them to make sure

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1 that the final formatting is something that they  
2 can work with.

3 COMMISSIONER MAY: Okay. I would  
4 hope so. I just wanted to, I didn't, it just  
5 dawned on me as I was reading it that we need to  
6 do that. Okay, so the, on campus plans a big  
7 issue was made of the inclusion of interior roads  
8 on campuses, or rather, yes, the inclusion of  
9 the, in the FAR calculation. And I  
10 have a certain sympathy to that. I was big on  
11 making sure that interior roads or private roads  
12 were not counted on PUDs, but I'm not sure that  
13 campuses kind of fall under the same thing.

14 I would think that if it is a private  
15 road that is publicly accessible that it should  
16 be excluded, perhaps. But if it's just a  
17 roadway that's internal and you have to be in a  
18 university vehicle or have a pass or something  
19 to get in I'm not sure that there's really a  
20 benefit to it.

21 Is there something else that we were  
22 trying to get at?

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1 MS. STEINGASSER: Well, the  
2 Commission has taken a position, and OAG has  
3 found case law that actually backs up the fact  
4 that if it's used for public right-of-way,  
5 whether it's by easement or whether it's by  
6 dedication, it doesn't count as part of a lot.

7 And the Commission has taken recent  
8 action to define that, and that's why the Office  
9 of Planning didn't feel comfortable carving out  
10 a new definition just for campus plans, because  
11 it's very difficult for us to figure out what's  
12 a primary, what's a secondary, what's a service.  
13 But we might be able to work with the  
14 representatives and come up with some language  
15 that lets them make their case in front of the  
16 Commission with each.

17 COMMISSIONER MAY: Right, and, I  
18 mean, I think it's right that, you hit it first  
19 off, that it has to do with what's publicly  
20 accessible as opposed to what's not.

21 MS. STEINGASSER: Right.

22 COMMISSIONER MAY: And I think, I

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1 mean, that may be hard to find out too, but I just  
2 didn't, it just didn't seem that there was, it  
3 was in exact parallel with PUDs.

4 Okay, so I assume that as fair amount  
5 of what happened with the drafting new Chancery  
6 regulations occurred without much input from  
7 State Department and that's all going to be  
8 corrected once you start meeting with them. Is  
9 that what I heard?

10 MS. STEINGASSER: We're happy to  
11 meet with them. The federal government did have  
12 a seat on the task force for the last six years.  
13 They received copies of drafts of everything  
14 that's gone out. We've got no feedback on this  
15 particular issue, so.

16 COMMISSIONER MAY: Yes, so they  
17 were, I mean, were they not, well, I won't go into  
18 that. So, but now you'll have a chance to get  
19 that feedback, right?

20 MS. STEINGASSER: Yes, however, I  
21 also would say, in drafting these our Office of  
22 the Attorney General was very heavily involved

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1 and was comfortable with the final document.

2 COMMISSIONER MAY: Okay, I will,  
3 I'm glad to hear you say that. That's what I  
4 would have hoped. So to the concern that  
5 getting, I know this is a broader question, it's  
6 not really a specific chapter. But since it was  
7 discussed tonight, the concern that the loss of  
8 overlays, the elimination of overlays, is going  
9 to wind up with substantial changes to the  
10 protections in those neighborhoods.

11 And that's not my impression, or at  
12 least that didn't seem to be the intent. Can you  
13 confirm for me that that's --

14 MS. STEINGASSER: It absolutely is  
15 not the intent.

16 COMMISSIONER MAY: Okay.

17 MS. STEINGASSER: Where the overlay  
18 modified a purpose or intent statement of the  
19 base zone we tried to reflect that. The  
20 overlays did not fully replace all the intent and  
21 purposes of the base zones. They modified those  
22 and we tried to reflect those. We'll take

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1 another look at those and we'll discuss them in  
2 detail --

3 COMMISSIONER MAY: Right.

4 MS. STEINGASSER: -- next week.

5 COMMISSIONER MAY: And I don't know  
6 if you actually got any feedback but there are  
7 some substantial changes.

8 MS. STEINGASSER: Then we're  
9 absolutely happy to take, to work on that.  
10 We've been very, very clear about that over and  
11 over. Same with uses, we've asked over and over  
12 if we haven't captured the conditions of the  
13 uses. We'll absolutely be looking at that.

14 COMMISSIONER MAY: Okay, the issue  
15 of full campus plans being required for private  
16 schools, I mean, it's, it is a separate section  
17 but it refers back to the section under  
18 university plans which has that long list of all  
19 the things that are required.

20 MS. STEINGASSER: Right, we, and  
21 I'll take responsibility for that one, as they  
22 say. We thought we had put enough caveats by

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1 saying as appropriate, as relevant, and I  
2 thought that had made it clear that --

3 COMMISSIONER MAY: That long list  
4 might be toned down --

5 MS. STEINGASSER: Might be toned  
6 down.

7 COMMISSIONER MAY: -- depending on  
8 the scale of the campus, so.

9 MS. STEINGASSER: But we will  
10 absolutely take another look at that. We are  
11 not trying to increase the burden on the smaller  
12 private schools. And we do want to make sure  
13 that the same plan goes forward. we're not  
14 trying to get into their business beyond the  
15 current regulations but we do want to provide a  
16 little bit more clarity. That's all we were  
17 trying to get at. But we'll work with them on  
18 that.

19 COMMISSIONER MAY: Okay. So I have  
20 a few more questions that are specific to the  
21 chapters that we talked about tonight. And I  
22 did do a thorough review of the whole document

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1 and have a lot of almost editorial type changes  
2 that I will find some way to get this information  
3 to you.

4 But I'm still not quite sure of, I  
5 mean, it's the sort of thing where I start asking  
6 a whole bunch of questions early on and then as  
7 you read further on some of those questions are  
8 answered. So I want to vet my list again and  
9 I'll transfer everything that's substantive to  
10 you.

11 I also transferred to the Zoning  
12 Office the things that are purely editorial in  
13 nature, where there's a reference incorrect or  
14 things like that, and they can do with it what  
15 they will. But I'll do it all on paper. And I  
16 am done, with a minute to spare.

