

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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 IN THE MATTER OF: :
 :
 Title 11, Zoning Regulations : Case No.
 - Comprehensive Text : 08-06A
 Revisions :
 :
 -----:

Tuesday,
November 5, 2013

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

The Public Hearing of Case No. 08-06A by the District of Columbia Zoning Commission convened at 6:00 p.m. in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairman
- MARCIE COHEN, Vice Chair
- MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)
- PETER MAY, Commissioner (NPS)

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ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SARA BARDIN, Director of the Office of
Zoning
SHARON S. SCHELLIN, Secretary
ESTHER BUSHMAN
ZEE HILL

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,
Development Review & Historic
Preservation
JOEL LAWSON
ELISA VITALE

The transcript constitutes the
minutes from the Public Hearing held on
November 5, 2013.

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

(6:03 p.m.)

CHAIRMAN HOOD: Good evening,
Ladies and Gentlemen. This is the public
hearing of the Zoning Commission for the
District of Columbia for Monday, November 5,
2013.

My name is Anthony Hood. Joining
me this evening are Vice Chair Cohen,
Commissioner Miller, Commissioner May, and
Commissioner Turnbull.

We're also joined by the Office
of Zoning Director Sara Bardin, Sharon
Schellin, Esther Bushman, and Zee Hill; and
Office of Planning staff, Ms. Steingasser,
Mr. Lawson, and --

Do you know what? I can't
remember this young lady's name.

MS. VITALE: Elisa Vitale.

CHAIRMAN HOOD: Ms. Vitale --
sorry about that.

This proceeding is being recorded

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1 by a court reporter, and it's also webcast
2 live. Accordingly, we must ask you to
3 refrain from any disruptive noises or actions
4 in the hearing room, including the display of
5 any signs or objects.

6 I think I know most of you. You
7 all wouldn't throw up a sign or object or
8 anything. I know most of you guys.

9 The subject of this evening's
10 hearing is the Zoning Commission Case Number
11 08-06A. This is a request by the Office of
12 Planning for comprehensive revisions and
13 amendments to the zoning regulations, Title
14 11, DCMR. The specific subject of tonight's
15 hearing is proposed new Subtitle B. Notice
16 of today's hearing was published in the DC
17 Register on September 20, 2013, and copies of
18 that announcement are available to the left
19 on the wall near the door.

20 This hearing will be conducted in
21 accordance with the provisions of 11 DCMR
22 3021, as follows: Preliminary matters;

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1 presentation by the Office of Planning;
2 reports of other government agencies;
3 testimony from the public, and we will take
4 questions by the Commission of the Office of
5 Planning.

6 The following time constraints
7 will be maintained in this meeting: The
8 Office of Planning, 60 minutes;
9 organizations, five minutes; individuals,
10 three minutes.

11 As noted in the Notice of Public
12 hearing, I will be calling witnesses in the
13 order in which the Office of Zoning received
14 Notices of Intent to testify. After those
15 witnesses have been called, I will ask others
16 who have registered to testify this evening
17 and then ask others in the audience if they
18 wish to testify.

19 All persons appearing before the
20 Commissioner to fill out two witness cards.
21 These cards are located to my left on the
22 table near the door. Upon coming forward to

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1 speak to the Commission, please give both
2 cards to the reporter sitting to my right
3 before taking a seat at the table.

4 When presenting information to
5 the Commission, please turn on and speak into
6 your microphone, first stating your name and
7 home address. When you are finished
8 speaking, please turn your microphone off so
9 that your microphone is no longer picking up
10 sound or background noise.

11 As noted, testimony this evening
12 will be limited to proposed new Subtitle B.
13 If you have testimony on other subtitles and
14 cannot come back on the scheduled hearing
15 nights for those subtitles, you may hand in
16 your written testimony or submit it before
17 the hearing date. We will read it.

18 I would also ask that you not
19 repeat testimony that has already been given.

20 Rather than repeating the same comments, I
21 would suggest that you state that you agree
22 with the testimony that has already been

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1 given and add additional comments that we
2 have not heard yet.

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

6 At this time, the Commission will
7 consider any preliminary matters.

8 PRELIMINARY MATTERS

9 Does the staff have any
10 preliminary matters?

11 MS. SCHELLIN: No, sir.

12 CHAIRMAN HOOD: Okay, we'll go
13 right to the Office of Planning.

14 Ms. Vitale or Ms. Steingasser.

15 MS. STEINGASSER: Yes, sir.

16 PRESENTATION BY THE OFFICE OF PLANNING

17 (Jennifer Steingasser)

18 MS. STEINGASSER: We're going to
19 start moving pretty quickly through the
20 guidance given to us on the definitions,
21 starting with the action that the Commission
22 has taken to date. This is as much for kind

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1 of bringing everybody up to date.

2 We've been discussing uses as an
3 issue since 2008. The Commission had
4 hearings both in terms of public hearings on
5 guidance and concepts, as well as public
6 hearings on the actual text, and have taken
7 some final actions, which is in the *DC*
8 *Register* as a notice of opinion. So we built
9 on that. We did make a few changes, and
10 we'll get to those.

11 I'm just going to get real quick
12 -- I'm not going to read the definitions --
13 but the guidance that the Commission gave us
14 was to look at setbacks. Right now, our
15 current code talks about required rear yards.

16 There's been a lot of confusion in a lot of
17 cases before the BZA about when a rear yard
18 is measured from the building outward verses
19 from a lot line inward. So we established
20 setbacks, which are proposed to be measured
21 from the property line inward, creating a
22 buffer between the properties. The resulting

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1 space that exists between the building and
2 the property line is considered a yard.

3 I'm not going to read the
4 definitions of the yards, but the Commission
5 did take final actions on these definitions
6 as yards for the front, the side, and the
7 rear.

8 They also give us definitions on
9 "courts." And when we talked about courts,
10 we were interested in doing courtyards and
11 how those were defined.

12 "Lot Occupancy" -- there was a
13 big issue on removing nonconforming narrow
14 courts and side yards from the definition of
15 "lot occupancy," which was serving as an
16 incentive to fill them in, especially in the
17 row house areas.

18 We defined "lot line," "street
19 lot line," and "side lot line."

20 We also looked at the definition
21 of "rear lot line." I pulled out separately
22 because I know this was an issue that

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1 Commissioner Turnbull had asked about. And
2 so this is the definition that we proposed.
3 We've also included some graphics to show
4 what those lots would look like, when a lot
5 line would exist, and when a rear lot line
6 would not exist.

7 The Zoning Commission give us
8 guidance to remove the definitions for corner
9 lots and triangular lots because they weren't
10 needed, based on the previous definition of
11 "lot line."

12 However, after meeting with the
13 Zoning Administrator, he requested that
14 "corner lot" be reinstated as a definition,
15 which we have proposed in the 9913 draft text
16 that was set down, and "flag lot" and
17 "dormer." These are things that they, he and
18 his staff work through in terms of building
19 permit review quite frequently, and they've
20 asked that those be reinstated. So those
21 were advertised in the set-down.

22 The Commission also gave us

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1 guidance on different types of food issues.
2 One was to permit individual food sales as a
3 temporary use. And we did indeed do that
4 through "temporary use" definition and
5 Subtitle B.

6 You also asked us to look at
7 local food production and removing potential
8 barriers. This would allow for things like
9 the community gardens, rooftop gardens,
10 composting, and also farmers markets. So
11 we've proposed in the September 9, 2013 text
12 that was set down, definition -- actually,
13 I'm sorry. We did not propose it in that
14 text. We are proposing that it be considered
15 prior to a proposed action, a definition of
16 "farmers market." We did a survey of several
17 communities throughout the country, and we
18 propose this particular language.

19 We also did include in this --
20 this was in September 9 set-down text -- a
21 definition for "cottage food." This was to
22 correlate a little bit with the Cottage Food

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1 Act in front of the City Council. It defines
2 the use and implements it. It's basically a
3 type of home occupation.

4 Then we moved on to use groups.
5 The Commission was supportive of use groups.

6 There was some discussion in 2010 as to
7 whether 29 use groups that were originally
8 proposed were sufficient. As we started to
9 work through them and started to put on the
10 series of conditions that would limit the
11 uses, we agreed that there were not
12 sufficient use groups. And we've since added
13 six more.

14 We broke the "service" use group
15 into both "general" and "financial services."

16 "Institutional" -- we broke those
17 into "general" and "religious-based."

18 "Government" -- we went from just
19 "Government, Local" to "Government, Local and
20 Large."

21 "Education" had been one group.
22 We broke that into three: "Universities,"

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1 "public," and "private."

2 And then "agriculture," we broke
3 that into both "large agriculture" and
4 "residential agriculture." That was to try
5 to recognize the difference of how those
6 things operate and to correlate the
7 residential agriculture with the local food
8 businesses.

9 As a clarification, we have heard
10 a lot, and I believe you'll see in the
11 comments provided, some issues with fast food
12 and the definitions of "fast food" and what
13 they're calling a "fast casual" in a
14 restaurant. A lot of this overlaps with the
15 public space regulations.

16 We've tried to establish that by
17 creating this new niche called "fast food
18 restaurant," which would be different than a
19 "fast food establishment," as well as "fast
20 food drive-through." So there would be
21 designations.

22 That brings us up to tonight's

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1 hearing.

2 CHAIRMAN HOOD: Okay. Well,
3 thank you, Ms. Steingasser for your very
4 succinct and quick presentation.

5 We're going to do like we did
6 last night. We're going to hear from our
7 public witnesses next, and we will ask our
8 questions on the back end.

9 First on the list, I have Gary
10 Thompson or his designee.

11 David Bardin,
12 Gary Peterson,
13 Michael Kroopnick,
14 Nancy MacWood,
15 Sian Ofalolain,
16 Frederick Gorove,
17 Lindsley Williams,
18 John Forrer,
19 Mike Wilson,
20 Judy Jones.

21 You can come on up.

22 Okay, we will start to my left.

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1 Mr. Bardin, if you could, start
2 us off introduce yourself. You may begin
3 your testimony.

4 TESTIMONY BY DAVID BARDIN

5 MR. BARDIN: Good evening,
6 Chairman Hood and other members of the
7 Commission. I'm David Bardin. I live in
8 Ward 3 in the Forest Hills neighborhood in
9 ANC 3F. Address: 4701 Connecticut Avenue,
10 Northwest.

11 I'm testifying in favor of two
12 additional definitions, which are not now in
13 the zoning regulations and not in the
14 proposal of OP, and in favor of an amendment
15 to one of the existing definitions.

16 I have written testimony I
17 submitted on October 1. In each case, I've
18 given you the text, the context, to tell you
19 where I get the proposed new definitions --
20 they come from federal sources and such
21 documents -- and the reason why I am
22 proposing these definitions.

