

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC HEARING

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IN THE MATTER OF: :
   
:
   
TITLE 11 ZONING REGULATIONS- :
   
COMPREHENSIVE TEXT REVISIONS : Case No.
   
: 08-06A
   
:
   
-----:

Wednesday,
   
November 13, 2013

Hearing Room 220 South
   
441 4<sup>th</sup> Street, N.W.
   
Washington, D.C.

The Public Hearing of Case No.
 08-06A by the District of Columbia Zoning
 Commission convened at 6:04 p.m. in the Jerrily
 R. Kress Memorial Hearing Room at 441 4<sup>th</sup> 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)
- ROBERT MILLER, Commissioner

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OFFICE OF ZONING STAFF PRESENT:

SARA BENJAMIN BARDIN, Director  
SHARON S. SCHELLIN, Secretary  
STEPHEN VARGA, Zoning Specialist  
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,  
Development Review & Historic  
Preservation  
PAUL GOLDSTEIN  
JOEL LAWSON  
ELISE VITALE

The transcript constitutes the minutes from the Public Hearing held on November 13, 2013.

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

2 (6:04) p.m.)

3 CHAIRMAN HOOD: Good evening,  
4 ladies and gentlemen. This is a public hearing  
5 of the Zoning Commission for the District of  
6 Columbia, Wednesday, November 13th, 2013.

7 My name is Anthony Hood. Joining me  
8 are Vice Chair Cohen, Commissioner Miller,  
9 Commissioner May, and Commissioner Turnbull.  
10 We're also joined by the Office of Zoning staff,  
11 the Director, Sara Bardin, Sharon Schellin, and  
12 also, the Office of Planning, Ms. Vitale, thank  
13 you. They're not sitting in order over there.  
14 I go by order every time, there's Ms. Steingasser  
15 and Mr. Lawson.

16 This proceeding is being recorded by  
17 a court reporter, and is also broadcast live.  
18 Accordingly, we must ask you to refrain from any  
19 disruptive noises or actions in the hearing  
20 room, including display of any signs or objects.

21 The subject of this evening's  
22 hearing is Zoning Commission Case Number 08-06A.

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1 This is a request by the Office of Planning for  
2 comprehensive revisions and amendments to the  
3 zoning regulations, Title 11 DCMR. The  
4 specific subject of tonight's hearing are  
5 proposed new Subtitles G and H.

6 Notice of today's hearing was  
7 published in the D.C. Register on September  
8 20th, 2013. And copies of that announcement are  
9 available to my left, on the wall near the door.

10 The hearing will be conducted in  
11 accordance provisions of 11 DCMR 30-21, as  
12 follows, preliminary matters, presentation by  
13 the Office of Planning, reports of other  
14 Government agencies, if any, testimony from the  
15 public, and then questions by the Commission of  
16 the Office of Planning.

17 The following time constraints will  
18 be maintained in this hearing, Office of  
19 Planning up to 60 minutes, organizations five  
20 minutes, individuals three minutes. The  
21 Commission intends to adhere to the time limits  
22 as strictly as possible, in order to hear the

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1 case in a reasonable period of time.

2 The Commission reserves the right to  
3 change the time limits for presentations if  
4 necessary. And notes that no time shall ceded.

5 As noted in the Notice of Public  
6 Hearing, I will be calling witnesses in the order  
7 in which the Office of Zoning received their  
8 notice of intent to testify. After those  
9 witnesses have been called I will ask other who  
10 have registered to testify this evening, and  
11 then ask others in the audience if they wish to  
12 testify.

13 All persons appearing before the  
14 Commission are to provide two witness cards.  
15 These cards are located to my left, on the table  
16 near the door. Upon coming forward to speak to  
17 the Commission, please give both cards to the  
18 reporter seated to my right, before taking a seat  
19 at the table.

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

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1 address. It would also be helpful if you would  
2 first identify the subtitle or subtitles to  
3 which your testimony relates.

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

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

14 In addition, there should be no  
15 direct contact whatsoever with a Commissioner  
16 concerning this matter, be it written,  
17 electronic or by telephone. Any materials  
18 received directly by a Commissioner will be  
19 discarded without being read. And any calls  
20 will be ignored. The staff will be available  
21 throughout the hearing to discuss procedural  
22 questions.

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1           As no testimony this evening will be  
2           limited to proposed new Subtitles G and H, if you  
3           have testimony on other Subtitles, and cannot  
4           come back on the scheduled hearing night for  
5           those subtitles, you may hand in your written  
6           testimony, or submit it before the hearing date.  
7           We will read it.

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

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

19                 MS. SCHELLIN: No, sir.

20                 CHAIRMAN HOOD: Okay. I have an  
21          announcement on this from our colleagues. We  
22          all on the same page? There's been some

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1 question about the record closing. I think the  
2 record will stay open until further notice. And  
3 on December 9th we'll make a decision at our  
4 meeting on how we're going to move forward.

5 And I just want to assure the public  
6 that even if we're going to make that decision  
7 December the 9th, there will be adequate time for  
8 comments to be taken in to this Commission. Any  
9 objections?

10 Okay. All right. Let's go to the  
11 Office of Planning. Ms. Vitale, are you going  
12 to take the lead with that? Okay.

13 MS. VITALE: I will. You figured  
14 we'd have, give you a little variety this  
15 evening. Good evening, Mr. Chair and Members of  
16 the Commission. This evening's hearing will  
17 focus on Subtitles G and H. Subtitle G contains  
18 the commercial, or mixed use zone.

19 And Subtitle H is a compilation of  
20 the neighborhood commercial overlays, and the  
21 neighborhood mixed use zones. The Commission  
22 has held hearings on the mixed use zones.

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1           And these date back to, you know, the  
2 first hearing was in October of 2008. And it  
3 concluded with a public hearing, to provide  
4 guidance, in November of 2010.

5           The Commission provided guidance  
6 that the existing commercial zone district and  
7 overlay should be replaced with stand-along  
8 zoning districts. Here you can see the  
9 commercial zones mapped on the left hand side of  
10 the screen. I know it's a little bit difficult  
11 to read up there. But you can see the old and  
12 new zonings.

13           You will notice that the zones have  
14 been grouped geographically. And they've also  
15 been ordered based on intensity of use. We'll  
16 discuss the neighborhood overlay zones in more  
17 detail, in just a few slides. But first we'll  
18 focus on the mixed used zones.

19           The Commission provided guidance on  
20 a number of items that have been reflected in  
21 Subtitle G. Many of these items actually  
22 related to the arts overlay zone specifically.

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1 Those you'll find at M-29 through M-22. Those  
2 are the new zone names.

3 The first one had to do with street  
4 frontage design requirements. We are proposing  
5 street frontage design requirements for the arts  
6 zones. We're also carrying forward the  
7 limitations on eating and drinking  
8 establishments that were found in the arts  
9 overlay. We've also maintained the height  
10 transition provisions.

11 And while these are specific to the  
12 arts overlay at this time, these could be applied  
13 elsewhere as appropriate in the future.

14 More generally, and this is  
15 something that we discussed the other evening at  
16 the hearing on Subtitle E, we've gone from the  
17 list of multiple uses that you're familiar with,  
18 to broader groups of use categories.

19 The guidance for the mixed use zone  
20 also spoke specifically to setbacks, courts and  
21 plazas. And direction was provided to  
22 standardize those requirements as appropriate.

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1           It was a bit more simple to  
2 standardize the requirements when it came to the  
3 side setbacks. Generally, no side setback is  
4 required. But if one is provided, it would be  
5 a minimum of five feet, or two inches for every  
6 foot of height.

7           When it came to the rear setbacks it  
8 was a little more difficult to come up with a  
9 standardized approach. And we really didn't  
10 feel that, you know, one size fits all makes  
11 sense here. We really wanted to make sure that  
12 we maintained appropriate transitions between  
13 the commercial zones and adjoining residential  
14 neighborhoods.

15           So you will find that, while it was  
16 done standardized somewhat, on a zone by zone  
17 basis, we weren't able to come up with, you know,  
18 one standard approach when it came to rear  
19 setbacks.

20           We've also standardized the method  
21 of measurement. If a property abuts an alley,  
22 that rear setback can be measured from the center

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1 line of the alley.

2 With respect to courts, we were able  
3 to standardize those requirements. If a court  
4 abuts the side yard, however, that would be  
5 regulated as a side setback, and not as a court.  
6 Courts will be regulated now only if they are  
7 interior. So if you have two walls of windows  
8 that would face one another.

9 We are proposing some modifications  
10 to the floor area ratio and lot occupancy  
11 standards in the C-2-A zone. Those are now  
12 found at M-4. M-4 is the new C-2-A zone.  
13 There's no change to the total FAR of 2.5. But  
14 we are proposing now that you could go from a  
15 non-residential FAR of 1.5 to 2.0.

16 And this would be, by right, on lots  
17 with an area of 10,000 square feet or less. We  
18 believe that this would allow for better in fill  
19 of vacant lots.

20 New buildings would be able to  
21 better, you know, fold a corner, based on these  
22 new provisions. And we also believe it would

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1 facilitate the re-use of older buildings.

2 This is something that's already in  
3 place along Pennsylvania Avenue in the Capitol  
4 Hill commercial overlay. So this is kind of an  
5 expansion, more broadly.

6 There were discussions about  
7 bringing forward some more general use related  
8 standards. However, we're not proposing to  
9 bring forward a set of general provisions. This  
10 was something that was a bit of a holdover from  
11 when the code was initially proposed. And it  
12 was more of a kit of parts.

13 Since we're not following that  
14 approach, we believe that the use related issues  
15 are addressed in the specific zones adequately.  
16 Here we're going to get into a little bit more  
17 detail about the neighborhood mixed use zones,  
18 or the neighborhood overlays.

19 To set the stage for the discussion,  
20 we've provided some text from the current code.  
21 And you can see that Section 1301 said that the  
22 neighborhood commercial overlay districts are

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1 mapped in combination with the underlying  
2 commercial districts, and not instead of the  
3 underlying district.

4 So the overlays are really meant to  
5 work in combination with the underlying zone.  
6 So you see below that, on Section 720, and this  
7 is a description of the C-2 zone.

8 The C-2-A district shall be located  
9 in low and medium density residential areas,  
10 with access to main highways or rapid transit  
11 stops. And they shall include office  
12 employment centers, shopping centers and  
13 medium-bulk mixed use centers. So you can see  
14 really, that the overlays in the base zone do,  
15 in fact, work together.

16 So on the next slide, you can see the  
17 list of the neighborhood mixed use zones.  
18 Again, on the left side, this is the current zone  
19 name with the overlay next to it. The right side  
20 will be the new neighborhood mixed zone name.  
21 And again, they've been grouped geographically  
22 and by intensity.

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1           This slide actually shows the  
2 existing commercial zoning. This is just a  
3 portion of the city. It includes four of the  
4 neighborhood commercial overlays, McComb,  
5 Wisconsin, Cleveland Park, Woodley Park, and  
6 Georgia Avenue.

7           And now you can see the orange  
8 boundaries highlight these four neighborhood  
9 commercial overlays. Within these boundaries  
10 you've got the provisions of the base zone.  
11 Those are then augmented by the general  
12 neighborhood commercial overlay provision, as  
13 well as the site specific provisions of the  
14 individual neighborhood commercial overlays.

15           We will note that most of the  
16 commercial area in the city, even the commercial  
17 that's located in our residential  
18 neighborhoods, is not within a neighborhood  
19 commercial overlay.

20           And so then the final layer, the  
21 green, you can see this highlights the proposed  
22 boundaries for the proposed neighborhood

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1 commercial zones. And again, here each zone is  
2 tailored to put the provisions of the base zone,  
3 as well as the general neighborhood commercial  
4 overlays.

5 And you can see, there's no  
6 difference. The existing overlays are not  
7 being changed. We're not proposing a change to  
8 the boundary. That orange border and green  
9 border, you know, fit right on top of one  
10 another.

11 With respect to the neighborhood  
12 mixed use zones, there was some guidance given  
13 to actually establish development standards, to  
14 ensure flexibility for retail, and to really  
15 ensure that space could be used by smaller  
16 businesses.

17 But then that it wouldn't prohibit  
18 occupancy in the future by larger retail  
19 tenants. And these provisions are found  
20 specifically in the Georgia Avenue and H Street  
21 neighborhood commercial zones.

22 And then finally, I won't read all

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1 of these obviously. But we'll conclude with  
2 some relevant Comp Plan policies and actions  
3 that speak to the mixed use and neighborhood  
4 mixed use zones. And that's the end of our  
5 presentation.

6 VICE CHAIR COHEN: Would you go back  
7 to that Comprehensive Plan?

8 MS. VITALE: Do you want me to read  
9 through them?

10 VICE CHAIR COHEN: Well, you might  
11 just, you know, make sure that --

12 MS. VITALE: Sure. The first  
13 action is related to land use. And it's part of  
14 the comprehensive re-write to develop the text  
15 amendments which expand buffering, screening  
16 and landscaping requirements along the edges,  
17 between residential and commercial and/or  
18 industrial zones.

19 More effectively manage the non  
20 residential uses that are permitted as a matter  
21 of right, within the commercial and residential  
22 zones. Again, to protect the neighborhoods

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1 from the uses which could generate external  
2 impact.

3 Ensure that the height, density and  
4 bulk requirements for commercial districts  
5 balance business needs with the needs to protect  
6 the scale and character of adjacent residential  
7 neighborhoods.

8 Provide for ground level retail  
9 where appropriate, while maintaining the  
10 residential zoning along major corridors.  
11 Ensuring that there won't be a proliferation of  
12 transient accommodations in any one  
13 neighborhood.

14 These really do just speak to, you  
15 know, ensuring that the residential  
16 neighborhood character is preserved, while  
17 continuing to, you know, encourage  
18 neighborhoods serving retail in these areas.

19 CHAIRMAN HOOD: Okay. Thank you  
20 very much, Ms. Vitale. We appreciate that.  
21 And when I pronounce your name incorrect, just  
22 straighten me out, and I promise you, I'll get

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1 it right in a couple of weeks.

2 Okay. Let's go to the public. And  
3 again, I apologize if I mispronounce anyone's  
4 name. We're going to start with number one,  
5 Dandridge Ince. And you can correct me. Susan  
6 Taylor, Richard Hinds, Leila Afzal, Gary  
7 Peterson, Michael Kroopnick, Larry Hargrove and  
8 Nancy MacWood.

9 (Off the record comment)

10 CHAIRMAN HOOD: Kirsten Oldenburg,  
11 Renee Bowser. Did I call out your name? No.  
12 Okay. Who's going to start? To my right, Ms.  
13 MacWood, would you start us off?

14 MS. MACWOOD: Always trying to sit  
15 somewhere so I don't have to go first. Didn't  
16 work tonight.

17 CHAIRMAN HOOD: Okay. Well, if you  
18 don't want to go first --

19 MS. MACWOOD: No, no, no --

20 CHAIRMAN HOOD: -- we'll start to my  
21 left.

22 MS. MACWOOD: I know. I'm very --

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1                   CHAIRMAN HOOD:       We're very  
2                   accommodating here.

3                   MS. MACWOOD:    No, no, no.    I'm  
4                   fine.

5                   CHAIRMAN HOOD:   Okay, you're fine?  
6                   You're going first?  Okay.

7                   MS. MACWOOD:    Good evening.    I'm  
8                   Nancy MacWood, testifying for the Committee of  
9                   100.  I just want to insert for a certain  
10                  testimony that the, in regards to the  
11                  Comprehensive Plan, the Rock Creek West element,  
12                  which is primarily  Ward 3, has extensive  
13                  discussions of neighborhood commercial overlays  
14                  in it.

15                  And there's some specific policy  
16                  that, and essentially it calls for expanding  
17                  them, and applying them to additional areas in  
18                  the Ward.  In fact, it even calls out from  
19                  specific areas where they would be beneficial.  
20                  I'm going to submit the balance of my testimony.  
21                  But I just wanted to talk about the overlays  
22                  actually tonight.

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1           The Committee of 100 has been in  
2 nearly all the guidance proceedings. So we are  
3 aware that the Zoning Commission did not accept  
4 the Office of Planning's proposal to eliminate  
5 NCODs near a commercial overlay district. But  
6 did authorize further exploration of  
7 administrative improvements, like measurement  
8 methodology.

9           I was extremely surprised during the  
10 Office of Planning's presentation to hear that  
11 your guidance was to replace overlays with stand  
12 alone zones.

13           And I can tell you that during the  
14 task force meetings OP never defended the  
15 combination of the underlying and the overlay  
16 zones as a directive from the Zoning Commission.  
17 That's why we'd be very interested to know the  
18 date of the meeting when you discussed that, and  
19 decided to combine them.

20           Nonetheless, since the guidance  
21 hearing that I attended OP has repeatedly stated  
22 that they have not changed the NCODs, for

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1 whatever reason. However, there is a big gap  
2 between what OP says it's intentions were, and  
3 what actually happened.

4 Combining the overlay zone  
5 districts with the underlying zone is not an  
6 administrative maneuver, as I thought your  
7 guidance was. At a minimum it causes confusion.  
8 And at its worst, it changes the interpretation  
9 of the regulations.

10 OP says it combined the zones for  
11 clarity and ease of use. But just the opposite  
12 has resulted. They have taken a clear and easy  
13 to read few pages in Chapter 13, and proceeded  
14 to mix them into the underlying zone provisions.  
15 The result is a confusing mess.

16 It is important to start from the  
17 premise that overlays are a traditional and  
18 current mechanism for achieving specific goals  
19 in a specific area. Overlays are employed when  
20 some of the general zoning rules are not working  
21 for an area, and more is needed.

22 Overlays represent residents taking

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1 control, and determining collectively what they  
2 value about their neighborhood. And how they  
3 can maintain and enhance those values. There is  
4 no need to hide overlays, or call them something  
5 other than overlays.

6 Overlays should stand alone, so that  
7 it is easy to read the modifications, and know  
8 what the overlay restricts, allows and requires.

9 There's a fairly easy fix to restore  
10 the NCODs and their distinguishing provisions.  
11 Put all the general NCOD provisions at the  
12 beginning of Title H, followed by the individual  
13 overlay district provisions. Each overlay  
14 district should include its M zone, mixed use  
15 zone designation. We believe that actually  
16 already is included.

17 The many provisions that simply  
18 repeat the M zone rule should be deleted.  
19 Repeating them in Subtitle H is unnecessary, and  
20 obscures the intent of the overlays.

21 It is quite easy to read the rules  
22 of the applicable M zone in Subtitle G, and then

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1 look at a logical sequencing of the few modifying  
2 rules represented by the overlay in Subtitle H.

3 The OP proposed format results in  
4 more flipping of pages, and makes simple rules  
5 appear quite dense. There are also substantive  
6 problems with the way OP has carried forward the  
7 NCODs. OP has made a series of determinations  
8 that some NCOD regs just don't matter.

9 At the task force we saw this on more  
10 than one occasion. In earlier drafts the  
11 penalty for violating the tree and slope  
12 overlay, for example, was missing from a draft.

13 When questioned about it, OP said  
14 that they didn't think the seven year  
15 prohibition for getting a building permit for a  
16 violation was important. So they deleted it.

17 It appears that some of those  
18 determinations have been made with NCODs. At  
19 the request of Commissioner May, made at the  
20 first ZRR hearing, we have drafted a revised  
21 Subtitle H, and it's attached to my testimony,  
22 that references the applicable M zone in

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1 Subtitle G, but limits Subtitle H provisions to  
2 the overlay general rules, and the individual  
3 overlay district rules.

4 We think it provides greater clarity  
5 and ease of use. And it certainly shortens the  
6 length of the subtitle. We also restored the  
7 missing overlay provisions. And used the  
8 Cleveland Park overlay district to show how the  
9 individual districts could be organized to  
10 capture the regs as accurately as possible. We  
11 hope you will find it useful.

12 Most important, we strongly urge the  
13 Zoning Commission to retain overlays as  
14 overlays, and to separate the underlying zone  
15 regs from the overlay zone regs. Thank you.

16 CHAIRMAN HOOD: Okay. Thank you.  
17 Let me just say, we don't have as many people as  
18 we had, like last night. So when you hear the  
19 first -- Do just as Ms. MacWood did. When you  
20 hear the first beep, know that you have about one  
21 minute. When you hear the second beep, give me  
22 your closing thought.

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1           Okay. I'm not going to cut you  
2 right off on the second beep. But do just as she  
3 did. So thank you for starting us off in that  
4 fashion. That's exactly what we're going to do  
5 the rest of the evening. Okay, next.

6           MS. OLDENBURG: Mr. Chairman and  
7 Commission Members, my name is Kirsten  
8 Oldenburg. I am the Commissioner for ANC 6B04.

9           I appear today here on behalf of ANC  
10 6B to provide our Commission's comments and  
11 recommendations on the proposed re-write of the  
12 city zoning code. In particular, I am here to  
13 present ANC 6B's recommendations on aspects of  
14 Subtitle H, neighborhood commercial.

15           At its regularly scheduled monthly  
16 meeting on October 8th, ANC 6B unanimously  
17 adopted recommendations on several subtitles,  
18 including Subtitle H. Our full statement, with  
19 all of its recommendations was provided to the  
20 Zoning Commission on October 21st.

21           Four squares, 906, 907, 929 and 930,  
22 below the Southeast Freeway, on either side of

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1 8th Street Southeast, are currently the 8th  
2 Street Southeast Neighborhood Commercial  
3 Overlay District. These squares would become  
4 the 8th Street Southeast Neighborhood Mixed Use  
5 Zone, N-6, as Chapter 6 of Subtitle H.

6 I have two matters to raise about  
7 this tonight. First, ANC 6B supports this  
8 conversion of the 8th Street Southeast district  
9 to the special N-6 zone, provided that the terms  
10 of this special zone include the same limitation  
11 on eating establishments as in the current  
12 district.

13 Namely that food and drinking  
14 establishment use be limited to 50 percent, by  
15 lot frontage linear foot, and fast food be  
16 further limited to half of the 50 percent of  
17 linear feet for eating establishments.

18 The zoning regulation review  
19 appears to create a conflict between a general  
20 policy and a specific N-6 policy as regards these  
21 limitations. In our October 21st letter to the  
22 Zoning Commission we offer one way to clarify

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1 this matter. But I'd like to point out here the  
2 conflict as we see it.

3 Under general use permissions for N  
4 zones, Chapter 11, N-6 is placed in zone group  
5 3. Section 1101.3B1 in designated and  
6 restricted uses, restricts eating and drinking  
7 establishments, and fast food restaurants to no  
8 more than 25 percent of the linear street  
9 frontage.

10 Then Section 1101.4D says, in the  
11 N-6 zone, in addition to the requirements of H,  
12 Section 1101.3B, no more than half of the 50  
13 percent of the linear street frontage may be  
14 occupied by fast food restaurants.