17 CHAIRMAN HOOD: And you won't, we  
18 won't have to do a second round?

19 COMMISSIONER MAY: Well, you know  
20 what, want me to make it my last?

21 CHAIRMAN HOOD: Oh, I'll be quiet,  
22 maybe I shouldn't have said anything. I'm

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1       sorry.   Okay, Vice Chair Cohen.

2                   VICE CHAIR COHEN:   I always like  
3       Commissioner May to go first because he covers  
4       quite a bit that I don't need to duplicate.   But  
5       I just had a few questions with regard to what  
6       I've observed in my time of being on the  
7       Commission which is, as I said, going on to my  
8       third year, is that there have been many, many  
9       meetings that the Office of Planning has held as  
10      well as the fact that this was kicked off in 2007.

11                   And there are not too many cities  
12      that I'm aware of that has gone through this  
13      process so long and with so much, what appear to  
14      be, involvement of the community.   I was  
15      actually quite proud when I heard some of the  
16      explanations of the number of meetings.

17                   I'm just very, very confused.   And  
18      there's just this total disconnect, so I'd like  
19      to hear some reaction to what we've heard tonight  
20      about postponing something that I think has been  
21      going on for a significant amount of time.

22                   MS. TREGONING:   I can try to take

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1 this one. It's, it comes up with some frequency  
2 in other planning efforts. We've made a lot of  
3 changes to these reports and I wouldn't be the  
4 first to tell you that this draft regulation is  
5 far from perfect. And Commissioner May found  
6 some discrepancies in references and we found  
7 some as well. We have an errata sheet.  
8 There'll be one every time.

9           There's a difference between not  
10 having a public process and engaging people and  
11 listening to what they say and entirely agreeing  
12 with every comment that is heard. And I think  
13 you'll hear in the course of testimony over the  
14 next days and weeks that many people felt we, our  
15 changes went too far. Others felt they didn't  
16 go far enough. And that's, I don't expect  
17 unanimity from, on this topic.

18           There are lots of very strongly held  
19 views and even disagreements about whether the  
20 city is changing now, and how. So I think you're  
21 seeing a reflection of that. It's also common,  
22 as it was in our last comprehensive plan which

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1 was quite controversial, that when there isn't  
2 a consensus there are people who ask that it be  
3 delayed or deferred or not acted on or tabled.

4 And I don't know how that helps us  
5 to get to a place where there's more resolution.  
6 So I wish I could, I wish we could have gotten,  
7 the Zoning Commission, something that really was  
8 a consensus document.

9 But, I think, instead what we've  
10 given you is something that reflects a lot of  
11 input from many, many citizens and a lot of  
12 changes. And it is our best attempt to provide  
13 a zoning code that will serve us well for the next  
14 50 plus years.

15 VICE CHAIR COHEN: Thank you.  
16 Again, going back, maybe I'm going to be asking  
17 this question differently. But dropping the  
18 overlays seems to be a gut reaction from the  
19 communities, thinking that they have a special  
20 set of visions for their community.

21 And so is it necessary, in what way  
22 is it necessary to sort of consolidate the, what

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1 was the overlays into an actual zoning  
2 nomenclature?

3 MS. STEINGASSER: The overlays are  
4 basically, they create new zones. They pair  
5 with the zone beneath them. They marry up and  
6 they create their own zone.

7 Under the current regulations you  
8 start with your base zone, you go find your  
9 overlay, then you go find your other  
10 requirements. Then you go back.

11 We've got several places where we  
12 have an overlay on top of an overlay and it just  
13 seemed like, okay, when you start having that  
14 many overlays then the base zone underneath it  
15 is broken. So it needs to be put together and  
16 a new zone created.

17 We proposed it back in 2008 and the  
18 Commission was very positive in their feedback  
19 and guidance on moving in that direction. The  
20 purpose of the zones are still there. The sense  
21 of community ownership is still there. The  
22 geography definitions are still there. The

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1 uses, everything is still there.

2 We heard originally that they were  
3 too buried in the middle of all the other mixture  
4 zones so we put the letter N in them. Then we  
5 went, another set and said well let's just put  
6 them all in their own Subtitles.

7 So be very clear, this is where these  
8 neighborhood commercial zones are. And then  
9 each one has a title and that title is the  
10 geography or the community that it represents.  
11 So it's reinforced over and over and over.  
12 It's still there.

13 We think it's the right thing to do.  
14 It's certainly easier on the map for someone to  
15 understand what they're looking at and then go  
16 to that one spot and not have to go to two or three  
17 spots and try to figure out, between the two,  
18 which is the most restrictive and which is not  
19 the most restrictive and how that applies.

20 MS. TREGONING: And for what it=s  
21 worth, I would also just say that, far from not  
22 liking overlays, we think the notion of

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1 customized neighborhood zones, that a C2A in one  
2 neighborhood is different than a C2A in another  
3 neighborhood, that elements of community  
4 character and defining architecture and scale  
5 and form, those things can be reflected.

6 And so it, especially going in that  
7 direction, it didn't necessarily make sense to  
8 have something called an overlay that would  
9 different than a specific neighborhood based  
10 commercial zone, which is the direction that  
11 we're moving towards.

12 VICE CHAIR COHEN: Thank you.  
13 We've heard testimony from, this is going to  
14 shock you, this question, from the Coalition of  
15 Smart Growth and, or for Smart Growth. And  
16 they're asking that we be more definitive on, and  
17 Definitions, I know, is tomorrow, but in  
18 delineating income levels for affordability as  
19 well as giving greater recognition to providing  
20 50 percent of median income. Can you respond to  
21 that, please?

22 MS. STEINGASSER: That was brought

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1 to our attention this afternoon, and we will be  
2 working with our housing specialists and DHCD to  
3 look into that. We think, also, that the, that  
4 Ms. Cort was right. The definition may have  
5 inadvertently not been codified in the new regs  
6 proposed, and we do want to get that in there.

7 VICE CHAIR COHEN: And lastly, I  
8 think, it was brought up that the campus plans  
9 should be really done separately. The stages  
10 should not be consolidated. Do you have any  
11 reaction to that?

12 MS. STEINGASSER: Yes and no. At a  
13 certain level there is an efficiency to having  
14 a campus plan come forward, if it's clean and  
15 ready to go and all they want to do then is move  
16 into a further processing. In other cases, as  
17 you've heard tonight, it can be a crippling  
18 amount of work.

