GOVERNMENT OF THE DISTRICT OF COLUMBIA

ZONING COMMISSION

REGULAR MEETING

THURSDAY

JULY 10, 2014


ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
MARCIE COHEN, Vice Chair
PETER G. MAY, Commissioner (NPS)
ROBERT MILLER, Commissioner

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON
ELISE VITALE

The transcript constitutes the minutes from the Regular meeting held on July 10, 2014.
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CHAIRMAN HOOD: This meeting will please come to order. Good evening Ladies and Gentlemen. This is a public meeting of the Zoning Commission for the District of Columbia. My name is Anthony Hood.

Joining us this evening for this evening, is Vice Chair Cohen, Commissioner Miller and Commissioner May. We also have a proxy at the appropriate time from Commissioner Turnbull.

We're also joined by Office of Planning Staff, Ms. Sharon Schellin. Also from the Office of Planning staff, Mr. Lawson and Ms. Vitale.

Copies of today's meeting agenda are available to you and are located in the bin near the door.

We do not take any public testimony at our meetings unless the Commission requests someone to come forward.
Please be advised that this proceeding is being recorded by a court reporter, it's also Webcast live. Accordingly I must ask you to refrain from any disruptive noise or actions in the hearing room, including display of any signs or objects. Please turn off all beepers and cell phones.

Does the staff have any preliminary matters?

MS. SCHELLIN: No, sir.

CHAIRMAN HOOD: Okay, tonight we have one item for our meeting agenda. And I want to thank everyone for being patient as we move this from our other meeting tonight.

We had a lot on the agenda and we wanted to focus more on the ZRR. We will go to the Office of Planning. I think Ms. Vitale or Mr. Lawson.

MR. LAWSON: Thank you, Mr. Chair. We're pleased to present these alternatives for the Zoning Commission. These are in response to some of the concerns that were raised by the
Commission and members of the public up until now.

We've tried to make it very clear that of course the record is still open and people are still submitting comments.

We've received some comments just today from one of the members of the audience and some comments from other people recently that we'll be taking a look at obviously before this whole process is done.

With that we didn't actually plan on doing any kind of a presentation of this but we're happy to walk through it and answer any questions that you may have on the alternatives that we presented. Thank you.

CHAIRMAN HOOD: Okay, thank you Mr. Lawson and Ms. Vitale in Office of Planning.

Okay Commissioners, we're going to open it up, again we have some alternatives in front of us which we're being asked to set down. So let's just open it up and start having our comments. Commissioner May.
COMMISSIONER MAY: Mr. Chairman may I make a suggestion? What we received is broken down into sections, zone names, definitions, bike parking, vehicle parking.

Maybe if we'd just go through it section by section that way we don't have to do rounds because anyone of these sections I'm just going to have to do comments.

CHAIRMAN HOOD: Okay, I mean that's fine either way. I will tell you that from my stand point I'm going to have a whole lot of comments.

I think we've had a lot of them. I'm more or less concerned about the hearings and hearing from the public what they think about these alternatives.

And then I'll probably have more of my comments on the back end, but that's just me. But if that's the way you guys want to rule, I'm --

COMMISSIONER MAY: Yes, I mean our way is questions --
(Simultaneous speaking)

CHAIRMAN HOOD: -- want to move it from tonight that'd be fine.

COMMISSIONER MILLER: I think it would help me as well Mr. Chairman, in terms of just focusing.

CHAIRMAN HOOD: Okay, so want to go in the what's in the Appendix, I mean what's in the Table of Contents? Zone Names, Zoning Name Conversion Table, Definition Comparison, Bicycle Parking, in that order?

COMMISSIONER MAY: Yes, sure.

CHAIRMAN HOOD: Okay. All right let's take Zone Name, Zone Name Conversion Table. It's open for any questions.

COMMISSIONER MAY: Certainly, I have two questions. First one is that you know, I see how have redone the R zone. And I understand what we're doing but I'm still kind of confused because we have R-1A, R-1B, and then R-2 and R-3s are now, I mean rather R-3 and R-4 now are R-2 and R-3.
I guess I can get that far but then when we go into all the additional Rs, it just gets a little confusing. So I'm wondering why we didn't go to R-1C, R-1D, R-1E et cetera? So we that we know what those zones are based on. They're based on R-1 or if they're based on R-2, something like that.

Did you think about doing it in that kind of a structure?

MR. LAWSON: That was not our focus. We really wanted to re-enforce that these are individual zones that stand on their own right rather than you know, having, you know the current situation where people have to move back and forth between zones.