15 A second matter I wish to raise  
16 concerns here is about uses in N-6. ANC 6B  
17 reviewed the list of uses, Subtitle H, Section  
18 1102, that would apply to the N-6 zone. Uses are  
19 either permitted by right, with conditions, or  
20 by special exception.

21 One use permitted by right, parking,  
22 stands out to us. The parking use definition is

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1 in Subtitle B, Definitions, of Section 201.26.  
2 And it includes surface lots and structures, but  
3 excludes parking provided as an accessory to  
4 another use.

5 Currently within the four squares,  
6 906, 907, 929 and 930, there are three commercial  
7 surface parking lots, and one temporary private  
8 surface parking lot.

9 In order to prevent the addition of  
10 more surface lots in this small area, ANC 6B  
11 requests that parking uses require a special  
12 exception in the N-6 zone. Thank you very much  
13 for providing us with this opportunity to  
14 testify.

15 CHAIRMAN HOOD: Okay. Thank you.  
16 Next.

17 MR. KROOPNICK: Good evening,  
18 Chairman Hood and Members of the Zoning  
19 Commission. My name is Michael Kroopnick, I'm  
20 an attorney the Law Office of G. Macy Nelson. We  
21 represent Local UFCW 400, as well as a broad  
22 coalition of residents in the District who favor

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1 the regulation of big box stores.

2 I want to thank the Commission for  
3 giving me the opportunity to speak tonight. My  
4 comments mostly concern Subtitle G. Although  
5 our proposal also affects Subtitles H, I and K.

6 In D.C., both in its existing code  
7 and in the draft zoning code they have what is  
8 known as, as of right commercial development,  
9 which applies to any developer who would like to  
10 build a retail store, irrespective of the square  
11 footage.

12 This is problematic as it relates to  
13 big box development, since these types of  
14 developments have uniquely adverse effects on  
15 small businesses, traffic and neighborhood  
16 character, particularly in the existing code in  
17 the commercial zones.

18 But in the draft code this would  
19 concern zones M-3 through M-10, as well as in  
20 zones N, D and SP, or special purpose zones. So  
21 we have proposed that for retail stores who would  
22 like to build at 75,000 square feet or greater,

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1 that they secure a special exception from the  
2 Board of Zoning Adjustment.

3 They would need to establish, or  
4 satisfy rather, a set of conditions, such as  
5 showing that there's a market need for their  
6 stores, that the effect on small businesses  
7 would be negligible, that it would generate  
8 sufficient revenue for the District.

9 There would be an analysis of how  
10 much revenue is begin generated by this store.  
11 And it would also take into account its impact  
12 on traffic and neighborhood character.

13 The other benefit of having a  
14 special exception is that the public would have  
15 an opportunity to express its position on that  
16 type of development. And it would give the  
17 District, through the Board of Zoning  
18 Adjustment, an opportunity to publicly weigh the  
19 cost and benefits of these types of  
20 developments, which is desperately needed.

21 Because currently there's no public  
22 approval process that allows the public or city

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1 officials to weigh the cost and benefits. We  
2 would emphasize that this is a common sense  
3 solution. It's a modest proposal.

4 If you look at the surrounding  
5 jurisdictions, Montgomery County, Prince  
6 George's County, Fairfax County and Prince  
7 William County, they all require some special  
8 exceptions under some circumstances.

9 Arguably, the problem is more acute  
10 in the city than it would be in the surrounding  
11 jurisdictions. Or the potential problem that  
12 big box developments present is arguably more  
13 acute in the city. So we think if you simply  
14 look at the surrounding jurisdictions, this is  
15 clearly a modest and reasonable proposal.

16 We would also finally note that the  
17 city currently, in its existing code and in its  
18 draft code, requires special exceptions for  
19 other types of developments that do not have as  
20 severe of an impact as big box developments  
21 present.

22 Again, I would like to thank the

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1 Commission for giving me an opportunity to  
2 testify. And I would refer the Commission to  
3 our formal comments that we already submitted,  
4 for greater detail for our proposal. Thank you.

5 CHAIRMAN HOOD: Thank you. Next.

6 MS. BOWSER: Good evening. My name  
7 is Renee Bowser. And I appreciate the  
8 opportunity to testify this evening. I'm  
9 testifying on behalf of Advisory Neighborhood  
10 Commission 4D, as we passed a resolution  
11 regarding urging the Zoning Commission to  
12 include a big box special exception provision in  
13 the new law.

14 We passed a resolution, as I said,  
15 on October 15th, urging the Zoning Commission to  
16 amend the law to require big box development by  
17 special exception. Numerous, as the last  
18 person testified, numerous existing zoning  
19 regulations and changes proposed by the Office  
20 of Planning require special exception.

21 Requiring big box development to  
22 obtain a special exception would require formal

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1 notice to the community and to the ANCs. Then  
2 the ANCs can consider the impact on their  
3 communities through discussion with their  
4 constituents, reviewing studies and reports,  
5 and draft position statements that will be given  
6 great weight.

7 Requiring developers to participate  
8 in the special exception process will require  
9 them to provide evidence at hearing concerning  
10 projected positive and negative impacts on the  
11 community, in the form of noise, traffic,  
12 congestion, parking, crime, as well as the  
13 important economic impact on workers and small  
14 or medium size businesses in the District.

15 And if the Board of Zoning  
16 Adjustment found negative impacts on the  
17 community, it could require the developer to  
18 remedy these impacts. The large tract review  
19 process does not do that.

20 I sat through many, many meetings of  
21 ANC 4B, where they even had an urban planner, who  
22 is a resident in the area who volunteered. They

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1 went through a lot of considered and studied  
2 review. And yet, their proposals were given no  
3 weight by the Office of Planning.

4 And just last month I was at a  
5 Brightwood Park Association meeting, where amid  
6 criticism from communities about the coming  
7 Wal-Mart project at Georgia Avenue and Missouri,  
8 the same project that ANC 4B considered.

9 The representative from DDOT took  
10 pains to stress how limited his agency's  
11 authority was in the large tract review process.  
12 Basically saying, our hands were tied, we could  
13 do nothing. And this is from the representative  
14 from DDOT. My concern is about the economic  
15 impact of big box development on community  
16 businesses and workers.

17 And that led me to question Deputy  
18 Mayor for Economic Development, Victor Hoskins,  
19 about whether he considered the impact of the  
20 particular big box development at Georgia Avenue  
21 and Missouri for the Wal-Mart development, the  
22 impact on the net number of jobs for District

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1 residents, and on the impact on smaller  
2 businesses in their ability to survive.

3 Mr. Hoskins said he had given no  
4 consideration to those issues. A special  
5 exception requirement would require the city to  
6 address such issues, and attempt to rectify any  
7 negative impacts.

8 As Ohio State University Assistant  
9 Professor of City and Regional Planning,  
10 Jennifer Evans-Cowley, said in 2005, and she's  
11 still at Ohio State University, even in a higher  
12 position, for planners and elected officials not  
13 to plan for large scale retail is to negate the  
14 relevance of these stores, and to underestimate  
15 the retailers ardent interest in pursuing new  
16 markets.

17 She recommended that communities  
18 start from the beginning, first through careful  
19 study of the land use and economic implications  
20 of large scale retail development, then  
21 incorporating big box policies into the  
22 comprehensive planning process, perhaps the

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1 economic development element.

2 And we believe that the Zoning  
3 Commission should start by making it a special  
4 exception for big box development. Because it  
5 is having, even now during construction, a major  
6 impact on our Ward 4 community. Thank you.

7 CHAIRMAN HOOD: Okay. Thank you.  
8 Just a reminder, the first bell means that you  
9 have another minute. The second bell means give  
10 your closing thought. I notice everybody's  
11 finishing -- Maybe that's just it. I don't want  
12 you to get misled there.

13 MS. BOWSER: Oh, I have time yet?

14 CHAIRMAN HOOD: Yes, you had some  
15 more time. So that's why I wanted to --

16 MS. BOWSER: Last time you stopped  
17 me in mid sentence, so I didn't --

18 CHAIRMAN HOOD: That's because it  
19 was probably --

20 MS. BOWSER: I'm sorry.

21 CHAIRMAN HOOD: Forgive me for  
22 doing that the last time. There probably was a

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1 crowd behind you. So I'm trying to balance it.  
2 Okay, next.

3 MS. AFZAL: My name is Leila Afzal.  
4 I'm a resident of Cleveland Park, and a former  
5 ANC 3C05 Commissioner. I'm here to testify  
6 regarding the regulation changes on overlays by  
7 the Office of Planning.

8 One of the positions that Office of  
9 Planning has taken at many of the community  
10 meetings is that there are no changes being made  
11 to NCODs, which in fact there are. There are  
12 multiple ones, which I won't go through, because  
13 several people have mentioned the various  
14 changes that are coming through.

15 But of great concern to me are two  
16 in particular. And one is that currently the  
17 NCODs are governed by a single chapter on height,  
18 FAR, related to the underlying zone. A single  
19 chapter on authorized uses for the underlying  
20 zone. And a chapter on NCODs that states how the  
21 overlay implements the underlying zone rules.

22 Under the proposal, each NCOD is

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1 going to be combined with the underlying zone.  
2 And information about both are found in the zone  
3 reference table, and the list citations for  
4 zoning and development standards, and a use  
5 permission table.

6 A use requirements regulation, and  
7 contains references to some of the overlay  
8 restrictions. The use permission table  
9 includes 16 different regulations that apply to  
10 one or more of the 33 authorized categorized  
11 uses.

12 This is just simply a very  
13 cumbersome way to understand how the overlay is  
14 being organized. And it causes many back and  
15 forth flipping of pages to go from one section  
16 to the other.

17 Another issues is that the uses are  
18 changing. And there's going to be  
19 encouragement of more regional and destination  
20 type of establishments that can survive  
21 infrequent visits from a broader base of patrons  
22 in the new NCODs. If this happens, nearby

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1 residents are going to find themselves having to  
2 drive to meet their daily needs, rather than to  
3 go to their own local stores.

4 One of the big concerns is that  
5 currently the FAR and height restrictions cannot  
6 be changed to special exception. Under the  
7 proposal the special exceptions would allow for  
8 height and FAR changes.

9 And OP is also eliminating the NCOD  
10 standards of finding that an exception or waiver  
11 should be substantially advanced, the purpose of  
12 the NCOD and the exceptional circumstances that  
13 justify a waiver.

14 Office of Planning's statement that  
15 there are no changes being proposed to overlays  
16 is simply untrue. The most fundamental change  
17 is the removal of overlays as free standing  
18 subtitles throughout the zoning code, with easy  
19 to find requirements and restrictions that apply  
20 to the underlying zone.

21 The significance of each overlay is  
22 lost figuratively and legally when they are not

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1 presented with a contrasting, as contrasting  
2 with general zone requirements and  
3 restrictions.

4 The Comprehensive Plan mentions  
5 different types of overlays, and states policies  
6 that would use this zone tool to achieve specific  
7 land use goals outlined in the Comprehensive  
8 Plan. There is no recommendation that overlays  
9 be eliminated or subsumed into identifiable zone  
10 classifications.

11 Most perplexing is why OP would  
12 tamper with the zoning construct that would  
13 result in community initiated zoning being  
14 eliminated. Thank you.

15 CHAIRMAN HOOD: Thank you. Next.

16 MR. HINDS: Good evening. My name  
17 is Richard Hinds. I am representing the  
18 Citizens Association of Georgetown, of which I  
19 am a legal counsel. I'm here to talk this  
20 evening about the impact, an unintended impact  
21 I think, of the decision to eliminate lot  
22 occupancy for mixed use buildings in zones above

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1 C-1.

2 I would start by saying that the  
3 Citizens Association supports this proposed  
4 increase in density in general, because it  
5 favors residential uses above stores in  
6 Georgetown. But the mixed use buildings on  
7 Wisconsin Avenue and M Street immediately abut  
8 residential lots.

9 By restricting lot occupancy to  
10 roughly two-thirds of the lot, of the existing  
11 lot, the lot occupancy requirements help to  
12 create a buffer between the residential and  
13 commercial buildings.

14 Deleting the lot occupancy  
15 requirements would have the impact of permitting  
16 an addition to a mixed use building in C-2-A, or  
17 M-4, as it's now going to be called, being built  
18 right up to the 15 foot rear setback, at a height  
19 of 50 feet, which would be towering over the back  
20 yards of residential buildings, that are  
21 typically only 35 feet high in Georgetown.

22 Creating, as a result, an adverse

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1 impact on light, air and most importantly, the  
2 historic setting of the residential, and to some  
3 extent the commercial buildings, which are also  
4 historic buildings in Georgetown.

5 Creating such great density, we  
6 think has a really negative impact on historic  
7 setting, on light, air, and green space. So we,  
8 at the request of the Office of Planning we  
9 entered into lengthy negotiations with  
10 representatives of the Georgetown Business  
11 Association, to see if we could reach an  
12 agreement on a reasonable transition provisions  
13 for Georgetown, that recognizes the potential  
14 impact, the negative impact of the elimination  
15 of lot occupancy.

16 And I'm pleased to report that after  
17 a somewhat difficult negotiation, because we  
18 were asking the business community to give back  
19 to some extent what OP was proposing to give  
20 them. But as I say, it was a somewhat difficult  
21 negotiation. But we were successful.

22 And I think it's a great credit to

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1 the business community in Georgetown that they  
2 recognize the need for a reasonable transition  
3 provision between a commercial building and an  
4 immediately abutting residential building.

5 And we were able to reach an  
6 agreement, which is set forth in detail in our  
7 written statement. But is, in essence, a  
8 requirement that you can only build up to two  
9 stories, or 25 feet, up to the rear lot line,  
10 excuse me, the rear setback line, which is 15  
11 feet. And then you would setback another 15  
12 feet, or a total 30 feet, before you could go up  
13 to the full 50 feet.

14 So it would create a two storey, and  
15 then a three or four storey building setback  
16 requirement. And there's a diagram attached to  
17 our written statement that illustrates that.

18 But as I say, this is something that  
19 we were able to negotiate with the business  
20 community, and get them to agree upon. I would  
21 therefore urge the Commission to direct OP to  
22 include this provision in the C-2-A regulations

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1 as a Georgetown specific transition  
2 requirement. That concludes my remarks on this  
3 point.

4 I did want to mention though, that  
5 I just heard something that I was unaware of.  
6 This evening, for the first time, I heard that  
7 there is a proposal to increase FAR from 1.5 to  
8 2.0 for commercial buildings.

9 I was aware of the fact that there  
10 was a provision, and I think it still exists in  
11 the proposal, to permit an existing building to  
12 increase FAR as much as needed, even more than  
13 2.0, to permit the existing building to use both  
14 floors. And again, we favor that particular  
15 loosening of the FAR requirements for an  
16 existing building.

17 I have a similar concern though, to  
18 learn about the possibility of a 2.0, or in other  
19 words, a 1.5 increase in FAR, and what that would  
20 do for the same issue that I'm just talking  
21 about, relating to lot occupancy.

22 I have not had time, since I just

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1 heard it tonight, to consider the impact, and to  
2 discuss it with the committee that works on these  
3 matters. But we may have something further to  
4 say on that subject, if that proposal is on the  
5 table, which I gather it is. Thank you.

6 CHAIRMAN HOOD: Thank you. Next.

7 MS. TAYLOR: First I have to offer  
8 an apology before I begin my testimony. I'm  
9 just not agile enough to adjust my testimony.  
10 So I think I'm going to be repeating some things.  
11 But I'll try to go through it quickly.

12 My name is Susan Taylor. I'm the  
13 President of the Cleveland Park Citizens  
14 Association. And I'm here to testify on  
15 Subtitle H. Cleveland Park is over 100 years  
16 old. But our Connecticut Avenue commercial  
17 area is a thriving, albeit tiny, commercial  
18 center.

19 Despite its small size, only two  
20 blocks long, it boasts a wide range of  
21 neighborhood serving shops, a library, a  
22 theater, a post office, and nearly 30

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1 restaurants. This mix of destination  
2 restaurants and neighborhood serving shops was  
3 carefully crafted through our overlay.

4 I would like to make three points.  
5 First, words matter. The impetus for the  
6 re-write is the Comprehensive Plan. The plan  
7 speaks positively about neighborhood overlays.  
8 And it lays out their benefits as important  
9 zoning tools. And recommends "the creation of  
10 additional neighborhood commercial overlay  
11 zones at neighborhood commercial centers and  
12 main streets throughout the area."

13 But OP has dropped the term  
14 neighborhood commercial overlay, and renamed  
15 these areas neighborhood mixed use zones. The  
16 term overlay makes sense. It takes the  
17 underlying code and lays on top of it certain  
18 restrictions. It's simple to understand.

19 The current regs refer to the  
20 overlay purposes as generally required by the  
21 Comprehensive Plan. But in the re-write  
22 there's no reference to the plan in the N zone

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1 language. If you drop the term neighborhood  
2 commercial overlay, and omit the reference to  
3 the code in the plan, the essential link to the  
4 plan is lost.

5 The plan is the touchstone against  
6 which all proposed code revisions are measured.  
7 It's a giant mission statement. The connection  
8 must be clear, and it must be maintained.

9 Second, the draft re-write is  
10 maddeningly confusing. Code simplification is  
11 cited as a primary purpose of the re-write. So  
12 please explain to me how this Chapter Table of  
13 Contents, simplifies this Chapter 13 Table of  
14 Contents?

15 When I first read Chapter 13, it took  
16 me about 45 minutes. It was simple, and easy to  
17 understand. I have spent hours poring through  
18 Subtitle H. I've had meetings with local zoning  
19 experts, and even OP staff and staff from HPO.  
20 And I still can't understand it.

21 For example, two of Cleveland Park's  
22 most important components are the Uptown Theater

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1 and the Library. But I can't find them in any  
2 of the designated uses. Numerous subsections,  
3 and the general use permissions for M zones are  
4 repeated in the mixed neighborhood mixed M  
5 zones, and then again in the Cleveland Park mixed  
6 use zones.

7 It would be so much simpler, dare I  
8 say elegant, if the re-write followed the logic  
9 behind the purpose. Specify the rules for  
10 underlying zoning in a subtitle. Then augment  
11 these rules, vis a vis, an overlay in the second  
12 subtitle. Separate the two concepts.

13 Third, OP representatives have  
14 assured us that they would not change a thing,  
15 except to update the list of allowable retail  
16 uses. In fact, they've made a number of  
17 changes. And Subtitle H is sometimes wrong.

18 For example, lodging is permitted,  
19 according to the table in 1102.3. Lodging is  
20 not an allowable use in the Cleveland Park  
21 Overlay District.

22 It also adds a new section, "the M-3

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1 zone is intended to permit mixed use development  
2 at a moderate density rate." This is not in the  
3 existing code. It's vague. Please take it  
4 out.

5 The re-write has changed the purpose  
6 of preserving and enhancing neighborhood  
7 shopping areas, by adding residential and  
8 employment as purposes. This is a change.  
9 Please take it out.

10 A glaring omission is the content  
11 from the overlay district preamble. Currently  
12 the code states that a individual overlay zone  
13 district may be established from time to time,  
14 consistent with the general provisions of this  
15 chapter.

16 It's been dropped. But it  
17 emphasizes the connection again between the  
18 goals of the Comprehensive Plan, and the code.  
19 Please put it back in.

20 The Cleveland Park Overlay Area is  
21 small, but wonderfully vibrant and varied. The  
22 community codified an overlay structure that

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1 creates a welcome mix of neighborhood serving  
2 retail and services, while allowing for some  
3 destination places of entertainment.

4 We also want Cleveland Park to  
5 remain a walkable community. And that's what  
6 the overlay does. Residents can visit the  
7 commercial area, and get almost anything they  
8 need, catch a movie, eat and drink, or check out  
9 a book out of the library. Please maintain the  
10 integrity of our overlay, by keeping the link  
11 between the plan and the code clear.

12 And please, for the benefit of the  
13 next generation of developers, residents,  
14 attorneys and zoning commissioners, trying to  
15 understand what they can and cannot do --

16 CHAIRMAN HOOD: Thank you.

17 MS. TAYLOR: Please make this  
18 subtitle easier to use and apply. Thank you.

19 CHAIRMAN HOOD: Thank you. Next.

20 MS. INCE: Hi, I'm Dandridge Ince.  
21 I'm the President of the Cleveland Park  
22 Historical Society. And by now, almost

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1 everything I have to say has been said.  
2 However, I will go forward. And thank you for  
3 hearing all of us tonight.

4 And I also want to thank the Zoning  
5 Re-write Committee for the effort and thought  
6 that they've given this long process. We  
7 appreciate their commitment to implementing the  
8 Comprehensive Plan's long range vision of  
9 prosperity for the District of Columbia.

10 In preparing for tonight I had only  
11 looked at the Comprehensive Plan, the N zones and  
12 N-3, Cleveland Park. As in any city,  
13 Washington's many neighborhoods have just as  
14 many personalities. The variety of cultures is  
15 what gives interest and vitality to the city.

16 The neighborhood I represent,  
17 Cleveland Park, is no exception. Part of our  
18 special character is the historic shopping strip  
19 on Connecticut Avenue. That is the reason it  
20 was included in Cleveland Park Historic  
21 District. And in 1988 another layer of  
22 protection was added, the Neighborhood

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1 Commercial Overlay District.

2 The zoning re-write proposal has  
3 additions and omissions, which the Board of the  
4 Cleveland Park Historical Society believe will  
5 weaken the protection for Cleveland Park's  
6 historic character, that the NCOD has provided  
7 us for the past 25 years. We ask that these  
8 changes and additions be corrected or clarified.

9 And you have heard a number of them  
10 already. First, as everyone else has said, we'd  
11 like to have you reinstate the term overlay in  
12 the title of the general provisions.

13 The draft re-write renames the NCOD  
14 as a neighborhood mixed use zone. By contrast,  
15 the Comprehensive Plan uses the term overlay.  
16 And the current zoning refers to the  
17 neighborhood commercial overlay. The  
18 reference to neighborhood mixed use zone  
19 distances the zoning re-write from the  
20 Comprehensive Plan and the current zoning. And  
21 sends a signal that its purpose has somehow  
22 changed.

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1           Likewise, in the same re-write,  
2           general provisions, there is no reference to the  
3           Comprehensive Plan in the N zone language. In  
4           the current zoning the preamble specifically  
5           refers to its purposes as generally required by  
6           the Comprehensive Plan.

7           We are concerned that with the name  
8           change and the omitted reference, protection in  
9           the current zoning code, and in the  
10          Comprehensive Plan, is lost.

11          Secondly, in the general provisions  
12          of Section N, the zoning re-write has added new  
13          and vaguely worded purposes, which weaken the  
14          current zoning's original purpose of the  
15          overlay. The zoning re-write now cites the  
16          intent to foster residential employment, and  
17          other related uses.