19 And what happened the last few years  
20 was we had two or three major universities moving  
21 at the same time, and into that was also woven  
22 multiple further processes in anticipation of

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1 the new campus plan or in furtherance of the  
2 existing campus plan. So it became, it did  
3 become an enormous volume of work for the  
4 community to understand which campus plan they  
5 were looking at as they would process the  
6 different pieces.

7 So in some cases it can be efficiency  
8 and in other cases it can be quite burdensome.

9 VICE CHAIR COHEN: This is still, I  
10 still have a little bit of time, so I just want  
11 to take up all of it, of course. On the campus  
12 plans, is it something you can do during set down  
13 to sort of --

14 CHAIRMAN HOOD: That's your  
15 one-minute warning.

16 VICE CHAIR COHEN: Oh, okay.  
17 During set down, is that something you can  
18 determine the complexity?

19 MS. STEINGASSER: That's another  
20 advantage. The campus plan does not have a set  
21 down. So they file as, but it is something that  
22 perhaps we could look at giving the Zoning

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1 Commission the option to determine whether they  
2 want to be dealing with both and further  
3 processing simultaneously with a master plan.

4 CHAIRMAN HOOD: Okay, Commissioner  
5 Turnbull. This is our regular order.

6 COMMISSIONER TURNBULL: Thank you,  
7 Mr. Chair. Well, I just want to, I mean, I just  
8 want to thank the Office of Planning. I mean,  
9 they've been doing a tremendous amount of work  
10 for a long time and I just want to recognize that  
11 effort. And you shouldn't have gotten rid of  
12 Travis. Well, you didn't get rid of him, but you  
13 shouldn't have let him go. See, that's part of  
14 your problem. I won't go there, never mind.

15 In light of that, if we get back to  
16 the campus plan, I mean, the most excruciating  
17 hearings, set of hearings, I went through was  
18 with AU. And I, and they're right. I mean, that  
19 may have been passed the tipping point for second  
20 stage.

21 And maybe if you get a campus plan  
22 and the university says we have a need for a

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1 second stage because of one project, I mean,  
2 there might be a specific need but when you have  
3 multiple second stages, I think we had three ANCs  
4 and it was contentious. We had neighborhood  
5 organizations and it almost gets away from  
6 looking at the overall need of the campus plan  
7 when you start, to me it makes it more complex.

8 And I think we were, it was for  
9 nights, I mean, it was just, the hearings, the  
10 brutal hearings we had. And I think maybe that  
11 was too far. And I think we need to think about  
12 how many second stages you could really look at.  
13 I mean, it's, I would like to try to limit it if,  
14 or do something and say we need to focus on the  
15 campus plan.

16 There was a lot of, I would agree  
17 that, with Commissioner May and then the Vice  
18 Chair earlier, about, I think we talked about the  
19 Redlining, somehow, some kind of a document that  
20 keeps us a little bit, keeps everybody a little  
21 bit more informed as to the changes. But we're  
22 not looking for line by line but something that

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1 would help. I would agree with that.

2 The other thing that came up, people  
3 were talking about communications, emails  
4 coming in or whether there was a chat room and  
5 that we're not getting enough feed. And I know  
6 you guys, I think, looked at that and talked  
7 about it. Is that --

8 MS. STEINGASSER: We do. We've had  
9 an ask, a central question place that you could  
10 send in an email and I think it kind of is shot  
11 out to several people in OP so it doesn't lay  
12 dormant. We also have an interactive blog site  
13 that we set up about a year ago that's --

14 COMMISSIONER TURNBULL: Have you  
15 been getting a lot of feedback on that or?

16 MS. STEINGASSER: Yes, people --

17 COMMISSIONER TURNBULL: Do people  
18 know it?

19 MS. STEINGASSER: Yes, people know  
20 it, people check in. I don't know how much  
21 interaction there is going back and forth  
22 between the viewers but we do --

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1 COMMISSIONER TURNBULL: Different  
2 people?

3 MS. STEINGASSER: -- get a lot of  
4 people viewing it and monitoring it. And then  
5 we also have the Web site itself that has kind  
6 of the whole library of documents. The Office  
7 of Zoning, then, has also set up some links that  
8 refer over to these, so you can get to them from  
9 almost any location.

10 COMMISSIONER TURNBULL: I guess I  
11 recognize the lion's share of work that you're  
12 doing but I always, I get a little cringe when  
13 I hear something like oh, you're just doing  
14 top-down planning and you're not involving the  
15 community. And it, I know it probably strikes  
16 a chord with you but it just makes, I guess we  
17 all feel a little queasy as to are we reaching  
18 everybody but that we should.

19 MS. STEINGASSER: I mean, we've had  
20 over 200 community meetings.

21 COMMISSIONER TURNBULL: Right.

22 MS. STEINGASSER: We've had

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1 articles in the paper, we've been in the New York  
2 Times, we've been in the Washington Post  
3 repeatedly, of course, all the local papers.  
4 We've been on the Kojo Nnamdi Show several times  
5 over the years.

6 The Zoning Commission itself has had  
7 19 --

8 COMMISSIONER TURNBULL: Right.

9 MS. STEINGASSER: -- officially  
10 noted public hearings, meaning a notice went out  
11 to every single ANC, plus then, the follow-up  
12 meetings where you gave guidance.

13 We've sent multiple copies of the  
14 disc to the ANCs, we put paper copies in the  
15 libraries. We recorded one of our public  
16 outreach meetings, so it's available online, on  
17 Channel 16 Video Archives. There's a link to  
18 that from our Web site as well, so --

19 COMMISSIONER TURNBULL: Yes, I  
20 guess we're going through a complicated process  
21 here.

22 MS. STEINGASSER: Absolutely.

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1                   COMMISSIONER TURNBULL:   It's very  
2 complicated and even Counselor Avitabile made  
3 the comment, when someone was talking about  
4 parking, he said, well, you've got to go to  
5 Appendix B, Subtitle C.  And I'm just wondering  
6 if it's --

7                   MS. STEINGASSER:   Well, what Mr.  
8 Avitabile --

9                   COMMISSIONER TURNBULL:   Is it  
10 getting to be a little convoluted or --

11                   MS. STEINGASSER:   Well, what Mr.  
12 Avitabile was referring to was a specific  
13 question someone asked about --

14                   COMMISSIONER TURNBULL:   Right.

15                   MS. STEINGASSER:   --private school  
16 parking and had there been a comparison.  Yes,  
17 there was.  It was just posted up this weekend  
18 as part of our report.  So that, I don't think  
19 that's an indication --

20                   COMMISSIONER TURNBULL:   No, no,  
21 but, I mean, will there be, will it be easier for  
22 people to track this stuff as they go in and

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1 they're looking at stuff? I mean, I guess if I'm  
2 looking up something in a certain section --

3 MS. STEINGASSER: Yes?

4 COMMISSIONER TURNBULL: -- but then  
5 I've got to go to a, is it going to tell me I  
6 definitely have to go to, you know?

