

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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

Thursday,
April 4, 2014

The Public Hearing of Case No. 08-06A by the District of Columbia Zoning Commission convened at 6:00 p.m. in the Jerrily R. Kress Memorial Hearing Room, 220 South, 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
- PETER MAY, Commissioner (NPS)
- ROBERT MILLER, Commissioner
- MICHAEL G. TURNBULL, FAIA,
Commissioner (AOC)

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OFFICE OF ZONING STAFF PRESENT:

SARA BENJAMIN BARDIN, Director
ZELALEM HILL
SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON
JENNIFER STEINGASSER
ELISA VITALE

The transcript constitutes the minutes from the Public Hearing held on April 24, 2014.

T-A-B-L-E O-F C-O-N-T-E-N-T-S

CASE NO. 08-06A TITLE 11, ZONING REGULATIONS
COMPREHENSIVE TEXT REVISIONS

Preliminary Matters 8

Testimony of Public

Jay Smith 9

George Clark 12

Charles Robertson 16

Richard Busch 19

Chrissy Martin 24

Richard Houghton 27

Frank Staroba 30

Justine Kingham 35

Bill Crews 41

Kimberly Mitchell 69

Abigail Nichols 71

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

2 6:09 p.m.

3 CHAIRMAN HOOD: Okay. Good
4 evening, ladies and gentlemen. This is the
5 public hearing of the Zoning Commission for the
6 District of Columbia for Thursday, April 24th,
7 2014.

8 My name is Anthony Hood. Joining
9 me Vice Chair Cohen, Commissioner Miller,
10 Commissioner May. We're also expecting to be
11 joined by Commissioner Turnbull shortly.

12 We're also joined by the Office of
13 Zoning Staff Ms. Bardin, our Director, Ms.
14 Sharon Schellin and Ms. Zee Hill.

15 We're also joined by the Office of
16 Planning Staff Ms. Steingasser, Mr. Lawson and
17 Ms. Vitale.

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

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1 Notice of today's hearing was
2 published in the D.C. Register and copies of
3 that announcement are available to my left on
4 the wall near the door.

5 The hearing will be conducted in
6 accordance with provisions of 11 DCMR 3022 as
7 follows: Any preliminary matters and tonight,
8 we're only taking testimony from the public of
9 those who we have not heard from.

10 The following time constraints will
11 be maintained in this hearing: Organizations
12 5 minutes and individuals 3 minutes. The
13 Commission intends to adhere to the time limits
14 as strictly as possible in order to hear the
15 case in a reasonable period of time.

16 As noted in the Notice of Public
17 Hearing, testimony will be limited to
18 individuals, organizations and associations
19 that have not previously testified before the
20 Commission on this case.

21 Persons who have previously
22 testified, but still want to provide the

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1 Commission with additional comments may do so
2 by submitting comments in writing.

3 The only exception to testifying
4 again would be from ANC Commissioners since
5 they represent many District residents.

6 We do ask if any ANC Commissioner
7 has previously testified and is going to
8 provide additional testimony this evening that
9 they confine their comments to new subject
10 matter that they have not yet presented.

11 All persons appearing before the
12 Commission are to fill out two witness cards.
13 These cards are located to my left on the table
14 near the door. Upon coming forward to speak to
15 the Commission, please give both cards to the
16 reporter.

17 When presenting information to the
18 Commission, please turn on and speak into the
19 microphone first stating your name and home
20 address. When you are finished speaking,
21 please turn your microphone off so that you
22 microphone is no longer picking up sound or

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1 background noise.

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

9 In addition, there should be no
10 direct contact whatsoever with any
11 Commissioner concerning this matter be it
12 written, electronic or by telephone. Any
13 materials received directly by a Commissioner
14 will be discarded without being read and any
15 calls will be ignored.

16 The staff will be available
17 throughout the hearing to discuss procedural
18 questions.

19 And this was mentioned at the budget
20 hearing that this is a legislative case and you
21 actually be able to talk to a Commissioner, but
22 I want to make it known that this Commission has

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1 asked not to do it. While you can, this
2 Commission has asked that we not be engaging in
3 conversation.

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

10 Please turn off all beepers and cell
11 phones at this time so not to disrupt these
12 proceedings.

13 At this time, the Commission will
14 consider any preliminary matters. Does the
15 staff have any preliminary matters?

16 MS. SCHELLIN: No, sir.

17 CHAIRMAN HOOD: Okay. I'm going
18 to go with the list that I have in front of me.
19 Okay. Let me go with -- let's start with Jay
20 Smith, Mr. George Clark, Charles Robertson,
21 Justine Kingham, Rick Busch, Richard Houghton,
22 Bill Crews, Chrissy Martin, Frank Staroba.

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1 I called nine names and I think we
2 have eight chairs, but I don't think -- do we
3 have -- okay. All right. Somebody might have
4 to wait. Oh, no, we have enough. We have
5 enough. Come forward. We have enough. We
6 must have nine chairs. That was eight. Okay.

7 All right. We're going to start to
8 my left/your right. You may begin. If you
9 could just be mindful of the clock.

10 If you can identify yourself and
11 your address and you may start. Thank you.

12 MR. SMITH: Good evening. My name
13 is Jay Smith. I live at 5415 42nd Street, N.W.
14 D.C. in Friendship Heights.

15 I've lived in D.C. since the
16 mid-1980s on Capitol Hill, in Georgetown, at
17 Van Ness and now at Friendship Heights.

18 I'm an attorney, but I've come here
19 today to express my own personal views.

20 In January of 2013, the Office of
21 Planning promoted the ZRR with a summary that
22 declared "about 90 percent of regs unchanged!

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1 No property being rezoned!"

2 Hearing those statements you might
3 think nothing important was changing. But,
4 that's not true.

5 For example, the ZRR does, in fact,
6 rezone property downtown. The ZRR will in many
7 cases allow neighbors to open new businesses in
8 residential zones without needing a variance
9 from the BZA and giving their neighbors a chance
10 to object. The ZRR will make substandard lots
11 throughout D.C. buildable as a matter of right.
12 The ZRR will expand commercial uses in
13 residential zones and will allow the conversion
14 to apartments as a matter of right in R-5-A
15 zones. This will erode single family houses
16 stock D.C. should try to preserve.

17 Now, before D.C. revised the Zoning
18 Code in the '50s, it did land use and
19 infrastructure studies. OP has just skipped
20 this step.

21 Today, on issues like parking
22 minimums, other major cities like New York and

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1 Portland do detailed studies concerning what
2 the impact will be. You can find these on the
3 web. OP has done nothing of the kind.

4 OP has also not given the public or
5 the Zoning Commission a manageable document and
6 the chance to focus on the changes being made.
7 The ZRR is poorly crafted and 200 pages longer
8 than the existing code. You cannot easily see
9 what's changing. OP is telling the Commission
10 and the public two things: Trust us and take
11 it or leave it.

12 But, if 90 percent of the
13 regulations are not being changed, this process
14 can and should be simplified.

15 I understand the Commission does
16 not have the resources to rewrite the code, but
17 you can improve matters. The Zoning
18 Commission should tell OP that it wants to see
19 the proposed changes submitted in the form of
20 amendments to the existing Zoning Code and then
21 the Commission should take those amendments,
22 group them by topic and hold hearings that are

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1 focused on those specific topics be it ADUs or
2 parking minimums or other subjects.

3 You have the power to do this and
4 you've already done it for the green area ratio
5 issue and the rules for measuring building
6 height.

7 The benefit of this approach is that
8 you will be able to make progress on the ZRR,
9 but you will not let the public be railroaded
10 on the parts of the ZRR that are just not ready
11 yet.

12 Thank you for your consideration.

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

15 MR. CLARK: Good evening. My name
16 is George Clark. I live at 4525 28th Street,
17 N.W.

18 And I had the privilege and
19 distinction of sitting on the Zoning Review
20 Task Force which meant that I don't know how
21 many dozens of meetings I went to between that
22 and the working groups. Sometimes I thought it

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1 was at least 100. Who knows.

2 But, I had a chance to see this
3 develop from the inside and if we can all
4 remember how this started. I think
5 Commissioner Miller was there sitting next to
6 Chairman Cropp when I first testified that we
7 ought to spend some money on this and I think
8 I got a little bit of a look askance at that.
9 But, eventually, that's what happened.