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1 The two new definitions for
2 "sustainability" or "sustainable," on the one
3 hand, and "urban tree canopy" on the other.

4 Now, for professionals, the term
5 "sustainability" is commonplace. We've heard
6 Director Tregoning talk at length last night
7 in which she used term both orally and on the
8 OP slides, but there are people in the
9 community who are not familiar with the term.

10 So I'm suggesting that you take the
11 definition that the President has used in an
12 executive order and put it into our DC zoning
13 regulations.

14 In the case of "urban tree
15 canopy," that's a little bit more
16 complicated. A lot of people think they know
17 what it means, but I've given you the full
18 definition that appears in a recent document
19 by the U.S. Forest Service and the Center for
20 Watershed Protection. I think it would be
21 well worth your including that in the zoning
22 regulations so that when there are references

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1 to "tree canopy" in the regulations or in the
2 application of them, the people will be using
3 something which is technically correct and
4 have a good example of what "tree canopy"
5 does.

6 Again, this is something that the
7 Mayor and the Office of Planning and the
8 Department of Environment talk about a lot.

9 Now, the third is an amendment to
10 the definition of "permeable paving." The
11 examples do not include a new technology,
12 which didn't exist when the Zoning Advisory
13 Committee first recommended the present
14 definition, and that is "flexible porous
15 paving," including porous rubber. It is a
16 product which the Urban Forestry
17 Administration uses, the Georgetown BID uses.

18 Before that, Arlington Cemetery tried it
19 out.

20 It is now in use, it's t's been
21 referred to in some proposed guidelines that
22 DDOT has, for low-impact development and

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1 green infrastructure, but it's not now in the
2 zoning regulations. And I'd like you to
3 include "flexible porous pavement," which is
4 the generic term. At the moment, there's
5 only one product, a porous rubber product,
6 but in time, we would expect there will be
7 competing products also available.

8 My prepared testimony has
9 references where you can find out more
10 information about that, and that concludes my
11 testimony.

12 CHAIRMAN HOOD: Okay, thank you
13 very much.

14 Next.

15 TESTIMONY BY MICHAEL KROOPNICK

16 MR. KROOPNICK: Good evening,
17 Chairman Hood and Members of the Zoning
18 Commission.

19 My name is Michael Kroopnick.
20 I'm an attorney with the Law Office of G.
21 Macy Nelson. I want to thank the Commission
22 for giving me an opportunity to speak

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1 tonight.

2 We represent labor as well as
3 residents throughout the District, a
4 coalition of residents, who support the
5 regulation of big-box development. My
6 testimony tonight reflects the more formal
7 comments that we submitted last Monday,
8 October 28. I am testifying tonight
9 regarding the definition of "retail" in the
10 draft zoning code.

11 Currently, the definition of
12 "retail" is stated as, "any use engaging
13 primarily in the onsite sale of goods, wares,
14 or merchandise directly to consumer or
15 persons without a resale license. These uses
16 include goods commonly sold to individuals in
17 small quantities for their direct use." The
18 draft then provides examples of what retail
19 would include and then also provides a few
20 discrete exceptions.

21 The problem with this definition
22 is that it doesn't draw a distinction based

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1 on square footage, and it treats all retail
2 equally. We think all retail should not be
3 viewed or considered equally, particularly as
4 it relates to big-box development, which
5 presents problems, uniquely adverse problems
6 to traffic, adjacent small businesses, and
7 the character of the neighborhood.

8 So we would propose and suggest
9 more than one definition of "retail" or more
10 specifically, have a definition for "big-box
11 retail," which we would define as, "any
12 single use, whether standalone or within a
13 multi-building development, wherein a said
14 single-use building occupies at least 75,000
15 square feet of gross leasable area."

16 As I will discuss next week, I
17 would use this definition for big-box retail,
18 which would be distinct from the existing
19 definition of "retail" to establish a big-
20 box, requiring it to get a special exception
21 or a conditional use.

22 Thank you again for the

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1 opportunity to testify tonight.

2 CHAIRMAN HOOD: Sure. Thank you.

3 Next.

4 TESTIMONY BY GARY PETERSON

5 MR. PETERSON: Good evening, Mr.
6 Chairman.

7 I am Gary Peterson, Chair of the
8 Capitol Hill Restoration Society Zoning
9 Committee. I live in Ward 6.

10 CHAIRMAN HOOD: You have a little
11 more time, then.

12 MR. PETERSON: That was fast.

13 CHAIRMAN HOOD: You have a little
14 more time than that.

15 MR. PETERSON: I know I'm getting
16 old and slow, but I didn't think I was that
17 slow.

18 TESTIMONY BY GARY PETERSON (cont'd)

19 MR. PETERSON: First, I want to
20 get something right on the record that we
21 totally agree with, and that is, in the
22 submission of October 28, OP has "eating and

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1 drinking establishments," and we think that
2 is the right step in the right direction and
3 support that clarification. That would be a
4 use.

5 Then, going back to definition of
6 times, there are four terms in the
7 Definitions section that start out with the
8 word "historic": "historic district",
9 "historic landmark," "Historic Landmark and
10 Historic District Protection Act of 1978,"
11 and "historic resource."

12 For three of those -- "historic
13 district," "historic landmark," and "historic
14 resource," we have suggested very minor
15 changes, but it brings the definitions, we
16 believe, in line with what Historic
17 Preservation uses as the definitions. And I
18 think one of the goals of the comp plan and
19 the rezoning was to try and reconcile any
20 differences between historic preservation and
21 zoning. I've given you new draft language in
22 my letter, and I would recommend that you

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1 adopt the language. It should be
2 noncontroversial. It's not meant to change
3 anything; it's just meant to clarify.

4 Then, I would like to get to my
5 favorite subject, which is "agriculture,
6 large" and "agriculture, residential." I'm
7 from Iowa originally, and I married the
8 farmer's daughter, and I spend every July on
9 the farm in Iowa. And I'm more than 50 miles
10 away from there now. So I think I'm
11 qualified to say a few things about it.

12 First of all, in "Agriculture,
13 Large," the Section V gives examples of what
14 "Agriculture, Large" is, and I don't believe
15 "community gardens" really belongs in the
16 "Agricultural, Large." For many years, we
17 had community gardens in our residential
18 neighborhood, and I don't consider them large
19 agriculture. I think they should be put into
20 the "Agricultural, Residential" section.

21 The other thing that I think
22 needs to be changed is, "Agriculture,

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1 Residential" refers to keeping of domestic
2 animals intended for personal use or eventual
3 sale off site. And the only problem is that
4 means you could have a milk cow if you wanted
5 to, or you could have the bull that services
6 the milk cow in your neighbors' yards.

7 I think we need to modify that by
8 saying, "keeping of small animals intended
9 for". In other words, we need to cut that
10 back a little bit. When they get the typical
11 uses, they're talking about honeybees, which
12 I would consider a small animal, as opposed
13 to a milk cow. So I think we need to cut
14 down the -- because, in speaking of domestic
15 animal, they could be any size, and I'd be
16 afraid of what some of my neighbors might
17 think of doing.

18 And with that, I'm finished.
19 Thank you.

20 CHAIRMAN HOOD: Okay. Thank you
21 very much.

22 Next.

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TESTIMONY BY JOHN FORRER

MR. FORRER: Good evening. My name is John Forrer. I live in Ward 3 in a neighborhood called Colony Hill, 1714 Hoban Road, Northwest. I'm here speaking for myself, not as a representative of my neighborhood.

I'm concerned about some definitions that may seem fairly pedestrian to you but are quite important to us because there isn't a single flat lot in our neighborhood, and the interaction of the definitions of "cellar," "basement," "story," and "building height" lead to some apparent anomalies.

All of our houses are most of our houses were designed by the same architect and built by the same builder back in the 1930s. They all have four levels, a lower level, which has maybe a recreation room, and maybe a bedroom and laundry facilities; a main level with living room, dining room,

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1 kitchen, et cetera; a next level, with three
2 or four bedrooms; and a top level with
3 probably one or two bedrooms.

4 Depending on which side of the
5 street -- we have street that cut across the
6 slope; we have streets they go up and down
7 the slope. The streets that go across,
8 depending on which side of the street you're
9 on, as we read the definitions, the same
10 house that's a three-story house on one side
11 of the street becomes a four-story house on
12 the other side of the street simply because
13 of the manner in which a neighborhood has to
14 be built when it's built on the side of a
15 hill.

16 If you're on the uphill side, you
17 want to have the living room level so you can
18 go out, into the backyard, and not just go
19 into a pile of dirt. And if you're on the
20 downhill side of the street, you want your
21 lower level to be able to go out into the
22 backyard. So all of our houses are, if you

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1 will, four stories on one side and three
2 stories on the other.

3 But height is measured from the
4 front of the house, and it appears that we
5 don't know whether we are three-story house
6 is a four-story houses. We're in the R-2
7 zone, which is limited to three stories, and
8 half of our houses, as we read the definition
9 -- as I read the definitions; I won't speak
10 for the rest of the neighborhood -- might not
11 qualify.

12 I think there are some other
13 minor anomalies with these definitions, as,
14 for example, the definitions "cellar" and
15 "basement." As I read them, it would sound
16 like I might be standing in the lowest level
17 of the house, and the bottom half of my body
18 would be in the cellar and the top half of my
19 body would be in the basement because they
20 have to do with whether you're less than four
21 feet from the dirt outside, or whether you're
22 below four feet under the dirt outside, and

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1 they don't say which side of the house you
2 look at, to determine that. And in all of
3 our houses, on one side, the entire lower
4 level is above ground. And on the opposite
5 side, the entire level is below ground.

6 CHAIRMAN HOOD: Okay, let us have
7 your closing thought.

8 I'm not going to cut everybody
9 off because we don't have as many, but give
10 us your closing thought.

11 TESTIMONY BY JOHN FORRER (cont'd)

12 MR. FORRER: All of this is in my
13 written testimony. I would just add one
14 thing that's not, and I'll stop. In an
15 exchange with Ms. Steingasser, she and her
16 staff tried to be quite helpful to us.

17 But in an email exchange with her
18 recently, I asked about the definition of a
19 flat roof versus a non-flat roof. Neither
20 term is defined in the definitions, but they
21 are both of critical importance in the height
22 measurement section.

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1 She opined that as for she's
2 concerned, if any portion of the roof is not
3 flat, then it's a non-flat roof, but she
4 couldn't speak to the Zoning Director.
5 Since, when someone goes in for a building
6 permit, they won't be going to Ms.
7 Steingasser, they'll be going through Zoning
8 Department, I think it's important that this
9 be clarified in writing in the zoning
10 regulations so that it is clear that if you
11 have a front part of the roof that sloping,
12 but behind it you have a flat portion, that
13 is a non-flat roof.