18          In contrast, the current zoning, and  
19          the Comprehensive Plan make no reference to  
20          these intentions. Again, their repeated  
21          purpose is to preserve and enhance the  
22          neighborhood shopping areas. This is another

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1 disconnect from the current zoning and the  
2 Comprehensive Plan.

3 Third, for the general provisions of  
4 the zoning re-write, we would ask that the first  
5 three words in Section 100.2 be, the first three  
6 words are, in addition of. And we'd like to have  
7 that replaced by, subject to. That change will  
8 make it clear that the specific provisions in  
9 each neighborhood's regulations will trump the  
10 more broadly worded general provisions.

11 In the N-3 provisions specific to  
12 Cleveland Park, a new line appears expressing  
13 intent to permit mixed use development at a  
14 moderate density. We are concerned that the  
15 addition of this provision could be interpreted  
16 as authority for changes in the existing uses and  
17 density of development in this overlay district.  
18 We'd like to have that section deleted.

19 Now, these may seem like small  
20 changes from current zoning code. But as a  
21 whole they weaken the current neighborhood  
22 overlay zoning structure by suggesting

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1 opportunities for developers to seek exemptions  
2 that could damage the historic district.

3 The relationship of Section M to  
4 Section N, to Section N-3 in the proposed  
5 revision is not easy to follow. I think some of  
6 these inconsistencies could be cleared by  
7 adhering to the structure in the current codes,  
8 Chapter 13, which followed the provisions in the  
9 old, and in the 2006 Comprehensive Plan.

10 The point of the historic district  
11 is to maintain a sense of what's always been in  
12 the neighborhood. And we are not against  
13 change. But we would like to have a strong voice  
14 in what change would be appropriate, rather than  
15 having change thrust upon us in the future,  
16 because the zoning regulations were not clear.

17 Clarity is important to us. And  
18 historic districts generally do not have the  
19 resources to fight zoning battles against  
20 commercial interests. Thank you. Ah, 13  
21 seconds.

22 CHAIRMAN HOOD: All right. Thank

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1 you. Okay. Commissioners, is there any  
2 questions of this panel? We're going to start  
3 with Commissioner -- Okay, any questions?

4 COMMISSIONER TURNBULL: Yes, thank  
5 you, Mr. Chair. I want to thank all of you for  
6 your comments. I think they were very  
7 insightful. And I think, as we said before,  
8 we'll make sure that OP takes note. And we'll  
9 go back, when we have our time, to question OP  
10 on this.

11 Ms. MacWood, let me, I just -- You're  
12 not only concerned about the terminology, but  
13 the administration of this. And I wonder if you  
14 could just clarify a little bit more on what you  
15 were talking about.

16 MS. MACWOOD: I think it's going to  
17 be very difficult to interpret. And I think  
18 interpretation is going to be called for if the  
19 proposal is approved as is. As has been  
20 mentioned by several people, Mr. Turnbull,  
21 purpose statements for the overlay have been  
22 expanded to include purpose statements for the

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1 underlying zone.

2 The special exception standards,  
3 which are very specific in the current overlay,  
4 those have been expanded. Presumably to  
5 include special exception standards that might  
6 be applied for a waiver of underlying zone  
7 standards, like height or FAR, or something like  
8 that.

9 So it's gone from being a very  
10 discreet, focused and narrow zoning construct,  
11 to now being much broader. And you lose the  
12 intent of the overlays, which is a very --

13 The intention of the neighborhood  
14 commercial overlays is very small. The only  
15 thing that neighborhoods were trying to achieve  
16 when they created these is to limit the  
17 commercial area to the types of retail and  
18 services.

19 It's only retail and services that  
20 are important to the neighborhood. That allow  
21 the neighborhood residents to walk to the  
22 commercial area and get most of what they want.

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1           In the Cleveland Park overlay that  
2 has been discussed, and that we used as a  
3 template, they added in -- In addition to retail  
4 and services, they added in they wanted a  
5 library. And they wanted, what was the other  
6 one, oh a movie theater, a movie theater.  
7 That's it. Otherwise everything --

8           And we have to keep in mind, this is  
9 only on the ground level. And it's not even the  
10 entire ground level. It is only 50 percent of  
11 the ground level. And then the underlying zone  
12 uses kick in. And they can go in the other 50  
13 percent. They can go in the upper floors.

14           So it's a very tailored, narrow,  
15 from my perspective, eminently reasonable set of  
16 modifications of the underlying zone and  
17 restrictions in order to meet -- And they vary.

18           You know, the person who talked  
19 about the H Street overlay. They have very  
20 different provisions, additions that they have  
21 added for their neighborhood, than Cleveland  
22 Park has, or that Woodley Park has.

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1           So it's, this is bottom up zoning.  
2           And I don't understand the rationale for  
3           combining it. It works. It absolutely works.  
4           And why it is being essentially messed with, and  
5           destroyed, is just beyond me.

6           COMMISSIONER TURNBULL: I think  
7           your comments, and I think some of the other  
8           comments that I've heard, was that it is too  
9           broad. And that it's not reflecting the intent  
10          of the Comp Plan.

11          That the nuances of the different  
12          areas, the overlays are being missed. They're  
13          not being picked up. And that we're rolling out  
14          something that is not going to catch the  
15          particular nuances that exist. And they're all  
16          different.

17          There are these little bits and  
18          pieces that are different from one zone to  
19          another. And I think it's been fairly  
20          consistent that there is a great concern about  
21          the complexity, and how not to understand it.  
22          But it could be misunderstood. And that people

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1 are going to find themselves in serious  
2 problems.

3 MS. MACWOOD: I have to tell you,  
4 I've been working with the overlay zone for all  
5 the time that I've been an ANC Commissioner,  
6 which is over 12 years. And I've become  
7 relatively conversant with a lot of zoning  
8 concepts. And participated, of course, in the  
9 task force.

10 And this weekend when I went back and  
11 I looked at it yet again, for probably the 300th  
12 time, because I've read every draft that has come  
13 out, all of the thousands and thousands of pages,  
14 every single time. I, for the first time,  
15 started to finally see that it was the format of  
16 it that was making it so confusing.

17 Because I kept flipping back and  
18 forth, and trying to figure out what they were  
19 doing. It was like a light bulb finally went  
20 off. And I have to thank Commissioner May for  
21 it. Because he gave me homework last Monday,  
22 and said, you know, if you don't like, then tell

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1 us how to change it.

2 And that's when I finally realized  
3 that it's the format. It is trying to squeeze  
4 together the underlying zone and the overlay.  
5 And it's just the opposite of what should be  
6 done.

7 Because the whole point of the  
8 overlay is to distinguish itself from the  
9 underlying zone. And what the Office of  
10 Planning has done is taken that concept and that  
11 intention, and basically just swept it away.

12 The other thing that I think is  
13 important to understand is, these overlays are  
14 supposed to continue to be mapped in other  
15 neighborhoods. And as I mentioned in the Rock  
16 Creek West element, and it may occur in other  
17 area elements as well, it's very specific that  
18 this is a zoning concept that should be mapped  
19 in other locations in Ward 3.

20 And it calls out some of those  
21 locations. Van Ness corridor is one of those  
22 locations, as a good zoning scheme for providing

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1 neighborhood retail.

2 COMMISSIONER TURNBULL: Okay. Did  
3 you say there was an attachment to your --

4 MS. MACWOOD: Yes, yes. The back  
5 of my testimony, which I haven't submitted yet  
6 --

7 COMMISSIONER TURNBULL: Oh, okay.  
8 All right.

9 MS. MACWOOD: And I ran out of, my  
10 ink cartridge unfortunately ran out of ink. So  
11 I will give it to you tomorrow.

12 COMMISSIONER TURNBULL: Okay.

13 MS. INCE: It's on the back --

14 MS. TAYLOR: It's on the back of  
15 our, of the Cleveland Park, and also the Historic  
16 District, the same --

17 COMMISSIONER MAY: The testimony  
18 is, but there's an attachment we didn't get.

19 MS. INCE: On the back of mine.

20 MS. TAYLOR: I gave it to them too,  
21 mine too.

22 COMMISSIONER TURNBULL: Okay.

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1 We'll look for it.

2 MS. TAYLOR: Thank you.

3 COMMISSIONER TURNBULL: But thank  
4 you. But I don't think we actually have the  
5 attachment. We only have the testimony.

6 COMMISSIONER MILLER: It's  
7 attached to the back of the Cleveland Park  
8 Citizens Association testimony.

9 COMMISSIONER MAY: No, I know. I  
10 read that. But that's just --

11 COMMISSIONER MILLER: No, the  
12 revised --

13 COMMISSIONER MAY: Oh, I didn't see  
14 -- I got it.

15 COMMISSIONER MILLER: -- format of  
16 the overlay that --

17 COMMISSIONER MAY: All right. I  
18 didn't see that.

19 COMMISSIONER MILLER: -- the  
20 Committee of 100 recommendations.

21 MS. TAYLOR: We were trying to help  
22 with a solution, not just identify a problem.

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1 CHAIRMAN HOOD: Commissioner  
2 Miller.

3 COMMISSIONER MILLER: Thank you,  
4 Mr. Chairman. And thank you all, as  
5 Commissioner Turnbull said, for your very  
6 thoughtful testimony, with constructive,  
7 specific suggestions for changes that you  
8 believe are necessary.

9 And I welcome -- Three of the eight  
10 are my neighbors. And I guess I have to disclose  
11 memberships again here. Last night it was AAA.  
12 I think --

13 COMMISSIONER MAY: Tonight it's  
14 neighbors.

15 COMMISSIONER MILLER: I think I'm a  
16 member of the Cleveland Park Citizens  
17 Association. I think I've given to the  
18 Cleveland Park Historical Society, although I  
19 haven't participated in any of their discussions  
20 about these issues, or voted on them.

21 CHAIRMAN HOOD: Are you in good  
22 standing?

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1                   COMMISSIONER MILLER: I think I am  
2 in good standing. But you can ask the President  
3 if we are. But I think -- So, you have made very  
4 specific suggestions. And I thank you, Ms.  
5 MacWood, for taking up Commissioner May's  
6 homework assignment so thoroughly.

7                   And we'll ask OP to look at that, and  
8 see if that will work for the -- Because it  
9 shouldn't be a confusing document. It is  
10 supposed to be a simpler document, that everyone  
11 finds easier to understand.

12                   And if the people who have been  
13 working with it, and who are most conversant in  
14 zoning are finding it confusing, that's a little  
15 bit troubling.

16                   So, and I think we can put the  
17 specific references back into the, you know,  
18 that referred, that tie the connection to the  
19 Comp Plan, the existing language that's in the  
20 overlay district general provisions. They  
21 should be carried forward. And I think those  
22 are easily, are easy fixes that we should look

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1 at.

2 You asked about the Uptown Theater.  
3 And I was just, I then was flipping back and  
4 forth. And I found, I think I found where it is  
5 a permitted use in the zone group B, that, I mean,  
6 there's local Government. That would be the  
7 library I guess. And the theater would be under  
8 entertainment and art. It's called a permitted  
9 use, not a use for the conditions. It's in  
10 Chapter 11 of that Subtitle, uses in N zones.

11 And so I think it's there. But it's  
12 obviously not clear to everybody. The lodging  
13 could, and the lodging issue, I mean, I think  
14 that can be a specific provision that is  
15 prohibited, as it is in another N zone, that can  
16 be added to the --

17 MS. TAYLOR: Yes, it references it  
18 for N zone 4. At first it says it's a permitted  
19 use. And then there's a little thing that says,  
20 for N zone 4 it's not permitted. But there's no  
21 reference to N zone 3. But again, that could be  
22 taken care of if we simplify the construct.

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1                   COMMISSIONER   MILLER:        If   we  
2   reformat it.   So we'll ask them about that.   And  
3   so I appreciate the suggestions you've made, and  
4   then Ms. MacWood and the Historical Society  
5   made.   I think we can look at all of those.

6                   On the big box, that ANC 4D and Mr.  
7   Kroopnick asked about, requiring a special  
8   exception process.   I think we will probably ask  
9   OP about that as well.   I think they now have the  
10   experience of these big box stores going in as  
11   a matter of right in a couple of cases.   And  
12   going in under PUDs.

13                  And I would be interested in OP's  
14   feeling about whether they got a better design,  
15   or better conditions that protected the  
16   surrounding community from adverse impacts.   So  
17   I'm not sure I would agree with all the criteria  
18   that you set out.

19                  And particularly the economic  
20   impact that you did emphasize so much.   I'm not  
21   sure that's appropriate for zoning to be looking  
22   at.   But we'll ask about it.

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1           And then the Georgetown citizens.  
2           I guess the four, actually four of the eight  
3           neighbors, half about. I forgot about Leila  
4           Afzal, sorry. I congratulate you once again in  
5           Georgetown, coming together.

6           Different stakeholders in the past  
7           year have come together to negotiate and come up  
8           with a solution that may work. So I appreciate  
9           you bringing that specific proposal forward.  
10          We'll ask OP about that.

11          I had some concern about the use of  
12          some of the terms which, you say it's a special  
13          exception process if they, that they would go  
14          through if they didn't meet the new criteria for  
15          setbacks that you're talking about.

16          But then it uses variance type  
17          language, uniqueness and exceptional  
18          circumstances. Although it makes them  
19          alternative criteria, as opposed to cumulative  
20          criteria, which was in the variance provision.  
21          So I just have some questions about that, about  
22          how it would work. But I think it's a useful

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1 suggestion.

2 MR. HINDS: The word variance is  
3 associated in the minds of the business  
4 community with extreme difficulty. And,  
5 whereas special exception is more considered a,  
6 sort of a qualified right if you meet the  
7 criteria.

8 So it was an easier sell to sell them  
9 on calling it a special exception, as opposed to  
10 just cross referencing, which I easily could  
11 have done, the variance provisions, which are  
12 essentially identical. But it was just --

13 COMMISSIONER MILLER: I can see  
14 that it was a --

15 MR. HINDS: It was a sales pitch --

16 COMMISSIONER MILLER: It was a  
17 compromise.

18 MR. HINDS: -- job in part. The  
19 word variance does send chills in a developer's  
20 heart.

21 COMMISSIONER MILLER: Okay. Thank  
22 you all very much.

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1                   CHAIRMAN   HOOD:           Any    other  
2                   questions?  Commissioner May?

3                   COMMISSIONER   MAY:        Okay.    This  
4                   could get very complicated if we have to make  
5                   disclosures about memberships at every meeting.  
6                   I'm going to, not that I have any to disclose  
7                   tonight, but --

8                   COMMISSIONER   MILLER:    I don't know  
9                   if I had to.  I just was --

10                  COMMISSIONER   MAY:        Yes.

11                  COMMISSIONER   MILLER:       --    just  
12                  staring at me in the face.  And I thought I  
13                  should say something.

14                  COMMISSIONER   MAY:        I realize now.  
15                  But, you know, there are whole lot, a whole bunch  
16                  of    opportunities    I    missed    to    disclose  
17                  organizations I was part of.  And neighbors at  
18                  the table, and things like that.

19                  Speaking of which, I have a question  
20                  for my neighbor, Ms. Oldenburg.  You heard a lot  
21                  of testimony tonight about the concern about  
22                  elimination of overlay.  And your testimony

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1       seemed to indicate that your ANC is completely  
2       comfortable with the idea of the loss of some  
3       overlays.  Because there are overlays that are  
4       involved in this.

5                   And it's, I don't know, I got the  
6       sense that it feels like it's more of a semantic  
7       change, that you just need to make sure you get  
8       right, as opposed to, you know, a change in  
9       principles, and organization, and adding  
10      confusion, and so on.

11                   So I'm wondering what the difference  
12      is.  Is there, I mean, was there discussion, and  
13      you're in ANC, about this conversion from  
14      overlays to these more specific zones?  Or was  
15      that not an issue at all?

16                   MS. OLDENBURG:  We didn't really, I  
17      mean, I was really surprised hearing my  
18      colleagues here this evening.  Because we  
19      didn't really consider the format or the idea of  
20      changing this idea of an overlay.  It just  
21      didn't come up.

22                   What we were mainly concerned about

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1 was to make sure that in this conversion to the  
2 N-6 zone, that all the provisions that we had  
3 within the overlay, the original overlay, were  
4 carried forward. And we did a very, you know,  
5 went through it very carefully to make that that  
6 was true.

7 And the only thing that we found was  
8 this problem with the food establishments and  
9 the percentages. And so that was our main  
10 thing. We just didn't consider the other.

11 I must say, however, that I agree  
12 with some of the comments here about the problem  
13 of having to go through, I mean, and this is  
14 always with so many of the zoning.

15 I mean, whenever I'm trying to look  
16 something up, you have to go here, and then go  
17 back there. And then it's except something, and  
18 you're, you know, by the time you're finished  
19 you're not quite sure if you figured it out.

20 And so in this case, true, the  
21 overlay itself was very clear. It's a document  
22 you can, you know, the current one. But then the

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1 underlying zone, I think it's C-3-A in this case,  
2 ours, you still would have to go back and do the  
3 back and forth within that to figure out what was  
4 the underlay.

5 So I guess, for my purposes, I like  
6 the idea that it's all encapsulated into one  
7 zone. However, there are some problems within  
8 the Subtitle H in having to go back and forth to  
9 figure out what, how it affects N-6.

10 COMMISSIONER MAY: Okay. All  
11 right. Well, we're certainly going to talk to  
12 the Office of planning about the conversion from  
13 overlays. I mean, my general sense of things is  
14 that overlays are held with varying levels of  
15 affection across the city.

16 Some of them are very highly valued.  
17 And certainly Cleveland Park is one of the ones  
18 where it is most strongly held to. But in other  
19 areas, you know, it's -- In Capitol Hill I think  
20 it's, people are aware of it.

21 But it's the people who really pay  
22 close attention to some of the issue who I think

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1 are really aware of it. Whereas, it seems to be  
2 more pervasive in other parts of the city.

3 MS. OLDENBURG: Right. And it can  
4 be for our overlay, our area. Those four  
5 squares are undeveloped.

6 COMMISSIONER MAY: Yes.

7 MS. OLDENBURG: And it has never  
8 gotten to the place where it's really utilized  
9 the way the overlay had hoped. So we're years  
10 away from that happening in that area. So, yes,  
11 we don't have that characteristic of a  
12 neighborhood that's been built up, that I can see  
13 other neighborhoods would look at this  
14 differently.

15 COMMISSIONER MAY: Okay. All  
16 right. Well I'm looking forward to hearing what  
17 the Office of Planning has to say on the topic.  
18 And also on the proposed changes that the  
19 committee wanted.

20 It's hard for me to absorb exactly  
21 what's in the proposal that you've made. You  
22 know, there's a lot to absorb. And we're doing

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1 this night after night. And so it's like  
2 loading a lot of information in. But we will  
3 look to the Office Planning to give some reaction  
4 to what you've proposed.

5 Mr. Kroopnick, on the -- It's  
6 interesting to see you reference to the  
7 processes that are used in some of the suburban  
8 jurisdictions for the, essentially to regulate  
9 big box retail. And I'm wondering about exactly  
10 how successful those really are.

11 I mean, the fact that they exist  
12 doesn't necessarily mean that they're held to  
13 very well, and are very effective. And  
14 certainly when I think of big box retail, I don't  
15 think about the District of Columbia.

16 I think about the suburban  
17 jurisdictions, where I happen to wind up going,  
18 to shop in that kind of a circumstance. So, I  
19 mean, it certainly is more prevalent.

20 Obviously the availability of land  
21 is a bigger, has a lot to do with it. But I'm  
22 wondering if you can speak a little bit to

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1 exactly how effective such regulatory schemes  
2 are in the suburban jurisdictions?

3 MR. KROOPNICK: I would say that the  
4 benefit is that it facilitates a public process.  
5 So probably, if the proposal is meritorious the  
6 developer will secure a special exception, as  
7 the developer would be able to secure a special  
8 exception in the District of Columbia, if it's,  
9 in fact, meritorious.

10 But I would say that the main benefit  
11 is that it's going to facilitate a public  
12 process. And it will get the discussion going.  
13 You'll be able to weight the costs and benefits.  
14 I would say, more likely than not, the  
15 developments ultimately get approved.

16 It also enables modifications to be  
17 made to the development in a way that you  
18 wouldn't necessarily have in the absence of that  
19 type of public process.

20 I don't have statistics for you as  
21 to how many get approved, how many don't get  
22 approved. I would say most probably end up

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1 getting approved. But it's a better process  
2 than what currently exists in D.C.

3 COMMISSIONER MAY: Any to those  
4 jurisdictions? I mean, they really, they have  
5 a true public process? It's not some sort of  
6 truncated process, or expedited review? It's a  
7 full, you know, fully noticed, public comment,  
8 opportunities for local organizations to get  
9 involved? A time frame that allows it? I mean,  
10 is that part of this?

11 MR. KROOPNICK: As far as I'm aware.  
12 I would add that every jurisdiction's different  
13 --

14 COMMISSIONER MAY: Right.

15 MR. KROOPNICK: -- and unique. And  
16 so there's, the jurisdiction will vary based on  
17 the square footage. Some jurisdictions, I  
18 think in Prince William County it's 80,000  
19 square feet. I think in Montgomery County it's  
20 maybe 120,000 square feet.

21 Although, just coincidentally,  
22 Montgomery County is going through the same

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1 process that D.C. is going through right now,  
2 with re-writing their zoning codes. So I think  
3 the threshold was lowered a little bit.

4 And then it also may vary based on  
5 the type of products that are sold. So you have,  
6 like combination retail stores. And the  
7 jurisdictions might vary in terms of what, how  
8 they define a combination retail store.

9 COMMISSIONER MAY: Okay.

10 MR. KROOPNICK: But I think it is a  
11 traditional, conventional public process, where  
12 you would have notice and a hearing, and a  
13 comment period.

14 COMMISSIONER MAY: Okay. Thank  
15 you.

16 (Off microphone comments)

17 COMMISSIONER MAY: Yes. If you can  
18 respond to the questions, yes.

19 MS. BOWSER: I just wanted to say  
20 that, in response to your question, that I have  
21 the law from Orange County, which is a totally  
22 different state, California. But they talk

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1 about filing application for the special  
2 exception.

3 And even before the application, the  
4 applicant has to submit a site plan for review.  
5 And it can be approved with or without  
6 recommendations.

7 And therefore, before, thereafter,  
8 before public hearing is held at the Board of  
9 Zoning Adjustment regarding a special  
10 exception, a community meeting will be held with  
11 public notice issued to the owners of record.

12 So there's a whole process for  
13 public review. And that's what ANC 4B tried to  
14 go through, but was given no weight for the  
15 Wal-Mart big box development at Georgia Avenue  
16 and Missouri.

17 COMMISSIONER MAY: Right.

18 MS. BOWSER: So that's what we're  
19 talking about, having notice --

20 COMMISSIONER MAY: Well, I  
21 understand the concept of it. What I was trying  
22 to do is equate the process, you know,

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1 understanding whether the other local  
2 jurisdictions really have the sort of public  
3 process that you're recommending. And kind of  
4 what their success rate is. And it's hard to  
5 judge what success is. But, yes.