10 And in this room when it was
11 smaller, we had hearings talking about what we
12 needed to do to fix problems and Chairman Hood,
13 I know you remember me saying let's not kill the
14 goose that laid the golden egg with respect to
15 this. Commissioner Parsons saying we don't
16 need to rewrite this whole thing. We need to
17 revise parts of it.

18 And as the previous witness just
19 said, we've gone from 700 pages to 1,000. We
20 have maybe 70 pages of changes according to the
21 Office of Planning. I don't know why we need
22 to have new words to say what it is that we said

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1 before.

2 I'm a lawyer. I'm not a zoning
3 lawyer, but I can guarantee that when the words
4 are different and OP says they mean the same,
5 some applicant, some lawyer will be here saying
6 oh, no, they don't and we're going to decide
7 these cases that this Commission has had all
8 over again. That's where we're going.

9 Really I mean the question is, you
10 know, why do we have 930 pages of new text which
11 is suppose to mean what it said before? Why did
12 we change it?

13 Chairman Mendelson asked for a red
14 line. We couldn't get that.

15 What happens to all these old
16 decisions? Why did OP do this? What could
17 possibly have been gained?

18 I have given you a color attachment
19 that takes the OP slides that were distributed
20 to my ANC, ANC 3F, but which are similar to those
21 in other ANCs throughout the city to talk about
22 some of the things OP says about the changes to

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1 the public as opposed to what they are.

2 Use permissions, nothing's
3 changing except getting rid of penny arcades
4 and ice sales and telegraph offices.

5 Well, I don't know if you think
6 retail is a Walmart as opposed to that little
7 shop in Cleveland Park that sells vacuum
8 cleaner bags, but they're both retail under
9 this. That is a change and certainly a change
10 for a neighborhood serving retail.

11 When we come to uses, many home
12 occupations are allowed now. Would be allowed
13 7:00 a.m. to 10:00 p.m. Eight clients an hour.
14 No parking for clients.

15 Barbara Zartman, the late Barbara
16 Zartman, when she was on the task force said
17 "Well, what we would allow under entertainment
18 is the recreational masseuse." I don't know
19 how many times I've said that in the task force
20 meetings, but we still have it.

21 I don't have time to go into these
22 any further, but they are explained very simply

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1 and I'd be happy to respond to any questions
2 from the Commission.

3 CHAIRMAN HOOD: Okay. Next.

4 MR. ROBERTSON: I'm Charles
5 Robertson and live at 1516 T Street, N.W. in the
6 Dupont Circle neighborhood.

7 Citizens were promised a
8 streamlined, easy to understand zoning
9 rewrite. After eight years, we have a bloated
10 document 300 pages longer which is confusing,
11 extremely difficult to use with ambiguities and
12 contradictions that will likely lead to a
13 welter of court cases.

14 Georgetown -- uneven treatment in
15 neighborhoods, Georgetown was apparently
16 surveyed in meetings between representatives
17 and planners. The residents there had full
18 input in the process and got special
19 consideration resulting in regulations that
20 comported with many of the desires of the
21 residents.

22 Despite eight years it took to

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1 produce the zoning rewrite, the changes do not
2 reflect the character and needs of the various
3 regions of the city because there was little or
4 no survey work done except reportedly in
5 Georgetown.

6 The document is at odds in many
7 respects with the Comprehensive Plan. A plan
8 which derived from much citizen participation.

9 Simply producing a new
10 comprehensive plan to comport with this zoning
11 rewrite will not correct a thorough lack of
12 research. The major zoning documents from
13 1920, 1938 and 1958 were all the result of
14 careful citywide surveying.

15 There are a number of cases
16 permitting housing to be replaced in
17 residential zones. This at a time when the
18 city claims it needs more housing.

19 For instance, the permission by
20 special exception to allow nonprofits to invade
21 buildings over 10,000 square feet in R-4 would
22 make entire apartment buildings at risk of

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1 having its residents displaced. Particularly
2 threatened are Logan Circle and Capitol Hill
3 which have interspersed apartment buildings.

4 In R-5, the vague reference to art
5 usage can subject rowhouses to converge into
6 offices or arts organizations, dance classes,
7 recording and production studios and art
8 galleries to name a few inappropriate
9 intrusions under special exception. In this
10 case, controlled only by proof of a loading
11 berth. At least 95 percent of special
12 exceptions are granted.

13 The Zoning Administrator is given
14 too much discretion. The end of a number of
15 sections gives the Zoning Administrator
16 discretion to make determinations.

17 In a document so full of
18 ambiguities, this is extremely dangerous. The
19 result could be cases that should be advertised
20 to go before the BZA or Zoning Commission, but
21 are not. Thus projects that need review by
22 zoning bodies could begin construction without

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1 any public notice or input.

2 The extension of downtown by 30
3 percent westward is a rezoning and should be
4 treated as a contested case not as a text or
5 administrative case. Parties should be
6 permitted to cross examine and appeal to the
7 Court of Appeals.

8 The solution is to return to our
9 present regulations and make changes that are
10 driven by thorough surveys and sound reasons.

11 MR. BUSCH: Mr. Chairman,
12 Commissioners, my name is Richard Busch. I
13 live at 1520 Caroline Street, N.W. in the
14 District.

15 I'm a long-time resident of the City
16 and I'm speaking tonight on behalf of the Dupont
17 Circle Citizens Association.

18 To save time, you all have a copy of
19 my testimony. I'm going to not go over the
20 first three paragraphs, but I'm going to start
21 the second paragraph from the bottom.

22 We were extremely pleased with you,

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1 the Zoning Commissioners, when you omitted
2 corner stores from R-5 zones last years due to
3 testimony about our residents' easy walking
4 distance to commercial strips, A Street, 17th,
5 Connecticut Avenue, U and 14th Streets.

6 However, since we lost some 118
7 buildings amounting to 236 dwelling units
8 through wholesale approvals by BZA of office
9 uses and special zone -- special purpose zones
10 which we protested in hearings and because we
11 have so many intrusions of chanceries and
12 nonprofits in residential zones, we are
13 desperate to retain our housing units. No
14 other neighborhood has been as decimated as
15 ours.

16 Since the aim of the City is to
17 create more housing, it is incumbent on you to
18 avoid eliminating -- elimination of existing
19 housing in these new regulations. But, that is
20 exactly what the proposals do. Eliminate
21 housing.

22 To rectify this change and to

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1 promote efforts of the City's environmental
2 goals such as tree cover and water absorption,
3 the regulations need changing in the following
4 manner.

5 Clarify the confusion in arts uses
6 in R-5 zones in order to preserve housing.
7 First -- in the first proposed regulations,
8 arts uses such as offices, dance studios,
9 recording studios are allowed in special -- by
10 special exception on the first floor. These
11 are completely inappropriate in rowhouses and
12 apartments and it appears that they may have
13 been eliminated in the September version, but
14 in the new version, studios, ceramics and other
15 craft studios, photographic studios, music
16 recordings are listed simply as arts and listed
17 below art galleries. In the definition
18 section, arts is described as including all and
19 more of these inappropriate uses. Ambiguity
20 reigns.

21 Two, Dupont Circle is close to the
22 14th Street Arts Zone and therefore, these uses

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1 belong there. Simply eliminate arts under R-5
2 uses and the loss of housing is avoided.

3 Promote not eliminate housing.
4 R-4 eliminates -- in R-4 eliminate nonprofit
5 offices and buildings over 10,000 square feet.
6 In C-2-A and C-2-B, do not expand commercial FAR
7 use on the second floor. The policy of mixed
8 use should be strengthened as well as the need
9 for more housing. Mandate housing components,
10 inclusionary zoning, FAR in downtown zones.
11 Do not permit the Zoning Administrator to waive
12 the housing requirement in special purpose
13 zones as he does now. A BZA hearing is required
14 for use and waiver of housing.

15 Promote light, air, grass, flowers,
16 trees and backyards in rowhouse and apartment
17 zones. Eliminate R-4 through R-5-E, the
18 excessive re-housing unit provision for
19 backyards. Many of our neighbors grow fruit
20 trees, vegetables or flowers there. Promoting
21 20-foot-high buildings in such narrow spaces
22 would make these uses impossible due to shadow

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1 patterns and encouraging the cutting up of
2 houses and further erode our green canopy which
3 is still in need of expansion.