7 MS. STEINGASSER: We did do a set of  
8 cross-walks that goes through every single  
9 section of the current code, not the chapter, not  
10 the subset but the section. So 1205.6, it'll  
11 tell you exactly where that is in the new  
12 regulations.

13 COMMISSIONER TURNBULL: So when  
14 we're finished it should be a fairly clean  
15 transition for someone looking up something?

16 MS. STEINGASSER: It should be,  
17 except in those cases where some things are brand  
18 new that didn't exist in the old code or where  
19 something's been deleted. And that, we've also  
20 tried to reflect in the cross-walks where it said  
21 Deleted. But, again, these regulations that  
22 are before you tonight, they're part of a

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1 continuum, right.

2 COMMISSIONER TURNBULL: No, I know.

3 MS. STEINGASSER: It's not a new  
4 text amendment that you would normally see with  
5 a full set, you follow it back. We've tried to  
6 guide people back by having the Zoning  
7 Commission actions to date that tell people  
8 where the hearings are. You can re-watch them  
9 all. I've watched several of them in the last  
10 couple of days.

11 The Office of Zoning has put the  
12 entire list with the video links up on, so you  
13 can see both the transcripts and the videos a  
14 again, so --

15 COMMISSIONER TURNBULL: Okay.  
16 Well, one of the, although there was a lot of  
17 comments and discussion early by, talking about  
18 the West End/Foggy Bottom. The ANC, WECA,  
19 Committee of 100, talking about density, heights  
20 and they're very about CEA. They're very  
21 concerned that somehow growth is creeping into  
22 Foggy Bottom/West End that they don't want.

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1 MS. STEINGASSER: They may not want  
2 it. That may be true. But the comprehensive  
3 plan calls for these areas to be high-density  
4 mixed use or high-density commercial. And  
5 those areas that are identified with  
6 high-density commercial or high-density mixed  
7 use, the new downtown zones which bring those  
8 downtown tools, will be, we are proposing that  
9 they be applied there.

10 We are not proposing areas that are  
11 covered by moderate density or an R5B, no. But  
12 these are areas identified by high-density.  
13 They've been identified since 2006 in this  
14 comprehensive plan and in many cases beforehand.  
15 Some of these areas are already TDR receiving  
16 zones that have already been designed to accept  
17 a lot of the density from the downtown areas and  
18 --

19 COMMISSIONER TURNBULL: Is that all  
20 of the West End or part of it?

21 MS. STEINGASSER: Parts of the West  
22 End, not all of it. And not all of the West End

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1 is being included in the downtown. Again, it's  
2 only those that have a red or a red striping on  
3 them.

4 COMMISSIONER TURNBULL: Okay. Ms.  
5 Kahlow, in her letter, pointed out a couple, she  
6 was very concerned about the ZA having the  
7 authority to act on a modification of  
8 consequence --

9 MS. STEINGASSER: Yes.

10 COMMISSIONER TURNBULL: -- which  
11 sounds like it's very important, and it ought to  
12 come before the Zoning Commission.

13 MS. STEINGASSER: Well, I think he  
14 would then have to send back, like he does now  
15 --

16 COMMISSIONER TURNBULL: A letter.

17 MS. STEINGASSER: -- a notification  
18 to the Zoning Commission and the Zoning  
19 Commission --

20 COMMISSIONER TURNBULL: Why does it  
21 say, why not simply say a minor modification?  
22 Why modification of consequence?

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1 MS. STEINGASSER: Well right now  
2 there is only a modification which requires a  
3 full public hearing or a minor modification.  
4 And a minor modification, under the current  
5 regulations, is a modification of little or no  
6 consequence or significance.

7 So when we go through these orders  
8 we've seen the Commission struggling with cases  
9 where it actually has been an issue. The  
10 Commission discussed it. It might be finding a  
11 fact or a conclusion of law, it might be a  
12 condition.

13 But it's not so big that you actually  
14 want to host a full hearing, but you have to  
15 because it's not one of no consequence. So  
16 we've tried to create this new provision that  
17 would allow someone to make a ruling on it and  
18 send it to the Commission and the Commission  
19 could act without that hearing. So it's really  
20 something --

21 COMMISSIONER TURNBULL: Something  
22 we could or we could not --

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1 MS. STEINGASSER: Right.

2 COMMISSIONER TURNBULL: Okay. The  
3 other thing she talked about in the set down  
4 report, other agencies, the word says shall,  
5 instead of shall it says, well, may have other  
6 report from other agencies. Normally, in a  
7 hearing, we get a report but you're saying for  
8 the set down report you may have other agencies,  
9 but you may not?

10 MS. STEINGASSER: That's correct.

11 COMMISSIONER TURNBULL: But in a  
12 hearing report we will get them?

13 MS. STEINGASSER: As best as we can  
14 shape them, yes.

15 COMMISSIONER TURNBULL: I, well,  
16 you'll request those reports.

17 MS. STEINGASSER: Yes, we always  
18 request them, yes. And the other agencies are  
19 given as early notification as we can and as the  
20 Office of Zoning can. They send out now to  
21 Department of Transportation and DD Environment  
22 as well. So there's early notification. We

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1 also have interagency coordination meetings.

2 COMMISSIONER TURNBULL: Thank you.

3 CHAIRMAN HOOD: Okay, Mr. Turnbull,  
4 are you going to need a second round?

5 COMMISSIONER TURNBULL: No, I think  
6 I'm good.

7 CHAIRMAN HOOD: Okay.  
8 Commissioner Miller.

9 COMMISSIONER MILLER: Thank you,  
10 Mr. Chairman.

11 In addition to whatever you're going  
12 to prepare to try to, maybe a, not the redlined,  
13 but a more specific summary of the changes, I  
14 assume one of the things you're going to do  
15 after, following this hearing, or one of the  
16 things I would request if, or ask my fellow  
17 commissioners to work, help request a response  
18 to every specific, we got a lot of specific  
19 recommendations tonight.