14 CHAIRMAN HOOD: Okay.

15 MR. FORRER: Thank you.

16 CHAIRMAN HOOD: We'll end on that
17 note.

18 Let me ask you three, did you all
19 have anything else because I'd like to be
20 fair about the time. Do you have anything
21 else you want to add, since Mr. Forrer
22 already started us going over the three

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1 minutes or five minutes? I want to make sure
2 we're straight.

3 When the buzzer goes off, what
4 I'll do is ask you to give your closing
5 thought. I won't cut you off; okay? All
6 right.

7 Okay, next.

8 MR. THOMPSON: Thank you. I
9 think I have five minutes.

10 TESTIMONY BY GARY THOMPSON

11 MR. THOMPSON: My name is Gary
12 Thompson. I'm from the Chevy Chase ANC and a
13 resident of Ward 4. Thank you for what
14 you're doing. You have a lot of work to do
15 to balance out a lot of interests, and we
16 appreciate it.

17 I'm here on behalf of the Chevy
18 Chase ANC and also the Chevy Chase Zoning
19 Task Force. We submitted written comments by
20 letter of October 22, and they are quite
21 detailed. And we hope that you've had time
22 to read the letter.

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1 I know tonight is only about
2 Subtitle B and we'll be here on some other
3 nights, so I thought I would take just a
4 moment to give you a little background.

5 At our ANC, we've held about a
6 dozen meetings on this topic, hearing from
7 our constituents going back three or four
8 years when this first started. Recently, we
9 formed our own citizen zoning task force and
10 we opened it to everybody in our
11 neighborhood. It was very well-publicized,
12 and a number of people stepped forward to
13 join our task force. We had all kinds of
14 views on that task force. I was the chair of
15 it, so I appreciate the challenge in trying
16 to join together disparate points of view.

17 But we were able to form a
18 consensus, and we are proud of that, and it's
19 reflected in our letter. And I want to
20 publicly thank the members of our task force
21 whose names are recited in our letter.

22 One other big-picture comment I

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1 wanted to get out there is those of us who've
2 been following this have noticed there's a
3 lot of tussle out there in the public
4 commentary on those of us who have comment
5 from residential neighborhoods like ours in
6 Chevy Chase. And of course, most of DC is in
7 fact residentially zoned, and most of that is
8 R-1 and R-2.

9 I just want to assure this
10 Commission that those of us in residential
11 areas truly have the best interest of the
12 District in mind when we look at these
13 regulations. We're looking for the same type
14 of balance that you are, especially in the
15 gray area where commercial development abuts
16 residential areas. And that's the case not
17 just in Chevy Chase, but all over the city,
18 in neighborhoods like Hill Crest and
19 Palisades and Good Hope we're seeing these
20 issues.

21 So, with respect to Subtitle B
22 itself, we're obviously focused on

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1 residential issues. The first issue we
2 spotted is that there is a definition in
3 there called "building height, residential
4 zones," and it sort of pulls together the
5 wording that comes from other parts of the
6 draft Code, and it's largely redundant with
7 Subtitle C, Section 502, and also to some
8 extent Subtitle D, 1501.2.

9 So, when you're trying to
10 understand the rules on height in residential
11 zones, you've got these three overlapping
12 provisions, and it does cause confusion
13 because the words are slightly different.
14 And if the point is to tell people what are
15 the rules for height and residential zones,
16 then naturally, you would look to Subtitle D
17 or at least Subtitle C, 502, which has the
18 real rules. We think that the definition in
19 Subtitle B that's called "Building Height,
20 Residential Zones" should be redundant and
21 should be eliminated to avoid confusion.

22 The last substantive comment we

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1 have is on the definition of "Cellar." The
2 definition of "Cellar," as it currently
3 stands, defines it as "that portion of the
4 story, the ceiling of which is less than four
5 feet above the adjacent finished grade." So
6 you've got some ground next to a building,
7 the adjacent finished grade, and if you have
8 less than four feet sticking up, then that's
9 a cellar. And that can be important because
10 the cellar does not count towards floor-area
11 ratio, as you know.

12 We think it should be changed to
13 the word "Existing Grade," not "Adjacent
14 Finished Grade." And the reason why is
15 because "Existing Grade" is easy to define.
16 "Adjacent Finished Grade" is something that
17 can be manipulated or changed by what the
18 developer chooses to do with the adjacent
19 land.

20 The hot example we have in Chevy
21 Chase is a building being developed at 5333
22 Connecticut, where they're constructing a

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1 berm next to the building and using the top
2 of that berm to define adjacent finished
3 grade. It creates a weird situation where
4 you can have a prior walkout floor that's
5 technically a cellar, and that just creates
6 mischief. We think you'd be much better
7 advised to use the word "Existing" to you
8 define that adjacent grade.

9 And that's it with respect to
10 Subtitle B. I will see you all tomorrow
11 night on the very important Subtitle D
12 sections.

13 Thank you.

14 CHAIRMAN HOOD: Thank you.

15 Next.

16 TESTIMONY BY JUDY JONES

17 MS. JONES: Good evening. My
18 name is Judy Jones. I'm in ANC 4-B 07. I
19 want to thank the Zoning Commission for
20 sending overnight the entire draft of the
21 zoning rewrite to me. I appreciate that. I
22 didn't read it, so -- I just want to

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1 acknowledge that.

2 I appreciate the Commission
3 having these hearings, as well. And OP, I
4 hope you're open to the suggestions that come
5 from them.

6 I am here tonight because of
7 Definition "CM-1 to P-1." CM-1 includes
8 commercial manufacturing, and as I understand
9 the term, it does include "repair." We have
10 an industrial district. It was called
11 Chillum Place; it's now called Takoma
12 Industrial Area, I guess, in the new zoning
13 regs.

14 We have six schools, charter,
15 private schools, in the area. Every other
16 business on that strip is unique, except for
17 auto repair shops. They have a tremendous
18 impact on our quality of life. And at some
19 point, included in the regulations, there
20 should be a saturation point where it becomes
21 not a matter of right. I don't think auto
22 repair shops should be a matter of right,

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1 anyway, because of their impact on
2 environment, but there should be a saturation
3 point.

4 They equal the number of schools,
5 and the environmental impact is tremendous.
6 At least three of them have been closed due
7 to public safety concerns. MPD has closed
8 them, not just the Department of Environment.

9 So as an ANC and a neighbor to an
10 industrial zone, repair shops have pooled the
11 most safety and environmental resources.
12 More consideration for their existence near
13 residential areas should be of special
14 exception, rather than a matter of right.
15 Their description as "repair" within "CM-1 to
16 P" definition should be deleted and
17 explicitly defined with environmental
18 restrictions in place, and one of those
19 restrictions should be consulting with the
20 residential community about its operation and
21 impact on the environment.

22 In addition -- I testified to

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1 this last night -- "industrial zone" should
2 be categorized as potential overlays or PUDs.

3 No residential area that abuts an industrial
4 zone wants the industrial zone to stay the
5 way it is.

6 Ward 4 uses the -- I'm sorry.

7 To move industries that are
8 contrary to the plans of the community and
9 some businesses on the industrial strip is
10 asking for a political suicide. The
11 industrial zone in the Lamond-Takoma area has
12 a nonprofit community development corporation
13 that is happy to work with the DC agencies to
14 redesign and re-fit the industrial zone. We
15 are business-friendly, but we do take into
16 consideration the environmental impact of the
17 businesses that are along there.

18 So that is my testimony for
19 tonight. I hope that you will take
20 consideration of last night, "no industrial
21 area should be a matter of right when located
22 within 200 or 500 feet near a residential

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1 area."

2 Thank you.

3 CHAIRMAN HOOD: Okay, thank you.

4 Next.

5 TESTIMONY BY FRED GOROVE

6 MR. GOROVE: My name is Fred
7 Gorove, formally Gorove-Slade Associates here
8 in Washington, DC. Now I'm here tonight.
9 Thank you, Chairman Hood and the Commission
10 for listening. I'm here to speak regarding
11 automated parking.

12 PDS is a firm organized here in
13 Washington, DC, to promote and implement the
14 use of automated parking. When I was with
15 Gorove-Slade Associates for about 25 years, I
16 studied and planned automated parking
17 systems, so that's my background that
18 qualifies me to be here tonight.

19 I'm here with Lindsley Williams,
20 who will help me, maybe, through some of the
21 definitions if I misspeak on those. He has
22 helped me a bit in preparing what I'm going

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1 to talk about.

2 The request is that the term
3 "mechanized parking," which is already in the
4 regulation, be amended to recognize the term
5 "automated parking" also as a matter of
6 right. Automated parking is a modern version
7 of mechanized parking -- I have trouble with
8 that word -- and it's a modern version. And
9 there are compelling reasons why it should be
10 a matter of right.

11 Actually, the impacts of
12 automated parking are less than those of
13 conventional parking in a number of ways --
14 in terms of its usability, in terms of its
15 impact on the environment, in terms of the
16 desirability for developers. There are
17 advantages, and we have submitted documents
18 that describe these advantages.

19 In general, the impacts are
20 lessened because the cars are not being
21 driven in the garage as they are in
22 conventional garages, so there's less

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1 pollution. There's a number of other things.

2 There's last lighting; it's safer because
3 people are not subject to people being in the
4 garage -- no person can enter the garage; and
5 the delivery and storage and retrieval is
6 faster than you would find in a conventional
7 parking garage. One of the things
8 that we want to mention is, while we're
9 talking about definitions right now and we're
10 talking about this being included in the
11 regulation, we're suggesting that the
12 Commission is dealing with a lot of issues
13 beyond what we're talking about here. And
14 we're hoping that this can be advanced to be
15 a matter of right because it takes a long
16 time to implement garages.

17 One of the first steps in the
18 implementation of a garage or in the planning
19 a garage is to decide the structure that
20 should be there. That decision may allow
21 automated parking to be in place, or it may
22 invalidate automated parking; it may make it

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1 difficult to do it. If there are a lot of
2 columns that are closely spaced and the like,
3 you'll find it very difficult to implement
4 automated parking. In fact, it seems like,
5 in many garages, the planning of the parking
6 as an afterthought because the columns are in
7 place, and all of us have been in these
8 garages where you're trying to duck around
9 columns to find a suitable parking place.

10 What automated parking does is it
11 provides parking so that every parking space
12 is an easy parking space to get into because
13 the only place you're subject to in the
14 garage is that the entry point.

15 The other important point about
16 is, because the entry places where you enter
17 the garage are all ADA-compliant, the whole
18 garage is ADA-compliant by virtue of it.

19 That's the substance of my
20 testimony.

21 CHAIRMAN HOOD: Sir, you still
22 have some more time left.

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1 MR. GOROVE: Oh, I do more time.

2 CHAIRMAN HOOD: Yes.

3 MR. GOROVE: Okay. I wanted to
4 show you some boards, just one of the things
5 we have to do.

6 I might say there are a few of
7 these in the United States, but there's
8 thousands of them in Europe and Asia. I mean
9 I went to Europe to tour these, and -- it
10 would be best to show the board.