4 Keep the present floor area ratios
5 for these zones. In C-2-A, C-3-B and C-2-B, do
6 not expand the lot occupancy to 100 percent.
7 Most of our restaurants and small businesses
8 have no alley separation from adjacent
9 residential housing. The noise from
10 late-night bars and restaurant is already
11 intolerable especially on weekends. With 100
12 percent lot occupancy, there is no place for
13 dumpsters with most of our modest few alleys
14 12-feet wide. A 15-foot setback with or
15 without an alley will not suffice.

16 Many of these problems I believe are
17 due to lack of surveying and the deficiency of
18 knowledge of our neighborhood which has 11
19 different zones. The old zoning which is -- we
20 attained through Herculean effort is in many
21 areas effaced by proposals in the zoning
22 rewrite. A rewrite which would do much damage

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1 to Dupont Circle.

2 CHAIRMAN HOOD: Thank you. Next.

3 MS. MARTIN: My name is Chrissy
4 Martin. I live at 1601 Argonne Place, N.W.

5 I had originally come here today to
6 testify in support of the update to the 1958
7 Zoning Code. Especially to urge the Zoning
8 Commission to move forward with reduced parking
9 minimums, easing restrictions on accessory
10 apartments and allowing corner stores to
11 promote an inclusive and walkable D.C.

12 But, I am going to instead focus
13 today on the fact that I've learned the -- last
14 week you acted to further delay this delayed
15 process. As has been mentioned, it's been
16 going on for seven to eight years and has
17 included a significant amount of deliberation
18 and resident input.

19 I'm disappointed in the Zoning
20 Commission's decision to further delay this
21 process and move forward towards completion.

22 I very much appreciate the effort

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1 that the Office of Planning and Zoning
2 Commission has made to include the public in
3 this discussion and I do not agree with those
4 that claim that the hard-working officials are
5 not taking the time to work with D.C. residents.

6 Over the past few years, there have
7 been multiple opportunities for public
8 involvement including 81 public working
9 groups, 42 task force meetings, 59 public
10 hearings, eight meetings in each ward in both
11 December 2012 and January 2013, over 100 ANC
12 community group meetings and special interest
13 groups and the series of open houses that was
14 held in March by the Office of Planning.

15 Meanwhile in D.C., housing prices
16 continue to spiral out of control. My husband
17 and I have been renters in D.C. for four years
18 now. We both have good incomes and good credit
19 and yes, we're in the housing market right now
20 to buy. We're increasingly unsure that we will
21 be able to stay in the District because we
22 simply cannot find a home that we can afford and

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1 can imagine raising a family in.

2 Increasingly, D.C. is losing the
3 battle to create a diverse city that can
4 accommodate people of a diverse income. This
5 is something that the zoning update could help
6 to address by easing the creation of more
7 affordable housing options.

8 So, I urge today to consider the
9 fact that residents have participated in this
10 discussion over the past 17 years in good faith
11 expecting consideration and a timely
12 resolution.

13 Thank you.

14 CHAIRMAN HOOD: Thank you. Next.

15 MR. HOUGHTON: Richard Houghton,
16 930 Kearny Street, N.E.

17 Much has been made of the time that
18 has passed since the last rewriting of the
19 Zoning Regulations for the District.

20 While it is assuredly true that
21 there's a need for updating, clarifying and
22 coordinating the code to reflect 21st century

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1 conditions, it is also true that the zoning
2 environment that has developed over the past 50
3 years has produced a stability that has served
4 the community well and created what one
5 contemporary urbanist has characterized as
6 street after street of excellent urbanism.

7 As we debate the ZRR, the District
8 is experiencing a redevelopment renaissance
9 that is the envy of many a city. Surely, we
10 must be doing something right.

11 As the City considers rewriting the
12 Zoning Regulations, I'm concerned that
13 development pressure will continue to urge more
14 and bigger and denser projects and I am
15 concerned that the stability that the Zoning
16 Regulations through its function as a social
17 contract between a people and their government
18 is being undermined.

19 A number of residents and community
20 organizations have spoken about neighborhood
21 issues.

22 Today, I would like to bring to the

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1 Commission's attention several points about
2 the downtown portion of the rewrite which among
3 other provisions gerrymanders the boundaries
4 and enlarges downtown by a factor of three,
5 unduly complicates through proliferation the
6 zoning categories and subcategories, makes no
7 provision for parks and open space in the new
8 downtown areas, allows full lot occupancy and
9 no FAR restrictions for residential
10 development and has inadequately addressed
11 historic resources, does away with parking
12 minimums and most importantly creates a
13 checkerboard development pattern in which the
14 first development out of the box reaps the
15 economic value of the upsetting while
16 neighboring owners sit on under-utilized or
17 vacant land.

18 NCPC and OP are joint planning
19 agencies, but there's no indication that OP and
20 NCPC have been coordinating efforts.

21 NCPC is in the midst of revising the
22 Federal elements and adding an urban design

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1 elements guideline. Because there cannot be
2 inconsistency between the Federal and local
3 elements, prudence suggests that the
4 Commission take a measured approach on
5 wholesale changes under NCPC is substantially
6 further advanced.

7 A recent Wall Street Journal
8 article has noted that to gain public
9 acceptance, plans and their accompanying
10 public investment must be part of a compelling
11 vision and an agreed upon public agenda.

12 Based on the outcry from citizens
13 and an examination of the downtown provisions,
14 OP has not achieved an agreed upon agenda.
15 Therefore, I urge the Zoning Commission do not
16 accept the zoning rewrite in its entirety as
17 presented by OP.

18 Two, use those pieces of the ZRR
19 that can be properly vetted and justified to
20 amend the existing code for clarity and
21 consistency and to bring it into the 21st
22 century.

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1 Three, adopt a transparent
2 mechanism for citizen input in the amendment
3 process.

4 And four, utilize an independent
5 third party to undertake the vetting process.

6 Thank you.

7 MR. STAROBA: Chairman Hood and
8 Commission Members --

9 CHAIRMAN HOOD: You want to make
10 sure your microphone is on. You can pull it
11 down so we can hear you.

12 MR. STAROBA: Chairman Hood and
13 Commission Members, my name is Frank Staroba.
14 I'm a Professor Emeritus from the University of
15 the District of Columbia.

16 My wife, Arden, and I own 4503
17 MacArthur Boulevard, N.W. and have lived there
18 since 1968.

19 Our house was built in 1898. The
20 first in a row of five houses that have all been
21 extensively remodeled and are now the most
22 beautiful part of the first block of MacArthur

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1 Boulevard. Our block is zoned R-5-A.

2 I am here to urge you to reinstate
3 Section 353 of the current Zoning Regulations
4 into Subtitle F, Chapter 2, Apartment Zone -
5 Group 1 of the ZRR.

6 This provision would retain the
7 requirement to get a special exemption from the
8 BZA for a change of land use from single family
9 to multifamily. This provision works to the
10 benefit of both single family owners and
11 developers. It achieves two essential
12 benefits.

13 First, it promotes communication
14 between the parties to make sure that proposals
15 do not have a negative impact on neighboring
16 properties.

17 Second, it promotes harmony of land
18 use and architecture in the neighborhood.

19 I based this recommendation on my
20 experience with two proposals to replace
21 detached houses with apartment.

22 The first was just a year ago in 2013

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1 by Hashim Hassan for a four-unit apartment at
2 4529 MacArthur Boulevard. The BZA approved
3 this application.

4 The second was this year by A.S.
5 Kashani for a five-unit apartment on the
6 adjacent property 4527. This application is
7 still under review.

8 CHAIRMAN HOOD: Let me stop you.
9 Is this a case that's coming in front of the BZA?

10 MR. STAROBA: Yes.

11 CHAIRMAN HOOD: Okay. I would
12 like for you to skip that part and not talk about
13 that part because one of us will be sitting on
14 that. Okay.

15 So, if you can just go straight to
16 something else and not be case specific, that
17 would be most appreciated.

18 MR. STAROBA: I can oblige.

19 CHAIRMAN HOOD: You can get your
20 point over when you come to the BZA on that
21 issue. Okay.

22 MR. STAROBA: My point is larger

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1 than that, Chairman Hood.

2 CHAIRMAN HOOD: But, you're
3 talking about a live case.

4 MR. STAROBA: All right. I will --

5 CHAIRMAN HOOD: Here's what I can
6 do. I'm actually going to be sitting on that
7 case. I can hear it now and recuse myself on
8 Tuesday or you can go around it. It's up to
9 you.

