

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF: :

:

TITLE 11 ZONING REGULATIONS- :

COMPREHENSIVE TEXT REVISIONS : Case No.

: 08-06A

:

-----:

Wednesday,

November 13, 2013

Hearing Room 220 South

441 4th Street, N.W.

Washington, D.C.

The Public Hearing of Case No.
 08-06A by the District of Columbia Zoning
 Commission convened at 6:04 p.m. in the Jerrily
 R. Kress Memorial Hearing Room at 441 4th Street,
 N.W., Washington, D.C., 20001, Anthony J. Hood,
 Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

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

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