If you know, the Zoning Commission wanted us to look at that we certainly could. We actually think it might, my initial thought would be that might actually make it more complicated rather than less complicated. And insert kind of, you know, kind of re-enforce a bit of a false nomenclature.
COMMISSIONER MAY: Well yes, I can understand that, I mean it is, your advantage with either one? I don't know whether each of my fellow commissioners have any thoughts on this. I'm certainly not going to push it unless there were consensus of the Commission that we ought to look at something different.

Second thing I saw was, you know, we have tried to change some of these things like the M zone became MU for mixed use, which makes sense.

But the N zone, the new N zone that you propose is staying N. I mean did you think about making that NC, for neighborhood commercial, because that might be clearer than MU?

MS. VITALE: We can certainly do that.

COMMISSIONER MAY: Okay, so and then I put those questions to the rest of the Commission. What do you think? Either of
these suggestions resonate? That's it for me on it.

CHAIRMAN HOOD: Okay, Vice Chair Cohen.

VICE CHAIR COHEN: Thank you, Mr. Chairman. I would concur with Commissioner May with the neighborhood commercial area.

CHAIRMAN HOOD: Do you have any questions on this?

VICE CHAIR COHEN: Oh, it's my turn.

CHAIRMAN HOOD: Yes, on the zone.

(Simultaneous speaking)

VICE CHAIR COHEN: Just on the zone?

CHAIRMAN HOOD: Right.

VICE CHAIR COHEN: No.

CHAIRMAN HOOD: Mr. Miller.

COMMISSIONER MILLER: Thank you, Mr. Chairman. Yes, I would concur with the NC for neighborhood commercial overlay rather than what's it currently MU?

MS. VITALE: N.

(Off the record comment)
COMMISSIONER MAY: Yes, N became M.
Mixed use became MU, mixed use.

COMMISSIONER MILLER: But I also support that, I think that's, the direction has all been helpful.
I have one question about the new residential flat zones, the RF-4 and RF-5. If you could just briefly remind me what the use is in that zone, in those new two zones are? And whether or not you're proposing any existing areas go into these new zones?

MS. VITALE: Certainly. We're not proposing that any areas be zoned with RF-4 or RF-5 at this time. We're just setting those zones up for potential future use. And those would be like the R-4 now which allows the two units by right.
RF-4 would allow three units and RF-5 would allow four units. So it kind of fringes that gap between the flats, the two dwelling units and apartment buildings.

COMMISSIONER MILLER: And are you
surveying, or is there an intention to survey what existing R-4 zones might be appropriate for those three and four unit residential flat units?

MS. VITALE: We haven't gone, you know, down that road yet in terms of R-4 zones. We also envision that there could be R-5 zones that would want to down zone to these kind of in between residential flat zones.

So we were anticipating probably that communities would approach us if there was an interest in looking at implementation of these zones once they're in place through ZRR.

COMMISSIONER MILLER: Okay, thank you.

MR. LAWSON: And just to ease your mind. By down zoning, what we're talking about. There are some parts of the city that are zoned R-5 but they are rowhouse neighborhoods, they're not apartment neighborhoods.

So this would be a tool that would
be available not so much to down zone truly
apartment areas, but areas that right now there
really isn't an appropriate zone.

Because R-4 is just too, is
inappropriately low density for these areas,
but the current zoning may be somewhat
inappropriately high density.

So it's just to provide the tools so
that people have that option when they come
forward so it's not one or the other. Just to
bridge that gap a little bit.

CHAIRMAN HOOD: Okay, I also would
agree with Commissioner May. As the same thing
we did for the residential apartment when we
said R, we went from RA, well when we say RA.
We did this early on.

But when we also look at PDR zones,
we just had P. Why not do PDR like we did with
R?

So this is something I'd like for us
to consider and look at. We want to make things
as easy as possible and understandable as
possible.

And I thought about not asking that question because was it something new to me? Was this something different? But no, I think it makes sense.

It goes along with everything we did, like RA, NC, what we just talked about now and then PDR as opposed to P. So I think we just need to be consistent throughout the conversions.

MR. LAWSON: We're absolutely having people look at that. The whole point of this is to make sure that the zone names reflect what the zone is doing as much as possible. So I think PDR would be great.