10 MR. STAROBA: I'll go around.

11 CHAIRMAN HOOD: Okay.

12 MR. STAROBA: Mr. Hassan in 2013, a
13 case that has been terminated, was eager to meet
14 with the neighbors, give us a tour of the
15 existing house and agreed to several changes
16 that we urged upon him. Specially, reduced the
17 height, change the exterior from stucco to
18 brick and change the white trim to black. He
19 has yet to raise and build that house.

20 This is an example of cooperation
21 forced by the requirement to gain special
22 exception from the BZA.

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1 My point with this example is that
2 none of these improvements would have been made
3 without the requirement to seek a special
4 exception. Moreover, there should be no
5 negative impact on neighboring properties and
6 the neighbors should have input through the ANC
7 to be given serious weight by the BZA. Up to
8 now, the neighbors and the City have benefited
9 from this consultative process at the minimal
10 cost of less efficiency.

11 But, the new regulations under
12 consideration omit the special exception
13 requirement. Developers will be able to do
14 whatever they please as a matter of right as
15 long as the structure meets the other zoning
16 requirements.

17 This means that the single-family
18 homeowners in the area are denied influence on
19 the changes in our neighborhood.

20 The ANC is likewise out of the loop.
21 That is an unacceptable outcome.

22 I urge you to include Section 353 in

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1 the new regulations. The requirement to seek
2 special exemption for change of land use
3 benefits both developers and homeowners in a
4 beautiful mixed neighborhood like ours.

5 CHAIRMAN HOOD: Okay. Next.

6 MS. KINGHAM: I'm Justine Kingham.
7 Sorry for my voice. I represent the Dexter
8 Street Coalition which is a collection of
9 neighbors who have bonded together primarily
10 over zoning changes.

11 And we are very concerned about
12 three aspects of the ZRR.

13 One, the very nature of the Berkley
14 and similar neighborhoods we believe will be
15 undermined by the proposed changes to the R-1-A
16 zoning and loss of what limited overlay
17 protections we enjoy.

18 We choose not to live in rowhouses
19 or apartments in Georgetown, Capitol Hill or
20 other denser neighborhoods and the OP and
21 Zoning Commission has, in the past, supported
22 the value of single-family detached zoning

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1 through multiple sections of the Comprehensive
2 Plans and through the Wesley Heights and 24
3 other overlays.

4 This wholesale rewrite of the
5 Zoning Code automatically up-zones one-family
6 areas to two-family accommodation. Thereby,
7 doubling the density and destroying the intent
8 of the Wesley Heights Overlay.

9 Two, the community risks being
10 further undermined by the proposed
11 nonresidential uses that are to be allowed
12 without ANC review or special exceptions.

13 We are not the only district to make
14 these two points as you've heard, but we want
15 to add our voices to those elsewhere in the
16 City. Please reconsider these two aspects of
17 the ZRR.

18 Our third and greatest concern,
19 however, is the lack of meaningful slope and
20 tree protection throughout the City. Berkley
21 has experienced repeated and worsening
22 destruction of natural terrain.

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1 First, there was a the construction
2 of a 30-foot wall at 4825 Dexter Terrace in
3 order to create a level backyard. Federal
4 parkland was damaged and the owner is now
5 removing the wall under a court order.

6 Having lost all of the original
7 contours and vegetation, the City has approved
8 plans to create a ziggurat of set-back walls.
9 A series of four-foot high walls every four feet
10 back into the property until the original grade
11 height is reached.

12 While this may stabilize the
13 hillside and control water and sediment runoff,
14 it does nothing to reinstate that natural
15 habitat for wildlife, trees and plants.

16 OP told me in an open-house meeting
17 that they find such wall setbacks acceptable in
18 a TSP Overlay District.

19 Nearly every source of responsible
20 forestry management will say that artificial
21 contouring is not as successful or
22 environmentally sound as the original slopes,

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1 underbrush and trees which can be reinstated.
2 Just drive to Dulles and you'll see what the
3 Federal Service has -- Federal Parkland and
4 Transportation Department has done to
5 stabilize steep slopes.

6 Forty-Eight Twenty-Five Dexter
7 Terrace sparked copycats and in the last five
8 years, others moving into Berkley got the same
9 idea to level slops and remove trees. Three
10 other instances, a 16-foot wall at 4801 Dexter
11 Street -- well, in my testimony, the addresses.

12 And now, the fifth and most recent
13 destruction of slope and trees is occurring at
14 4833 Dexter Terrace undertaken without a permit
15 and only limited intervention from the City.
16 Look at the pictures of what happened in three
17 days. It's attached to the back of my
18 testimony.

19 The new landfill rises halfway up
20 the height of many of the trees burying the
21 trunks with up to 20 feet of dirt. The trees
22 will not survive. The dirt is not stabilized.

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1 The next picture shows the results in before and
2 after shots of a koi pond at the bottom of that
3 hill.

4 The OP didn't consult Wesley
5 Heights on the proposed changes to the TSP
6 Overlay. However, we hope that the Zoning
7 Commission will consider adding tree and slope
8 protections across all zones of the City.

9 Dexter Street and Dexter Terrace
10 are poster children for why this is an important
11 protection, but unfortunately, it does not
12 apply to them. They live on the other side of
13 Battery Campbell Park which is protected by the
14 Chain Bridge Overlay Tree and Slope Protection.

15 Had the TSP been applied throughout
16 the City instead of neighborhood by
17 neighborhood, the City would be in a much
18 stronger position to protect and enforce the
19 purpose of the overlay.

20 In responding to the loudest, most
21 organized voices of neighborhoods, OP is losing
22 sight of the forest in terms of its policy for

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1 overlay protections.

2 We can define slope to mean any
3 gradient greater than 30 percent, pick your
4 number and protect our terrain, habitat,
5 park-like settings and residents.

6 Thank you.

7 CHAIRMAN HOOD: Thank you. Next.

8 MR. CREWS: Good evening, Chairman
9 Hood and Members of the Commission. My name is
10 Bill Crews and I come before you today as the
11 leader of Save D.C. Zoning, a grassroots
12 organization dedicated to insuring D.C. zoning
13 fulfills the purposes of land-use regulation
14 not inconsistent with the Comprehensive Plan.

15 I also served as a member of the
16 Zoning Regulations Review Task Force. I
17 served as Zoning Administrator of the District
18 of Columbia from October 2005 through June
19 2007. I also served as an Advisory
20 Neighborhood Commissioner for ANC 6C from
21 January 2003 through September of 2005 and
22 again from January 2009 to December 2010. I

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1 previously served as the Marshall County, Iowa
2 Zoning Administrator for four and a half years
3 in the early '90s. I also served as the mayor
4 of a small city in Iowa for 14 years before
5 relocating with my husband to Capitol Hill.

6 I have to say up front that based
7 upon the operation of the Zoning Regulations
8 Review Task Force by the Office of Planning
9 which I understand you have heard much
10 testimony about including here tonight, I
11 stopped attending meetings as being unwilling
12 to be lead around by OP.

13 I have great admiration for those
14 task force members who continue to slog it out,
15 but based on my experience with District
16 Government over the 15 years I've been a
17 resident of the District, every aspect is a
18 bumpy road.

19 However, I have been asked to get
20 back engaged as the process moves forward. I
21 understand that while tonight is the last
22 scheduled public hearing, the record will

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1 remain open for some time.

2 It is this additional comment
3 period that I intend to utilize in order to
4 review the proposed revisions and provide the
5 Commission with advice from the perspective of
6 not only a resident and property owner, but as
7 an experienced zoning administrator.

8 As a preview of the type of comment
9 you might expect to receive from my review, let
10 me give you an example. This example involves
11 the Zoning Administrator's duty to interpret
12 and enforce these proposed new Zoning
13 Regulations. It involves the difference
14 between and among a repair garage, a gasoline
15 service station and an automobile laundry.

16 The current Zoning Regulations when
17 listing allowable uses have provisions
18 indicating the similar uses were allowed or are
19 allowed. This gave some interpretive power to
20 the Zoning Administrator. That was because
21 the Zoning Administrator needed to determine
22 where the line between gasoline service station

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1 and repair garage was drawn.

2 In the case of the Van Ness Auto
3 Repair on Connecticut Avenue, N.W., my
4 predecessor developed a new category of use,
5 automotive service center and allowed it in a
6 zoned district as similar to a gas station. In
7 fact, it was a heavy-duty repair garage, engine
8 block rebuilds, transmission tear downs, et
9 cetera. It took arresting the operator and a
10 BZA ruling upholding my interpretation and
11 revocation of the certificate of occupancy to
12 shut down this illegal use that was having a
13 very negative impact on the neighborhood.