20 I think many of them are good. Many  
21 of them seem reasonable. But I think it would  
22 be useful to have the professional response of

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1 the Office of Planning to each and every one of  
2 the very specific requests. And that could be  
3 made part of the, your summary, your, that could  
4 be made part of the record.

5 MS. STEINGASSER: We'll certainly  
6 do our best.

7 COMMISSIONER MILLER: And I think  
8 we might have established process where we were  
9 going to try to, if we had suggestions beyond  
10 what the public hearing testimony is, that we  
11 were going to set up some kind of a process that  
12 we could send, I haven't availed myself of it,  
13 I don't know if any other commissioners have,  
14 that we could send suggestions or  
15 recommendations and have responses and both our  
16 recommendation and a response.

17 It would also be more, made part of  
18 the public record. It's just something I think  
19 we need to consider because I'm not going to be  
20 able to go over in ten minutes everything that  
21 I looked at before the hearing and, now, since  
22 the hearing, so --

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1 MS. STEINGASSER: Oh, absolutely.  
2 I was assuming that the process we would continue  
3 through these hearings because they're going to  
4 be coming, the next couple of days they're just  
5 back to back. So between today and tomorrow  
6 we'll be working on tomorrow's hearing.

7 COMMISSIONER MILLER: Right. No,  
8 I didn't mean by --

9 MS. STEINGASSER: We won't be  
10 recapping this, and I assume the Zoning  
11 Commission will be doing the same kind of prep.

12 At the end of all that, I assume the  
13 Commission would get together in an executive  
14 session with the Office of Zoning the Office of  
15 the Attorney General and decide how you wanted  
16 to proceed both in terms of addressing the  
17 comments, both in terms of what direction you  
18 wanted to give OP, how you wanted to put these  
19 things together and what steps you wanted us to  
20 take.

21 And then there would be some  
22 additional feedback to us at that point.

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1                   COMMISSIONER MILLER: Okay, well I  
2 think I'm familiar with receiving a lot of public  
3 hearing testimony on a huge document, like the  
4 comprehensive plan, for example, and the Office  
5 of Planning, in that case for the council. And,  
6 of course, at our hearings, did prepare summary  
7 documents which were very helpful to the  
8 decision makers to help decide --

9                   MS. STEINGASSER: Okay. Yes.

10                  COMMISSIONER MILLER: -- and  
11 delineate. So I would encourage my own  
12 colleagues to ask for that kind of document and  
13 so it would help organize our recommendations,  
14 our consideration of the recommendations that we  
15 have before us.

16                  Going to some of the specific  
17 recommendations that remain tonight, the  
18 Capitol Hill Restoration Society, they said that  
19 there's no, I would share their concern that  
20 there needs to be a more upfront statement about  
21 the authority of the comprehensive plan with  
22 respect to zoning.

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1           Before they had even come in with  
2           their testimony I had, that was the very first  
3           comment I had made in the very first section  
4           that's in the zoning rewrite, which is just a  
5           carryover from the existing.

6           And it says what the regulations are  
7           designed to do with consideration of, and it has  
8           character of the respective zones, suitability  
9           of each zone for uses permitted in the zone and  
10          encouragement of stability of zones and land  
11          guides. But the comp plan really needs to be  
12          upfront.

13                   MS. STEINGASSER: Okay.

14                   COMMISSIONER MILLER: That's what,  
15                   the consistency of the regulations have been  
16                   matched with the comprehensive plan, since  
17                   that's our guiding bible for our actions.

18                   The campus plans, the commercial use  
19                   of zoning on campus plans, I would share the  
20                   concern that the proposed language is overly,  
21                   perhaps overly restrictive, both from the  
22                   university      standpoint      and      from      the

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1 neighborhood's standpoint.

2 The 10 percent thing and the putting  
3 it towards the internal, putting them into the  
4 internal of the campus, I mean, maybe that works  
5 internal to the campus. It might work for AU.  
6 But in the GW case, I mean, we wanted to have that  
7 neighborhood serving retail, being, serving the  
8 neighborhood, the broader community.

9 And I think you have a statement in  
10 there that these commercial uses may serve the  
11 broader community. I personally think that all  
12 of those, not all, but many of the commercial  
13 uses on campuses and recreational uses should be  
14 available to the broader community, at least the  
15 adjacent community.

16 So that's another may that I would  
17 like to see go to shall, just my own thoughts on  
18 that. On the central employment area issue that  
19 was raised by ANC 2A and West End Citizens, we  
20 had that, that's defined, is that still defined  
21 in the existing comprehensive plan?

22 MS. STEINGASSER: There is a

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1 representation of a CEA. I think it was then  
2 adjusted under Mayor Fenty, to include some  
3 areas more east of the river. I think it brought  
4 in Parkside and I think it brought in more parts  
5 of Anacostia.

6 COMMISSIONER MILLER: I remember  
7 when it was expanded to include east of the  
8 river, the Anacostia commercial area. And I  
9 don't know if it was expanded also to include  
10 NoMa and Capitol Riverfront.

11 But I do also remember what Ms.  
12 Kahlow referred to, was the case where we did  
13 exclude the area near where the Red Cross was  
14 locating from the CEA.

15 MS. STEINGASSER: Well, we're not  
16 actually proposing any changes. We have no  
17 plans to change. We have no secret agenda to  
18 change the CEA. When we talk about the central  
19 area it's as defined in the comp plan.

20 It's a planning area. It's an  
21 element. It's the central area of D.C. It's  
22 not the Central Employment Area. They're two

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1 very different things. And it is not our  
2 intention for any of the zoning to affect the  
3 CEA.

4 COMMISSIONER MILLER: Okay. So  
5 how much of the Foggy Bottom West End has been  
6 included in this new definition of downtown?