I will just note, my only, sorry to go back on something and we'll absolutely do the NDNC, NCR. My only concern about that is that we were trying to move away from calling them commercial zones because they are not commercial zones. They're actually mixed use zones.
So if I'm renaming it into NC, it's going to, it may re-enforce in some people's minds that this is a commercial zone. I'm not terribly worried about it in this case because in this case what's kind of defining about what's special about these zones is how it treats the commercial portion of the zoning.

So I think that it's probably appropriate but I'm just throwing out that one small caution.

CHAIRMAN HOOD: Let's just look at it, let me ask you. What do you think about PDR?

MR. LAWSON: I'm totally comfortable with that.

CHAIRMAN HOOD: Okay, well that was my main concern.

MR. LAWSON: I'm sorry.

COMMISSIONER MAY: I agree with that. No I think what's confusing is subtitle H is called neighborhood commercial and that's what I was basing it on. Subtitle G is entitled mixed use.
So maybe, you know, maybe Subtitle G should be commercial mixed use and Subtitle H should be neighborhood mixed use. I don't know, I'm not sure what the right thing is but, you know, having the right designation I think does help.

And if you don't want to have the word commercial in there maybe there's something else that needs to be.

MR. LAWSON: We'll take another look at that.

COMMISSIONER MAY: Yes.

MR. LAWSON: And like I say because these zones are really centered on the commercial component of the zone. Interpretive distinct to this evening, and besides that's the term that people are very used to for these areas. These are the neighborhood commercial areas.

So it builds on the existing designation in the current regulations where they're all within the neighborhood. Most of
them are within the neighborhood commercial overlay section so, it makes sense.

COMMISSIONER MAY: Okay, well.

CHAIRMAN HOOD: Okay any comments on zone name?

COMMISSIONER MILLER: No.

CHAIRMAN HOOD: Okay, let's go to definitions comparison. Any comments? Mr. May.

COMMISSIONER MAY: I have actually quite a few and it's mostly questions and clarifications on things that make -- so first of all I would mourn the loss of terms like yagi antenna, cabaret, bachelor apartment, that's, you know, too bad, darn.

On Page 7, in the definition of building, I forget now, this has just reminded me of whether we have really truly addressed the meaningful connection issue.

When we have, you know, two buildings where they, two theoretically separate buildings except that they are
connected by a corridor or something like that.

Are we making that easier to sort out because I know that, that's been a sticky issue for BZA. It's even a sticky issue for the Zoning Commission.

So if it's not a division question, it's a what are we doing in zoning regs? Can you answer that or do you recall?

MR. LAWSON: I honestly, I'll have to look that one up. I don't remember discussions specifically on that particular issue but I agree it is one that should be.

COMMISSIONER MAY: Yes I think we just need to be explicit about it. I don't know that it's something that's, it probably is something that needs to be done in definitions but I'm not totally sure about that. Does Mr. Cochran need to come?

MALE PARTICIPANT: No.

COMMISSIONER MAY: Okay, all right, good. So next one is, I found the additional language in building area, to be a bit
confusing. It refers, this is on Page 7. It says "For outside balconies, this term shall not include any projections" et cetera, et cetera. So I mean it's essentially clarifying what the definition is now, which is that if you have a bay that projects into public space, it doesn't count toward FAR. Correct?

MR. LAWSON: I believe so, yes.

COMMISSIONER MAY: Yes, okay. So I guess that's a question that we ought to consider, whether that's really what we want to do? Do we have the authority to be able to say that, that could count as FAR?

MR. LAWSON: I'm trying to get clear, are you talking about space that extends out beyond the property line?

COMMISSIONER MAY: Yes. I mean is that what this is? Not extend, spaces that's what you're talking about? I mean I don't know, I get confused by the language. Maybe you could tell me what that's trying to decide?

MR. LAWSON: Well it's simply
trying to define what is considered building area. We're just letting the things, further on in the regulations are based on that. And it also includes things that are not included in building area for clarification.

So that's the general intent. If it's confusing we can certainly look at the wording and make sure it's clearer, but --

COMMISSIONER MAY: I mean it could just be me. All right, I'll let that one go. We'll get that one sorted out.

MR. LAWSON: Actually I'd be happy to take another look at that one. And if it is, if your concern is the issue of projections that extend out beyond the property line, I don't believe we can do that, but we're happy to address that with OAG and see.

COMMISSIONER MAY: Yes. It's a question worth asking and answering deliberately.

On the same page, is a reference to development standards. And development
standards I guess that's the title of a section later in the regs, because if not maybe it needs to be defined.