11 I wanted to show you this one
12 picture.

13 CHAIRMAN HOOD: That's okay if
14 they're in the record.

15 MR. GOROVE: Are they in the
16 record?

17 Automated parking -- what it
18 really is, is it's a form warehousing, so the
19 mechanics of the system are very similar to
20 warehousing. There's hundreds of these
21 systems in place, but they're used for
22 warehousing in the United States. In Europe

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1 and Asia, they're used for parking.

2 There are a few of these in the
3 United States, maybe 20 to 30. There's one
4 right here in Washington on I Street, which
5 everybody cannot see. It's underneath an
6 apartment building. When they looked at
7 conventional parking, they could only put in
8 25 parking spaces. They could put in 75 of
9 these automated spaces in.

10 But you can see the difference.
11 This is a warehouse. There's an automated
12 parking garage. They look very, very
13 similar. And I'll just show you
14 two other diagrams. The reasons they use
15 less space is there's no ramp; the parking
16 spaces are smaller; the parking spaces are
17 closer together. You don't have to park
18 them. They're mechanically parked.

19 And you can see they're --

20 (Feedback interference.)

21 MR. GOROVE: And that's what
22 these diagrams show.

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1 CHAIRMAN HOOD: Okay. All right,
2 thank you very much.

3 Next.

4 TESTIMONY BY MR. LINDSLEY WILLIAMS

5 MR. WILLIAMS: Good evening,
6 Ladies and Gentlemen, Mr. Chairman. My name
7 is Lindsley Williams. I live at 3307
8 Highland Place, Northwest, Washington, DC,
9 and I'm speaking here tonight as an
10 individual, not on behalf of anyone else.
11 I'm delighted to have the opportunity to be
12 here.

13 You will be relieved to know that
14 the 62-page document that I submitted to you
15 is nothing that I'm going to read to you.
16 But it serves to provide the Commission and,
17 I hope, others an opportunity to ask the
18 question of, why are we changing the
19 definitions? And that leads me to request,
20 as the Commission has done in years past, to
21 develop some kind of a statement of reasons
22 when changes are being made.

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1 To a certain extent, the OP
2 report talks about that, particularly as to
3 use groups, but there are many, many places
4 where definitions are being changed. And when
5 changes are made to the bedrock definitions
6 that are in the zoning code, that can lead to
7 the identification of nonconformities because
8 something is from the good side to the bad,
9 or from the bad side to the good.

10 We need to really have a
11 statement of reasons and have a review, it
12 seems to me, from the Zoning Administrator
13 that says, what you're proposing to do won't
14 cause a host of unexpected consequences.
15 I'll leave it at that.

16 I will just say that, for
17 example, even the definition of "person,"
18 which was included in the original
19 regulations, the existing regulations, is
20 vaporized right now. So I don't know what a
21 "person" is, but it used to be a corporation
22 as well as an individual.

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1 As to the use groups themselves,
2 I think it's a very good concept to go
3 forward with the simplified administration
4 going forward, but I have a cautionary note
5 to ask that the Commission consider looking
6 again at the newly created group, which is
7 "institution, religious-based."

8 It seems to me this could get
9 into difficulty as to whether or not it is
10 exclusively focused on what I will call
11 RLUIPA organizations -- Religious Land Use
12 and Institutionalized Persons Act -- or
13 whether it includes things that have some
14 sort of trace history into a religious
15 community.

16 Holy Cross Hospital in Silver
17 Spring could be described that way. Sidwell
18 Friends has Quaker heritage. We could go on
19 and on and on. I don't think that's what is
20 intended, but I think you need to focus on
21 places of worship, which is the focus of
22 RLUIPA, and not have anything else slip in.

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1 I also want to echo the comments
2 that I've heard early this evening about
3 "cellar" and "basement" confusion, but I want
4 to take it further in that to the definition
5 of "gross floor area," which has in it
6 several things relating to the parking, which
7 I won't go into. But also, it has a standard
8 that says, we want to look at the measurement
9 of the floor above, which is an eight-foot
10 standard from the floor instead of having the
11 four-foot headroom kind of thing to the
12 adjacent grade.

13 I believe that you want to have
14 consistency between the way in which you
15 calculate gross floor area and the way in
16 which you look at cellars and basements, and
17 straighten out a few other things in the
18 "GFA" definition as it exists, which happened
19 to be identified and Mr. Gorove's document.

20 I think I have come to the end.

21 Thank you very much.

22 CHAIRMAN HOOD: Okay, thank you

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1 very much.

2 I want to thank each and every
3 one of you for providing testimony.

4 Commissioners, any questions of
5 anyone on this panel?

6 Vice Chair.

7 VICE CHAIR COHEN: Mr. Kroopnick,
8 I really did not follow your argument with
9 regard to separating big-box retail. So can
10 you be more explicit about what you're asking
11 for?

12 MR. KROOPNICK: Sure.

13 I was reluctant to get too much
14 into the policy that we are proposing, which
15 is a special exception policy for big-box
16 development, which is reserved for next week.

17 But as a premise of that policy, you need a
18 definition for big-box retail stores.

19 VICE CHAIR COHEN: Okay, we can
20 go on to next week on. Now I understand
21 where you're coming from.

22 MR. KROOPNICK: So, tonight, I

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1 just wanted to establish a definition for
2 big-box stores, but I didn't want to overstep
3 my time or my ability to speak tonight.

4 VICE CHAIR COHEN: I know your
5 context.

6 Thank you.

7 MR. KROOPNICK: Thank you.

8 CHAIRMAN HOOD: Any other
9 questions of this panel?

10 Commissioner May.

11 COMMISSIONER MAY: Yeah, Mr.
12 Kroopnick, did you actually submit testimony
13 on Subtitle B, or is it all in your testimony
14 that we'll here next week? Because, we have
15 written submissions for you on a couple of
16 other subtitles, but not this.

17 MR. KROOPNICK: In hindsight, I
18 probably should have submitted this for
19 Subtitle B.

20 I submitted it for Subtitles G, H

21 --

22 COMMISSIONER MAY: Yeah, I saw

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1 the list of what you did submit.

2 MR. KROOPNICK: So, in hindsight,
3 it should have gone into Subtitle B.

4 COMMISSIONER MAY: Well, I mean
5 if the crux of it is the definition of "big-
6 box," if we've got that, we're covered.

7 MR. KROOPNICK: Yeah.

8 COMMISSIONER MAY: And we'll get
9 into it next week.

10 MR. KROOPNICK: Great. Thank
11 you.

12 COMMISSIONER MAY: Mr. Peterson,
13 on, I guess, the definition of "residential
14 agriculture," you're urging that it be small
15 domestic animals? Because, right now it's
16 domestic animals, in which I wouldn't
17 necessarily include cow. I mean, maybe it's
18 a question I need to ask the Office of
19 Planning in terms of how they would
20 differentiate.

21 But are you saying "residential
22 agriculture" should include -- I mean where

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1 do you draw the line?

2 MR. PETERSON: Well, I guess --

3 COMMISSIONER MAY: How small does
4 "small" have to be?

5 MR. PETERSON: The problem is
6 "domestic" isn't defined, so your "domestic"
7 might not be my "domestic."

8 COMMISSIONER MAY: Right. Well,
9 your "small" might not be my "small."

10 MR. PETERSON: Well, that's true.

11 COMMISSIONER MAY: Your,
12 actually, your "small" is probably like my
13 size because I know you're, you know, very
14 tall.

15 (Laughter.)

16 MR. PETERSON: All I'm saying is,
17 I think, "small" at least would make it, you
18 know, so you can have smaller animals.

19 COMMISSIONER MAY: Okay, but
20 you're not taking a specific position about
21 what should or should not be permitted, just
22 that the needs to be that differentiation.

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1 MR. PETERSON: Right.

2 COMMISSIONER MAY: Okay, so we're

3 --

4 MR. PETERSON: I'm afraid it will
5 have to be dealt with on a case-by-case basis
6 because human nature is very inventive on
7 what people want to raise in their backyards.

8 COMMISSIONER MAY: Right; and I
9 think these are subject to other regulations,
10 as well.

11 MR. PETERSON: Right.

12 COMMISSIONER MAY: So it's just a
13 matter of --

14 MR. PETERSON: But I remember, I
15 raised racing pigeons as a kid, so are racing
16 pigeons a lot are not? I mean, they're at
17 least small.

18 COMMISSIONER MAY: That's true.

19 I think that was actually it for
20 my questions. I have some follow-up for
21 Office of Planning.

22 CHAIRMAN HOOD: Okay.

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1 Anybody have any other questions?

2 Commissioner Turnbull.

3 COMMISSIONER TURNBULL: Thank
4 you, Mr. Chairman.

5 Yeah, Mr. Peterson -- Gary -- I
6 hope we don't have a rash of chicken or
7 chinchilla ranches trying to sprout up. I
8 can't imagine anybody wanting to do that.
9 But, like you say, people can be creative.

10 MR. PETERSON: Right.

11 COMMISSIONER TURNBULL: But
12 you're right. I think we do need to expand
13 the definition and make sure we're covered on
14 that.

15 And Mr. Forrer, you talked about
16 a "flat roof" definition. I think it's a
17 good point. Hopefully, no architect is going
18 to define it totally flat roof, so there is
19 always a spoke to it.

20 But the point is maybe there is a
21 definition that defines where flat roof ends
22 and a sloped roof takes over, so I think you

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1 nailed a point that, at least from a
2 definition standpoint, we ought to totally
3 define what a flat roof really is. Thank you
4 for your comment.

5 And Mr. Gorove, I want to thank
6 you for your -- I heard your presentation
7 before at Lambda Alpha. And you always
8 remain the silent partner of the Gorove-
9 Slade. We've always seen Lou here at the
10 hearings, but you're always the one in the
11 background during the work. So I want to
12 thank you for your presentation on that.

13 MR. GOROVE: Actually, I didn't
14 do the work. We have --

15 COMMISSIONER TURNBULL: You don't
16 need to -- I'm giving a lot of credit here.

17 MR. GOROVE: Okay, I'll take it.
18 Thank you.

19 COMMISSIONER TURNBULL: Thank you
20 all very much for coming here tonight. I
21 really appreciate it. I think there's a lot
22 of good comments that OP needs to look at, so

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1 we want to thank you again.

2 CHAIRMAN HOOD: Okay.

3 Commissioner Miller.

4 COMMISSIONER MILLER: Thank you,
5 Mr. Chairman.

6 Yeah, I would agree with
7 Commissioner Turnbull that there are some
8 very useful comments here, and some questions
9 that we may need to thrash out and pose to
10 OP.