6 MS. BOWSER: I've just been reading  
7 different articles on the different  
8 jurisdictions.

9 COMMISSIONER MAY: Okay. Thank  
10 you.

11 CHAIRMAN HOOD: Okay. Vice Chair,  
12 do you have any questions?

13 VICE CHAIR COHEN: Mr. Chair, my  
14 colleagues asked questions. I don't want to be  
15 repetitive, only to state that again, having had  
16 to transfer a little bit from the former zoning  
17 code on certain zones, to this code, I thought  
18 this was simpler. So I am surprised that  
19 several people are having as much difficulty.

20 Because I thought this was a more  
21 efficient and more seamless way of focusing on  
22 the zones. But maybe my mind goes somewhat

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1 differently. So I just wanted to share that.

2 CHAIRMAN HOOD: And I'm going to say  
3 probably the exact opposite. As I'm learning --  
4 And this goes to some of the comments we've  
5 heard. And I wonder, maybe you're a quick  
6 study, and I'm not.

7 VICE CHAIR COHEN: That's okay.

8 CHAIRMAN HOOD: Yes. Well, I knew  
9 that was going to come. But I think, and my  
10 question was, this goes right in line with  
11 something the Vice Chair was saying. I thought  
12 that's where we were going too, to make it  
13 easier.

14 And as I flip back and forth, trying  
15 to figure out who's on left, who's on third, I  
16 also do that. I'm used to the old code. Didn't  
17 we flip in the old code too? I'm just curious.  
18 Didn't we flip back and forth to find things in  
19 the old code? A couple of places. Okay. But  
20 we did flip.

21 Let me ask this. And I'm not trying  
22 to test anyone's intelligence. Because I'm

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1 actually asking the question, because I know  
2 what I deal with when I'm reading this, and  
3 looking back and forth, and trying to figure  
4 things out. Is it because it's new?

5 I know the loading issue may be an  
6 issue. One of the overlays, I think, prohibited  
7 loading. And I forgot how that conversation --  
8 But I do have a note here. And my colleague,  
9 Commissioner Miller mentioned it.

10 Maybe there's some things that got  
11 added into some things the way a streamline is  
12 supposed to be streamlined, that should not have  
13 been in those specific overlays. And that's an  
14 administrative correction, I believe. At least  
15 from our standpoint.

16 But is it because we need to give it  
17 time and learn it? I'm just asking that  
18 question. Because I know I struggled to. And  
19 I'm doing this probably more now than ever, as  
20 far as reading and trying to learn the code, and  
21 figuring going back and forth. Is it that it's  
22 something new?

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1 MS. MACWOOD: May I respond?

2 CHAIRMAN HOOD: Yes.

3 MS. MACWOOD: I got the first draft  
4 code I think in December of 2010. So I've been  
5 dealing with this new code for three years. And  
6 it is, this Subtitle is incredibly confusing.  
7 There are, it varies from subtitle to subtitle.

8 But I think one of the positive  
9 aspects of the current code is that if you want  
10 to know about height, there's a chapter you go  
11 to about height.

12 You don't have to go to five  
13 different chapters to see what height is. FAR,  
14 it's all right there. In fact, it's in the same  
15 chapter with height. Lot occupancy, same  
16 chapter. Uses, that's in a different chapter.

17 What's happening with this code is  
18 it's a very different format. Some of it, I  
19 think, is simply a matter of it taking time to  
20 get used to it. I think there also are  
21 preferences, you know.

22 Some people are going to be much more

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1 comfortable with knowing that all the  
2 development standards for all the zones are in  
3 one chapter. And you can look at them, and  
4 compare them. And for me, that's the way my mind  
5 works. And that's easier for me.

6 The way this has been organized  
7 it's, you can't compare as easily, C-2-1 to C-2-A  
8 to C-2-B. It's organized in a very different  
9 fashion. You can't go and find, okay, here are  
10 all the height rules, and here are all the FAR  
11 rules. You go to a specific zone, and then it's  
12 going to have those things there.

13 But it's organized in a different  
14 way. The exceptions show up on tables, and they  
15 show up in text. And it's going to take some  
16 time, Mr. Chairman, to get used to it.

17 But I think the difference with the  
18 overlays is, it changes the intent. The  
19 reformatting actually seems to have changed the  
20 intent. And as I said in the beginning, I think  
21 it's going to require interpretation. Whereas  
22 now, there's no interpretation that's required.

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1                   It's quite clear what the  
2 modifications are. And they're pretty minimal.  
3 But by virtue of combining them with the  
4 underlying zone you've really lost, it's become  
5 obscured, what the intention is.

6                   CHAIRMAN HOOD: And I appreciate  
7 that, Ms. MacWood. Here's my concern. Most  
8 people are engaged. The people I see now here  
9 are engaged. My concern is the people that have  
10 a one time zoning issue. Are they going to be  
11 able to understand this? And I've been thinking  
12 about this maybe --

13                   And I'm not talking about belittling  
14 anyone. But I'm thinking about do a tutorial on  
15 how to work, how to maneuver this code. I mean,  
16 I've been thinking about all of those things.  
17 Because I know what I'm dealing with in trying  
18 to come up with FAR. That's why I asked the  
19 question.

20                   Now the people engaged, that's not  
21 going to be a problem. But again, the person who  
22 has that one time zoning case, something's going

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1 on in the neighborhood, what do I do? The goal  
2 we first set out, I've been here from the  
3 inception, was to make it easier. That was the  
4 goal.

5 Now if we're doing that, then we need  
6 to back up. Because I will tell you, I am  
7 concerned about the overlays. Because one of my  
8 first questions when we started was an overlay  
9 question.

10 And that was a couple of nights ago.  
11 It might not have even been the right night. But  
12 was it because I didn't understand? And Ms.  
13 Steingasser explained to me how that worked.  
14 And I thought it was good.

15 Now, I'm hearing it again. So maybe  
16 we might need to do a tutorial. And I'm not  
17 saying that's going to solve all the problems.  
18 But that may help us all to learn how to use the  
19 new code, and especially those who don't come  
20 down here often.

21 Just throwing that out there.  
22 Hopefully, if somebody tweets that, don't say

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1 that Chairman Hood said we don't know what we're  
2 doing, and we need a tutorial. Because that's  
3 not what I said. If anybody needs the tutorial,  
4 it's Chairman Hood. Yes, ma'am.

5 MS. TAYLOR: I'd like to take a stab  
6 at answering that too. So I don't have Nancy  
7 MacWood's experience of 12 years. I started  
8 having to look at this stuff maybe four years  
9 ago.

10 And the first time was because there  
11 was a possible, there was a concern about whether  
12 or not a restaurant had the right to expand into  
13 adjacent space, and occupy less than 50 percent  
14 as a restaurant, or whether they had to have a  
15 separate use.

16 Anyway, in order to explore that  
17 concern, I had to read Chapter 13 for the first  
18 time. And it made perfect sense to me. I mean,  
19 we had one meeting with the Zoning  
20 Administrator. And it all made sense.

21 This, I have, honestly, I've spent  
22 hours going back and forth. And like I was

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1 saying to Commissioner Miller before, you know,  
2 there are things in the current overlay that I  
3 know I should be able to find in this new Subtitle  
4 H. And I, some of them I've been able to find.  
5 And some of them I have not. And I think I'm a  
6 reasonably intelligent person.

7 CHAIRMAN HOOD: The issue that you  
8 got in Chapter 13 with another case, would you  
9 kind of do that same scenario and try to use what  
10 we have here? And that's where the difficulty,  
11 you had a lot of difficulty --

12 MS. TAYLOR: Oh, boy.

13 CHAIRMAN HOOD: -- with the same.  
14 Because that's a live, that's actually a live  
15 situation. And that's exactly what I'm looking  
16 for. What's the difference in what you dealt  
17 with previously, to what you've done here? Have  
18 you done that, matched that up?

19 MS. TAYLOR: Well, before, you  
20 would take a look at the general use permission  
21 and provisions. And then you would take a look  
22 at, you know, how it was organized, where you had

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1 allowable uses.

2 And then you would just take a look  
3 at Chapter 13, and see what wasn't allowable, and  
4 how that broke down into, in our case, a 25  
5 percent use of lineal frontage. So it was  
6 awfully clear.

7 In this case, as I said in my  
8 testimony, you've got references to this same  
9 use permissions in three different places. And  
10 they're redundant. So that you've got the same  
11 language in general use permissions, that you've  
12 got, in some cases, you know, in neighborhood  
13 mixed use zones. And in some cases in the  
14 Cleveland Park neighborhood mixed use zone.

15 It's redundant, and the redundancy  
16 adds, it makes it more complicated than it needs  
17 to be. And you're wondering, well why is it  
18 here? Did I miss something back there? Why am  
19 I having to read this again. If you just say it  
20 once --

21 And as Ms. MacWood said before, all  
22 our overlay is supposed to do is talk about

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1 services and retail. And then add in the  
2 library and the theater. And bang, you're done.  
3 You don't have to get into the level of detail.

4 It's just become much more  
5 complicated than it needs to be. And, you know,  
6 you may not agree with all of the provisions of  
7 the overlay. But it's real clear.

8 CHAIRMAN HOOD: Okay.

9 MS. TAYLOR: And allows for  
10 conversation. And like I also said, you know,  
11 you're trying to write something that's going to  
12 last for maybe 50 years again. And 20 years from  
13 now we're not all going to be here.

14 And you're going to have attorneys  
15 and developers, and like you were talking about.  
16 And new Commissioners trying to understand it.  
17 And if we're having a hard time trying to  
18 understand it, and we know what we're trying to  
19 find in it, what does that say?

20 CHAIRMAN HOOD: Okay. All right.  
21 Well I thank you all for your testimony.  
22 Someone else -- Yes, ma'am.

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1 MS. OLDENBURG: Could I just  
2 respond? I guess because maybe ours is a  
3 different one, as I said to Commissioner May.  
4 You know, it's not an established commercial  
5 district yet. We hope it will be one day.  
6 That, you know, I mean, I just look at this quite  
7 differently.

8 Because when something comes up  
9 about that area, I often have to tell people, you  
10 need to go look at the overlay information, you  
11 know, you need to go look there also when you're  
12 thinking about doing something in that area. So  
13 I have to bring it up to people.

14 In this case it will be one zone. It  
15 will all be, all of the information will be  
16 there. You may have to go back and forth through  
17 the code to find it all. But it's all N-6.

18 The other thing I would say, that for  
19 our zone it's not just about retail. It puts a  
20 45 foot height limit in that area as well. And  
21 that was done expressly to protect the view  
22 toward the -- Oh, Commissioner May, I'm

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1 forgetting the name of the gate at the Navy Yard,  
2 the famous gate. Anyway, at the foot of 8th  
3 Street. Anyway --

4 COMMISSIONER MAY: Latrobe.

5 MS. OLDENBURG: The Latrobe gate.  
6 Yes, exactly. So that, so it has some of them.  
7 I mean, maybe, I haven't looked at the other  
8 ones. But ours may be very different in some  
9 ways than some of the others. And I just, I like  
10 the approach. There could be fixes to some of  
11 the things. But I do like the approach.

12 CHAIRMAN HOOD: Okay. Any other  
13 questions? All right. I think this panel's  
14 been very informative. We appreciate your  
15 testimony. We really do. Thank you.

16 Okay. Larry Hargove, Sara Green.  
17 I don't see Ms. Green, Commissioner Green. Cary  
18 Kadlecek, Judi Jones, Willie Baker, Meg Maguire,  
19 Bobbie Krengel. Meg Maguire?

20 MS. KRENGEL: I'm Bobbie Krengel.

21 CHAIRMAN HOOD: Oh, okay. Is that  
22 eight, or did I call nine?

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1 (Off microphone comments)

2 CHAIRMAN HOOD: You can give it to  
3 Ms. Schellin. Ms. Wheeler, we do have you on the  
4 -- Okay. Let me see, how many did I call?  
5 Pennye Jones Napier, is Ms. Napier here? Okay.  
6 Mike Wilson, Perry Redd, Gary Cha. I hope I'm  
7 not pronouncing it, and I got one more person.  
8 Dennis James. I thought I saw him. He was  
9 here.

10 Okay, Carolyn Nicholas, Faith  
11 Wheeler. Come forward. How many more people  
12 would like to testify tonight? I see Mr.  
13 Norman. Okay, we have two, and Mr. James if he  
14 comes back. Ms. Richards, are you going to  
15 testify tonight?

16 (Off microphone comments)

17 CHAIRMAN HOOD: Oh, okay. Well  
18 good evening. Okay. Let's start, why don't we  
19 start to my left, your right. You may begin.

20 MS. KRENGEL: Good evening,  
21 Chairman Hood and Commissioners. My name is  
22 Bobbie Krengel, and I live in Ward 6. And I'm

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1 here tonight representing the Informed Growth  
2 Coalition in support of a proposal to require big  
3 box stores to be approved by means of a special  
4 exception, as detailed in Exhibit Number 129,  
5 which was from Mr. Kroopnick.

6 While there is universal agreement  
7 that increasing both employment and retail  
8 opportunities is highly desirable, studies of  
9 the comprehensive net effects of mega retailers,  
10 or big box stores show that due to their impacts  
11 on existing conditions, they in fact, result in  
12 the opposite.

13 Causing devastating losses not only  
14 in employment, both in number and in quality of  
15 jobs and retail options. But also in a  
16 weakening of the local economy as retail dollars  
17 are siphoned out of the region, and in the tax  
18 base, affecting poverty and Government subsidy  
19 rates.

20 Wal-Mart, for example, has been  
21 shown to be a retail and job killer, causing a  
22 net loss of retail jobs, depressing wages, and

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1 benefits for retail employees, and  
2 impoverishing communities.

3 According to Stacey Mitchell of the  
4 Institute for Local Self-Reliance, and detailed  
5 in her key studies, when Wal-Mart opens, nearby  
6 local business down size or close. Wal-Mart's  
7 sales are offset by sales lost to existing local  
8 retail stores, resulting in a net loss of jobs.

9 In part because Wal-Mart sells more  
10 goods with fewer employees than its smaller  
11 competitors, eliminating 1.4 retail jobs for  
12 every job it creates. Furthermore, the new  
13 Wal-Mart jobs are unfair in terms of pay,  
14 benefits, packages, longevity and opportunities  
15 for advancement.

16 The benefits packages for which  
17 Wal-Mart employees may be eligible are  
18 unaffordable to their pay scale, and  
19 consequently, estimates show that each Wal-Mart  
20 store requires approximately \$1 million dollars  
21 in public assistance to supplement employees'  
22 food and health care costs.

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1           The workforce and patronage of these  
2 big box stores are not the only stakeholder  
3 groups affected, but also are local small and/or  
4 independent businesses. They're patrons are  
5 District tax payers, because Wal-Mart does not  
6 invest in the community.

7           Unlike independent local small  
8 business, which engage other local businesses  
9 for services, and buy from local suppliers,  
10 Wal-Mart purchases on local goods or services.  
11 Money spent at Wal-Mart is permanently extracted  
12 from the community, instead of recirculating in  
13 the local economy through other businesses, jobs  
14 and community organizations, effectively  
15 eliminating any economic benefits to the  
16 community.

17           As Wal-Mart displaces other  
18 business it reduces and homogenizes retail  
19 options, impairing the ability to attract  
20 visitors and capture tourist dollars.

21           Finally, as Wal-Mart is known to  
22 abandon locations quickly if profitability

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1 dips, vacating buildings of limited adaptive  
2 re-uses, it often lowers commercial property  
3 values.

4 Due to these kinds of effects, it is  
5 clear that big box retailers differ  
6 significantly from smaller, independent  
7 retailers, not just in degree, but in kind. And  
8 are unique in their ability to impact entire  
9 economic ecosystems, in terms of the  
10 environment, traffic, spending patterns,  
11 employment, retail diversity, tax revenue and  
12 public costs, warranting special consideration.

13 Just as it is recognized that fast  
14 food restaurants differ intrinsically from  
15 other restaurants, for reasons having nothing to  
16 do with speed, but rather in the way they impact  
17 other indicators, and are consequently now  
18 treated differently by the zoning code, so  
19 should inherent differences in retailing be  
20 recognized.

21 A growing number of states and  
22 municipalities around the country have

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1 understood this, and are incorporating  
2 regulations that afford an opportunity to  
3 evaluate and potentially mitigate any undue  
4 adverse impacts.

5 The District is the only  
6 jurisdiction in the metropolitan area that lacks  
7 such a process. Any controversy over these  
8 potential impacts argues in favor of a review  
9 that objectively evaluates them, and plans in  
10 advance. We urge you to adopt this proposal.  
11 And thank you very much for your attention to our  
12 concerns.

13 CHAIRMAN HOOD: Thank you. Next.  
14 Is you mic, make sure it's lit up, the light is  
15 lit up.

16 MS. MAGUIRE: I'm Meg Maguire. And  
17 I was not able to attend the hearings on D, E and  
18 F. And I think my testimony is somewhat  
19 relevant to tonight. So I've decided to appear.  
20 And I hope that you will hear my testimony.

21 I have lived in Ward 6 on Capitol  
22 Hill since 1977. The Hill would seem to be the

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1 mixed use prototype exalted by the Office of  
2 Planning in its zoning proposals. But the Hill  
3 has suffered creeping commercialization into  
4 residential areas, parking congestion, and  
5 conversion of once affordable row houses on  
6 Massachusetts Avenue Northeast and C Street  
7 Southeast, among others, to offices,  
8 restaurants and beauty salons.

9 Granting further matter of right  
10 commercialization in our city's diverse  
11 residential neighborhoods, without any  
12 consideration by neighbors or the ANCs is a  
13 profound change in governance, and a disservice  
14 both to stable neighborhoods, and to those that  
15 need concentrated new commercial development to  
16 serve old and new residents.

17 What will be the cumulative effect  
18 of adding so called corner stores, which may also  
19 be in the middle of block, permitting revenue  
20 producing external accessory dwelling units and  
21 new construction over garages, broadly  
22 expanding proposed home based businesses,

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1 redefining apartment zones as commercial rather  
2 than residential, expanding the Downtown Three  
3 Fold to encroach on existing neighborhoods, and  
4 refusing to propose measures to deal with  
5 character altering popups, and McMansions,  
6 because in OP's words, they sell?

7 Now that OP is proposing categories,  
8 or groups of uses, will the Zoning Administrator  
9 interpret similar as any business within a  
10 category? If a hairdresser and a tailor are  
11 service businesses, can any business be a home  
12 occupation, such as dry cleaners and funeral  
13 homes?

14 Please tighten up this language to  
15 prevent a host of new businesses that would be  
16 inappropriate. OP's libertarian approach to  
17 individual property rights greatly alerts the  
18 foundation of neighborhood governance, the  
19 cherished process of consultation in  
20 neighborhood discussion about change.

21 Residents will now confront an  
22 unwelcome reality, the obligation to remain

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1 silent in the face of surprising new  
2 developments that may appear next door, and  
3 influence the local quality of life for years to  
4 come.

5 Why should I have to consult with my  
6 neighbor about replacement of a fence, but not  
7 about the noise, fumes, or visitor parking that  
8 will be generated by a new in home beauty parlor,  
9 metal working shop, or corner store, with its out  
10 of residence workers? Was this imposed silence  
11 envisioned when we Enacted Home Rule and set up  
12 ANCs? Clearly not.

13 What OP proposes as a matter of right  
14 is in imminent danger of becoming a matter of  
15 wrong. We are not a dumb growth sprawling city  
16 in need of radical transformation.

17 We are a city in need of well  
18 targeted and concentrated economic development,  
19 particularly in Wards 5, 7 and 8. Genuinely  
20 affordable mixed income housing throughout the  
21 city.

22 And I hope that you will consider

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1 these cumulative impacts as they are now being  
2 played out in our neighborhoods, as you make your  
3 determinations. Thank you.

4 CHAIRMAN HOOD: Thank you. Next.

5 MR. KADLECEK: Good evening,  
6 Members of the Commission. My name is Cary  
7 Kadlecek, from the law firms of Goulsten &  
8 Storrs. I am here behalf on the District of  
9 Columbia Building Industry Association.

10 In general, DCBIA supports the  
11 proposed new Subtitles G and H for mixed use  
12 zones. However, we would like to offer a few  
13 changes to these proposed zones.

14 First, regarding the rear setback  
15 requirements in Subtitle G, we propose that for  
16 corner lots a conforming courtyard may be  
17 provided in lieu of a rear setback. And this  
18 might be just a clarification really, as opposed  
19 to any sort of fundamental change.

20 But just as this is presently  
21 permitted in the C-3-B and C-3-C zones, this  
22 provision should be carried over to the proposed

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1 new higher density mixed use zones, such as M-8  
2 and M-9.

3 Providing the courtyard in lieu of  
4 a rear yard is a common practice that allows many  
5 corner lots to be more easily developed. And  
6 many developers and architects rely on this  
7 practice in certain locations, as a means to  
8 adequate light and air without providing a  
9 complete rear yard. Allowing this practice to  
10 continue would simply maintain consistency with  
11 the current zoning standards.

12 Second, regarding the special  
13 exception standards in Section 811.1 of Subtitle  
14 G, we propose that more specificity be added, or  
15 that certain standards be eliminated.

16 For example, Subsection B requires  
17 that the design of the project enhance the urban  
18 features of its immediate vicinity. This is an  
19 overly general standard that forces the BZA to  
20 evaluate design without any standards by which  
21 to do so.

22 The result is that applicants will

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1 have no benchmark by which to prove the standard.  
2 And the BZA will have no ability to adequately  
3 evaluate it. The standard should be eliminated  
4 to avoid an open ended design debate.

5 Any concerns about the design  
6 appropriateness may be imposed by the Board as  
7 requirements under Subsection D. However, this  
8 subsection should be refined to limit the BZA's  
9 ability to impose such requirements only as they  
10 pertain to the relief being sought.

11 For example, front facade material  
12 requirements may not be appropriate fully from  
13 the rear setback requirement. We make this  
14 recommendation generally for all subtitles,  
15 such as Section 1200 in Subtitle H, where similar  
16 special exception criteria apply.

17 Third, we propose that you remove  
18 Section 1201.4 in Subtitle G, which creates a  
19 more onerous setback requirement for roof  
20 strictures confronting open courts. This  
21 requirement does not exist now, and should not  
22 exist under the new regulations.

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1           This proposed requirement will  
2 create a considerably more burdensome roof  
3 structure setback requirement, that severely  
4 restricts building core design flexibility,  
5 when the roof structure most likely will not have  
6 any impacts on public space.

7           Finding a suitable location for a  
8 roof structure, and designing an efficient core  
9 may become extremely difficult, which would  
10 trigger a need for relief that would not have any  
11 impact anyway.