14 In the proposed regs, it appears
15 even more open ended. I didn't find either
16 uses specifically mentioned although I have not
17 read all 900-plus pages. I see transportation
18 infrastructure, but not in the definitions'
19 chapter.

20 Second, automobile laundry is not
21 defined in the definitions' chapter.

22 And I thought this was an update. I

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1 guess maybe telegraph office has been removed.
2 Maybe not. Maybe.

3 As well, this revision was suppose
4 to use plain language. Wouldn't plain
5 language call this a car wash?

6 On a positive note, while I do not
7 support the expansion of corner stores, I'm
8 happy to see that all trash and waste is suppose
9 to be on private property and not public space.

10 I will conclude for now, but I look
11 forward to providing additional written advice
12 for your consideration.

13 Thank you.

14 CHAIRMAN HOOD: Thank you. Let me
15 ask a question of you, Mr. Smith.

16 You mentioned about the -- when the
17 ordinance was written in 1958, did you research
18 that or did you -- you know somebody that
19 participated?

20 MR. SMITH: Pardon me.

21 CHAIRMAN HOOD: Turn your
22 microphone on. I'm just curious. Because one

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1 of the first questions I asked, who was still
2 around who had anything to do with the '58
3 writing and I was trying -- I was searching it.
4 Do you know someone or --

5 MR. SMITH: No, but really through
6 research on the web you can see descriptions of
7 what was done.

8 There actually was very thorough
9 land-use surveying. There were studies done
10 concerning what type of development was
11 desired. Really detailed study of the
12 infrastructure. I mean there was an
13 individual who was hired for this very purpose
14 and spent a substantial amount of time doing
15 groundwork before the rewrite.

16 CHAIRMAN HOOD: Well, let me just
17 ask you this. Did it say how long it took? And
18 I hear people say we've been working on this
19 since 2007. As Mr. Clark knows, we started
20 talking about it in 2003.

21 I'm not even concerned about the
22 time. I just want to make sure we do --

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1 whatever we do we do it right. Because I want
2 to make sure whatever this Commission does or
3 the Zoning Commission does that it stands the
4 test of time just like the '58 ordinance did.

5 MR. SMITH: I don't believe it took
6 as long as they've already taken. I mean it's
7 not something that needs to take eight years and
8 it's the sort of thing that, you know, should
9 be done as a whole, but there's also pieces of
10 this that you might be able to move ahead on and
11 others that take more time. So, you don't have
12 to do the whole project.

13 CHAIRMAN HOOD: Yes, I realize all
14 that. I'm just -- since you mentioned '58, I
15 wasn't going to insinuate that you helped --
16 participated in that.

17 What I was trying to find out is one
18 of the questions I asked early in the process.
19 Was there anybody still around who could come
20 down and tell us -- so, it's nothing new under
21 the sun. We don't have to reinvent anything.
22 Tell us what you all did. That's what I've been

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1 searching for.

2 MR. SMITH: Yes. I don't know the
3 name of an individual.

4 CHAIRMAN HOOD: Okay. All right.
5 But, I appreciate your comments.

6 Mr. Clark, you've been here from the
7 inception as some of us up here have or a number
8 of us on this dais.

9 I want you to kind of finish your
10 testimony. I want to give you -- you said you
11 didn't have time. I want you to kind of finish
12 because you've been here since 2003 or however
13 long. Two thousand seven when we started.

14 But, I want you to kind of finish
15 some of your testimony point.

16 MR. CLARK: Thank you, Chairman
17 Hood and what I would refer to is the
18 attachment.

19 And the reason for this is that
20 because of requests from this Commission and
21 from the Council for OP to tell the ANCs what
22 was going on, the part that's in the black and

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1 white is what OP sent around and then in the
2 color, I think is what an accurate analysis is
3 and I talked a little bit about use permission.
4 So, I'll skip by that and accessory uses. But,
5 there are some things that I don't know if
6 they're intended this way or not.

7 Minimum lot sizes for new
8 subdivisions. I think that's page 10 or it was
9 slide 10 in the ANC presentation. The minimum
10 lot size is only new subdivisions. I'm not
11 sure if that means that in R-1-A the 7500 is
12 still there or if there's a 5600-square-foot
13 lot next to a 7500 one that now that can be built
14 on because it's not a new subdivision.

15 There are some things that are up in
16 the air like that that I don't -- maybe
17 unintended consequences and quite frankly,
18 that's a little bit of what has me concerned.

19 This is not a specific example of
20 it, but when the words change or when overlays
21 get broken up and scattered around ten
22 different sections of the Code do we really know

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1 what thing means any more? That is the problem
2 and OP will tell you how many instances we
3 changed the words, but it means the same.
4 Well, why did you change them? I mean there's
5 no reason to have done that.

6 On building height, a subject near
7 and dear to my heart because that's the first
8 time I was in front of the BZA. Was on a
9 four-story house in a three-story zone.

10 But, the issue there is telling
11 everybody when, in fact, heights may be five
12 foot less now. Well, it may not be true. In
13 fact, because of peak throughs, in fact,
14 heights may be higher than they're allowed now.

15 And again, if that's what the rule's
16 going to change to, that's fine, but don't tell
17 the citizens that it's different. Don't say
18 well, heights will be less when it's not less.
19 Let everybody know what it really is and then
20 we can judge it.

21 COMMISSIONER MAY: Can I -- before
22 you move on, can I just -- I don't understand

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1 why you think that heights can be higher. Can
2 you explain that further?

3 MR. CLARK: Well, heights can be
4 higher because there's a ten-foot -- you get to
5 put up a --

6 COMMISSIONER MAY: You can have an
7 18-foot penthouse now.

8 MR. CLARK: Yes, but not in -- but
9 not necessarily in a 40-foot residential zone.

10 COMMISSIONER MAY: Yes, you can.

11 MR. CLARK: I don't know if we see
12 that anywhere.

13 COMMISSIONER MAY: No, we don't.
14 But, I'm not sure why we would see ten-foot
15 penthouses.

16 I mean right now, we see
17 occasionally a ten-foot or up to ten-foot kind
18 of stairway access to a roof deck because you
19 can't have an occupiable space there. Right?

20 So, I mean that's not the only thing
21 I ever recall seeing in a residential district,
22 but there's not -- I mean right now, the limit

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1 is 18-6 for a penthouse in all districts.

2 MR. CLARK: Yes, but an 18-6
3 penthouse is going to have to have certain
4 set-back requirements as well.

5 COMMISSIONER MAY: Absolutely and
6 that would happen with a ten-foot penthouse.

7 MR. CLARK: Well, but we're not
8 talking about a penthouse here. What we're
9 talking about is an increase in the roof height
10 I mean even if the space underneath it is
11 totally unoccupied.

12 COMMISSIONER MAY: No, I don't
13 think so. I mean this diagram is pretty clear
14 that the height is likely to be less because of
15 the ability to measure from the -- you know, the
16 midpoint of the slope of a slope roof as opposed
17 to the ceiling of the top floor.

18 MR. CLARK: Well, what someone's
19 likely to do as maybe being less doesn't mean
20 what the regulation would allow. I mean that's
21 not the way I read it and that's -- maybe that's
22 one of the things that's unclear.

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1 COMMISSIONER MAY: Well, that's
2 what I'm trying to -- I'm trying to understand
3 how you're reading it because I'm reading the
4 same things and coming to a different
5 conclusion.

6 MR. CLARK: Let me -- I'm trying to
7 go to my other text that has this here.

8 COMMISSIONER MAY: Um-hum.

9 MR. CLARK: Let me come back to
10 that, Commissioner, because I know I've got it.

11 COMMISSIONER MAY: Okay. And if
12 you want to submit something else, you know, in
13 writing as well, that's fine.

14 MR. CLARK: We know there's time.

15 COMMISSIONER MAY: Right.

16 MR. CLARK: You've heard an
17 enormous amount of testimony about parking and
18 I want to talk about something else here that
19 Mr. Houghton referred to briefly and I think is
20 important and that is that we live in --
21 according to the Office of Planning, the second
22 most walkable city in the United States. We

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1 have an increased use in bicycles. We have the
2 second highest number of people riding on
3 public transportation every day and we are told
4 that our Zoning Code is such that people won't
5 walk and that people can't use public transit
6 and that we need to change things to encourage
7 that. That's really the focus of what is the
8 bias here.