11 Mr. Bardin, I think your
12 suggestions are useful, and would be a useful
13 addition.

14 The "sustainability" definition -
15 - I realize you're saying it came from the
16 President's executive order. It seems kind
17 of vague. Did you consider other definitions
18 or -- it doesn't even have the word
19 "environmental" in there -- maybe just
20 throwing in "environmental conditions" or
21 something like that?

22 MR. BARDIN: Commissioner Miller,

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1 you can certainly amplify it. But the
2 concept is not a very precise concept.

3 COMMISSIONER MILLER: Right.

4 MR. BARDIN: Let's be candid
5 about that.

6 But it's like public safety or
7 many of the other concepts that we have in
8 Subtitle A, where people generally
9 understand, or think they understand, what it
10 means.

11 Now, "sustainability" is kind of
12 drawing a balance of all of these factors
13 that the President's executive order
14 mentions. It's been discussed more and more
15 over the years. And now, our mayor has made
16 this a major area of activity.

17 COMMISSIONER MILLER: We have a
18 whole plan.

19 MR. BARDIN: if you want to put
20 in the word "environmental," fine. However,
21 the concept is striking a balance --

22 COMMISSIONER MILLER: Okay.

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1 MR. BARDIN: -- which is what you
2 do all the time at the Zoning Commission.
3 And there are environmental factors, but
4 there are economic factors, social factors,
5 also being worked, and I think that's also
6 what the Executive Order is trying to get to.

7 I don't have a -- you know, I
8 don't have any particular wording. I did
9 feel I owed it to you, one, to have a
10 definition because -- I have had people ask
11 me, what does 'sustainability' mean -- and
12 two, to give you a source for a definition
13 that you and your colleagues can --

14 COMMISSIONER MILLER: I think
15 it's useful. I think it just may need a
16 little bit of tweaking, maybe through that
17 sustainability plan of the District, of the
18 Mayor's that maybe has a -- there may be a
19 definition in there.

20 MR. BARDIN: No, if I found a
21 definition in the mayor's sustainability
22 plan, I would have shared it with you.

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1 COMMISSIONER MILLER: Okay, thank
2 you.

3 MR. BARDIN: I found it in this
4 executive order by the President, and there
5 was an earlier one a couple of years earlier
6 with the same definition.

7 VICE CHAIR COHEN: And
8 Commissioner Miller, this is like the UN
9 definition, so it's a universal definition
10 with a little tweaking.

11 COMMISSIONER MILLER: Yeah, it
12 just seemed very 'motherhood and apple pie'.
13 And I guess it's one of those things, 'you
14 know it when you see it' kind of thing.

15 MR. BARDIN: Well, it's
16 definitely 'motherhood' and it's definitely
17 under 'apple pie'. But if you look at 101.1
18 and see the other terms in it, you see they
19 are full of 'motherhood and apple pie' terms
20 which we've been using for 50 years in some
21 cases, and actually going all the way back to
22 Secretary of Commerce Herbert Hoover in the

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1 original zoning regulations of DC, which were
2 the second in the country after New York
3 City's. And we think we understand that, or
4 at least we think we know what we're driving
5 at.

6 And both the Commission and the
7 BZA have been comfortable in trying to find
8 them.

9 COMMISSIONER MILLER: Thank you.

10 CHAIRMAN HOOD: I, too, want to
11 agree with all of my colleagues. I think the
12 information you all have shared with us is
13 very helpful as we move forward.

14 Especially -- you know the
15 neighborhood where I live in, which is an
16 industrial zone. As soon as I hear "CM-1," I
17 look up because I've had to deal with CM-1.
18 So I think some of the insight that all of
19 you have given us is very helpful.

20 But Mr. Williams, let me ask, the
21 statement of reason -- I think you called it
22 the statement of reason. I'm trying to

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1 figure out, what are we getting from the
2 stamina reason other than, okay, why are we
3 changing the definitions? What are we
4 looking for out of the statement of reasons?

5 MR. WILLIAMS: What I believe
6 you're looking for, Mr. Chairman, is
7 something that identifies what's wrong with
8 the present definition, what is changing in
9 the new definition, and how did that better
10 advance the consistency between what you're
11 doing through the regulations and the
12 provisions of the Comprehensive Plan, and how
13 does it better informed the Zoning
14 Administrator as to what should and should
15 not happen?

16 I realize that also sort of
17 sounds like motherhood and apple pie, but it
18 seems to me that you can -- look at the
19 change in the definition of the courts, for
20 example. I heard what Ms. Steingasser said;
21 I read the report. But I'm not sure that I'm
22 aware of what host of problems exists with

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1 the current definition of "court."

2 You've been all through this.
3 You've made your decisions. I'm not trying
4 to put you on a rack over that, but there are
5 a lot of definitions in these 62 pages, some
6 of which are really critical to understanding
7 the metrics of where you can put properties,
8 buildings on a property, where you measure
9 the height from. We're heard critiques now
10 about the building height measurement point.

11 And all I'm trying to get at is
12 that when you have a statement of reasons,
13 it's like a preface to why are we doing this
14 particular thing. The judgment should be, is
15 it so broken that we really want to change it
16 right now, given the possibility that it will
17 affect what is conforming and what is
18 nonconforming going forward? And how do we
19 make sure that places that somehow fall on
20 the other side of something because of a
21 definitional change are not then cast into
22 some dreadful nonconforming status that lives

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1 with them in perpetuity going forward. So I
2 think we need to be cautious in making
3 changes.

4 Lord knows, I could probably
5 rewrite the Lord's Prayer, but I won't.

6 I just am asking us to exercise
7 restraint and find a really good purpose for
8 each of the changes that we are doing and
9 just take that into heart. That's what I
10 would look for in a statement of reasons,
11 along with the referral to the ZA to make
12 sure that he doesn't see some problem that
13 our trained eyes and your trained eyes don't
14 see before we go forward and say, final,
15 effective six months from now, or whatever.

16 So thank you for the question.

17 CHAIRMAN HOOD: All right, thank
18 you. That was a good point.

19 Okay, any other questions?

20 (No response.)

21 CHAIRMAN HOOD: Okay, that's it.

22 Thank you all very much. We

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1 appreciate you coming down.

2 Let me go back over the list. I
3 see Ms. MacWood came in.

4 Sian Ofalolain?

5 (No response.)

6 CHAIRMAN HOOD: Sian Ofalolain?

7 (No response.)

8 CHAIRMAN HOOD: Mike Wilson?

9 (No response.)

10 CHAIRMAN HOOD: I think I called
11 everybody I have on the list.

12 Everyone else who wants to
13 testify, if you can come forward, this will
14 be our last panel.

15 If there's anyone else in the
16 audience who would like to testify on
17 Subtitle B, if you could come forward.

18 Okay, we will end on this panel,
19 Colleagues, and then we will ask our
20 questions.

21 Ms. MacWood, we will begin with
22 you whenever you're ready.

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TESTIMONY BY NANCY MACWOOD

MS. MacWOOD: Good evening, Mr. Chairman and Commissioners. I'm going to be really brief your tonight. I'm Nancy MacWood representing the Committee of One Hundred.

As you know, predictability and clarity are strong attributes of any zoning code. Subtitle B of the Definitions section should provide a base line for the meaning of zoning concepts. We think there are a few definitions that could be improved to further that goal.

One issue is the legal authority of the definitions. Do they establish requirements, or are they only descriptions of terms? Chapter 1 states that the zoning definitions are not intended to change the legal meanings used in other regulations, but it is not stated whether the zoning definitions are actually enforceable provisions of the Code or are simply helpful bits of information to orient the code user.

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1 For example, the definition of
2 "home occupation" describes a resident-
3 practitioner relationship, but in the
4 Subtitle D provisions that establish the
5 rules for home occupations, it is not clear
6 that the resident must be the business
7 practitioner. So, is the definition an
8 additional enforceable provision or not?

9 "Affordable housing" -- the
10 definition is "no more than 30 percent of
11 household income spent on housing." I don't
12 think that definition is applied to any
13 specific zoning provisions, but the term is
14 used in the planned unit development
15 provisions. It may also be mentioned in
16 other parts of the Code.

17 The confusion arises because
18 inclusionary zoning rules apply to a proffer
19 that affordable housing beyond what is
20 required could be a benefit of a PUD. IZ has
21 income requirements based on area median
22 income levels and not on the percentage of

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1 income spent on housing.

2 It would seem that a clearer
3 definition of "affordable housing" would
4 relate to the IZ income criteria, which is
5 based on percentage of AMI. There should be
6 a review, in our opinion, to determine the
7 term "affordable housing" is ever used in the
8 Code without referencing IZ regulations. If
9 it is always associated with IZ, a better
10 definition would use the IZ income rules and
11 would cross-reference affordable housing
12 "affordable housing" with definitions for
13 "low and moderate income," or 30 or 50
14 percent of AMI, whichever is the clearer
15 reference to icy.

16 "Apartment building" -- the
17 current definition describes buildings with
18 three units or more. The proposed definition
19 describes buildings with five units or more.

20 This may be to distinguish apartment
21 buildings from four-unit row houses, but
22 there are existing apartment buildings that

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1 will be included in the new apartment zone
2 that have fewer than five units.

3 The new definition of implies
4 that apartment building density has a base of
5 five units, and the buildings with four units
6 are some undefined housing option or perhaps
7 would become nonconforming structures.

8 "Household" -- the definition is
9 confusing. OP seems to intend to have this
10 explain how and when numbers of people living
11 together is limited, but OP is only including
12 two types of households and is not including
13 other types of households where the proposed
14 regs would limit the number of people living
15 together. Included in the definition is a
16 family household where everyone is related
17 and the total number of occupants is on
18 limited. The other is a group household of
19 no more than six unrelated persons living
20 under one roof with common living features,
21 like kitchen and bathrooms. OP has not
22 including "accessory dwelling units" even

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1 though they create a separate household.

2 And OP has included a limit on
3 the number of people living on a lot in
4 Subtitle D.

5 To be comprehensive and clear,
6 the "household" definition should include all
7 types of households with accompanying limits
8 on number of occupants.

9 Thank you, Mr. Chairman. That
10 concludes my testimony.

11 CHAIRMAN HOOD: Thank you.

12 Next.

13 TESTIMONY BY MICHAEL WILSON

14 MR. WILSON: Hi. Thank you.

15 My name is Michael Wilson. I'm
16 with the Respect DC Coalition and a resident
17 of Ward 4. I came out here tonight to
18 support the addition of a definition of the
19 "big-box retail" as retail stores that are
20 75,000 square feet and up.

21 Our coalition, Respect DC, is a
22 group of labor, faith, environmental, and

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1 community groups that has been working on
2 issues of new retail stores that are been
3 coming into DC. We feel that big-box is a
4 fairly new and recent development. The first
5 big-box stores in DC have only been coming
6 in, in the last 10 to 15 years.