12           For example, a roof structure may  
13 confront one wall of an open court. But that  
14 wall may not face an alley or a street. In this  
15 case, it should not be necessary that this roof  
16 structure is set back at a one to one ratio, when  
17 it most likely will not have any visual impact  
18 on anything but the property itself.

19           Yet, the result would be that it  
20 would be necessary to seek BZA relief.  
21 Accordingly, we request that you eliminate this  
22 change to the roof structure regulations.

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1           Moving on to Subtitle H, we  
2 recommend two changes. First, under Section  
3 808 we propose that more specificity be added to  
4 when these design requirements are applicable,  
5 that is, whether these design standards apply to  
6 existing buildings, to new buildings, or to  
7 additions.

8           We propose a simple bright line that  
9 all of these design requirements apply only to  
10 new buildings or new additions. This bright  
11 line standard will simplify these regulations  
12 for property owners. And more importantly, it  
13 will help the Zoning Administrator avoid a case  
14 by case assessment of whether a certain  
15 criterion could apply to a particular existing  
16 building.

17           Second, we recommend a change to the  
18 special exception standard language in Section  
19 1200.1. Under this section a special exception  
20 is provided for relief from the development  
21 standards in Subtitle H.

22           However, Subsection C, or what is

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1 intended to be Subsection C, since there was a  
2 type, and A is repeated twice, requires that  
3 exceptional circumstances exist for the relief  
4 to be granted.

5 This standard effectively turns the  
6 special exception into a variance, and all but  
7 eliminates the point of a special exception.  
8 With a special exception in general there is a  
9 presumption that the provided non conforming  
10 standard is appropriate, provided that certain  
11 conditions relating to impacts are met.

12 However, this exceptional  
13 circumstances criterion eliminates the  
14 presumption, by forcing the applicant to  
15 demonstrate something unusual about the  
16 property or neighborhood. This is much  
17 different than the conditions on impacts, as  
18 opposed to property characteristics, that are  
19 the basis for special exceptions.

20 In addition, the special exception,  
21 this exceptional circumstances criterion is  
22 inconsistent with the Zoning Enabling Act, which

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1 separately sets forth special exceptions and  
2 variances as falling within the jurisdiction of  
3 the BZA.

4 The intent of special exception for  
5 development standards is to minimize any adverse  
6 impacts and non conformities. However, the  
7 proposed regulation goes well beyond that, by  
8 forcing an examination of the property  
9 characteristics. So we recommend that  
10 Subsection C should be eliminated to maintain  
11 the focus of the special exception on impacts.

12 CHAIRMAN HOOD: Thank you.

13 MR. KADLECEK: Thank you.

14 CHAIRMAN HOOD: Next.

15 MR. REDD: Good day, Board Members  
16 and Chairman Hood. My name's Perry Redd. I'm  
17 a member and volunteer director of Sincere  
18 Seven, a 12 year old 501(c)(3) organization,  
19 dedicated to the working class, including  
20 working class residents in and around the  
21 Wal-Mart facility located at Georgia and  
22 Missouri Avenues.

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1           On behalf of the S Seven, I offer  
2 testimony regarding Subtitle G, as part of the  
3 comprehensive zoning code re-write. I've come  
4 to petition the Board to mandate that developers  
5 of these big box stores, in particular this one,  
6 secure a special exception from the BZA before  
7 they may proceed with their developments.

8           This policy is necessary, since most  
9 commercial zones are as right, which entitles  
10 developers to build any type of retail they want,  
11 regardless of the impact of the adjacent  
12 community, residents, small businesses,  
13 traffic, and the neighborhood character. It's  
14 problematic.

15           Now, I spoke passionately on this  
16 during my run for the At Large seat for the  
17 Council in the spring. This Wal-Mart  
18 development project is, and has been, and will  
19 have a negative impact on the area where it sits.  
20 Meaning, the residents and the business adjacent  
21 to the site will be negatively impacted, just as  
22 it's been documented in several academic and

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1 business journals.

2 Now, depending on the type of  
3 business, the per mile closure rate increases  
4 for drug stores almost 20 percent when a Wal-Mart  
5 comes to the community. For home furnishings  
6 it's about 15 percent. For hardware stores it's  
7 18 percent. And for toys it's more than 25  
8 percent per mile.

9 Now, this research, which comes out  
10 of University of Illinois, and Joe Hurst  
11 conducted, it shows that during a study period  
12 between 2006 and 2008, overall sales tax  
13 revenues went down in the two zip codes right  
14 next to where the store was placed. These rates  
15 of 6.7 percent and 4.3 percent for the successive  
16 years.

17 Now, after the Wal-Mart opened they  
18 saw a boost for two years. And then after that  
19 it dropped to negative 11 percent in the years  
20 that followed, and negative three percent in  
21 these two neighboring zip codes.

22 You know, what we know is that the

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1 amount of jobs, as was spoken earlier, stayed the  
2 same when a Wal-Mart came, didn't create any  
3 positive results. Now, I know that, you know,  
4 you probably heard this before, but it's still  
5 relevant.

6 Now, I do want to talk about the  
7 negative impact on the traffic in that area. I  
8 watch children who cross at Georgia and  
9 Missouri. At that intersection it's like  
10 watching a TV episode of Wipeout.

11 The kids, you know, mostly middle  
12 schoolers, you know, they have to have their head  
13 on a swivel when they're there. And then they  
14 make this mad dash across this zig zag  
15 intersection. And of course, it will be  
16 dangerous. And dramatically increase when the  
17 doors open on December 5th.

18 Now the traffic pattern hasn't  
19 gotten any better since this structure's gone  
20 up. Traveling west from Missouri Avenue on to  
21 the military road side has been made even more  
22 inconvenient, because they island that they put

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1 there, the island extension that turns to  
2 Colorado.

3 Now, I know some, you know genius  
4 engineer created that, and thought it was a great  
5 idea to keep traffic flowing, right. Well, what  
6 happens is, you have to drive another quarter of  
7 a mile to make a left turn.

8 Now, you know, the impact studies,  
9 we were weren't a part of it. And so the chief  
10 reason why I came to testify is to talk about this  
11 special exception. You know, we have to have  
12 public input. And, you know, you have the  
13 ability to make it happen.

14 Now, in our city we've had battles  
15 over new development that clashes with the  
16 character of the neighborhood. Now, when I was  
17 young, boxy, square and shiny, it was pretty  
18 cool. But after years of wisdom I grew to  
19 appreciate the architecture of days gone by.

20 Preservation gained meaning for me.  
21 And thus, I don't see where Wal-Mart even  
22 considered fitting in to the character of the

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1 existing quarter. Now sure, the developers  
2 could have participated in a proposed plan to  
3 execute a facade project. But of course, they'd  
4 have to secure special exception.

5 So the conversation rolled on, and  
6 we've got a huge out of character retailer. So  
7 I could talk about my pet reason for opposing  
8 development, low wages. But that's a different  
9 hearing for a different Board.

10 So I want to thank you for allowing  
11 me a minute to address you, and testify in  
12 support of the mandate that developers of the big  
13 box stores secure a special exception before  
14 developing.

15 CHAIRMAN HOOD: Okay. Thank you.  
16 Next.

17 MR. BAKER: My name is Willie Baker.  
18 I'm a spokesman for Ward 4 Thrives. Ward 4  
19 Thrives is a community organization that  
20 supports smart growth for Ward 4, a walkable  
21 neighborhood, livable, much as the city plan  
22 asks for.

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1                   We support the exemption for big box  
2 store retailers in D.C. Let me change my  
3 testimony a little bit. A lot of people have  
4 told you all the reasons why we oppose these  
5 kinds of things. Let me talk a little bit about  
6 the process.

7                   We've had meetings with the ANC 4B.  
8 We put together a committee that looked at all  
9 the aspects of the building on Georgia and  
10 Missouri Avenue, with various committees.

11                   And we came back with  
12 recommendations of what we thought should  
13 happen, because of traffic, the effect on the  
14 small businesses in the area, and the effect on  
15 the five schools that are in the area.

16                   As we did these meetings, some of the  
17 public meetings, some of them with city  
18 officials, there were two things that came out  
19 very clearly. When you talk to city officials,  
20 they talk about by right. There's nothing they  
21 can do because it's by right.

22                   When you go to the public hearings,

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1 and you meet with the builders, and the city  
2 administrators who are there, they talk about  
3 large tract review. That whatever problems  
4 there are will be fixed in a large tract review.

5 After the third meeting of that, I  
6 asked some questions. One of those questions  
7 was, what happens if you make a recommendation,  
8 and they choose not to do it? Well, after much  
9 discussion, it was decided that we do nothing.  
10 We can recommend. But we have no authority, and  
11 no power to change anything.

12 Therefore, all the meetings that the  
13 community has, all the discussions that we do,  
14 all the studies that we have, don't mean  
15 anything. Because there is no process by which  
16 our voice can be heard. That is the major  
17 problem.

18 My wife is fond of telling me I'm not  
19 always right. And she probably is right in  
20 that. But at least we ought to have a process  
21 by which these large retailers have to come  
22 before people and explain what they're doing,

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1 listen to what we're proposing. And the city  
2 also listen to what we're proposing. And when  
3 it makes sense, let's make some changes.

4 But to do that, you have to have a  
5 process by which people can be heard. We do not  
6 have such a process today. And unless we have  
7 an exception for big box stores, we will never  
8 have that.

9 The intersection of Georgia and  
10 Missouri Avenue is considered by the city to be  
11 failed intersection. That is before you build  
12 any new large store there. Now, you add to that,  
13 all the new traffic patterns that will be  
14 developed because of that, the large trucks that  
15 are coming through there.

16 That at least is worth people having  
17 a chance to talk about it, having a chance to  
18 present their case, having a chance to say, this  
19 should not happen in our neighborhood.

20 There are other things that bother  
21 people too. For example, all the big box stores  
22 that were proposed recently were all proposed

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1 east of the park, in either minority or poor  
2 neighborhoods.

3 I don't know why we should have to  
4 bear that burden without the ability to say, we  
5 disagree. And have some teeth in something the  
6 city can do to help us defend that position. We  
7 don't have that today. And that is the major  
8 problem with this whole process.

9 Why do you tell all of us -- We point  
10 out the need to have this, and to have the  
11 citizens heard. The large tract retail, Large  
12 Retail Accountability Act is like a Pandora's  
13 Box for developers.

14 On the one hand, they can say, we  
15 have a right to built it. On the other hand, the  
16 city officials who have to enforce it can say,  
17 well the large tract review will take care of  
18 that, when they know in fact that it does not,  
19 can not, and will not take care of the problems.

20 We need a day in court. But we don't  
21 have that. We need a chance to be heard. And  
22 we don't have that. And I ask you to give us

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1 that. Thank you very much.

2 CHAIRMAN HOOD: Thank you. Next.

3 MR. CHA: Good evening, Chairman  
4 Hood and Council Members. My name is Gary Cha.  
5 I'm the owner of Yes! Organic Market. And it's  
6 a seven store retail grocery chain. And there  
7 are 150 --

8 Well, the testimony that I wanted to  
9 address is specifically narrowly on 102.2 use of  
10 the M zones are either permitted by right without  
11 conditions, by right subject to conditions, or  
12 as special exceptions.

13 As a retailer there are, we employ  
14 over 150 workers. And their livelihood depends  
15 on our ability to survive in a constantly  
16 changing D.C. market, the size of District of  
17 Columbia, which is about 30 square miles  
18 bordering Maryland and Virginia. The commerce  
19 of D.C. is very sensitive to whenever there is  
20 a slight change to how we do business.

21 And so far, I have not found any good  
22 reasons to allow big box retailers to disrupt,

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1 destroy or drain the economy of our city. I am  
2 in favor of requiring special exceptions for big  
3 box retailers for several reasons. And I hope  
4 I have time to read a couple of them.

5           Number one, D.C. is ranked number 1  
6 in the country for worst traffic congestion. It  
7 is unthinkable to expect people living in  
8 Maryland or in Virginia to drive into D.C. to  
9 spend their money in retail stores. We do not  
10 need to make this traffic situation worse than  
11 it already is by allowing big box retailers, who  
12 rely on shoppers who travel by cars.

13           Another reason, when a big box  
14 retailer generates sales revenue of \$100 to \$150  
15 million dollars per year, that business does not  
16 come from Maryland or Virginia residents. That  
17 revenue is siphoned from many existing small and  
18 local businesses.

19           The money spent in small and local  
20 businesses stay in our community. While the  
21 money spent at big box retailers leave our  
22 community to their out of town, or out of country

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1 headquarters, which leaves our city poor.

2           Although there are many more reasons  
3 that make sense to require special exception for  
4 big box retailers who are allowed to build as by  
5 right zoning, I hope the Zoning Commission would  
6 take the stance to protect the people and the  
7 retailers in our community.

8           Now, for every sport team, whether  
9 it is football or baseball, soccer, they can  
10 always count on playing at home for home field  
11 advantage. A visiting team has to deal with jet  
12 lags, new sleeping accommodations, navigating  
13 through a unfamiliar town, and loud noises of  
14 home town fans, et cetera, et cetera.

15           The Zoning Commission has the  
16 opportunity to give the home grown retailers a  
17 home field advantage. Keep the money  
18 circulating in our community. Don't let it  
19 escape. Nurture the character of the locally  
20 owned businesses, and provide opportunities for  
21 start up of local businesses. And thank you for  
22 giving me the opportunity to speak.

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1 CHAIRMAN HOOD: Thank you. Next.

2 MR. HARGROVE: Chairman Hood,  
3 Members of the Commission, I'm Larry Hargrove.  
4 I want to speak tonight about C-2-A and C-2-B,  
5 which are the mixed used zones applicable in  
6 Adams Morgan, including Reed-Cooke in its non  
7 residential strips.

8 These two zones prescribe, as you  
9 know, a maximum on the amount of FAR that can be  
10 devoted to non residential uses in an individual  
11 building. That maximum is 1.5, out of a total  
12 of 2.5 in C-2-A and 3.5 in C-2-B.

13 These four zones, that is the two  
14 zones for Adams Morgan proper, and the two zones  
15 for Reed-Cooke, under Subtitle G would become  
16 M-4 and M-5 respectively for Adams Morgan and for  
17 the rest of Adams Morgan. And M-33 and 34 for  
18 the Reed-Cook overlay.

19 Subtitle G makes a number of  
20 significant changes in the use permissions or  
21 development standards for these zones. And I  
22 want to comment tonight on only two, time

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1       permitting.

2                       These two changes in development  
3 standards, in our view make, have the effect of  
4 downgrading and diminishing the residential  
5 component of these mixed use areas.

6                       First, in both zones Subtitle G  
7 would do away with the 60 percent maximum lot  
8 occupancy. A principle function of which, of  
9 course, is to ensure light and air to residential  
10 requirements, which in these buildings, these  
11 row houses, is going to be located on the upper  
12 floors.

13                      We see no good reason for this shift.  
14 And, in any event, we feel that a building, that  
15 it would mean that a building could occupy the  
16 entire lot, except for a narrow setback at the  
17 rear.

18                      This setback is narrow because of an  
19 additional rule which proscribes calculating  
20 the rear yard from the middle of the alley, which  
21 seems to us a little odd.

22                      Second, the new regulations would

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1 give an automatic increase of, a better right  
2 increase of FAR from 1.5 to 2.0 in any lot less  
3 than 10,000 square feet in area, which means  
4 virtually all of the lots in Adams Morgan that  
5 are now in non residential use.

6 We oppose these changes. It's  
7 important we think, for you to realize that the  
8 present configuration of these zones differs  
9 from the mixed use zones as they were adopted in  
10 1958 for these areas. They were tilted in the  
11 direction of increased commercialization and  
12 demolition.

13 And the community came to this  
14 Commission in at least three instances, with  
15 citizens initiating cases. And the resulting  
16 changes are reflected in the existing C-2-A and  
17 C-2-B.

18 Those cases were a case that lured  
19 the high in C-2-B from 90 to 65 feet. Another  
20 case, so called Article 54 case that eliminated  
21 the possibility of a building being converted to  
22 all commercial use. And finally, of course, the

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1 Reed-Cooke overlay itself, which eliminated the  
2 industrial zoning for that area.

3 CHAIRMAN HOOD: Mr. Hargrove can  
4 you --

5 MR. HARGROVE: Generally zoning in  
6 Morgan Adams is a part of the fabric --

7 CHAIRMAN HOOD: Mr. Hargrove, you  
8 and I are not going to talk again --

9 MR. HARGROVE: -- changes that  
10 would give us --

11 CHAIRMAN HOOD: Mr. Hargrove, can  
12 you give us your close --

13 MR. HARGROVE: Thank you.

14 CHAIRMAN HOOD: Okay. Now, thanks  
15 for letting me talk, Mr. Hargrove. Can you give  
16 us your closing thought? See, I wanted people  
17 to hear your closing thought. Can you give us  
18 your closing thought?

19 MR. HARGROVE: I beg your pardon?

20 CHAIRMAN HOOD: Can you give us your  
21 closing thought? I'm sorry if you didn't hear  
22 me.

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1 MR. HARGROVE: We simply wanted to  
2 make the point that this mixed used zoning in  
3 Adams Morgan is a zoning by choice, not by  
4 inheritance. It works in our area.

5 It reflects the special fabric of  
6 the neighborhood. And we don't see any reason  
7 for diluting the mixed used character of it by  
8 diminishing the residential component.

9 CHAIRMAN HOOD: Okay. Thank you.  
10 Next.

11 MS. WHEELER: Hello. I'm Faith  
12 Wheeler, Vice Chair of ANC 4B. And representing  
13 ANC 4B's resolution, or portions of the  
14 resolution that apply to, or relate to Subtitles  
15 G and H.

16 I'd first like to refer to and  
17 acknowledge the presenters who spoke earlier,  
18 who participated in ANC 4B's rather lengthy and  
19 thorough review process on the Wal-Mart store at  
20 Georgia and Missouri Avenues Northwest.

21 This particular resolution by ANC  
22 does not go into anywhere near the detail at all,

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1 that the previous presenters have done. And in  
2 any case they have stated the case. I've two  
3 basic points that are quite general.

4 One is a concern about  
5 customization. We understand that OP has given  
6 Georgetown the opportunity to rather thoroughly  
7 customize the zoning re-write as it relates to  
8 them.

9 And it would be, we would love to  
10 have that same opportunity in the neighborhoods  
11 that we represent in ANC 4B, which are basically  
12 the area around Fort Totten, including  
13 Lamond-Riggs, upper Georgia Avenue, and Takoma.

14 It seems to us that it would be  
15 difficult to customize in the future. But in  
16 the spirit of the resolution, I think it's fair  
17 to say that ANC 4B would recommend that the  
18 Zoning Commission find a way to facilitate  
19 further customization with the participation of  
20 the community in the areas affected within our  
21 boundaries of ANC 4B.

22 Regarding additional zoning

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1 regulations needed, we are concerned about the  
2 city's allowance of matter of right, large one  
3 story buildings on wide streets. For example,  
4 the Georgia Avenue Wal-Mart, which does  
5 contribute to sprawl. The zoning --

6 I'll stay true to this resolution,  
7 as hard as it is for me. The zoning regulations  
8 should encourage the larger scale greater height  
9 development on main corridors, where there are  
10 wider street, more plentiful parking, and the  
11 best transit options.

12 Therefore, we recommend that new  
13 buildings on main corridors should be encouraged  
14 to be multi storey. Similar to other  
15 jurisdictions, the negative impact of new  
16 development, including traffic and the loss of  
17 green space, should be mitigated by the  
18 developer.

19 Therefore, we recommend that new  
20 zoning regulations mandate impact fees,  
21 earmarked for public benefits and services, such  
22 as water quality, infrastructure and street

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1 improvements, parking, mass transit, parks and  
2 recreation, and landscaping on public streets.  
3 Thank you.

4 CHAIRMAN HOOD: All right. Thank  
5 you. I want to really thank this panel. We  
6 appreciate your testimony. Commissioners, any  
7 questions? Commissioner May.

8 COMMISSIONER MAY: I just had a  
9 couple of quick things. Ms. Maguire, your  
10 testimony included references to sort of  
11 creeping retail on Massachusetts Avenue  
12 Northeast and C Street Southeast. So  
13 Massachusetts Northeast, we're talking about in  
14 the area between Stanton Park and what, Third  
15 Street, I guess?

16 MS. MAGUIRE: Right.

17 COMMISSIONER MAY: Is that it? I  
18 mean, hasn't that been retail for a really long  
19 time?

20 MS. MAGUIRE: Yes, it has. Yes,  
21 it's been retail. But it shows what can happen  
22 --

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1 COMMISSIONER MAY: I see.

2 MS. MAGUIRE: -- when you introduce  
3 additional commercial uses. They creep. And  
4 that's what's happened.

5 COMMISSIONER MAY: Right. But  
6 that, I mean, that's been commercially zoned for  
7 a long time. It's not a matter of --

8 MS. MAGUIRE: Well, it is now. But  
9 it wasn't --

10 COMMISSIONER MAY: -- a corner  
11 store creeping in.

12 MS. MAGUIRE: -- initially. It  
13 wasn't initially.

14 COMMISSIONER MAY: Okay. And C  
15 Street Southeast? What section?

16 MS. MAGUIRE: That's the section  
17 where the FedEx office is. Those were all  
18 houses along there.

19 COMMISSIONER MAY: Hold on. I'm  
20 sorry. Where the --

21 MS. MAGUIRE: This is the block  
22 between the -- No, it would be --

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1 COMMISSIONER MAY: Oh.

2 MS. MAGUIRE: -- Sixth, no Seventh  
3 and Eighth.

4 COMMISSIONER MAY: Six hundred, no,  
5 600 block of C Street Southeast is where, is the  
6 back side of the Natatorium. Is that what  
7 you're talking about?

8 MS. MAGUIRE: Okay, I -- No.

9 COMMISSIONER MAY: You're talking  
10 about D Street, where FedEx is.

11 MS. MAGUIRE: I'm talking about D  
12 Street. I'm sorry.

13 COMMISSIONER MAY: Okay.

14 MS. MAGUIRE: I apologize.

15 COMMISSIONER MAY: Again, I mean, I  
16 think those have been zoned commercial for some  
17 time.

18 MS. MAGUIRE: They have been. But  
19 they show what can happen when you allow the  
20 creeping commercialization that takes place.  
21 Those were all row houses, providing --

22 COMMISSIONER MAY: Well, I mean,

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1 they still are in form.

2 MS. MAGUIRE: Well, they are in  
3 form. But they're not on the market. I cite  
4 that as an example of what can happen. We're  
5 dealing with long term trends here.

6 COMMISSIONER MAY: Right.

7 MS. MAGUIRE: And you can see in lot  
8 of American cities, where everything is allowed.  
9 And it produces a mess. And we need to make sure  
10 that we really protect our residential  
11 neighborhoods, by not allowing that kind of  
12 commercial creep, which will then lead to  
13 re-zoning. That's my point.