9 I think people in the City should
10 have the right to say if I want to walk, that's
11 great. If I want to drive a car, that's great.
12 If I need to park my car downtown or some place
13 else, we should have adequate parking
14 especially for those neighborhoods serving
15 retail operations who need that.

16 CHAIRMAN HOOD: Mr. Clark, let me
17 ask you a question about that.

18 MR. CLARK: Yes, Chair.

19 CHAIRMAN HOOD: And I kind of
20 wanted you to finish because I wanted to ask you
21 this specific question.

22 MR. CLARK: Yes, sir.

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1 CHAIRMAN HOOD: It doesn't say
2 which way this Commission is going or anything
3 of that notion. I just want to ask you this.

4 As part of the regulations which we
5 had proposed, do you see it being inclusive?

6 Case in point, you mentioned about
7 the parking and the cars, the vehicle trips and
8 the walkable city that we're trying to get.

9 Now, this is not like Katy, Texas
10 where you have to have vehicle.

11 This is -- do you see the prescribed
12 proposal from the Office of Planning as trying
13 to include some of those areas like -- well, I'm
14 not going to talk about that particular case.
15 Let me stick with cars.

16 Do you see them trying to include
17 making more accessibility and adding how some
18 of the -- I would say the folks who really
19 believe in smart growth and what they believe
20 in as far as moving forward, being able to walk
21 to certain things, being able to use public
22 transportation, being able to use a Car2Go as

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1 being included in the Code and not doing away
2 with the way the Code is written now or do you
3 see it trying to -- or do you see that element
4 trying to be inclusive in the Code if you
5 understand what I'm saying?

6 MR. CLARK: I think I do in one
7 sense, but these things have all developed
8 under the current Code and that's what kind of
9 baffles me about all this. We've done all this
10 under the current Code. Yet, we're told that
11 the current Code can't accommodate it.

12 CHAIRMAN HOOD: But, we --

13 MR. CLARK: I think we're missing
14 the choice.

15 CHAIRMAN HOOD: Right, but yes, and
16 that's key because I think without getting too
17 much into it you brought up a good point.
18 Certain neighborhoods may be like -- well, I'm
19 not going to say Katy, Texas. I'm not going to
20 use that example, but certain neighborhoods may
21 need a desirable car for certain things that
22 they do. So, I'm just trying to figure out the

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1 balance.

2 Because I've heard the argument,
3 I've heard the story about bicycles and walking
4 and I'll say it again. At some point in time
5 when you get a certain age, I've heard some
6 young people tell me when they get 70, that they
7 will not be able to drive and that's scary
8 because in 20 years I'll be 70 and I'm hoping
9 I'll be still able to drive. I'm sure I won't
10 be on a bicycle. I'm not in as good shape as
11 Commissioner May. So, I'm sure I won't be on
12 a bicycle. I still might be playing
13 basketball. But, again, it's about choices.

14 So, I'm trying to figure out how do
15 we balance that. Because I think it's -- like
16 you say, it's about choice.

17 MR. CLARK: Well, I'm a lot closer
18 to 70 than you are. But, it reminds me of a
19 statement made one night. It was during the
20 Comprehensive Plan and that was encouraging
21 bicycle use and one of the Comprehensive Plan
22 Task Force Members said, you know, my mother's

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1 in her 80s and she can't ride a bike and the
2 response was well, in Europe they do.

3 I mean we're all individuals and
4 people. You know, we can't just say -- to lump
5 everybody together.

6 There are certain parts of this City
7 and many parts of this City where car use is
8 important and we get into the car use thing I
9 think as much by parking as anything else.
10 When people are worried that if we eliminate
11 parking in multi-unit buildings, if we reduce
12 the requirement down to nothing, certainly that
13 will disincentivize any builder from putting it
14 in. Not in all buildings. I think a class A
15 office building downtown is still very likely
16 to have parking, but it will be reduced in other
17 places.

18 And I do think the spill-over effect
19 into neighborhoods is a real thing. It does
20 happen.

21 I say that I may be in one of the
22 three or four blocks in the City isn't going to

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1 fall within what is not called a transit zone,
2 but which is, for all practical purposes, a
3 transit zone because I'm just far enough away
4 from the Metro Station as the crow flies, longer
5 by foot.

6 But, the situation is that we can't
7 just say -- we have people have who have cars.
8 We have people who drive few miles, fewer than
9 anybody else and so, for this reason, I don't
10 understand why we think that we need to reduce
11 the opportunity for parking so there will be
12 fewer cars. I mean we're already at the bottom
13 of the heap or the top depending on which way
14 you're looking at it.

15 So, why do we need to do that? I
16 haven't heard any study that says we need to do
17 it and that's really the concern.

18 And with your question to Mr. Smith,
19 I mean there was a detailed study put out by the
20 Lewis Commission for the 1958 Zoning Rewrite
21 which you certainly have available to you and
22 there were -- there was analysis that was data.

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1 One of the things that we've had in
2 this rewrite and I've seen it in so many
3 meetings and forgive me for mentioning -- I'm
4 going to talk about accessory uses for a moment,
5 but in the working group meeting on ADUs, I'll
6 never forget that night because there was a
7 consultant brought in from the outside and he
8 said well, we ought to have ADUs available
9 everywhere in the low-density residential
10 zones.

11 He talked about that for awhile and
12 at the end of it, his presentation, I said well,
13 you say that people are doing this all over the
14 place. Where are they doing it? And his
15 answer was in Aspen, Colorado, they've changed
16 the zoning regs to allow for 125 temporary, part
17 of the year, ADUs in the city and because of
18 that, we think we ought to have them everywhere
19 in Washington?

20 I mean I guess I was a little
21 dumbfounded when I heard that.

22 But, that has been the level of some

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1 of the analysis that we've seen here.

2 CHAIRMAN HOOD: Okay.

3 MR. CLARK: AUDs within homes, you
4 know, if we have proper regulation, I'm not very
5 upset about that.

6 CHAIRMAN HOOD: Mr. Clark, let me
7 cut us both off. I don't want nobody to say
8 this is the George Clark/Anthony Hood show.

9 MR. CLARK: Yes, I've gone on too
10 long.

11 CHAIRMAN HOOD: Because I will get
12 Tweeted and accused of that, but let me just
13 also say this, that Anthony Hood will be
14 attending bike day this year. So, whoever's
15 Tweeting about me make sure they Tweet that,
16 too.

17 And, Mr. Crews, I appreciate your
18 point.

19 COMMISSIONER MAY: Are you going to
20 ride your bike there?

21 CHAIRMAN HOOD: Mr. Crews, I
22 appreciate your point.

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1 I'm actually going to try to win the
2 raffle again. That's my goal so I can have a
3 bike to ride.

4 But, I appreciate your point about
5 the laundry -- automobile laundry.

6 Okay. Commissioners, let me open
7 it up. I just wanted to get us -- I have a
8 question for the young lady, but my time is up.
9 I think someone else should ask. Mr. Turnbull.

10 COMMISSIONER TURNBULL: Thank you,
11 Mr. Chair.

12 Mr. Clark, I want you to -- if you'd
13 go back and look at your -- how you're looking
14 at the height question. Because, as you know,
15 we all rotate on and off the BZA and we've all
16 had a number of cases where we come up -- where
17 the Height Act or the height of certain areas,
18 we've all had troubling cases and I think OP
19 picked up on that and has tried to address that
20 in this here.

21 Now, as Commissioner May was
22 saying, we think we've tried to pinpoint it such

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1 that we do control the heights in those areas,
2 but please, if you see anything, please let us
3 know. If you see something in there that you
4 think can be misread, please let us know.

5 MR. CLARK: I will. Thank you.

6 COMMISSIONER TURNBULL: And by the
7 way, 70 is the new 50. That's my viewpoint
8 anyway.

9 CHAIRMAN HOOD: Let me also
10 acknowledge we've been joined by Ms. Bushman.
11 I didn't acknowledge you earlier. I didn't see
12 you down there Okay.

13 Anybody else? Any questions?
14 Vice Chair.

15 VICE CHAIR COHEN: Thank you.
16 Thank you, Mr. Chairman.

17 I have a question for Mr. Busch.

18 With regard to your desire to
19 preserve an expand housing in Dupont Circle, I
20 really appreciate that, but I wanted to just ask
21 you about your desire to preserve housing. Are
22 you saying that what exists today, a very

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1 diverse mixture of galleries as you mentioned
2 in your testimony and art studios, are you
3 suggesting that they not be grandfathered or
4 they could be grandfathered in an R-5 zone?