7 We feel that it's important to
8 have a definition of these reflected in the
9 zoning code. I think, again, as was
10 mentioned before -- I know that the special
11 exception will be discussed next week, but we
12 do need to have the definition in there.

13 Big-box retail creates traffic,
14 environmental, infrastructure, and other
15 impacts that have a disproportionately large
16 impact on the surrounding community, and
17 should be defined separately, as it has a
18 different and distinct impact from other
19 retail uses.

20 The 75,000 square feet that is being
21 propelled, we feel, makes sense. It includes
22 only retail of a size that will have a

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1 disproportionate impact if it's within a
2 range that's used in other jurisdictions to
3 define big-box retail, and it leaves out
4 traditional grocery stores that don't fit
5 under the definition.

6 I cannot testify next week, but
7 hopefully, some others from our coalition
8 will be able to. But as has been said, we
9 support this definition so that we can create
10 a special exception in the Code that takes
11 into account the existence and impacts of
12 big-box retail versus traditional retail.

13 Thank you.

14 CHAIRMAN HOOD: Thank you. Thank
15 you both, actually. We appreciate your
16 testimony.

17 Commissioners, any questions of
18 this panel? Any questions?

19 Mr. Turnbull.

20 COMMISSIONER TURNBULL: Thank
21 you, Mr. Chair.

22 Ms. MacWood, on your comments

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1 about -- I want to thank you for your
2 comments, by the way -- the apartment
3 building, do you think we should go back to
4 three? Otherwise, you've got a flat, which
5 is covered between one and two.

6 MS. MacWOOD: Exactly.

7 COMMISSIONER TURNBULL: So three
8 would set the minimum level.

9 MS. MacWOOD: There doesn't seem
10 to be any real reason for changing it, and
11 for some of the reasons that Lindsley
12 Williams provided and the potential for
13 creating a nonconforming structure, it seems
14 like it ought to stay the way it is.

15 COMMISSIONER TURNBULL: Okay,
16 thank you.

17 CHAIRMAN HOOD: Okay, any other
18 questions?

19 (No response.)

20 CHAIRMAN HOOD: All right, thank
21 you all very much. We appreciate your
22 testimony. It's been very helpful.

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1 We'll ask their questions now of
2 the Office of Planning.

3 Do we need 10-minute rounds?
4 Let's be consistent. Let's do 10-minute
5 rounds. I don't think I'm going to need my
6 10 minutes tonight. I don't want to sound
7 like Commissioner May; he doesn't need his 10
8 minute rounds; he takes 20. (Laughter.)

9 CHAIRMAN HOOD: So I don't think
10 I need my 10-minute round.

11 Come on, man.

12 (Off-mic comment.)

13 CHAIRMAN HOOD: That was last
14 night.

15 VICE CHAIR COHEN: I'm going to
16 start. Is that okay, Mr. Chairman?

17 CHAIRMAN HOOD: Go ahead, Vice
18 Chair.

19 VICE CHAIR COHEN: I am very
20 concerned about "agriculture" for several
21 reasons. One, I think the first zoning case.

22 The reason why we had zoning that separated

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1 uses is because there's a pig -- this is
2 *Euclid*, I think; you probably remember better
3 than I -- but you know, the pig farm was
4 getting close to the residential area.

5 I don't really support separation
6 of uses, other than I don't want a pig farm
7 next to me. I lived in New York City, and
8 for 10 years, I had a rooster on the roof
9 next door.

10 So those are issues that we need
11 to consider when we allow even "small"
12 because a rooster is small and a lot of pigs
13 are small domesticated animals. So I think
14 that we need to be very, very careful.

15 I know there was a letter in
16 support of having chickens, which -- they
17 don't make as much noise as a rooster. So I
18 want to be very cautious about that, and I
19 don't want to bring into neighborhoods
20 certain uses that are going to be offensive.

21
22 The question that I have is, did

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1 the zoning administrative officer review all
2 of these definitions so that as was
3 mentioned, there are no unintended
4 consequences?

5 MS. STEINGASSER: We did. We sat
6 down with the Zoning Administrator and two of
7 his staff and went through all the subtitles.
8 And obviously, A, B, and C were the most
9 critical for us, to make sure that they were
10 comparable because that gets to where their
11 work comes from. And that's why you'll see
12 tonight, he requested certain definitions be
13 reinstated or initiated into the regulations.

14 VICE CHAIR COHEN: Okay.

15 How come we have not defined an
16 area variance and a use variance? The reason
17 why I ask that is, when I have sat on BZA, it
18 has confused people who people come forward.

19 They describe a use variance when it's an
20 area variance.

21 MS. STEINGASSER: The Commission
22 may remember, in Case Number 12-11, the

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1 Commission considered that definition as part
2 of the administrative regulations.

3 VICE CHAIR COHEN: Yes.

4 MS. STEINGASSER: And it became
5 very difficult to sort them out in a way that
6 didn't bind the BZA, the Board of Zoning
7 Adjustment, when they heard these cases. OAG
8 felt it was in the best interest to pull that
9 definition.

10 VICE CHAIR COHEN: Thank you for
11 reminding me.

12 COMMISSIONER MAY: Can I just
13 follow on that --

14 VICE CHAIR COHEN: Sure, of
15 course.

16 COMMISSIONER MAY: I know I am
17 succeeding her time. Maybe you want to stop
18 the clock for a second and charge it to me.

19 But isn't the difference between
20 "use variance" and "area variance" explained
21 in the BZA rates, in that segment, that
22 Subtitle?

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1 MS. STEINGASSER: I believe it
2 is. There is some explanation, but as far as
3 going further into it --

4 VICE CHAIR COHEN: No, okay, but
5 --

6 MS. STEINGASSER: I'm looking to
7 the Office of Zoning, and they're shaking her
8 head yes.

9 VICE CHAIR COHEN: I guess I just
10 didn't catch it in my 997 pages.

11 What about the definition for
12 "density credits," "arts credit," those types
13 of credits? Are they defined somewhere else?

14 MS. STEINGASSER: Those will be
15 defined as part of the downtown zone because
16 they're integral to that.

17 VICE CHAIR COHEN: But why
18 wouldn't you put them as definitions up
19 front?

MS. STEINGASSER: We can
20 pull them back. I mean --

21 VICE CHAIR COHEN: I think that's
22 helpful for people who then don't have to

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1 sort for a lot of people.

2 MS. STEINGASSER: Okay.

3 VICE CHAIR COHEN: That's my
4 recommendation.

5 Also, "transferable development
6 rights," "strip zoning," those are the kinds
7 of things that I think people -- you know, it
8 would be helpful. That's all, and that's my
9 opinion.

10 Thank you.

11 CHAIRMAN HOOD: Okay, who would
12 like to go next?

13 Commissioner May?

14 COMMISSIONER MAY: Sure.

15 So, first of all, I want to thank
16 you for Exhibit 83, which is the side-by-side
17 definitions, old and new; right? Is that
18 yours?

19 MS. STEINGASSER: Mr. Williams
20 provided that.

21 COMMISSIONER MAY: Mr. Williams
22 provided it. Oh, that was Mr. Williams.

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1 Then I thank Mr. Williams for that.

2 Where did he go? Oh, there he
3 is. Okay.

4 So I just assumed that -- I mean
5 it didn't have anybody's name on it. How did
6 that happen? But I thought that was useful,
7 and I know it's the sort of thing that makes
8 it a little easier to understand. Anyway, so
9 thank you.

10 I guess I'm interested in hearing
11 your response to Mr. Peterson's comment about
12 small animals and residential agriculture,
13 and what you're imagining might be allowed.

14 MS. STEINGASSER: Well, what we
15 tried to do is -- do you remember way back
16 with the sustainability workgroup? There was
17 a lot of talk about urban agriculture and
18 animals. Most of it in DC is regulated by
19 the Department of Health. We were very
20 careful not to try to tread into that area so
21 that we would have conflicting regulations,
22 much like we have done in some of the

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1 sustainability things. That's where are
2 roosters were prohibited, that's where the
3 spacing of the chicken coop in that kind of
4 stuff -- that's all regulated as part of the
5 health code. So we didn't go there.

6 I think it would be easy to try
7 to separate out animal from vegetation, that
8 type of agriculture. I've never seen anyone
9 have livestock. We could probably pull out
10 obvious things like that and say, you know,
11 "domestic" does not include livestock. I
12 don't --

13 COMMISSIONER MAY: Yeah, and then
14 you've got more definitions to make.

15 I mean it's sort of tricky
16 because there is a certain pressure to allow
17 residential farming on some level.

18 MS. STEINGASSER: Right.

19 COMMISSIONER MAY: It was even in
20 the *City Paper* this week, where you can have
21 chickens and where you can't in local
22 jurisdictions, and where you can have

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1 roosters, and one jurisdiction allowed
2 roosters and not chickens. It's very
3 strange. So I think there's pressure on
4 that. There have been cases on Capitol Hill
5 where somebody wanted to have chickens.

6 So do you plan for that
7 eventuality, or do you plan against it and
8 create another hurdle? If the Council
9 decides certain things should be allowed, is
10 an automatic that it should be allowed in
11 certain areas, or does it get taken up at
12 that point? MS. STEINGASSER:

13 That's why we have left it with the health
14 department and not tried to codify it in
15 zoning beyond what you have now. I mean we
16 don't regulate dog houses --

17 COMMISSIONER MAY: Right.

18 MS. STEINGASSER: -- and those
19 kinds of things. We do regulate stables,
20 horse stables, and there are some
21 requirements on the conditions of that.

22 COMMISSIONER MAY: So is there an

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1 explicit pointer within the regulations that
2 says 'For animals, go to Department of Health
3 chapter in the DCMR'?

4 MS. STEINGASSER: I'll be honest;
5 it's getting to the statement, it's not
6 broke, so we didn't go after it.

7 COMMISSIONER MAY: Got it.

8 MS. STEINGASSER: It becomes a
9 very contentious issue. It creates, in some
10 ways, a very artificial debate. So we didn't
11 go there with it. If the Commission wants us
12 to look into it -- in our experience, when we
13 talk to the jurisdictions, it becomes a very
14 emotional issue

15 COMMISSIONER MAY: Right.

16 MS. STEINGASSER: So, it's --

17 COMMISSIONER MAY: So I think the
18 bottom line is maybe some attention to Mr.
19 Peterson's question. Is it warranted just to
20 make sure that were not allowing something
21 accidentally?

22 MS. STEINGASSER: Livestock and -

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1 - right. I think we can fine-tune it more.

2 COMMISSIONER MAY: Right.

3 So, to Mr. Thompson's question
4 about the definition of "cellar" and
5 "finished grade," I know this something that
6 we've dealt with before. There really isn't
7 a great solution because "existing grade" is
8 always hard to define. You know, it seems
9 like it wouldn't be, but it actually is hard
10 to define.