14 COMMISSIONER MAY: Okay. But I'm  
15 not sure that anything that's being proposed  
16 here is going to lead in that direction.

17 MS. MAGUIRE: Well --

18 COMMISSIONER MAY: I mean, corner  
19 stores are specific. And they're on corners.  
20 Are you concerned that that's going to lead to  
21 that whole area becoming zoned commercial?

22 MS. MAGUIRE: I think you've seen a

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1 lot of conversion of townhouses to office space.

2 COMMISSIONER MAY: Well again, only  
3 in zones that would allow it.

4 MS. MAGUIRE: Well, not only on  
5 Capitol Hill, but in other parts of the city.

6 COMMISSIONER MAY: Okay. I mean,  
7 the only thing I'd point out is, I mean, you  
8 know that these sort of trends have gone the  
9 other way too. I mean, the block of C Street  
10 where I live used to be a commercial street. And  
11 now it's all houses.

12 And even in the time that I've lived  
13 in the general vicinity, some retail  
14 establishments have gone away, a dry cleaners.  
15 I mean, honestly, I didn't even think about this  
16 other night.

17 But when I moved into my house, I  
18 displaced a hair stylist that was operating in  
19 a grandfathered location there. But it was a  
20 remnant of, I mean, I have photographs of when  
21 there were businesses all down that block. And  
22 they were the living room space of townhouses,

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1 or whatever. But they were there.

2 There was a Chinese laundry two  
3 doors away. There was a bar on the corner. I  
4 mean, you know, 30 feet from where I live. And  
5 those things, those places are all gone now. I  
6 mean, it kind of goes both ways, right?

7 MS. MAGUIRE: Well, perhaps. I  
8 think we're dealing right now with a crisis in  
9 housing in the city, particularly for families.  
10 We have that on the Hill. We have family housing  
11 on the Hill. I don't want to see more of that  
12 converted, or become business oriented, income  
13 producing business oriented --

14 COMMISSIONER MAY: Yes.

15 MS. MAGUIRE: -- except by special  
16 exception. So that people can come in and talk  
17 about what their needs are. And have that be  
18 subject to community discussion.

19 COMMISSIONER MAY: Okay. Well  
20 that's an important distinction. So I  
21 appreciate that. I don't have any other  
22 questions. And I thank everyone for their

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1 testimony.

2 In particular, I want to thank Mr.  
3 Cha for coming down. I'm aware of your  
4 business. I'm not a big customer, but I'm well  
5 aware of your business, and what you've done to  
6 try to locate throughout the city.

7 And I think it's been a really  
8 significant contribution. And I appreciate  
9 everything that you've done. I appreciate you  
10 taking the time to come and talk to us.

11 CHAIRMAN HOOD: Any other questions  
12 or comments? Commissioner Miller.

13 COMMISSIONER MILLER: Thank you,  
14 Mr. Chairman. I would associate myself with  
15 Commissioner May's comments about your  
16 business, Mr. Cha. How many stores do you  
17 currently have?

18 MR. CHA: We have seven stores.

19 COMMISSIONER MILLER: Seven  
20 stores. And any under, any plans for more right  
21 now?

22 COMMISSIONER MAY: You should turn

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1 on your microphone, so we can hear you.

2 MR. CHA: We've been talking for  
3 quite some time at Fort Totten. When Wal-Mart  
4 decide to move into that area, Safeway decide to  
5 back out. And the developer still would like to  
6 have a grocery store in there.

7 So they called us. And we have been  
8 talking for a long time. And we're hopeful that  
9 we will be able to open a store near that area.

10 COMMISSIONER MILLER: And thank you  
11 for your testimony, and that of, the similar  
12 testimony of Mr. Redd and Mr. Baker, regarding  
13 the special exception process for the big box.  
14 I think it's something that we ought to think  
15 about at least.

16 Although I would have, I do feel  
17 compelled to say that the studies that show small  
18 businesses being hurt by Wal-Mart's when they go  
19 into other areas, I think don't necessarily  
20 apply to the District, which has had such a  
21 dearth of retail, and good retail, quality  
22 retail, throughout the city.

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1           And certainly in certain parts of  
2 the city even more so. And the studies that show  
3 -- You're aware, I'm sure, of the study that  
4 showed up, from a few years ago. I think it's  
5 probably not as bad now. A billion dollars of  
6 lost revenue from our own citizens going, you  
7 know, over to shop at big boxes and other retail  
8 in the suburbs.

9           One I used to work for, Council  
10 Chairman John Wilson, who would say he would go  
11 to Costco at Pentagon City to find his  
12 constituents. Because that's where they all  
13 were. So anyway, I think that's changed, some  
14 of that.

15           MR. REDD: The good thing is, we  
16 have a Costco here in the city now, don't we?

17           COMMISSIONER MILLER: We do. And I  
18 think it's one of their more successful ones.

19           MR. REDD: All we needed was one.  
20 Same thing for Wal-Mart.

21           COMMISSIONER MILLER: Right.  
22 Okay. Well, thank you all for your testimony.

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1 We will be asking OP for responses to some of  
2 these specific concerns that were raised.

3 CHAIRMAN HOOD: Okay.  
4 Commissioner Turnbull.

5 COMMISSIONER TURNBULL: Thank you,  
6 Mr. Chair. I only have one question. Mr.  
7 Kadlecek, on your comments tonight about the  
8 setbacks. And I think you heard previously, Mr.  
9 Hinds talking about Georgetown, with their  
10 concerns going back.

11 It's a little bit different on the  
12 back, the rear. Do you have any examples, or  
13 documentation on what you're talking about?  
14 It's hard to picture all these different things  
15 that you're showing.

16 MR. KADLECEK: Sir --

17 COMMISSIONER TURNBULL: Has your  
18 organization provided any examples of this, that  
19 you could provide to the Office of Planning?

20 MR. KADLECEK: Sir, are you talking  
21 about rear setbacks, or --

22 COMMISSIONER TURNBULL: Rear site

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1 --

2 MR. KADLECEK: -- roof structure  
3 setbacks?

4 COMMISSIONER TURNBULL: Both. I  
5 think you mentioned on the first couple of pages  
6 a lot of different examples about --

7 MR. KADLECEK: Yes, I was --

8 COMMISSIONER TURNBULL: --  
9 eliminating some of those requirements that OP  
10 has got.

11 MR. KADLECEK: Sure.

12 COMMISSIONER TURNBULL: And I'm  
13 just wondering if you, if your organization  
14 could provide some examples of what you're  
15 talking about.

16 MR. KADLECEK: Sure. You know, I  
17 think it was more of a -- I think particularly  
18 with the roof structure setbacks, that was more  
19 of a looking into the future. Because it's not  
20 a requirement now. So there wouldn't  
21 necessarily be any examples, other than those  
22 that would be permitted by having gotten some

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1 relief for it.

2 But one example I was thinking  
3 about, with respect to the roof structure  
4 setbacks -- And certainly we can get rear yard  
5 court in lieu of. I know there are many examples  
6 of that that we can get examples of.

7 But I was thinking about a building  
8 that was, for instance, like a U shape. And if  
9 the street ran along where the U is open.

10 If there was a roof structure on the  
11 part of the U that didn't face out, it just faced  
12 the other part of the U, under the definition  
13 that's being proposed, that would have to be set  
14 back.

15 But it's not facing the street.  
16 It's just facing the other part of the building.  
17 And that seems to me to be a little bit overly  
18 aggressive for what the intent of the roof  
19 structure setbacks should be, which is to be  
20 setting back from public spaces, not from within  
21 the property.

22 COMMISSIONER TURNBULL: Okay.

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1                   MR. KADLECEK:    So that was just one  
2                   example I was thinking of, just off the top of  
3                   my head.

4                   COMMISSIONER    TURNBULL:        Okay.  
5                   Thank you.

6                   CHAIRMAN        HOOD:            Any    other  
7                   questions?    Okay.    We want to thank you for your  
8                   testimony.    We really appreciate you all coming  
9                   down and providing testimony.

10                   Okay, Anne Sellin, Denis James, and  
11                   Commissioner Norman, Chairperson Norman, will  
12                   you come forward?    Do we have anybody else who'd  
13                   like to testify?    Okay, this will be our last  
14                   panel, Commissioners.    And I guess we will ask  
15                   our questions after this panel.

16                   Let me ask, do we need to go on ten  
17                   minute rounds?    Do we have that many questions?  
18                   Okay, I'm being told we need to go in ten minute  
19                   rounds.    Okay.    Yes.

20                   Okay, let's start with, why don't we  
21                   start with Mr. James, and end up with  
22                   Commissioner, Chairman Norman.    And Ms. Sellin

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1 will go in between. There we go.

2 MR. JAMES: Good evening, Chair  
3 Hood and Members of the Commission. I'm Dennis  
4 James, a 42 year homeowner in Adams Morgan.  
5 You've seen me before, representing the Kalorama  
6 Citizens Association. Tonight I'm just giving  
7 my own personal testimony. Although we are  
8 meeting tomorrow night. And some of this may  
9 become a resolution.

10 Anyway, I'm here tonight to comment  
11 on a few sections of Subtitle G that I believe  
12 will have a negative impact on residential life  
13 in my community.

14 Section 303.2, this provision would  
15 allow 25 percent additional commercial use for  
16 buildings of 10,000 square feet or less in the  
17 C-2-B and C-2-A strips of Adams Morgan, on 18th  
18 Street and Columbia Road, Adams Mill, Kalorama  
19 Road and Florida Avenue.

20 Adams Morgan currently contains  
21 approximately 300 businesses, 85 of them in ABC  
22 licensing use. And of those, 74 in on premise

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1 restaurant or tavern use, containing over 7,000  
2 seats of ABC occupancy. This over  
3 concentration of one use has kept a moratorium  
4 on various licenses in place in Adams Morgan for  
5 the last 13 years.

6 Allowing by right expansion of up to  
7 25 percent of the on premise ABC use, by  
8 increasing the over concentration will have  
9 serious negative impacts on the community,  
10 including more public drunkenness, more  
11 disturbance of the peace, order and quiet. And  
12 add more stress on residential parking needs,  
13 and vehicular and pedestrian safety problems.

14 This provision is inconsistent with  
15 the D.C. Comprehensive Plan policy, MC-2.4.2,  
16 which calls for encouraging small businesses  
17 that meet the needs of local residents, rather  
18 than concentrations of liquor licensed  
19 establishments. And below that I quote that  
20 whole section of the policy, of which the  
21 previous sentence was just an excerpt.

22 Section 903.2, I note that the uses

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1 banned by the Reed-Cooke overlay are deleted in  
2 the OP proposal. This is a serious mistake,  
3 obscuring the purpose of the existence of the  
4 zone in the first place.

5 For the Reed-Cooke overlay, this  
6 provision, 903.2, allows for a larger  
7 development from 1.5 to 2.0 FAR, which if in one  
8 of the uses that the overlay was originally  
9 instituted to guard against, would have negative  
10 effects upon nearby residences.

11 Sections 904.2, .3 and .4, the rear  
12 setback rules are absurdly difficult to follow.  
13 But seem to encourage deeper development of the  
14 commercial lots below the 25 foot horizontal  
15 plane.

16 Section 905.4A1 should not include  
17 a measurement taken from the middle of a public  
18 alley. There should be no merging of public  
19 property rule with those of privately held  
20 property.

21 This provision seems likely to lead  
22 to commercial trash containers lining and

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1 blocking the public alleys, in many cases alleys  
2 where the other side is in a residential zone.

3 This will impede traffic flow,  
4 access of fire, EMS and MPD vehicles, and  
5 presents public health concerns. The lot  
6 occupancy rear yard requirement should remain  
7 unchanged.

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

10 MS. SELLIN: Hello, my name is Anne  
11 Sellin. I live on 16th Street.

12 CHAIRMAN HOOD: Your mic.

13 MS. SELLIN: My name is Anne Sellin,  
14 I live on 16th Street. In DuPont Circle the  
15 citizens have engendered at least five  
16 significant zoning changes. And some of these  
17 proposals really will reverse some of our  
18 achievements.

19 This is an area that has really been  
20 overrun by Chanceries and Embassies. And we've  
21 lost a lot of housing to them. What we really  
22 need is a reinforcement of our residential uses.

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1 Corner uses other than grocery stores, for  
2 instance, where the special exemption would be  
3 damaging to us.

4 Because all sorts of offices could  
5 move in to the first floor in any sort of  
6 commercial use. And that would be quite  
7 damaging in our R-4 areas. And we've just  
8 re-zoned more to R-4.

9 In the text DuPont Circle isn't even  
10 recognized. So I'm a little bit, you know,  
11 confused about what they want. But certainly we  
12 would be affected by the proposal to increase  
13 commercial by 25 percent in the C-2-B zone, which  
14 is for us on 17th Street, above Massachusetts  
15 Avenue, and a little bit of P Street, west of  
16 DuPont Circle.

17 Also, there is a mention of buffers.  
18 And the buffers have been really reduced in this  
19 proposal, particularly in the back, with measure  
20 from the middle of the alley. But also,  
21 allowing 100 percent lot occupancy.

22 I was very impressed with

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1 Georgetown, that has devised a very interesting  
2 set of setbacks from the back of the lot, which  
3 would help. I think what we need to do is retain  
4 the R-5-B constrictions of 80 percent lot  
5 occupancy.

6 Also, Connecticut Avenue is a big  
7 concern for us. It's C-3-B now, and we're  
8 worried about losing tenants in both the C-2-B  
9 and the C-3-B on the upper floors. This is  
10 desirable housing, and it always has been  
11 housing, actually. Sam Rayburn lived on  
12 Connecticut Avenue on the third floor. And  
13 James Carvel had an apartment in the next block.

14 So this is desirable housing.  
15 There's separate entrances to the upper stories  
16 in these buildings. And there should be no  
17 permission for the housing requirements to be  
18 waived, and go to 100 percent commercial, or non  
19 residential use in DuPont Circle. Because  
20 we've just lost too much housing already. Thank  
21 you, very much.

22 CHAIRMAN HOOD: Thank you. Next.

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1 MR. NORMAN: Good evening, Mr.  
2 Chairman. My name is Tony Norman. I'm  
3 chairman of ANC 1B. I've been asked to come here  
4 on behalf of the Commission of 1B, and request  
5 to post, to join the community groups and other  
6 ANCs in requesting postponement, and more  
7 community time and more hearings on these zoning  
8 re-writes.

9 Particularly because our  
10 commission, we're just beginning to get adjusted  
11 to the present zoning regulations. We have a  
12 arch, the Duke plan in our ANC 1B. We have 14th  
13 Street corridor. And that's a booming area now.  
14 There's a lot of commercial development  
15 happening at 14th and U. And Georgia Avenue,  
16 part of the southern part of the Georgia Avenue  
17 corridor is in our 1B area.

18 And we have a zoning committee in our  
19 commission that reviews zoning changes. And  
20 we're in the process of reviewing these zoning  
21 regs, the 1,000 pages.

22 I mean, there's been a

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1 recommendation that each of the ANCs across the  
2 city chop it up, and give comments on various  
3 parts of the plan. But we'd like to comment on  
4 the entire plan, as it affects ANC 1B.

5 And we're in the process of  
6 digesting. And I know there's a lot of other  
7 community groups and ANCs that are already very  
8 familiar. In fact, a lot of them read these  
9 Zoning Commission's for part, leisurely bedtime  
10 reading. So they're very much familiar with the  
11 zoning codes, and live and breathe zoning codes  
12 for the last ten or 20 years.

13 We are just becoming new to this with  
14 our commission, because of the booming  
15 construction that's happening at 14th and U.  
16 And we just started becoming to learn about the  
17 present zoning regulations and overlay as it  
18 relates -- And particularly as it relates to  
19 liquor licenses, and the new impacts on the  
20 zoning.

21 And we're in the process of  
22 digesting that. And we will have more thorough

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1 comments. But we do not think such a major  
2 overhaul in the time period, and the schedule  
3 that you all have, is sufficient to give  
4 community comments.

5 We're still in the process of  
6 meeting, and calling community meetings,  
7 getting community reaction. I know the Office  
8 of Planning had their general community  
9 meetings. But those were inconvenient times.  
10 Some of those were simultaneous with our ANC  
11 meetings. So we're in the process of holding  
12 our own community meetings to deal with the  
13 impact of this regulation.

14 And we do take it very seriously.  
15 So we're joining that. And we have a resolution  
16 passed, that has been already submitted to the  
17 Commission, to request a postponement, and more  
18 community hearings, until we've had time to give  
19 more impact, and more community comments that  
20 we'd like to give. Specifically as these  
21 regulations impact our ANC 1B.

22 And I don't know if you've done

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1 campus plans. We also have extensive comments  
2 we have in relation to the campus plan. We have  
3 Howard University, that we've had a number of  
4 issues with. So our commission has passed a  
5 resolution.

6 We forwarded it to the Zoning  
7 Commission, to request a forma postponement, and  
8 more community input, and more community  
9 hearings on this zoning re-write. Thank you.

10 CHAIRMAN HOOD: All right. Thank  
11 you all for your testimony. Let's see if there  
12 are any comments or questions, anyone.  
13 Commissioner May.

14 COMMISSIONER MAY: I just have one  
15 quick question. I'm sorry, Commissioner  
16 Norman.

17 MR. NORMAN: Norman.

18 COMMISSIONER MAY: Norman, thank  
19 you. This process started with us, well, it  
20 started around the time I got back on the  
21 Commission, so six years ago.

22 Has your ANC been involved in the

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1 process throughout that time period? Or is it  
2 only in the more recent stages, when the full  
3 regulations were being permitted? Because we  
4 had a lot of hearings over the last few years on  
5 these topics.

6 MR. NORMAN: Well, our commission  
7 has not been formally involved in that process.  
8 But I personally have, through the Committee of  
9 100. I know they've had a number of different  
10 meetings and -- But our commission has not  
11 formally -- In fact, since the time you all  
12 started, our commission has turned over --

13 COMMISSIONER MAY: Right.

14 MR. NORMAN: -- many times.

15 COMMISSIONER MAY: So what, I mean,  
16 can you enlighten us on why that is? I mean, you  
17 know, we've heard this concern before. And, I  
18 mean, we have been, of course we live and breathe  
19 zoning all the time. But ANCs get involved, you  
20 know, depending on what's happening in the ANCs  
21 sometimes.

22 But this is such a big,

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1 comprehensive thing, I would have thought  
2 everyone would have tuned in from the beginning.  
3 Or I would have hoped that everybody would tune  
4 in from the beginning. So why do you think it  
5 was not really, I mean, was it just because it  
6 was not real enough at that point, a few years  
7 ago?

8 MR. NORMAN: Well, as you can see I  
9 don't think a number, I think quite a few  
10 community organizations and ANCs were not  
11 involved in that process. And I think it's the  
12 way you all went about it. It was sort of  
13 chopped up. You had different parts of it. And  
14 I don't think --

15 And plus, I don't think the notice  
16 -- A lot of commissions, I had the notice because  
17 I'm a member of the Committee of 100. So I was  
18 very familiar with it personally.

19 But I don't think community  
20 organizations and ANCs were really aware of  
21 those meetings going on, to be honest with you,  
22 unless you were just involved and connected in

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1 that sort of field or discipline. I don't think  
2 the majority of the commissions and community  
3 groups knew about that process.

4 COMMISSIONER MAY: Well, I mean,  
5 there are notice requirement that we have to  
6 meet. So ANCs should have been notified when we  
7 were having meetings that were affecting the  
8 zoning regulations.

9 But I understand, I mean, ANCs have  
10 to deal with a lot of different issues. And  
11 zoning, on any given month, may not be the  
12 highest priority.

13 MR. NORMAN: And I'd like to say one  
14 other factor. Once again, because it was such  
15 a long period of time. ANCs turn over every two  
16 years. So some commissions may be very involved  
17 in that issue. Then another commission may not  
18 be involved in it at all. So there's a large  
19 turnover in commissions.

20 COMMISSIONER MAY: Thank you.  
21 That's all I have.

22 CHAIRMAN HOOD: Okay. And

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1 Chairman Norman, one of my opening statements --  
2 And I know you may have come in a little bit  
3 later, was that we're going to proceed on  
4 November the 9th with how we're going to move  
5 forward.

6 (Off microphone comment)

7 CHAIRMAN HOOD: Oh, what did I say,  
8 November? I must be, my days are running  
9 together. December the 9th. And what's going  
10 to happen, at that time we're going to moving  
11 forward to see how we're going to move forward.  
12 And I can pretty much assure you that there will  
13 be reasonable time for everyone to comment.

14 And some other things that we're  
15 trying to put in place in the pipeline, to try  
16 to reach out to those, and get the participation  
17 of those that we have not seen down here in the  
18 hearing room. And we're trying to, we're still  
19 in the planning stages of those things at this  
20 point.

21 So we're going to exhaust, I know  
22 Office of Planning has exhausted a lot, we have

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1 exhausted a lot, my colleagues and I. And  
2 Office of Zoning has exhausted a lot. And I  
3 think they have -- If you could help us spread  
4 the word, and everyone.

5 They have a, is the brochure still  
6 on the website? They have a excellent brochure  
7 of this on the website, if you can -- And I  
8 actually have attended one of your very well run  
9 meetings. And I know that your ANC is  
10 definitely engaged. And I know you all are on  
11 top of the issue.

12 So I've had the opportunity to sit  
13 in on one of your ANC meetings. So I know that  
14 you all are definitely on top of the issues. But  
15 if you can help us pass the word. And if they  
16 can just go to the website, or they can call the  
17 office. There's an excellent brochure that  
18 Office of Zoning has done.

19 Okay. Any other questions of this  
20 comment, I mean, this panel? Okay. Thank you  
21 all for your testimony. We appreciate you  
22 coming down. Okay, we're going to do ten minute

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1 rounds of our questions.

2 Do we need to take a two minute  
3 break? Or do you want to keep going? Okay.  
4 Who'd like to start us off? Commissioner May,  
5 you can start us off.

6 COMMISSIONER MAY: Okay. So I  
7 think these are issues of common interest. So  
8 I'm, you know, my ten minutes will be consumed  
9 answering questions I think that we probably all  
10 were going to ask.

11 So I'm interested in the Office of  
12 Planning's response, once again, to the issue of  
13 elimination of overlays, for the sake of these  
14 specific zones.

15 The concerns about changes in non  
16 residential FAR from 1.5 to 2.0. The special  
17 exception for big box retail, and then also your  
18 thoughts on the setback requirement that CAG  
19 negotiated. So those are the four points.

20 MS. VITALE: Okay. Let me start  
21 with the easy one.

22 CHAIRMAN HOOD: Okay, let me just

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1 interrupt. I think some of your questions are  
2 very important. Because I was getting ready to  
3 go to the restroom. But your point about the  
4 overlay, I think is information all of us --

5 So I'm going to recommend, because  
6 my colleagues, because when she comes back she's  
7 going to have the same questions. So why don't  
8 we take a three minute break.