7 MS. STEINGASSER: I don't have  
8 that. We'll be talking about that downtown area  
9 next week.

10 COMMISSIONER MILLER: Okay.

11 MS. STEINGASSER: Next Thursday.  
12 And we'll have more detail and maps at that time.

13 COMMISSIONER MILLER: Okay. The,  
14 Paul Tummonds mentioned the effective date, the  
15 need for effective date and transition phase-in  
16 timelines for the new regs. And he suggested  
17 basing them on the Green Area Ration phase-in  
18 that we recently, when we adopted those new  
19 regulations. Is that part of what we have  
20 before us or was that, that was left to be  
21 determined.

22 MS. STEINGASSER: That was left to

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1 be determined.

2 COMMISSIONER MILLER: And are you  
3 going to make, be making a recommendation at some  
4 point that you can comment on?

5 MS. STEINGASSER: You know --

6 COMMISSIONER MILLER: I would just  
7 share that that precedent might be a good, I  
8 would, might be a good way to go.

9 MS. STEINGASSER: Okay, we're  
10 absolutely happy to look at that. That turned  
11 out to be a pretty successful transition, but  
12 it's something we're going to have to work with  
13 the Office of Zoning and the Office of the  
14 Attorney General and DCRA, Department of  
15 Consumer Regulatory Affairs, on how that comes  
16 into effect. But we'll absolutely look at that.

17 COMMISSIONER MILLER: And, I mean,  
18 he said that it shouldn't be effective until six  
19 months from the date of the final order. I think  
20 that kind of makes, I mean, a longer than normal  
21 phase-in period for such a massive new document.  
22 It makes a lot of sense if it includes, I think

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1 we've seen that with the healthcare regulations  
2 on the national level.

3 You need time to phase-in massive  
4 new things.

5 MS. STEINGASSER: I absolutely  
6 agree. Yes, we're not trying to catch  
7 developers who are two or three months into a  
8 design project for a million square feet  
9 building and then they get snagged. We want to  
10 make sure that we do have smooth transition.

11 COMMISSIONER MILLER: On the DDOT  
12 report or the language, I would think that we  
13 wouldn't want to put any language in there that  
14 somehow say that a DDOT report wouldn't be  
15 required in a zoning case. I'm not sure if  
16 that's, at the hearing stage.

17 I'm not sure that that's what's  
18 being proposed but, just since the reference was  
19 made that it was, you're making best efforts.  
20 You can't compel other agencies but we almost  
21 always need a DDOT report for almost, for every  
22 zoning case. And so that's an agency that I

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1 would want in addition to an OP report in every  
2 case.

3 MS. STEINGASSER: Okay.

4 COMMISSIONER MILLER: And speaking  
5 of an OP report in every case I would like some  
6 consideration being given to, I know I've had  
7 this discussion with OAG for, I think we have a  
8 difference of opinion.

9 But I would like us to consider  
10 having an OP report in appeals cases. I think  
11 the professional recommendation of the Office of  
12 Planning on the policy issues, even though there  
13 are a lot of legal issues involved, an OP report  
14 in appeals cases would be very helpful.

15 I think that's, I don't know if  
16 that's in the existing comprehensive plan but  
17 having drafted the comp plan language that's  
18 required an OP report in every case, that's what  
19 the drafter intended, that every case would have  
20 an OP report drafted for somebody else who,  
21 that's what they intended.

22 Done to one minute and a half. The

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1 PUD, I think this was also brought up by ANC 2A  
2 and West End that the, we're not disallowing PUD  
3 monetary concretions as long as they can be  
4 demonstrated to have been provided by the C of  
5 O so that's, and I think the ANC 2A's testimony  
6 alluded to that, they like that alternative to  
7 be in there. I just confirmed my --

8 MS. STEINGASSER: Yes, sir, you are  
9 correct.

10 COMMISSIONER MILLER: Okay. I  
11 think that's it, Mr. Chairman. I will concede  
12 the balance of my time.

13 CHAIRMAN HOOD: Okay, thank you.  
14 You can start the clock on mine. I'm just going  
15 to say this, my observation tonight and working  
16 through this whole process with the Office of  
17 Planning, Office of Zoning, Office of the  
18 Attorney General, we finally got here, where we  
19 can dissect it and do what needs to be done for  
20 the best interest of the city.

21 I'm not making a political statement  
22 but I think the Office of Planning has worked

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1 hard, Office of Zoning has worked hard, Office  
2 of the Attorney General has worked very hard.  
3 Now, you might not all agree with the Office of  
4 Planning, but they have done every single thing  
5 that we've asked them to do.

6 They went out to the neighborhoods.  
7 They've had many meetings. They come down here  
8 and give us guidance. So I want to preface that,  
9 and in my deliberations, I think, is where I'm  
10 going to really ask, and ask my colleagues about  
11 certain things as opposed to me asking them  
12 tonight, for the simple reason that if we don't  
13 all agree then whatever I ask to do is null and  
14 void.

15 But I do have, I think that we got  
16 a lot of great comments. I have them outlined.  
17 I'm ready to deliberate on them. Whether it be  
18 the Committee of 100, Foggy Bottom and the folks  
19 that I, the one thing that I did catch in the  
20 revision was some things that people you don't  
21 hear from no longer exist.

22 And let me just say this, the, in

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1 Subtitle W, and I know we talked about this whole  
2 overlay thing, what happened to the Langdon  
3 overlay?

4 MS. STEINGASSER: The conditions of  
5 the Langdon overlay were extended to all  
6 industrial lands. So there was no reason to  
7 have just an overlay. They were embodied into  
8 the entire PDR.

9 CHAIRMAN HOOD: So, okay, so in the  
10 PDR it specifically states that sole remediation  
11 is prohibited. Does it specifically state  
12 that?

13 MS. STEINGASSER: Solar  
14 remediation?

15 CHAIRMAN HOOD: Soil remediation,  
16 because that was one of the things --

17 MS. STEINGASSER: Oh, soil  
18 remediation.

19 CHAIRMAN HOOD: Soil remediation,  
20 yes.

21 MS. STEINGASSER: I'm sorry. If  
22 it's in the Langdon overlay it was incorporated

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1 into all of the industrial zones.

2 CHAIRMAN HOOD: I just want to make  
3 sure because that was one of the things that was,  
4 that that neighborhood fought against when Mayor  
5 Kelly was the mayor. And I just wanted, it's is  
6 Dixon? Kelly. I forgot. But anyway, I just  
7 want to make sure that those things are in  
8 confidences.