5 MR. BUSCH: If they're already
6 existing, then I guess they could be
7 grandfathered.

8 VICE CHAIR COHEN: Could or should?

9 MR. BUSCH: I'll only go as far as
10 saying could now.

11 CHAIRMAN HOOD: Any other
12 comments? Questions? Okay. Not seeing any.
13 Young lady, what's your name again? I'm sorry.

14 MS. MARTIN: Chrissy Martin.

15 CHAIRMAN HOOD: Martin. Ms.
16 Martin. Now, you kind of -- I'm not going to
17 say impatient, but you're saying okay, Zoning
18 Commission, you all have heard enough and let's
19 -- you were kind of taken aback by us extending
20 the time.

21 So, let me ask you. How long have
22 you been watching us work on this? Has been for

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1 the whole four years?

2 MS. MARTIN: I would say two of the
3 four.

4 CHAIRMAN HOOD: Two of the four.
5 What made you get engaged? How did you hear
6 about what we were doing? I'm just curious.

7 MS. MARTIN: I am interested in the
8 idea of promoting walkable cities. I think --
9 as I said, I would say that my interest came a
10 bit from starting to look at buying and seeing
11 the state of the D.C. housing market and as
12 someone that really wants to live in an urban
13 environment and is very passionately committed
14 to not commuting, I was very frustrated and so,
15 I started to look around and I got in touch with
16 Smarter Growth DC who introduced me to some of
17 their stances and do some research on my own.

18 I certainly am not as much of an
19 expert as I see everybody else at the table is
20 and I'm impressed with the depth of knowledge
21 and I do understand I'm also by far the
22 youngest, but hopefully, that provides some

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1 additional viewpoint.

2 CHAIRMAN HOOD: Okay. And that's
3 why I wanted to ask you that question. Thank
4 you.

5 Commissioner Miller.

6 COMMISSIONER MILLER: Thank you,
7 Mr. Chairman. I didn't have any questions. I
8 just wanted to thank each of the witnesses for
9 their thoughtful testimony and we are going to
10 be getting Office of Planning responses to each
11 of the specific recommendations that folks have
12 made as well as the concerns and there will be
13 opportunity now for folks to respond to their
14 responses as well.

15 But, and when we get to
16 deliberations, we'll be able to make a
17 determination how we address those concerns and
18 recommendations.

19 So, I appreciate all of your
20 testimony. Thank you.

21 CHAIRMAN HOOD: Any other
22 comments? Okay. We want to thank this panel.

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1 We appreciate --

2 MR. ROBERTSON: Excuse me.
3 Chairman Hood, may I ask a question about dates?
4 I've read and published that the record will be
5 kept open until September of 2015 and also 2014.

6 CHAIRMAN HOOD: Let me correct
7 that. Let me correct that. It's going to be
8 September 15, 2014. If it goes to 2015, I will
9 not be here. But, it's 2014. None of us will
10 be -- you know, 2014. That was a typo. I saw
11 that. Okay.

12 Oh, yes, I probably will still be
13 here. Okay, '18 is my term.

14 But, anyway, no, it's 2014. I
15 think you can follow us. We'll be talking
16 about this some more at our next meeting which
17 I think is Monday. So, stay tuned and see what
18 we're going to do as we proceed. Okay.

19 Thank you all very much. We
20 appreciate it.

21 Okay. I have a list somewhere.
22 Okay. Didn't mean -- over to the new list.

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1 Okay. Kimberly Mitchell, Abigail Nichols and
2 if I mispronounced it, forgive me. Oh, Ruby
3 Castin. And I cannot make -- Kevin Valentine.
4 Kevin Valentine.

5 Okay. Is there anyone else in the
6 audience who would like to testify?

7 Okay. So, if you are here and you'd
8 like to testify, just come to the table.

9 Anyone else who'd like to testify?

10 Okay. So, we will end with the two
11 young ladies we have here. We'll start to my
12 left. You can introduce yourself and you may
13 begin.

14 MS. MITCHELL: Hi, my name is
15 Kimberly Mitchell. I am a Ward 7 resident.
16 Also, too, I am a member of the United Federal
17 Commercial Workers.

18 I live in Eastland Gardens which is
19 off of Kenilworth Avenue which is surrounded
20 and secured by the Federal Government because
21 it is in a Federal park which is -- which houses
22 the lily ponds.

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1 I would hate to see what would
2 happen if that was not the case if big box
3 retailers were able to come into my community
4 without any of the community's say.

5 I am here to ask that the Zoning
6 Commission enacts a special exemption to make
7 sure that big retailers have to secure a special
8 exemption to come into our neighborhoods.

9 The District already requires a
10 special exemption for certain commercial land
11 which has a less affect on the community than
12 the big box retail stores.

13 For example, community-based
14 institutions. Community based, yes, which
15 come into the community to help the community
16 have to apply for a special exemption.

17 The District is the only government
18 within the Washington Metropolitan Area that
19 does not provide a special exemption for big box
20 retail stores such as Walmart. I think that we
21 should at least consider some circumstances for
22 this policy.

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1 Now, is the time for the Zoning
2 Commission to enact meaningful reform to secure
3 big box developers to make sure that they do not
4 move into the City and do what they want when
5 they want to.

6 Thank you.

7 CHAIRMAN HOOD: Thank you. Next.

8 MS. NICHOLS: Good evening. I am
9 Abigail Nichols. I live at the Palladium
10 Condominium at 1325 18th Street, N.W. Which is
11 located currently in an SP-1 Zone. It's just
12 south of Mass Avenue close to the downtown area
13 -- Connecticut Avenue area.

14 I am also the Commissioner for
15 Advisory Neighborhood Commission
16 Single-Member District 2B-05.

17 So, in my single-member district,
18 there's a good deal of land that is either zoned
19 SP-1 or SP-2.

20 I speak in opposition to allowing
21 drinking in the renamed M-2 and M-16 Zones.
22 Please will someone tell me that I have

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1 misunderstood and that the rewrite does not
2 allow alcohol establishments in Zone M-2 and
3 M-16. I will step down and say no more.

4 Have I misunderstood this?

5 CHAIRMAN HOOD: Let's get an answer
6 right now for you.

7 MS. NICHOLS: Thank you.

8 CHAIRMAN HOOD: So, if the answer
9 -- if you misunderstood it, then that's the end
10 of the testimony. Right? Or I'm just
11 curious.

12 MS. NICHOLS: Well, I can tell you
13 -- I mean I can say where I got this. It's from
14 the Zone A use page G-57 by right of uses Zone
15 Group A, eating and drinking. There's a C
16 there, but I could not find what the conditions
17 were.

18 Well, let me go on then.

19 CHAIRMAN HOOD: Okay. Yes, I want
20 you to.

21 MS. NICHOLS: Since -- because this
22 is something --

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1 CHAIRMAN HOOD: But, I do want to
2 try to get an answer for you, but go ahead.

3 MS. NICHOLS: I have been on the
4 periphery of discussions of the Zoning Rewrite
5 for maybe three years, Dupont Circle Citizens
6 Association meeting, a briefing by the Office
7 of Planning and at one of your hearings and I
8 never heard this come up until two weeks ago.

9 Okay. And I am here as an
10 individual. My ANC supported the Zoning
11 Rewrite. I can't believe they discussed this
12 provision that I think I've found because I
13 think there would have been a lot of discussion.
14 I was not able to participate.

15 My request is this. Do not make it
16 easier through zoning for there to be alcohol
17 licenses in new areas of the City.

18 It's been explained to me by Ms.
19 Tregoning that alcohol control is separate from
20 zoning, but you do have a chance now as to how
21 many zones are going to have it and in my
22 judgment, alcohol licensing is not under the

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1 kind of control people think it is.

2 The structure looks as if the
3 Alcohol Beverage Regulation Administration can
4 deny or restrict licenses where inappropriate,
5 but this is a false assurance. They cannot
6 take their own initiative. They depend on this
7 horrible protest process. Any disapproval of
8 a license or restriction of hours or service
9 including music in outdoor areas or other
10 conditions of service are only achieved if
11 achieved at all through an incredibly
12 burdensome process which falls to the residents
13 most affected by the change.

14 Residents cannot always rise to
15 this challenge. If they do spend hours and
16 hours trying, they may achieve nothing.