9 COMMISSIONER MAY: Okay, that's  
10 fine. Thanks.

11 (Whereupon, the meeting in the  
12 above-entitled matter went off the record at  
13 8:36 p.m. and back on the record at 8:39 p.m.)

14 CHAIRMAN HOOD: Okay. Are we ready  
15 to back on the record? Okay, we're ready to go  
16 back. Commissioner May, we'll go back to you.  
17 You may have to repeat those.

18 COMMISSIONER MAY: Well then don't  
19 start the clock again. Do I need to repeat the  
20 questions?

21 MS. STEINGASSER: Yes.

22 COMMISSIONER MAY: Okay. For you,

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1 I'll repeat the questions. So there were four  
2 issues that I thought we needed to have the  
3 Office of Planning's response to. One was the  
4 move away from overlays, and an explanation of  
5 the logic here, and how they reacted to the  
6 comments about that tonight.

7 Changes to non residential FAR from  
8 1.5 to 2.0 in the M zones, I guess. The special  
9 exception for big box retail. And then also the  
10 setback requirement that CAG had negotiated with  
11 the business leaders in their area.

12 MS. VITALE: Okay. Let's start  
13 with the, first of all, by letting my colleagues  
14 know that they need to weigh in if I miss any  
15 points. Because a lot of these were issues that  
16 we worked on a long time ago, at the outset.

17 I'm going to start with the easy one,  
18 CAG. The Citizens Association of Georgetown  
19 approached both the ANC and the Office of  
20 Planning about six months ago, asking that this  
21 be reconsidered.

22 At that point we were too far into

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1 the process, and into the writing of the  
2 regulations, to stop and go do that kind of  
3 individual work for a community. Up until that  
4 point they had worked as the lead themselves, on  
5 doing their customized zone.

6 So our position was, if you can work  
7 it out with the Georgetown BID, then the business  
8 community, who was very supportive of the  
9 initial proposal that had been advertised, then  
10 we'll consider it. But we don't have time to  
11 stop and do it.

12 And CAG went out and worked with the  
13 business community. And from what we  
14 understand, they now have a resolution. We have  
15 not heard back from the business community.

16 But if that's the case, then we would  
17 probably not have a problem. But again, I  
18 haven't read through it. But that we did send  
19 them off to negotiate amongst themselves.

20 The non residential FAR issue,  
21 that's limited to, as Mr. James pointed out, and  
22 Mr. Hargrove, the 10,000 square foot lots, only

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1 for those two floors. And it is targeted at  
2 exactly the type of structure that you've heard  
3 about, the row house structures that have been  
4 converted to commercial.

5 It's very difficult for that upper  
6 storey to be split in half, and to fulfill that  
7 FAR and meet all the building code and the fire  
8 code, and the separations of uses. So it had  
9 been floated very early on, that that be allowed  
10 to be a by right non residential.

11 And again, it's only for existing.  
12 It's not for new construction. Mr. Hargrove  
13 called me a few weeks back and said, he had  
14 concerns about how it would play out in  
15 Reed-Cooke. And so we are aware of that. But  
16 that's where it came from.

17 It is something that exists now on  
18 Pennsylvania Avenue Southeast in the commercial  
19 areas. So it's been very helpful, and very  
20 useful in areas, in some areas.

21 You know, we're aware of the alcohol  
22 and bar and tavern issues that are in the

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1 Reed-Cooke area and Adams Morgan. We're happy to  
2 look at that again, and see if there's a way to  
3 kind of split that out.

4 COMMISSIONER MAY: Can I just ask a  
5 followup on that? You said that it's absolutely  
6 limited to the first two floors?

7 MS. VITALE: First two floors, yes.

8 COMMISSIONER MAY: Okay. So this  
9 isn't going to be an avenue for somebody to, you  
10 know, if they get to 1.6 FAR on the first two  
11 floors, for them to go up another half a flight?

12 MS. VITALE: It's not intended to.  
13 It's supposed to be just for those first two  
14 floors.

15 COMMISSIONER MAY: Intended to?  
16 Or does it, is it explicitly allowed only on  
17 those first two floors?

18 MS. VITALE: Well --

19 COMMISSIONER MAY: Let me put it  
20 this way. I think it's more supportable if it's  
21 explicitly limited.

22 MS. VITALE: That's what it's --

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1                   COMMISSIONER MAY:        Because I  
2 understand that purpose.    Because we have  
3 wrestled with that in BZA.

4                   MS. VITALE:     Right.    And that's  
5 what it was meant to -- What it says is, and  
6 existing building on a lot with an area of 10,000  
7 square feet.

8                   Now, it may have a maximum floor area  
9 ratio of 10,000 square feet, provided the uses  
10 are located in the ground storey and the storey  
11 directly above the ground storey.

12                   COMMISSIONER MAY:    Very good.  All  
13 right.  Thanks.

14                   MS. VITALE:     So we can fine tune  
15 that more, maybe.  But we can also look at how  
16 it moves, how it's used in other areas of the  
17 city.

18                   COMMISSIONER MAY:    Well, and, I  
19 mean, maybe there needs to be a restriction on  
20 what the actual, more explicit restriction on  
21 use, so that it's not, you know -- Because having  
22 an office on the second floor is different from

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1 having a second floor of the bar.

2 MS. VITALE: The overlays. We're  
3 going to always be in disagreement on this. We  
4 do not think, we are not, we do not feel that we  
5 have eliminated or destroyed the overlays. We  
6 think we have made them a little bit more  
7 muscular, made them clearer.

8 To say now that I can understand a  
9 use that would be permitted in any commercial  
10 overlay by looking only at Chapter 13, is just  
11 not right. I have to go to the base zone. I  
12 have to look at the development that's there.  
13 Then I have to look at what the limitations are.

14 The uses also carry through. So  
15 there's the general uses of the neighborhood  
16 commercial overlay. Those uses have been fine  
17 tuned by each individual overlay. Those are the  
18 designated uses in areas that are not covered by  
19 the designated use restrictions.

20 Then I have to go back to the  
21 underlying zone, which is typically in Chapter  
22 7, and look at what those permitted uses are.

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1 And as we all know, those uses then transfer back  
2 through Chapter 7, into Chapter 3, then to  
3 Chapter 2, all the way back to the R-1 zone.

4 So while people understand how it  
5 works now, I don't believe in any way that we have  
6 weakened the overlays. We've tried to unify --

7 Each overlay has a statement about  
8 pedestrian safety, and how the neighborhood, it  
9 needs to be walkable. But each one has it just  
10 with like one word different. So we tried to use  
11 one constant phrase to try to put that at the  
12 beginning.

13 As far as the Comp Plan reference,  
14 the Comp Plan, all of zoning has to be consistent  
15 with the Comp Plan, not just the neighborhood  
16 commercial overlay, all of the zoning  
17 regulations. And the Commission asked us last  
18 week, when we were talking about Subtitle A and  
19 B, to beef up that language, make more direct  
20 references to the Comprehensive Plan.

21 We agreed to do it. And that would  
22 be the case to do it, as opposed to calling it

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1 out. Well, this zone's protected by the Comp  
2 Plan implies that all the other zones are not.  
3 And all of the action that the Commission does  
4 has to be deemed consistent with the Comp Plan.

5 So that's why we didn't call out one  
6 over the other. And it's not as if there's a  
7 small area of plan that's tied in differently for  
8 one over the other. So we thought that needed  
9 to be more of a uniform statement.

10 But we really believe -- And maybe  
11 it needs to be a little bit more reorganization  
12 in this Subtitle, if that's what, if that would  
13 help. Maybe if the uses get moved so that they  
14 are closer to the zone, as opposed to where they  
15 are now, where they're kind of grouped together.

16 But, you know, we also heard at the  
17 end that some people like things to be grouped  
18 together. Most users understand what the  
19 property is zoned next to them. Or what the  
20 property they buy or inherit is zoned. And they  
21 want to know, what can I do there?

22 You know, few people have the

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1 interest to look at, well what are the range of  
2 uses? What are the range of FARs? How do I  
3 compare the zone?

4 That's not how most people use the  
5 regulations. And most users want to know, what  
6 are the restrictions in building and uses? And  
7 that's what we tried to capture.

8 You know, the overlay clearly  
9 modifies, and is read in combination with the  
10 underlying zone. It says so in the regulation.  
11 So that's why we can't just completely disregard  
12 the purposes of the base zones.

13 Now, the issue of moderate, medium.  
14 A lot of that is just residual, left over,  
15 unedited language from when certain new zones  
16 were brought into the regulations. And we can  
17 make sure that that is, excuse me, reflected  
18 correctly.

19 But as far as we're concerned, every  
20 intent of the overlays was brought forward. A  
21 re-purpose statement was brought forward to meet  
22 its intent. And all the restrictions and

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1 protections were brought forward.

2 COMMISSIONER MAY: So, just to  
3 follow up on that. I mean, it seems to me that  
4 some of the things that we did hear tonight is  
5 that there were some things that are missing in  
6 the resulting language. And I think it's --

7 MS. VITALE: And we're happy to look  
8 at that again.

9 COMMISSIONER MAY: Exactly. I  
10 mean, I think we need to, there's that aspect of  
11 it, at the very least, that we should do.

12 MS. VITALE: Oh, absolutely.

13 COMMISSIONER MAY: If we're not  
14 willing to revisit the elimination of overlays,  
15 per se. And I'm not, at this moment, advocating  
16 that we should go back to the overlay system. I  
17 am interested in seeing what your reaction is to  
18 Ms. MacWood's homework that she produced.

19 MS. VITALE: And we're happy to take  
20 a look at it.

21 COMMISSIONER MAY: Okay.

22 MS. VITALE: The other thing that I

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1 want to point out is, the Office of Zoning will  
2 be doing a summary sheet of every zone. And  
3 they're working on that prototype now. It will  
4 be a two pager.

5 COMMISSIONER MAY: Right.

6 MS. VITALE: And it will have a  
7 very, very abbreviated summary of all the  
8 development standards and uses. And it will be  
9 that kind of in the know --

10 COMMISSIONER MAY: Yes.

11 MS. VITALE: -- information that  
12 people find comforting now about Chapter 13.  
13 You know, that really, Chapter 13 is an in the  
14 know type of chapter. You have to know what it's  
15 tied to for it to make sense.

16 And this, the summary sheet that the  
17 Office of Zoning is going to put together will  
18 be available on line. And it will be able,  
19 you'll be able to do those kind of quick surveys,  
20 and understand the zone at a glance. Is that an  
21 accurate representation?

22 And they've been working on that for

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1 quite some time. And I think when we first  
2 started this process, it was always presumed  
3 that the Office of Zoning would take on that kind  
4 of summary line of approach.

5 VICE CHAIR COHEN: You can have some  
6 of my time.

7 COMMISSIONER MAY: I wasn't able to  
8 pull off a fast one by asking all my questions  
9 at the beginning. And the Office of Planning  
10 just kind of go on. But --

11 VICE CHAIR COHEN: Take some of my  
12 --

13 COMMISSIONER MAY: -- the remaining  
14 question --

15 VICE CHAIR COHEN: -- time.

16 COMMISSIONER MAY: -- was the --

17 MS. VITALE: Big box.

18 COMMISSIONER MAY: -- big box. So  
19 you can start the clock on this.

20 VICE CHAIR COHEN: Yes, he can start  
21 on mine. That was my question too, is the big  
22 box.

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1 MS. STEINGASSER: We're not  
2 recommending a special exception for big box.  
3 As you can see, from 90 percent of the testimony  
4 here, it's geared at one particular retailer.

5 We don't think that's the  
6 appropriate role of the Board of Zoning  
7 Adjustment, to be focused on one retailer, their  
8 hiring, or their employment practices. It  
9 seems to be beyond the scope of zoning.

10 The City Council has taken a very  
11 hands on approach to how they're dealing with the  
12 issue of minimum wage, benefits. And with this  
13 particular retailer they also had some very  
14 hands on negotiation.

15 We feel that's more of a, that kind  
16 of, that level of economic development practice  
17 is really more appropriate for the City Council  
18 and the Mayor's Office, than it is for the Board  
19 of Zoning Adjustment.

20 So we took the approach that we need  
21 to look at the normative standards of parking and  
22 setbacks. And that was one of the things that

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1 led to our special exception for maximum  
2 parking.

3 But most of these sites are a matter  
4 of right. And whether, you know, whether it's  
5 a Target or a Giant, or a Wal-Mart, it's  
6 difficult for us to say, well they generate  
7 differently.

8 So there is the large tract review  
9 process, which is not an approval process.  
10 We've always been very clear about this. It is  
11 a pre-permit review process. It allows for  
12 pre-permit information to be submitted.

13 It does provide a vehicle for the ANC  
14 to see the application up front and early, before  
15 it's filed for permit. But it's not an  
16 enforceable process. It's a site plan review.  
17 It's a way for everybody to give their  
18 information to the developer.

19 It shouldn't be misconstrued to be  
20 a special exception, because it's not binding.  
21 The city agencies and the ANCs, and the  
22 surrounding communities can give information to

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1 the --

2           They can then understand what's  
3 going to be required of them in terms of the city  
4 regulations, and the neighborhood concerns,  
5 before they go to permit.

6           It can be very frustrating. But  
7 we've found it to be fairly helpful, in terms of  
8 getting that information up and out into the  
9 public. But we have not been provided,  
10 recommending any kind of special exception based  
11 on the type of employer. It's really about how  
12 things are built.

13           And it seems like a lot of the  
14 concerns that we've heard this evening, and that  
15 we've heard through other meetings, have all  
16 been related to traffic. And that's a very  
17 difficult thing for the Board of Zoning  
18 Adjustment or the Zoning Commission to regulate.

19           And that may need to be more  
20 discussions with DDOT about how they expand  
21 their authorities, or their abilities to  
22 regulate. Because I had, that was the first I'd

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1 heard that DDOT had said they have no authority  
2 to do anything. These are the city streets.

3 They have a responsibility to  
4 maintain them. And as far as we know, they take  
5 it very seriously. But if they need -- That may  
6 be the place for that discussion.

7 VICE CHAIR COHEN: Is there any way,  
8 however, that we can influence, let's say the  
9 design of the larger retailers? And insist that  
10 there be, instead of parking lots, you know,  
11 parking garages?

12 Is there any way we can be more, have  
13 them more design conscious, for compatibility  
14 with the neighborhood? If we can't, you know,  
15 and I may even agree that it is a policy issue,  
16 more than a zoning issue. But are there ways  
17 that we can guide and deliver a better product  
18 than what is normally seen in the suburbs?

19 MR. LAWSON: Sure. I think the  
20 tools that we can use vary, obviously, from  
21 project to project, and from site to site. And  
22 we even saw that with the various Wal-Mart sites

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1 that went through different approval processes.

2 There was at least one that's  
3 nearing completion, that was a totally by right  
4 development, and has been getting some fairly  
5 good reviews from some people, in terms of its  
6 design.

7 There's a couple of others that are  
8 going through a PUD process, because that's  
9 what's required for the site that they happen to  
10 be going on. And a couple of the sites went  
11 through large tract review.

12 And as Ms. Steingasser mentioned,  
13 large tract review isn't, it doesn't get to all  
14 of those issues. But we use it to get to those  
15 issues anyways. And we did, through that  
16 process we do discuss design. We do discuss  
17 visual impacts, and adjacencies.

18 As we often do with large tract  
19 review, we pushed the developer in those cases,  
20 to make changes to the design. In many cases  
21 those suggestions were taken. In some cases  
22 those suggestions were not.

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1           We very much agree with one of the  
2           comments that came from one of the speakers, that  
3           this was a really good site for a more complete  
4           and comprehensive development. You know, a one  
5           storey retail building is absolutely an  
6           underutilization of that property.

7           Zoning doesn't require, you know,  
8           utilization of all of the available density.  
9           And we've not proposed that so far. But we  
10          pushed that point, as did some members of the  
11          community. And the applicant, only to a very  
12          small degree, addressed those concerns.

13          So there are some tools available.  
14          It depends on the project. We're happy push  
15          those tools, as kind of far as we can. But it  
16          completely depends on the site.

17          VICE CHAIR COHEN: There have been  
18          a number of PUDs that were in existing overlays.  
19          And that was my introduction to overlays. And  
20          I have sympathy for Ms. MacWood's struggling in  
21          the current regulations, as opposed to my  
22          struggling with the prior regulations. And the

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1 formatting seems to be an issue.

2 Can we somehow, and I think this is  
3 what you may have said, line up what was in the  
4 past overlay, versus what is in the new overlay?  
5 Again, I'm finding this to be easier to use. I  
6 went back and sort of used the former PUDs as my  
7 sort of lesson plan, to understand. And again,  
8 for me it was easier this way. But I understand  
9 the struggles if you're unfamiliar.

10 MS. STEINGASSER: Well we have done  
11 a crosswalk, and we committed to the Commission  
12 that we'll do a more general linking of the  
13 section, side by side. But, it's  
14 interesting you brought up PUDs, because right  
15 now, you have to know to go look at the overlays  
16 to find any kind of PUD limitations.

17 We have put that language into the  
18 PUD chapter to make sure that when someone's  
19 looking at PUDs, they understand no matter what  
20 zone I'm in, these are my requirements.

21 So, we felt that was a good  
22 improvement. The other thing that's important

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1 is the community names. We were very, it was a  
2 series of evolution, when we first started  
3 rolling out the regulations, I think we all found  
4 it really cumbersome as we started working,  
5 really bulky.

6 Then we started trying to figure out  
7 ways to address the neighborhood commercial  
8 identity. And we, first we thought, okay we'll  
9 be MN dash something. And then we decided well  
10 let's just, let's just call it what it is. It's  
11 a neighborhood commercial zone. It's a mixed  
12 use zone, and let's put it in its own subtitle,  
13 so people know, these are special zones.

14 When I go to this subtitle, here they  
15 are, they've got their name in the title. It's  
16 not an edited, editable thing, you know,  
17 Cleveland Park will always be the Cleveland Park  
18 neighborhood mixed use zone. So we thought  
19 that way, it still has the familiarity, and the  
20 geographic identifier of where it is. But it  
21 also then has the stuff, and we will try to put  
22 the uses a little bit closer.

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1           And I think, based on what I'm  
2 hearing tonight, there also seems to be a little  
3 bit of confusion between the designated uses,  
4 and the by right uses that can go in on designated  
5 areas.

6           And I don't know if Christine is  
7 still here. She's gone. Her issue with the  
8 fast foods was actually our attempt to correct  
9 a previous mistake in the current regulation.  
10 So we'll work with them to make sure that gets  
11 straightened out even more.           CHAIRMAN

12 HOOD: Okay, who'd like to go next? Thank  
13 you. Commissioner Turnbull?

14           COMMISSIONER TURNBULL: Sure.  
15 I'll go next. Again, I just want to, maybe just  
16 get back again to the overlay issues, after  
17 hearing everyone. And I think, the concerns, I  
18 mean, we've talked about how they're finding it  
19 complex to go through. And, maybe that's just  
20 because it's new.           But a lot of them, I  
21 think, a lot of the comments came out of it, is  
22 that, they felt that there were things in their

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1 particular overlays that were missing, or that  
2 hadn't been addressed, that didn't get picked  
3 up.

4 And several things were pointed out,  
5 whether at Cleveland Park, or, and they talked  
6 about different aspects of the, of what they feel  
7 in the overlay is missing. And then of course,  
8 then they go to Georgetown, now that  
9 Georgetown's got this really solid document.

10 Is there a way, I mean, I guess one  
11 of the things, that I guess for everybody, and  
12 we talked, and you talked, about a crosswalk.  
13 And, is there a way that there can be a checklist  
14 of what's in the overlay for these, and what's,  
15 mean that, old and new?

16 MS. STEINGASSER: That's what the  
17 crosswalk is. It is section by section. And if  
18 it's missing, or if it's, I mean, we used it to  
19 help us keep track of thousands of details.  
20 But, it does tell you where every section is, or  
21 if it's been removed.

22 COMMISSIONER TURNBULL: Well I, and

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1 I think that's, I think for a lot people who are  
2 involved in planning and everything, that's  
3 maybe easy to follow. But, I think for a lot of  
4 the organizations, they're going to need some  
5 help looking at this.

6 And, I think, I'm afraid that before  
7 we rule out anything, I think we're going to have  
8 to get the confidence of these neighborhoods, to  
9 make sure that they feel -- I mean, I don't want  
10 this, us to rule out something, and people come  
11 back and say, you never picked this up. You  
12 never got this right.

13 And I'm, I'm just concerned that  
14 we're, we don't have the confidence yet of  
15 everybody, that their overlays are protected,  
16 and that everything that they've got is the --

17 MS. STEINGASSER: Well, clearly you  
18 heard from Cleveland Park this evening.

19 COMMISSIONER TURNBULL: Yes.

20 MS. STEINGASSER: And that was the  
21 overwhelming people here --

22 COMMISSIONER TURNBULL: And

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1 Reed-Cook, we've heard some issues.

2 MS. STEINGASSER: Well, the Reed-Cooke  
3 issue, I was surprised to hear because we did try  
4 to include those prohibitions --

5 COMMISSIONER TURNBULL: Yes.

6 MS. STEINGASSER: And we're happy  
7 to sit down with, with Denis James, Mr. James,  
8 and go through and make sure they're there.  
9 Because we are sensitive to, I'm going to call  
10 it the intimacy of that neighborhood, both --

11 COMMISSIONER TURNBULL: Right.

12 MS. STEINGASSER: -- with its own  
13 residential density and with the commercial  
14 density and, the abundance of the alcohol. So,  
15 we did try to maintain that. So, we'll be happy  
16 to work with him, make sure that's there --

17 COMMISSIONER TURNBULL: And no, and  
18 I understand your concerns, I mean integrating  
19 the base zone with the overlay and how you think  
20 it's all there. I just, I have a feeling we may  
21 need to do something else, to sort of reinforce  
22 that it really is there.

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1 MS. STEINGASSER: Okay.

2 COMMISSIONER TURNBULL: I don't  
3 know what that is, but I have, I mean after  
4 hearing all these comments, got a lot of people  
5 walking away saying, I don't find it. I can't  
6 see it.

7 MS. STEINGASSER: I just, I don't  
8 want to pit against -- You heard from one  
9 community. Woodley Park is fine with their  
10 overlay. The 8th Street people were fine with  
11 their overlay. We can work to address the  
12 Cleveland Park issues, but, they want the  
13 overlay.

14 They don't want the zones. They  
15 don't want what Georgetown has, which is what we  
16 got to with Georgetown was, this not having an  
17 overlay, but having a new zone that addresses all  
18 the issues.