9 Now, so the Naval Observatory also  
10 falls up under, covered somewhere else in the  
11 code?

12 MS. STEINGASSER: Yes, sir, that  
13 will show up both in the mixed use and, I believe,  
14 in the moderate density residential.

15 CHAIRMAN HOOD: Okay. Now we also  
16 talked about, and I haven't seen it, it's a lot  
17 to read. We also talked about tailoring  
18 different things for different neighborhoods.  
19 And when I look in the, and I know this was a  
20 start, the only thing I saw was R19 and R20 in  
21 those --

22 MS. STEINGASSER: Yes, sir. Those

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1 are the prototypes, and those will be coming to  
2 the Commission, I believe, on Wednesday, when we  
3 talk about Subtitle D.

4 CHAIRMAN HOOD: And, if you know,  
5 those were, that, when we were doing our guidance  
6 here is, that's where the complaints were was  
7 because people were saying that we're only doing  
8 Georgetown. And what about tailoring it  
9 towards the other neighborhoods. Is that still  
10 in progress?

11 MS. STEINGASSER: Georgetown  
12 basically did itself. They agreed to go forward  
13 and be the prototype and work through the type  
14 of issues and bring it forward to the Commission.  
15 And should the Commission accept those as the  
16 process, then, yes, then other neighborhoods  
17 could go forward.

18 CHAIRMAN HOOD: Now, I think,  
19 though, when we did the guidance hearings, that  
20 the Office of Planning was going to assist some  
21 of those neighborhoods who may not be as up to  
22 speed as what we heard tonight and may not be and

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1 may not be onboard and attended all the meetings.

2 I just want to know, are we still  
3 going to continue to do that as we go along? Are  
4 we going out to reach out to these other  
5 neighborhoods besides Georgetown?

6 MS. STEINGASSER: Well, like I  
7 said, we didn't do Georgetown. Georgetown did  
8 Georgetown. They surveyed their own  
9 neighborhood, they mapped their own buildings,  
10 they walked all their properties and they  
11 basically did their own drafting of that.

12 They agreed to do that as a prototype  
13 because, at the time, OP said we can't rewrite  
14 the zoning regulations and go out and write these  
15 custom zones. So they kind of set the template  
16 the the Commission will be seeing.

17 As neighborhoods come forward, yes,  
18 there will be an opportunity to work with OP.  
19 We've also put some general guidance or some  
20 general direction and general rules in Subtitle  
21 X on how to create a new zone and the types of  
22 things that need to be considered.

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1           But, yes, absolutely, we, through  
2 both the planning and the zoning side of the  
3 Office of Planning work with the communities on  
4 identifying their small area plans, their future  
5 development. Did you want to add something,  
6 Harriett?

7           MS. TREGONING: Commissioner Hood,  
8 I just wanted to say that I think our intention  
9 is that over time that we would customize many  
10 of the zones and neighborhoods. And that we  
11 would work with them, or they would work with the  
12 members of their own community, to offer zoning  
13 changes that would reflect the character of  
14 their community.

15           But that would be something that  
16 would go on, you know, even if you can imagine  
17 that moment when this is finished, this round of  
18 the ZRR is done. That we would continue to be  
19 working in neighborhoods, you know, for probably  
20 years to come on custom zones.

21           CHAIRMAN HOOD: Okay. All right,  
22 and I think that needs to be spelled out

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1 somewhere. Again, as we've heard tonight, a lot  
2 of people don't do zoning every day, like a  
3 number of sitting in the room.

4 And one of my concerns, I will tell  
5 you, it is no reflection on Office of Planning  
6 or Office of Zoning, is that when I kept asking  
7 a question about which wards, there were some  
8 wards that were not necessarily represented and  
9 I know for a fact, I actually attended one of the  
10 briefing that the Office of Planning did along  
11 with Office of Zoning in Ward 7.

12 And then nobody came from Ward 7.  
13 And, you know, I really believe that we have  
14 exhausted trying to get the word out. Now there  
15 may be some argument about the text that was in  
16 the library a month and a half ago, and I may be  
17 able to concur with that.

18 But as far as getting the word out  
19 I think we have exhausted, or done the best we  
20 could. And I'm open, and I'm sure all of us are  
21 open for any suggestions on how to do to better.  
22 I don't know how you do it, but I think it was

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1 on Channel 16, or was it 13? 16 at the request  
2 of us. Office of Planning went out at the  
3 request of us to the wards.

4 We probably have some more things  
5 that we are going to try to do. But we have  
6 exhausted everything. Once again, what I  
7 stated earlier was that a lot of times what's  
8 going to happen is, once it's approved, what did  
9 you all do.

10 But I think you've done your best  
11 outreach. Can we improve it, yes. But I think  
12 we've done, together, collectively, a good job  
13 of trying to get folks engaged.

14 Let me just ask this to, the Chair  
15 of the BZA, Mr. Jordan, mentioned about the  
16 videoconferencing of a member. Do that do that  
17 in other jurisdictions? You don't necessarily  
18 have to answer tonight. But do they do that in  
19 other jurisdictions?

20 He says it's already in the code.  
21 And I'm just curious, if you can do some research  
22 when we deliberate and let me know, or let us

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1 know, does that actually happen? Unless you  
2 know already?

3 MS. STEINGASSER: We'll be happy to  
4 look into that. I don't know already.

5 CHAIRMAN HOOD: Okay. And I will  
6 ask, and if my colleagues agree, when we  
7 deliberate I think it's important to have Office  
8 of Planning. We may want to go to them, because  
9 we have a lot of suggestions here, I'd rather  
10 deliberate on them.

11 So if we agree to them, this goes to  
12 Commissioner Miller's questions, if we agree to  
13 them then we may have to have Office of Planning  
14 go back and look at some of the suggestions of  
15 the many suggestions that we got tonight. But  
16 if we don't have agreement of opinions and we  
17 don't feel strong enough we have a quorum, I mean  
18 well we have the votes to approve it that way then  
19 that's the way we move.

20 That's why tonight I envision not  
21 asking a whole lot of questions because I don't  
22 want the Office of Planning to do the same work

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1 two or three times. Because I believe there's  
2 going to be some times they're going to have to  
3 go back and do some things, the way I look at it.