17 I know because I've been trying to
18 protect myself and my neighbors at the
19 Palladium from excesses related to alcohol
20 service since 2008.

21 First, we spent six years, eight
22 different voluntary agreements to minimize

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1 damage to our peace, order and quiet as new
2 alcohol establishments came in. Eighteenth
3 Street's narrow, two lanes and a parking lane.
4 There's offices converted to bars. Cleaners
5 converted to bars. A lunch space converted to
6 a bar. These are located in a commercial zone.
7 We're SP. Connecticut Avenue.

8 It's where that wedge if you know.
9 Eighteenth Street crosses Connecticut Avenue
10 at an angle. So, you have businesses at the
11 lower end which face Connecticut. They have
12 Connecticut Avenue addresses. Their back
13 doors are on big wide sidewalks where they have
14 obtained public space permits to serve alcohol.

15 We managed to restrict the hours of
16 patio service, but on a Sunday afternoon, we get
17 a lot of noise.

18 Since last fall, we have taken on a
19 new challenge. Trying to reduce the
20 disturbance that amplified music from roof
21 decks in the commercial zone to the south of the
22 Palladium is causing both the Palladium,

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1 Jefferson Row Condominium and now in the same
2 SP Zone, N Street Ventures. You probably are
3 aware that there is a condo development. Mr.
4 Bender was before you before. This is a big
5 project. Seventy condos coming into our
6 neighborhood.

7 But, we are being blasted by roof
8 deck music and we are finding it very hard to
9 figure out how to stop this. There is the D.C.
10 Noise Control Act, the alcohol legislation
11 itself has some noise provisions and we so far
12 have gotten nowhere.

13 There is a website in my testimony
14 where our efforts are being documented if you'd
15 like to see this.

16 The process of protecting residents
17 under existing alcoholic beverage control law,
18 regulations and procedure is exhausting an
19 ineffective. Do not expand the threat to
20 residents by opening up our own blocks to the
21 possibility of alcohol licenses.

22 If I read this right, the whole 16th

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1 Street corridor is open. My block, I can see
2 some nice old mansions that would make a great
3 club, but I don't want it and my neighbors don't
4 either. It's not me.

5 And there's a feeling that
6 restaurant are a non-problematic amenity.
7 Restaurants, themselves, if they meet a minimum
8 food service at lunch and supper, can legally
9 morph into a nightclub atmosphere at night.

10 I appreciate what you and the Office
11 of Planning have done to inform the public about
12 the process. Getting ready for today, I
13 studied the brochure that was sent out to every
14 ANC Commissioner. It does not mention this
15 alcohol thing. That's why I'm trying to get
16 this straightened out.

17 But, until now, I've been to
18 preoccupied with alcohol license applications
19 and renewal to look at what is proposed for the
20 SP Zones.

21 And as I've just said -- anyway, as
22 I said, I have not heard this come up before.

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1 I would bring it to your attention for careful
2 study. I think it's a terrible idea.

3 Do not allow this. Tell me it is
4 not happening. Thank you.

5 CHAIRMAN HOOD: Thank you. Do we
6 have an answer to help with any clarity on that,
7 Ms. Steingasser?

8 MS. STEINGASSER: Yes, and we thank
9 you, Ms. Nichols, because I was one of -- I have
10 given a presentation to you and I'm very aware
11 of who you are and what your issues are from
12 other members of the staff.

13 There is a mistake and it should not
14 be allowed in the SP-1 Zone. So, you're right.
15 That whole use category is missing and we'll
16 make sure that it gets in as not being
17 permitted.

18 MS. NICHOLS: I mean it's not
19 missing here. It's added.

20 MS. STEINGASSER: Well, it's in the
21 table, but the conditions are missing from the
22 condition list below it. So, we'll make sure

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1 it reflects the current status of the SP-1
2 Zones.

3 MS. NICHOLS: Which is no
4 conditions?

5 MS. STEINGASSER: Which is no --
6 it's not permitted.

7 MS. NICHOLS: Not permitted.

8 MS. STEINGASSER: Right.

9 MS. NICHOLS: Okay. Great.
10 That's good news. People have been reading.
11 You can tell people have been reading your --
12 reading things carefully.

13 MS. STEINGASSER: And it's exactly
14 what -- the kind of help and insight that we're
15 looking for.

16 MS. NICHOLS: And what about SP-2?
17 That should be the same. Shouldn't it?

18 MS. STEINGASSER: SP-2, the Zoning
19 Commission did a text amendment about three
20 years ago that allows certain types of retail
21 including eating and drinking by special
22 exception only and so, we'll make sure that that

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1 reflects that.

2 MS. NICHOLS: And that there's no
3 change in what it takes.

4 MS. STEINGASSER: I'm not sure what
5 you mean by that?

6 MS. NICHOLS: Well, you could say
7 -- you're saying now it's by special exception.

8 MS. STEINGASSER: And we meant --

9 MS. NICHOLS: Won't make it easier.

10 MS. STEINGASSER: We meant to keep
11 it by special exception only in the SP-2
12 equivalents.

13 MS. NICHOLS: Okay. Thank you.
14 Thank you.

15 CHAIRMAN HOOD: Great. Thank you
16 and that's what this is all about. We got
17 something resolved tonight. I appreciate it.

18 Ms. Mitchell, I would ask do we have
19 your testimony?

20 MS. MITCHELL: No, you do not.

21 CHAIRMAN HOOD: Okay. If you can
22 send us a blurb.

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1 MS. MITCHELL: Okay.

2 CHAIRMAN HOOD: We do.

3 MS. MITCHELL: No.

4 CHAIRMAN HOOD: Okay. Could you
5 provide it to somebody else besides
6 Commissioner May because I think he says he has
7 it? Do you have? No. No.

8 VICE CHAIR COHEN: Just Abigail's.

9 CHAIRMAN HOOD: Ms. Mitchell. Oh,
10 okay. I was going to say. Okay. All right.
11 So, I think it would be helpful if you'd just
12 give us a blurb. So.

13 MS. MITCHELL: Okay.

14 CHAIRMAN HOOD: Okay. Thank you.
15 Commissioners, any other questions of the --
16 Commissioner Miller.

17 COMMISSIONER MILLER: Thank you,
18 Mr. Chairman. Thank you both for your
19 testimony. It's very helpful and Ms.
20 Mitchell, the issue that you raise is one that
21 we are going to consider when we get to our
22 deliberations. I think there is some validity

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1 to your point to look at the adverse affects
2 from a zoning standpoint of big box retail.
3 So, we will get to that point eventually to
4 consider that.

5 MS. MITCHELL: Thank you so much.

6 VICE CHAIR COHEN: I have a
7 question.

8 CHAIRMAN HOOD: Okay.

9 VICE CHAIR COHEN: Again, Ms.
10 Mitchell, did I hear you say though that the
11 other metropolitan areas do have a requirement
12 that there be a special exemption to allow big
13 box?

14 MS. MITCHELL: Actually, Maryland
15 has it. It is different. As you know, Bowie
16 and different -- they're broke down in zones.
17 So, it's up to the certain zone to implement
18 that law if they want to have, but some of the
19 neighborhoods in Maryland do actually have that
20 law. The big box. That they have to secure a
21 special exemption.

22 VICE CHAIR COHEN: Could you submit

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1 your testimony and that information? Because
2 when I think of Metropolitan Area, I think of
3 big box land and so, I was a little put back.
4 I thought I didn't hear her right. So, if you
5 can submit that for the record, that would be
6 very helpful. I appreciate it.

7 MS. MITCHELL: Okay. Thank you.

8 CHAIRMAN HOOD: Any other
9 questions or comments?

10 All right. I want to thank this
11 panel. We appreciate your testimony.

12 I want to thank everyone for coming
13 down tonight.

14 Ms. Schellin, do we have anything
15 else?

16 MS. SCHELLIN: That's it.

17 CHAIRMAN HOOD: Okay. I would
18 encourage everyone to watch us on Monday. If
19 you don't, watch the replay. Don't watch it
20 too late at night. You may go to sleep, but
21 watch us on Monday. We're going to be talking
22 about some very -- how we're going to start

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1 laying some things out. So, it will be very
2 interesting.

3 Okay. Anybody else?

4 All right. I want to thank
5 everyone for their participation tonight and
6 this hearing is Adjourned.

7 (Whereupon, at 7:23 p.m., the
8 hearing was adjourned.)

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