19 That's not what Cleveland Park  
20 wants. So I'm not sure we'll ever get them fully  
21 happy. I think we can work to address some of  
22 their issues, in terms of formatting and

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1 workability. And, the crosswalks are up on the  
2 website now. So they're --

3 COMMISSIONER TURNBULL: Yes.

4 MS. STEINGASSER: They're pretty  
5 accessible through the ICS System. So, they are  
6 there, they are available.

7 COMMISSIONER TURNBULL: Yes. And  
8 again, I'm not criticizing you or anything. All  
9 I'm saying is, that I don't know if everybody  
10 totally understands the crosswalk. And, I  
11 don't how we can communicate, that the basic  
12 intent of the overlay is still there.

13 But, I just have a feeling that we're going  
14 to have these comments until we get finished.  
15 And, I'd like to have at least some semblance of  
16 an idea that people are feeling that, yes, we do  
17 handle --

18 And some of the issues that they've  
19 brought up, you're going to be looking at and  
20 either addressing them or saying, well, it is  
21 this and this is that. So, you're going to have  
22 answers for them

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1           But, I'm just concerned that as we  
2 go ahead that we can, as we look at the overlays,  
3 there's obviously a lot of intensity and  
4 passion about the overlays, and what's included  
5 for the neighborhood.           And, I think, I  
6 just think, from -- The Zoning Commission, just  
7 needs to feel that their questions are being  
8 answered.   And that we can say, you know, the OP  
9 has done their job.   We, you, are satisfied.  
10 And I just think that we're just looking for that  
11 reassurance.

12           MS.       STEINGASSER:           Okay.  
13 Absolutely.

14           MR. LAWSON:   I think we understand  
15 that point really well.   And, I think we're  
16 really happy to take a look at the submission  
17 from Ms. MacWood --

18           COMMISSIONER TURNBULL:   Right.

19           MR. LAWSON:   -- and see if there's  
20 elements in that, that might make a lot of sense.  
21 I think part of the discussion that we're going  
22 to have to have though, is just, what is the

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1 existing zoning? You know, part of it that I  
2 heard tonight --

3 COMMISSIONER TURNBULL: Right.

4 MR. LAWSON: -- was some confusion  
5 over what an overlay is, right now. So, I think  
6 part of the discussion will be, you know, what  
7 is the overlay? What is the overlay doing?

8 And then, how are we making sure that  
9 the process that we're being for, which is a  
10 more, we continue to feel, a more streamlined and  
11 efficient approach to dealing with zoning --

12 COMMISSIONER TURNBULL: Right.

13 MR. LAWSON: -- including overlays,  
14 how we make sure that, that is as complete and  
15 accurate as possible.

16 COMMISSIONER TURNBULL: No, and I  
17 appreciate that. And, I think that, for a lot  
18 of the people out there, they're into it. They  
19 can understand it. But, I think for a lot of  
20 people it's Zoning 101.

21 And, I think they, there is this  
22 learning curve, and this trying to just

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1 understanding level that we have to somehow help  
2 reach. MR. LAWSON: I agree,  
3 and, we've participated in some Zoning 101  
4 meetings with the Office of Zoning that I found  
5 very helpful for the ANC Commissioners --

6 COMMISSIONER TURNBULL: Okay.

7 MR. LAWSON: -- who attended those  
8 meetings. A lot of the ANC Commissioners did  
9 not attend those meetings. So, hopefully over  
10 time, there will be more meetings like that, so  
11 that we can have that discussion.

12 I know I found that, the portion I  
13 participated in extremely helpful, to hear how  
14 the ANC Commissioner members are approaching  
15 zoning, as well as, you know, the processes that  
16 they need to deal with, BZA and the Zoning  
17 Commission processes. And hopefully, the ANC  
18 Commission members who were there, also found it  
19 helpful, beneficial.

20 COMMISSIONER TURNBULL: Yes, and I  
21 don't want to beat this thing, you know, forever.  
22 But, I just think, you know, you know what the

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1 issues are.

2 MS. STEINGASSER: We do.

3 MR. LAWSON: We do.

4 CHAIRMAN HOOD: Do you want to go?

5 COMMISSIONER MILLER: Thank you Mr.  
6 Chairman. So, I appreciate that you said you  
7 were going to look at the suggestions from  
8 Committee of 100 and, as well as the Cleveland  
9 Park Citizens Association and the Historical  
10 Society. They had some very specific  
11 suggestions that would work within, I think, the  
12 existing zone district construct. And not even  
13 go back to the overlays. They had some  
14 specific language recommendations. And you  
15 said, I appreciate your willingness to look at  
16 that and see, incorporate that where -- And  
17 they, I think they also suggested putting things  
18 in the general use provisions of the  
19 neighborhood zones, not just theirs. So that  
20 it, they apply like the Comp Plan reference.

21 So, I appreciate your willingness to  
22 that, as you're going to do with, as you said

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1 previously, at the end of this particular phase  
2 of the hearing process, you're going to respond  
3 to every specific suggestion. That's a  
4 daunting task.

5 MS. STEINGASSER: Yes daunting.

6 COMMISSIONER MILLER: But, it will  
7 be very helpful to the public and the Zoning  
8 Commission to have that specific response, which  
9 I think in many cases you might not have any, you  
10 might, won't have any problem with.

11 But, and, so I, you know, I think Mr.  
12 Kadlecek had some very specific recommendations  
13 tonight. And it will be useful to hear, what  
14 the, if it's any problem with carrying forward,  
15 as he suggested in one case. Or eliminating in  
16 another, which he said, because it doesn't  
17 create a better roof structure --

18 MS. STEINGASSER: Right.

19 COMMISSIONER MILLER: I mean, it  
20 would be useful to hear your rationale for you  
21 to keeping it the way it is, or going with the  
22 recommended change. So, we'll look forward to

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1 that in the future.

2 On the specific, if I could just use  
3 a specific example that was given from,  
4 Cleveland Park overlays on the lodging? But,  
5 what is, they're saying lodging is not a  
6 permitted use in the current overlay. But it's  
7 not prohibited. But it is a permitted use in the  
8 proposed --

9 MS. STEINGASSER: I think, there  
10 might be some confusion --

11 COMMISSIONER MILLER: I don't know  
12 where a hotel would go in that, on those  
13 particular strips. MS. STEINGASSER:  
14 Exactly. I mean, some of this --

15 COMMISSIONER MILLER: But --

16 MS. STEINGASSER: -- is self  
17 regulating. A hotel is a permitted use in the  
18 C-2-A. And when you get into the overlays  
19 there's designated uses. And those have  
20 certain locational requirements. It is not a  
21 designated use. But it is a permitted use in  
22 those areas that aren't covered as a designated

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1 use.

2 So, once you get into the  
3 neighborhood commercial overlays, there's  
4 frontage requirements, there's designated  
5 streets, and the buildings that front on those  
6 streets have certain requirements.

7 And, there's often a ground floor  
8 requirement. And the designated uses are  
9 required to go in there. Within those  
10 designated uses, there's further limitations  
11 that each individual overlay may place on -- Fast  
12 food is a great example. Those vary.

13 In the area that's not designated,  
14 excuse me, then the by right use is of the  
15 underlying zone. And that's where the hotel  
16 would come in. But you're right. Most of these  
17 overlays in Woodley Park, McComb --

18 COMMISSIONER MILLER: You're  
19 saying the existing overlay would permit a  
20 lodging use --

21 MS. STEINGASSER: In the --

22 COMMISSIONER MILLER: --

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1       theoretically --

2                   MS. STEINGASSER:    -- non designated

3       --

4                   COMMISSIONER MILLER:  -- in the non  
5       designated area.

6                   MS. STEINGASSER:  Yes.  I mean, at  
7       least that's how I read.

8                   COMMISSIONER MILLER:  All right.

9                   MS. STEINGASSER:  And, that's the  
10       kind of confusion that's really, I mean, you have  
11       to know how to read the difference between a  
12       designated use in one area, and a by right use  
13       in another.  And that's what we're trying to  
14       resolve through, through marrying the two  
15       together.

16                   COMMISSIONER    MILLER:        Right.  
17       Okay, well, I look forward to seeing your  
18       tweaking and marrying that even better in the  
19       future.

20                   MS.    STINGLASSER:        Is that a  
21       marriage?

22                   COMMISSIONER MILLER:  I have, I

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1 mean, I have own -- It wasn't raised in  
2 testimony, I would probably depart from mine,  
3 from my neighbors testimony tonight, or not  
4 their, not testament but their feelings.

5 And I, have concerns about some of  
6 the aspects of the zones and those neighborhood  
7 overlays, existing overlay zones in my  
8 neighborhood, which we would continue.

9 And, the future, I'm not sure of the  
10 rationale anymore for having the McComb  
11 Wisconsin for example, with Giant. That whole  
12 block of not being part of it anymore basically.

13 And, the 25 percent limitation has  
14 always been a divisive issue in the  
15 neighborhood. Other neighborhoods have gone to  
16 50 percent. Its led to some creative uses in the  
17 front, some of those properties, which don't  
18 seem very necessary.

19 But, on the special exception  
20 process for, big box. So, we had to, how many  
21 for this -- There are six Wal-Mart's going in.  
22 Two, did two have PUDs?

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1 MR. LAWSON: That's correct, two.  
2 One is part of an existing PUD. And their, I'm  
3 trying to remember what their status is.  
4 They've either gone through, you probably  
5 remember better than I do. They've either gone  
6 through or, are going through the process to get  
7 that approved. That's the one in Ward 8.

8 COMMISSIONER MILLER: Right.

9 MR. LAWSON: There's one in Ward 7,  
10 which is going through a separate PUD process for  
11 a new development on East Capitol.

12 COMMISSIONER MILLER: So we spent, and I  
13 do remember with the Ward 7 one in particular.  
14 We spent a lot of time on the design and the  
15 compatibility, the screening of the parking.  
16 Because there's a large amount of parking  
17 associated with it.

18 So, I mean, do you, I understand you  
19 use the large tract review process to try to get  
20 to the same kinds of issues of the traffic,  
21 parking and compatibility and the design.

22 MR. LAWSON: Yes. The large tract

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1 review, you know, the large tract review  
2 process, there is very specific rules that set  
3 out when that process applies, and when it does  
4 not apply. So, it doesn't apply to  
5 every project. It obviously doesn't apply to a  
6 project to go through a PUD. Because a lot of  
7 the issues that are addressed are very similar  
8 to the issues that are discussed through the PUD  
9 process. COMMISSIONER MILLER: So  
10 did you think we got a better product, thus far  
11 in the PUD process for the designs, than you were  
12 you able to get through the non enforceable large  
13 tract review process?

14 MR. LAWSON: I think, that's,  
15 honestly, I think that's probably in the eye of  
16 the beholder. I think you've heard from some  
17 people in the community. They did not feel that  
18 was the case. They did not feel that they got  
19 a better product.

20 I think that we did get improvements  
21 through the large tract review. And I think, as  
22 Jennifer mentioned at the beginning, the

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1 process, the large tract review process, really  
2 is intended to be more of an early warning  
3 system. It's intended to inform applicants  
4 what the rules and the regulations are, you know,  
5 will, and the, immediate site circumstances that  
6 may impact their development.

7 Do they need to replace the water  
8 line for example. Will we allow a curb cut from  
9 that street? And to give them that feedback  
10 before they get to building permit stage. So,  
11 you know, it's just a very different intent for  
12 the two processes. There is some language  
13 in the current large tract review process, the  
14 rules that set what we can do, that do talk about,  
15 do talk about, neighborhood impact, so traffic  
16 can come in that.

17 And they do talk, in kind of a round  
18 about way, it talks about neighborhood  
19 compatibility. So we do talk about design, in  
20 terms of materials. I know in one case, we got  
21 some additional retail, flanking the street as  
22 part of the large tract review. So, were

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1 there improvements? Yes. Would there be more  
2 improvements if they also went, if they had to  
3 go through a PUD. You know, that's speculative.

4 MS. STEINGASSER: And, I guess if I  
5 can just add. There's the PUD, which gives  
6 real, you know, they're coming in for something  
7 discretionary. They need something, they want  
8 something, and you guys have the authority to  
9 say, there's not enough in the balance. The  
10 special exception is an issue of no adverse  
11 impact. And, if the adverse impact is really  
12 about employment practices --

13 COMMISSIONER MILLER: No, I don't  
14 think that that's a -- They did testify to that.  
15 And I, but I think I noted that I didn't think  
16 that economic impact was an appropriate factor  
17 for, to be considered in a special exception  
18 process.

19 MS. STEINGASSER: Okay.

20 COMMISSIONER MILLER: Or in the  
21 zoning process, and generally. But, so it was  
22 the traffic, the parking, the compatibility, the

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1 design.

2 MS. STEINGASSER: Yes.

3 COMMISSIONER MILLER: Did the  
4 large tract review process for these, last any  
5 longer than, I guess it was shorter than the PUD  
6 process. Because that, one of those PUDs  
7 involved a lot of other issues as well.

8 MS. STEINGASSER: Still going on.  
9 And, one of the projects is very close to here.  
10 And, I mean, I think it's spectacular. But, I  
11 that's more to do with the development team than  
12 the retailer, you know. So, it's hard to say and  
13 it's hard to, I mean, we could get to the bulk,  
14 the impacts, that kind of thing of parking and  
15 loading.

16 But it's hard to, I mean, I  
17 personally am not familiar with what the one on  
18 Georgia Avenue looks like. I have not seen  
19 that. So, I don't know whether it's attractive  
20 or not.

21 COMMISSIONER MILLER: Okay. Thank  
22 you. We'll --

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1 MS. STEINGASSER: I mean could --

2 COMMISSIONER MILLER: -- be  
3 discussing --

4 MS. STEINGASSER: Okay.

5 COMMISSIONER MILLER: -- it further.

6 CHAIRMAN HOOD: I want to piggyback  
7 upon Commissioner Miller's last comments about  
8 special exception. You're, right. I didn't  
9 want to get into a particular big box specific  
10 store or whatever.

11 But, I think you know, I've always  
12 been one in favor of having a public input and  
13 public review. While I know that we say, well,  
14 we don't want to talk about, no we don't want to  
15 talk about salaries. And that, for me, that  
16 wasn't the issue.

17 My issue was special impacts. Look  
18 at adverse impacts, as you stated. And, I just  
19 don't want to close the book on that. I don't  
20 want to close the book on that yet.

21 I'm not going to say I'm against  
22 anything that matters right? You're looking at

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1 a guy that has transfer stations in his  
2 neighborhood constantly. They've been,  
3 they've outlasted the fight. There still  
4 there.

5 And, I just thought that the  
6 necessary buffer, and I don't want to go down  
7 that hole, that's a old argument. But, I think  
8 that we need to continue to look at that, and not  
9 just close the book on that. But, let me  
10 just say that, one of the things that I think,  
11 and I'm not necessarily more concerned about  
12 those who engaged. I am, but I'm more concerned  
13 if the people that are engaged, as I stated  
14 earlier, are having problems with navigating  
15 through the regulations. I'm  
16 concerned about the ones we don't hear from.  
17 That, when I go to community meetings as a  
18 citizen, because I do take, I do participate in  
19 my neighborhood, and activities and things that  
20 go on.

21 And, they said, well that, the  
22 zoning allows for it. And then, I'm sitting in

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1 the audience and they'll say, well Anthony Hood,  
2 you all didn't recognize the unintended  
3 consequences. Do we grapple all that now? I  
4 don't know.

5 But, that's something we need to  
6 really take seriously. And, I know, I know you  
7 are. I'm not saying that Office of Planning  
8 hasn't at all. But one of the things I am going  
9 to suggest. And you just do it for me.

10 MS. STEINGASSER: You know I will.

11 CHAIRMAN HOOD: In one of our  
12 meetings, since everybody else has got it. I'm  
13 going to go through a page. And, I think the  
14 formatting, I actually like the formatting.  
15 But, I think, I don't know if everything is in  
16 here. And, I heard a lot of the panel say they  
17 had to go back to this chapter and that chapter.

18 And, I'm not asking for it soon.  
19 But, in the next month or so, depending on how  
20 far we go. I would like for you all to just do  
21 a running exercise for me. We'll just take M-1  
22 and M-2. Show me how, if I'm going to do

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1 something in the M-1 and M-2 area, how that would  
2 work using these current regulations.

3 MS. STEINGASSER: Okay.

4 CHAIRMAN HOOD: Like a  
5 walk-through. Is that doable?

6 MS. STEINGASSER: Yes sir.  
7 Absolutely.

8 CHAIRMAN HOOD: Okay. And, I don't  
9 know how we record it also. Well, I guess we're  
10 recording everything. So, I mean, and then we  
11 can point to people and say, on this date, if  
12 you're having difficulty interpreting  
13 something, on this date --

14 And, we'll do a couple of different  
15 scenarios, when our meeting time allows  
16 yourselves. We'll try to figure something out  
17 when our meeting time allows, then we'll do a run  
18 through.

19 Now, my other colleagues probably  
20 don't need it. This, that time will probably  
21 just be for me. They may leave the room, or  
22 whatever. And, that will just be for me.

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1 MS. STEINGASSER: We absolutely will do  
2 that. I think it will also be clearer once the  
3 Office of Zoning does the summary guidance  
4 sheets. Because, that will have the sections  
5 and it will tell people, oh this is where I go  
6 for these details.

7 CHAIRMAN HOOD: Okay. And then  
8 once we get to that point, that's why I'm not  
9 saying we do it at the next meeting. We may not  
10 even need to do that. But right now I'm thinking  
11 of that, you know. I'm just thinking out loud  
12 of how we can kind of maybe make things a little  
13 easier so people don't have to flip back and  
14 forth.

15 And, I'm not saying that we're going  
16 to alleviate all of it. But, there's some, may  
17 be some things right there that, okay, well I  
18 didn't need to go here to look for it. It's  
19 right here.

20 But, I noticed, even on my job.  
21 When I'm trying to deal with one regulation, I  
22 have to go to five different places to figure out

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1 one regulation. And, that happens all the time.

2 I'm constantly saying, if we're  
3 going to get this regulation , I have to go to  
4 five different places to get the correct answer.

5 So again, let's not close the book  
6 on the, I mean the special exception on big box.  
7 But we're not going to talk about any specific  
8 retailer or Wal-Mart and all that. That's,  
9 we're not going to get into that. At least I'm  
10 not.

11 The customization. Ms. Wheeler  
12 mentioned customization. I'm just curious, and  
13 I've heard that a lot. And, I know right now is  
14 a rough time, because I, we heard that, I think,  
15 a couple of nights ago. I guess, the  
16 question I'm going to ask you now, if you knew  
17 the answer you'd probably play the lottery and  
18 hit. But, let me ask you. When will those  
19 neighborhoods have an opportunity to start some  
20 of their customization? And, I think Ms.  
21 Wheeler and them are ready.

22 And, I noticed, I'm sure she knows

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1 the work that's involved. When do you think  
2 they will be able to start customizing their own  
3 zones in the neighborhood?

4 MS. STEINGASSER: They can start  
5 whenever they want to. Until these zoning  
6 regulations become effective, there's no place  
7 for that customization for land. Some of the  
8 issues that people are talking about  
9 customizing, we think can be addressed through  
10 a text amendment.

11 We think the issue of height that you  
12 guys have asked us to revisit, in terms of pop  
13 ups, and general compatibility of height in  
14 residential areas, that seems to be one of the  
15 driving forces.

16 So we're going to, we're trying to  
17 take them and look at that. Mount Pleasant  
18 issue was, theirs was based solely on  
19 conversions. So, we've already  
20 talked briefly with Faith about how to put an,  
21 you know, basically say this section doesn't  
22 apply to this, you know, this historic district.

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1 The same way IZ doesn't apply to the Georgetown  
2 Historic District, because it just can't carry  
3 the density.

4 So, we're looking at ways that we can  
5 solve as much as we can now. But they could  
6 start working on it. We've tried to put a  
7 chapter in Subtitle X, that talks about the  
8 kind of things they need to look at and how, how  
9 it would be reviewed.

10 Because what we don't want, is a  
11 customized zone that deals only with, you know,  
12 a one foot difference in side yard. You know,  
13 we don't want it to actually break the  
14 administrative process.

15 The Zoning Administrator has got to  
16 be able to understand what the intent is. So we  
17 want it to be more than just, you know, a small  
18 change in a percentage or something.

19 But if it's, something like  
20 Georgetown did, where they went after height,  
21 uses, setbacks, you know, they did a true zone.  
22 We encourage them to start now.

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1           Because, it will be, it takes a  
2 while, and they'll be ready to go when the  
3 Commission is, you know, what not to presume.  
4 But, whenever the Commission takes an action one  
5 way or another --

6           MR. LAWSON: Yes.

7           MS. STEINGASSER: -- they'll be  
8 able to do it.

9           MR. LAWSON: That's what I was going  
10 to add as well. Like, I mean, it does take some  
11 time for a neighborhood to go through this.  
12 And, the other thing we don't, we're hoping to  
13 avoid, is having neighborhood battles over a  
14 customized zone come in front of you.

15           So, we think it's important that,  
16 and we're happy to work with neighborhoods to  
17 help achieve this. But, we really do want  
18 neighborhoods to come to the Zoning Commission  
19 when they're ready. Come to the Zoning  
20 Commission with a fairly united voice.

21           And, you, might think that a lot of  
22 this is pretty straightforward. But, I think

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1 that Georgetown certainly found that it took a  
2 lot of discussion. And, a lot of meetings. And  
3 probably, I wasn't there, probably some of them  
4 pretty heated.

5 And, some compromise amongst  
6 different elements of the neighborhood to come  
7 up with what they eventually came up with, which  
8 wasn't the complete re-writing of the zone.  
9 It's, not a drastic difference from what there  
10 is now. But, it's an important difference.

11 And, they were able to go through the  
12 process over the course of many, many months, and  
13 years actually, to decide what was actually of  
14 importance to them. And what was important to  
15 all the residents.

16 You know, you might get a lot of  
17 support from some neighbors for a reduction in  
18 a height of ten feet. And, it may make perfect  
19 sense to do it.

20 You may get a lot of those residents  
21 of the same area being very concerned and very  
22 opposed to that. How does the neighborhood

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1 reconcile that? And so we think that has to  
2 happen before. If possible, that has to happen  
3 as much as possible before it comes to you.

4 CHAIRMAN HOOD: Okay. All right.  
5 Our time is almost up. I don't, do we need  
6 another round? We don't need another round?  
7 Okay. I guess the rest I can deliberate, when  
8 we get, whenever we get to that point. All  
9 right, we don't need another round.

10 I want to thank the Office of  
11 Planning. I appreciate the asking our,  
12 answering our questions. See, don't get too --  
13 We'll see you all tomorrow night.

14 Also, I want to thank the public who  
15 came, out tonight. Ms. Schellin, do we have  
16 anything else? Okay, so with that, we  
17 appreciate everyone's testimony sincerely.  
18 With that this hearing is adjourned.

19 (Whereupon, the hearing was  
20 adjourned at 9:25 p.m.)

21  
22

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