11 MS. STEINGASSER: They're all
12 hard to define because they're all time-
13 triggered. Is it existing at the day of
14 building permit?

15 COMMISSIONER MAY: Right.

16 MS. STEINGASSER: We've had a
17 case --

18 COMMISSIONER MAY: We wrestled
19 with that in "building height measurement."

20 MS. STEINGASSER: Right. And so,
21 since the Commission just adopted new
22 language regarding building height and how to

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1 measure it, and how it would be implemented
2 in different times, we haven't proposed
3 anything different than that because that
4 case just became final in February of this
5 year. So we've tried to stay with that.

6 You know, what we do need to do,
7 admittedly, is make sure there's consistent
8 use of times as they go through. I think
9 we've -- every report kind of opens with the
10 fact that we know there's a lot of
11 redundancy. His point of having those
12 nuanced differences between B, C, and D,
13 that's valid, and we will be pulling those
14 out and making them reflect the language that
15 the Commission just adopted.

16 COMMISSIONER MAY: Okay, yeah. I
17 mean I don't know that there's any better
18 solution than what you already have in the
19 language, so, yeah, it invites some potential
20 for mischief.

21 But by a large, I think I don't
22 think we're getting huge mountains of earth

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1 leading up to --

2 MS. STEINGASSER: We're not -- in
3 the new language, we did address that, that
4 you couldn't artificially raise, you couldn't
5 create a berm and measure from it.

6 COMMISSIONER MAY: Right.

7 MS. STEINGASSER: And we tried to
8 hit at that issue head on.

9 COMMISSIONER MAY: Right.

10 MS. STEINGASSER: So I think that
11 will help the issue.

12 COMMISSIONER MAY: It makes
13 sense. Is there a way to
14 incorporate that into the "cellar"
15 definition?

16 MS. STEINGASSER. No, the
17 "cellar" and "basement" definitions --

18 COMMISSIONER MAY: That really
19 has to follow the --

20 MS. STEINGASSER: That follows
21 the -- yeah.

22 COMMISSIONER MAY: -- line of the

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1 building all the way around, yeah.

2 MS. STEINGASSER: Right. Right,
3 and we didn't change that. We didn't propose
4 any changes to the in the administrative case
5 last year, or in regulations going forward.

6 COMMISSIONER MAY: Right.

7 So one last question -- this goes
8 to lot occupancy, and I have to look at the
9 definition again as I'm sitting here, but I
10 made a note to myself. Did we want to change
11 the definition of "lot occupancy" to include
12 buildings and structures? Because, there's
13 the one zoning case where we had an elevated
14 platform structure.

15 MS. STEINGASSER: Right.

16 COMMISSIONER MAY: It was a
17 question of whether it counts toward lot
18 occupancy, and I'm wondering if it was --

19 MS. STEINGASSER: Well, the flag
20 we have on that in our system is that once
21 that case gets complete --

22 COMMISSIONER MAY: Yes.

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1 MS. STEINGASSER: -- which won't
2 be until December, then we'll adjust
3 accordingly and incorporate that. But I'm
4 not sure whether "lot occupancy" included
5 structures -- total building area of all
6 buildings, and then you go on and look at it.

7 So we could make sure that -- they'd have to
8 be justified because the language of the
9 "retaining walls" specifically states it will
10 be considered in lot occupancies, so somehow
11 that has to be --

12 COMMISSIONER MAY: Right, so it
13 has to be some kind of tweak.

14 All right, thanks.

15 CHAIRMAN HOOD: Commissioner
16 Miller.

17 COMMISSIONER MILLER: Thank you,
18 Mr. Chairman.

19 So, on the "cellar" definition,
20 why shouldn't it refer to the natural grade,
21 which is a defined term in these definitions?

22 I don't know if -- is that a newly defined -

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1 -

2 MS. STEINGASSER: No, we did not
3 change the definition --

4 COMMISSIONER MILLER: Of "natural
5 grade."

6 MS. STEINGASSER: Of "natural
7 grade," yeah.

8 COMMISSIONER MILLER: Can you just
9 give me the rationale of why it shouldn't be
10 -- this is my lack of understanding of the
11 whole issue -- why it shouldn't relate to the
12 natural grade versus the adjacent finished
13 grade. And also, why shouldn't cellar space,
14 in any event, wherever it is, be counted
15 toward the FAR? What's the rationale for not
16 including it within FAR?

17 MS. STEINGASSER: Well, it's to
18 recognize it as truly subterranean space.

19 When it comes out at a certain
20 point, the walkouts, then it does start to
21 include -- excuse me -- then it does start to
22 be included in the FAR and the lot occupancy,

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1 and the Zoning Administrator has a very long
2 history of how they interpret it by how much
3 it comes out, at what point, and how they
4 measure that.

5 The deal with "natural grade" is
6 there's very little natural grade left in
7 Washington, so much of it has already been
8 altered in one way or another. There also
9 has been a lot of issues with viaducts
10 because, you know, the Height Act has always
11 been the leading edge of how we measure
12 height, and that talks about from the curb,
13 and the curb starts to rise. And so we've
14 tried to find ways to bring that down a bit.

15 I mean we can take another look
16 at it, but that's --

17 COMMISSIONER MILLER: But explain
18 to me -- we can count basement space as a
19 part of FAR, but not the cellar; is that --

20 MS. STEINGASSER: I believe
21 that's correct.

22 COMMISSIONER MILLER: So that's

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1 why I don't understand. What's the
2 "subterranean" argument? What is --

3 MS. STEINGASSER: I don't --

4 COMMISSIONER MILLER: I'm just
5 trying to understand the original rationale.

6 MS. STEINGASSER: That's been in
7 the zoning regs since 1958.

8 COMMISSIONER MILLER: Yeah, and
9 what was the original rationale?

10 MS. STEINGASSER: It would be my
11 guess, based on my read of the Lewis Report -
12 - he did not spend a lot of time in
13 Washington -- that he anticipated the most of
14 these would be fairly flat buildings, and
15 that there would be a basement and there
16 would be a cellar, and that it would be
17 fairly uniformly applied. And, that which
18 appeared to be below grade would not count,
19 and that which appeared to be above -- as
20 Washington was already well built out by that
21 time, and you get out into the edges where
22 there's so many holes. It just has created a

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1 bit of a challenge.

2 If we unify those, we will
3 create, I think, a lot of unintended
4 consequences because we won't be able to
5 anticipate how many nonconformities will
6 result from it. So, unless we're either
7 going to go more lenient and then up the
8 height and density, that --

9 COMMISSIONER MILLER: That's the
10 problem with nonconformity. Although you can
11 say, going forward, it's this way and
12 everything else is still conforming, I guess,
13 could you do that in other cases?

14 MS. STEINGASSER: We could.
15 There's not that much left. You know, we're
16 talking about, really, when we're getting
17 into these areas, it's been infill. You
18 know, the new developments are usually
19 larger-scale ones and usually before the
20 Commission in some kind of PUD or theoretical
21 lot subdivision. So there's different types
22 of ways to review them.

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1 COMMISSIONER MILLER: On the
2 "industrial use" that Commissioner Jones
3 testified to, was there any change in the
4 permissibility of auto repair shops?

5 MS. STEINGASSER: No, there was
6 no change.

7 In the industrial zones, what we
8 looked at, we put a limit on nonindustrial
9 uses, which we'll talk about in a couple
10 weeks. We also put a special exemption on
11 nightclubs and those kinds of late-night
12 activities that spill over, but we did not go
13 after the car repair.

14 COMMISSIONER MILLER: There was
15 one other thing I wanted to ask. I think
16 maybe Mr. Turnbull will get into that.

17 I assume that all the
18 definitions, including "Institution,
19 religious-based" were reviewed OAG in light
20 of --

21 MS. STEINGASSER: Absolutely.
22 Absolutely, that was.

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1 I think there is a good point to
2 mentioning the schools. We do talk about
3 religious-based schools, so, a parochial
4 school that's part of a church versus
5 something like Sidwell, which falls under, as
6 a private school. There may be some fine-
7 tuning we need to do in that area.

8 COMMISSIONER MILLER: And I
9 assume that you wouldn't have any problem
10 with tweaking "mechanized parking" to take
11 into account and to make an accommodation for
12 this newer --

13 MS. STEINGASSER: No, not at all.

14 COMMISSIONER MILLER: -- to take
15 into account this newer kind of automated
16 parking -- okay.

17 Thank you, Mr. Chairman.

18 CHAIRMAN HOOD: Commissioner
19 Turnbull.

20 COMMISSIONER TURNBULL: Thank
21 you, Mr. Chair.

22 I want to thank Ms. Steingasser

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1 for the work you're doing on all the tweaking
2 of these things.

3 We had a lot of input tonight,
4 and I'm just wondering, what's your next step
5 on looking at some of the input that we got?

6
7 I think Ms. MacWood talked about
8 the apartment building quirk. Do you see
9 that as a valid point, or?

10 MS. STEINGASSER: My concern is
11 that we've created two new zones that the
12 Commission will be considering this week, and
13 they redefine "flat." A "flat" is now a two-
14 unit, three-unit, or four-unit. So I think,
15 just like a single-family detached is not a
16 nonconforming use in R-5 zone, we just need
17 to make sure that all residential uses move
18 forward.

19 To call a three-unit building an
20 apartment -- and we're proposing these new
21 residential "flat" zones -- would create
22 apartments in these zone, which is exactly

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1 what we were trying to get at. It got to
2 some of the issues of neighborhood character
3 and the concern about inappropriate
4 subdivision of buildings, these large row
5 house buildings, these larger estate homes.
6 So we were trying to find zones, create new
7 zones that would allow for their reasonable
8 subdivision yet would still maintain the
9 character and not turn it into apartment
10 buildings.

11 So I'd rather be straight up that
12 from OP's position, we recommend that a five-
13 unit and above be an apartment building, and
14 everything between two and four be considered
15 a flat.

16 COMMISSIONER TURNBULL: A flat.
17 So you could have a four-unit flat.

18 MS. STEINGASSER: Yes, sir.
19 That's what we're recommending

20 COMMISSIONER TURNBULL: Which is
21 not typically what we have always thought of
22 as a "flat."

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1 MS. STEINGASSER: No, sir. We
2 typically think of just a two-unit --

3 COMMISSIONER TURNBULL: Two
4 units.

5 MS. STEINGASSER: As a flat. And
6 so, the way the housing is distributed in DC
7 right now, you have single-family detached,
8 you have a flat, and then you have unlimited
9 apartments.

10 There was a large rezoning in the
11 '60s that created R-5B and R-5C over a lot of
12 our historic row house areas. And by
13 "historic", I use a little "H," not a
14 historic district.