4 I have a number of questions.  
5 That's why I thought if we had answered those  
6 tonight we'd have done more than one round. But  
7 I think all of this will come out on  
8 deliberations.

9 This party status issue. This  
10 Commission has looked at that party status issue  
11 for years and we have never got it resolved. But  
12 I think, again, the same issues come up that came  
13 up years ago. Communities put a lot of money  
14 into paying the experts and they come down, I  
15 think it was a gentleman who said he came in and  
16 they were denied party status.

17 So, again, we really need to look at  
18 that. I know we did it some years ago and we're  
19 still at the same place that we were some years  
20 ago. So that's another issue I think I want to  
21 look at.

22 I have a couple of issues down here

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1 but what I'm going to do is just wait for our  
2 deliberations.

3 And then also, the letter from  
4 Councilmember Cheh talked about including the  
5 commercial areas that are outside the canvas  
6 plan. I actually thought that the Office of  
7 Planning did a good job in taking care of her  
8 issue. I guess it would be her to send us  
9 another letter to let me know if that's been  
10 taking care of.

11 Oh, that's my warning. Okay. And  
12 I didn't really ask a lot of questions, I did more  
13 talking than anything. But what I think we'll  
14 do, Colleagues, and I'm going to use my last  
15 minute, if you all agree to this when we do get  
16 around to deliberating that things that we want  
17 the Office of Planning to go back and revisit,  
18 or if we want to do it in advance as suggested  
19 by Commissioner Miller, we do it in that fashion.

20 I just don't want to say things  
21 tonight and my colleagues don't agree and Office  
22 of Planning goes out and does that work and it's

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1 null and void because I'm the only that votes for  
2 it. Does that makes sense?

3 COMMISSIONER MAY: Yes, I wouldn't  
4 want to suggest that we would be sending  
5 suggestions for changes to the Regs at this  
6 stage.

7 But I do think that it would make  
8 sense for us to be able to ask some of our more  
9 particular questions, you know, in paper form  
10 that they can, you know, it can be documented  
11 that way and the Office of Planning can respond.

12 And it's just more efficient than us  
13 just sort of sitting here ticking things off.  
14 Because, I mean, I have ten pages worth of  
15 questions that I could ask about it.

16 CHAIRMAN HOOD: But I think for  
17 transparency, at least from my standpoint, and  
18 I know that will be part of the record, I think  
19 a lot of this needs to have a discussion. That's  
20 just where I am.

21 And you took ten seconds off, that  
22 was my time.

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1 COMMISSIONER MAY: Well, pardon me.

2 CHAIRMAN HOOD: Okay. So I got ten  
3 seconds. So go ahead. Go ahead. We can have  
4 that discussion now. I just think that some of  
5 these issues --

6 COMMISSIONER MAY: I think you're  
7 asking a question so I just thought I'd answer  
8 it.

9 CHAIRMAN HOOD: I think that some of  
10 these issues need to be discussed, sort of public  
11 in here, exactly where we are and where we stand.

12 COMMISSIONER MAY: And I don't  
13 disagree. And I'm not suggesting that we would  
14 wind up having a sort of a paper discussion of  
15 a lot of these things. I mean mostly what I'm  
16 seeking with the questions that I would want to  
17 submit to the Office of Planning are just  
18 clarifications of what they intend or what  
19 changed or things like that.

20 Some of that will be answered by  
21 whatever documents they produce in response to  
22 our comments tonight. But I think there are

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1 other things where it just, you know, would be  
2 helpful just to be able to ask some simple  
3 questions. And they're not worth having, you  
4 know, all of us sit here to listen while I ask  
5 my nitpicking questions. Or everybody in the  
6 audience.

7 CHAIRMAN HOOD: Okay. Some of us  
8 may have the same thing and we --

9 COMMISSIONER MAY: Well, and then  
10 you can read them. You know, read the result.

11 CHAIRMAN HOOD: And once it becomes  
12 part of the record, case in point, like the A  
13 Zone, apartment zone. I'd like to see it RA, and  
14 I think that was suggested by someone else. I  
15 did want to see if everybody agrees with that  
16 when we deliberate. And that's kind of where I  
17 was. That's not the sort of thing I was going  
18 to ask in person.

19 COMMISSIONER MILLER: I hear you.

20 CHAIRMAN HOOD: Okay. Well those  
21 are the kind of things that I wanted -- That's  
22 why there's five of us. I got two votes already.

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1 Okay.

2 All right. So that's all I have.  
3 I'm want to thank the Office of Planning again,  
4 for going last. I want to thank the Office of  
5 Zoning, just for hanging out with us. And I also  
6 want to thank the public for staying to listen.  
7 Stay tuned.

8 Do we have anything else, Michelle?

9 MS. SCHELLIN: No, sir, that's it  
10 for these subtitles at this point.

11 CHAIRMAN HOOD: Now can you run down  
12 how we're going to do with these subtitles so  
13 people will know, if I didn't explain it earlier  
14 sufficiently?

15 What I mean is not more testimony on  
16 these subtitles.

17 MS. SCHELLIN: Right. No more  
18 testimony on these subtitles. And at this  
19 point, you know, we can still take written  
20 testimony on them. And, once we get through the  
21 hearing process on all of the subtitles, at that  
22 point we'll decide where we're going to go from

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1       there.

2                   CHAIRMAN HOOD:     Okay.     Anything  
3       else, Michelle?

4                   MS. SCHELLIN:    No, sir.

5                   CHAIRMAN HOOD:    All right, let me  
6       ask a questions.    Did the public get the  
7       crosswalk?

8                   MS. STEINGASSER:    The crosswalks  
9       are available on our website and have been --

10                  CHAIRMAN HOOD:    Okay.

11                  MS. SCHELLIN:    They're part of the  
12       public record, so they're available on OZ's  
13       website.

14                  CHAIRMAN HOOD:    Because obviously  
15       if they knew about that then the redline is still  
16       what they're requesting.    But I know we're  
17       looking at ways to try to make it easier.    Okay.

18                  All right.    So, with that, I want to  
19       thank everyone for their participation tonight.  
20       And this portion of the hearing is adjourned.  
21       We'll see you tomorrow night.

22                  (Whereupon, the meeting in the

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1 above-entitled matter was concluded at 10:55  
2 p.m.)  
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