15 COMMISSIONER TURNBULL: Okay

16 MS. STEINGASSER: And it has
17 caused, in areas like Lanier Heights, Adams-
18 Morgan, Sheridan, Kalorama, the ability to
19 make apartments out of this large homes is
20 kind of inappropriate, and we've heard a lot
21 from the community that they were very
22 uncomfortable with it. So we tried to, you

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1 know, fine-tune down some newer zones that
2 were neither apartments nor just two-unit
3 dwellings.

4 We've also seen a rash of cases
5 in front of the BZA where people are trying
6 to turn large row homes into more than two
7 units. So this is a way to kind of get at it
8 in a neighborhood way that creates a little
9 bit more stability.

10 COMMISSIONER TURNBULL: Okay.

11 MS. STEINGASSER: We were talking
12 about that.

13 COMMISSIONER TURNBULL: One of
14 the things that Commissioner Jones brought up
15 was she mentioned the term "saturation point"
16 of uses within an area.

17 Have you thought about that, or -
18 - well, we have done some of the overlays
19 where you can have too many bars on a
20 frontage. But have we put too many uses of
21 one kind in one area?

22 MS. STEINGASSER: We didn't do

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1 that kind of planning work as part of this
2 zoning case.

3 COMMISSIONER TURNBULL: Right.

4 MS. STEINGASSER: We've
5 distinguished between the planning and
6 zoning. Commissioner Jones has
7 done a lot of work. She's been very vocal
8 with us about her concern for that. She
9 invited us out to -- it's not the only work,
10 but it's certainly work I'm familiar with.

11 But we've not proposed anything
12 along those particular lines, outside of
13 looking at the nightclub issue.

14 COMMISSIONER TURNBULL: There
15 were some other comments that were made
16 tonight about a lot of different issues and
17 points and terms; you know, "urban canopy,"
18 "sustainability."

19 MS. STEINGASSER: Yes.

20 COMMISSIONER TURNBULL: How are
21 you looking at going forward on this? I
22 guess, getting back to what Mr. Williams

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1 talked about before, you know, about a
2 statement of reasons, the definitions, and
3 then why we're doing it, do you think it's
4 possible to get something like that?

5 MS. STEINGASSER: Well, a lot of
6 this, the Commission has already done; right?

7 So this is a continuum of a longer case.

8 COMMISSIONER TURNBULL: Right.

9 MS. STEINGASSER: And so, in
10 terms of some of the definitional changes to
11 the development standards -- what makes a
12 courtyard -- the Commission has already
13 looked at that. So we're happy to pull those
14 reports and provide them to you again.

15 I'm thinking this would be
16 something along what Commissioner Miller was
17 suggesting last night, that as we go from
18 collect all the comments --

19 COMMISSIONER TURNBULL: Okay.

20 MS. STEINGASSER: -- there will
21 be an OP kind of response --

22 COMMISSIONER TURNBULL: I got

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1 you.

2 MS. STEINGASSER: -- or
3 recommendation as to what we think is
4 appropriate.

5 COMMISSIONER TURNBULL: So you
6 would do this on the definitions, then, too.

7 MS. STEINGASSER: Oh, yeah. This
8 is the easiest one.

9 COMMISSIONER TURNBULL: And then
10 -- I was just on a BZA case today where a use
11 came up. And I was like, well, it should fit
12 into this; well, it's not really classified.

13 So I mean there's going to be those kinds of
14 things that are going to come up, too, that
15 we're going to input on.

16 MS. STEINGASSER: Yes, and we'll
17 always be open to that.

18 But in terms of trying to get our
19 arms around --

20 COMMISSIONER TURNBULL: Around
21 this whole --

22 MS. STEINGASSER: -- these

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1 hearings, that's how we were going to do it.

2 COMMISSIONER TURNBULL: Well, I
3 think it would be good.

4 MS. STEINGASSER: Okay.

5 COMMISSIONER TURNBULL: I think
6 it would be good for you to give this
7 annotated concept for things like that, that
8 we're getting. I think it would help us -- I
9 think it would help everyone of us who's come
10 here -- to know that their comments have been
11 looked at.

12 MS. STEINGASSER: I mean we've
13 always been of the position that whether we
14 agree or disagree, we couldn't pay for this
15 kind of expertise --

16 COMMISSIONER TURNBULL: Right.

17 MS. STEINGASSER: -- to look at
18 these regulations, so we are more than happy
19 to get those, to synthesize it and sort it
20 through.

21 COMMISSIONER TURNBULL: Okay,
22 thank you.

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1 CHAIRMAN HOOD: I want to
2 piggyback on what Mr. Turnbull was talking
3 about.

4 Even though the Commission may
5 have looked at some of these things
6 previously -- we may even have approved it --
7 one thing we can do is undo what we've done
8 if we all agree.

9 I'm sitting here thinking, what
10 happened to the trash transfer? In 1998,
11 this zoning commission dealt with the trash
12 transfer -- was it "trash facility"? I can't
13 think of what it's called. But I was sitting
14 in the audience and I remember when this
15 commission voted on this. I guess now, it's
16 covered in PDR if I'm --

17 MS. STEINGASSER: It's considered
18 a waste-related service. It's its own use
19 category, and it's included in the examples
20 of "solid waste handling facility" and "non-
21 intensive recycling facility." And all the
22 restrictions and conditions of those are

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1 listed.

2 When we get into the PDR
3 "Industrial" chapter, then those will be the
4 conditions of its operation.

5 CHAIRMAN HOOD: So I wouldn't see
6 it right here in this definition.

7 MS. STEINGASSER: You would not.
8 No, sir.

9 CHAIRMAN HOOD: Okay, that's what
10 I was looking for.

11 I still agree with Mr. Williams
12 on the statement of reasons. That's
13 something that I would -- are we just
14 changing for the sake of changing? Are we
15 changing because we're modernizing our code?

16 I think he brings up a good point, and I'd
17 like to get into that. I really would. I
18 think he brings up a very good point.

19 I don't know, Mr. Turnbull, if
20 that was along the lines you were going.
21 Yes, we need to do that.

22 I'm not saying we have to go by

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1 everyone, but why are we making these
2 changes? Are we making them because we need
3 to update -- I don't want to answer the
4 question.

5 Let me just tell you why I think
6 we're making them. I think we're making them
7 because, first of all, the Code is moving in
8 a different direction, to a certain point,
9 and we're trying to fine-tune the direction
10 and make it consistent with the modern day.

11 Is that the answer?

12 MS. STEINGASSER: That is a very
13 good answer. Yes, sir. Yes, sir.

14 CHAIRMAN HOOD: Well, so I'll see
15 that in your report.

16 MS. STEINGASSER: You will.

17 But we've also tracked with the
18 BZA cases and see what kind of problems are
19 they have with the existing definitions and
20 what kind of new uses have evolved that are
21 not anticipated. What are we seeing in how
22 buildings are being constructed versus 1958?

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1 And so, trying to accommodate that, some of
2 it is as simple as we're modernizing it.
3 Some of it, a lot of the use definitions are
4 that they've been put into use groups and
5 they don't need to be called out anymore.

6 But I think some of it, as we
7 work through it, I mean, we're still finding
8 -- that's why every one of our reports have a
9 little bit of a caveat that some stuff got
10 dropped out unintentionally because we've
11 been through three or four different formats.

12
13 So all of this helps us, you
14 know, comb back through it over and over and
15 over. We don't mind doing that. Especially
16 since Mr. Williams put it in a table, we can
17 just add another column over there and work
18 through the definitions pretty quickly.

19 But I think it also will get to,
20 I think, some of the issues we were hearing
21 last night about what's changed. So I think
22 they kind of go hand-in-glove.

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1 CHAIRMAN HOOD: All right. Well,
2 that was my only question. I was the
3 shortest one tonight.

4 Commissioner Miller, do you have
5 something additional?

6 (Whereupon, there was an off-mic
7 response.)

8 CHAIRMAN HOOD: Thank you.

9 Does anybody else have any
10 questions?

11 COMMISSIONER MILLER: Yes, I do;
12 I'm sorry. I just had a couple of additional
13 points.

14 I agree with the conversation
15 about the statement of reasons. I think that
16 would be a good of the legislative history of
17 what we're doing here. I don't think it has
18 to be, it's not going to be part of the
19 zoning code but it would be a good part of
20 the legislative history.

21 We'll get to this when we get to
22 this chapter that has the subtitle that has

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1 inclusionary zoning, but that do seem to be
2 some definitions missing of "low"- and
3 "moderate-income housing." And maybe you
4 want to comment on that.

5 MS. STEINGASSER: Just to say we
6 agree with you.

7 COMMISSIONER MILLER: Okay. So I
8 guess we can address that, discuss that more
9 at the inclusionary zoning.

10 I know, just to answer Ms.
11 MacWood's -- not answer, but to address one
12 of the points she raised -- I know that term
13 "affordable housing" is used throughout.
14 It's used in many more places than
15 "inclusionary zoning" is. It's used in the
16 housing linkage sections. It's used in the
17 "PUD, Public Benefits" section.

18 We do need to have a definition,
19 though, of "low and moderate income housing,"
20 and I would associate with myself with the
21 Vice Chair's that someday soon, I'd like to
22 adjust those targets to some kind of a lower

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1 level than the 80 percent that's currently
2 given for our own populations, median income
3 versus area median income.

4 I guess the last one is, on the,
5 I think Chevy Chase ANC also brought up
6 "community gardens" being added to
7 "agricultural, residential." Do you have any
8 concern about that?

9 MS. STEINGASSER: No, I think
10 that's fine use that we will probably do.

11 COMMISSIONER MILLER: Thank you.

12 Thank you for all the work that
13 you have done for so many years on this
14 project.

15 CHAIRMAN HOOD: Okay, that's it.

16 Let me just say this: I noticed
17 that our "asks" get more and more of what
18 we're ask for. The public asks for stuff;
19 we're asking for stuff. And I really
20 appreciate the attitude of the Office of
21 Planning and as well as the Office of Zoning
22 because the "asks" get larger and larger,

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1 even though this is just the second night.
2 I'm sure the third night is going to be --
3 and this time next week might not be as
4 friendly. (Laughter.)

5 CHAIRMAN HOOD: But I really
6 appreciate the "ask" and the receptiveness of
7 being able to accommodate the requests that
8 we make from the Office of Planning as well
9 as the Office of Zoning.

10 Okay, Ms. Schellin, do you have
11 anything else?

12 MS. SCHELLIN: No, sir.

13 CHAIRMAN HOOD: All right.

14 I want to thank everyone for
15 their attention. Which Subtitle is tomorrow
16 night? "D" and "F"?

17 MS. SCHELLIN: "D."

18 CHAIRMAN HOOD: Oh, "D."

19 Okay, with that, this hearing is
20 adjourned.

21 (Whereupon, the hearing adjourned
22 at 7:37 p.m.)

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