MS. VITALE: Development standards, that's in a section that is consistently --

(Simultaneous speaking)

COMMISSIONER MAY: A section and subject, okay. Good, thank you.

And so I'm looking at Page 8 and it refers to a, and this is measurement of height, and it refers to a wall plate. And I'm wondering if wall plate is actually defined somewhere? Or is that where you rely on, I mean the only backup source of information is the dictionary.

MS. VITALE: Correct.

COMMISSIONER MAY: In some regs, so.

MS. VITALE: And I don't believe we have a definition of wall plate, so is that something that --
COMMISSIONER MAY: Yes, unless it's
defined correctly in Webster's. I'm not sure
it is because it's an architectural thing.

MS. VITALE: We can certainly add
that.

COMMISSIONER MAY: Yes. All
right, so on Page 13, I forget. We brought up
the issue this is just again something that
triggered the question about the regs
themselves, drive-throughs. Are we still
permitting drive-throughs in the zoning
regulations?

MR. LAWSON: Well they're in the
existing and in the proposed regulations, there
are lots of places where drive-throughs are not
permitted. So I, off-hand, you know, I could
research this but I can't think of a place where
we have changed that provision from what's
current.

COMMISSIONER MAY: I see, okay.
Because I recall this coming up before and I was
not a supporter of continuing to have
drive-throughs.

And I mean I don't know that we necessarily need to have drive-throughs in the future. We're trying to be a somewhat progressive. I mean I know they're very convenient but they're also highly polluting.

So it's a question that we ought to again consider and deliberately decide. And we may need to keep it in the definitions because there are existing drive-throughs that would be grandfathered, but I'd rather it be that way.

Page 15, under farmer's market, it refers to temporary. A temporary market open to the public blah, blah, blah. I think the word temporary needs to be defined because, well I know that other agencies and CPC for example has struggled with, or not a struggle with, has done the effort of defining what temporary means. And I think maybe we need to do the same thing.

On the very next definition, fast food establishment, characteristics of the fast
food establishment may include -- oh okay, so
I, never mind. I think my question I just
answered my question for myself. Forget that.

On definition of natural grade, this
is Page 18. So the way I read this, essentially
the natural grade is any grade that's a year old.
Is that right?

Is that where you can redefine
natural grade as it being one year, you know,
you go out and grade the site, regrade the site,
regrade it up and wait a year.

It says you know, "Exclusive of the
improvements or adjustments to the grade made
in the year prior to applying for a building
permit".

MR. LAWSON: I read it the same way
and I think what this intended to get at is those
situations where natural grade is really
difficult to determine, which will be much of
the District.

So it may be, if you're saying that
you'd like us to relook at how we're defining
that, we'd be happy to. But that's what it's intended to do.

COMMISSIONER MAY: Okay, so I don't know that it necessarily needs a new and different definition but maybe one year isn't long enough. That's what I meant. Yes, okay.

I'm almost done.

CHAIRMAN HOOD: Take your time.

(Off the record comment)

COMMISSIONER MAY: That wasn't, you didn't have your microphone on, so Chairman told me to take my time, so.

CHAIRMAN HOOD: That's because I didn't want anybody to hear me say that.

(Off the record comment)

COMMISSIONER MAY: Okay, so the, on the definition of Mezzanine, I'm sorry, Page 25. And the definition on Page 25 on Mezzanine has new text, it says, "A mezzanine shall not be permitted above a third floor in those zones that have a three story limit".

So this is a development standard or
restriction or something like that? Is that appropriately in definitions or should that be moved elsewhere in the title?

MR. LAWSON: It may end up that, that does get moved. This is one of the issues we're also dealing with that through the separate amendment that we brought forth related to R-4.

So it may very well be, I definitely see your point. It sounds to me like this is something that should go somewhere else.

COMMISSIONER MAY: Okay. Non-profit organization, next page. So religious, charitable, educational purposes things like that for non-profit. I mean that's a reasonable way to define it but doesn't that open the door for quote "educational organizations" that might be 51 percent education and 49 percent --

MR. LAWSON: I apologize, sorry. I was getting caught up in the pages, sorry.

COMMISSIONER MAY: Non-profit
organization, Page 26. So I'm wondering if the
definition needs to be tighter and specify a
501(c)(3), or whether your intention is to allow
501(c)(4)s or 501(c)(5)s or other
organizations?

MR. LAWSON: We can look into that.
If you have a direction I'd be happy to take a
look.

COMMISSIONER MAY: No, I mean I
don't know, I guess it's up to the rest of the
Commission whether we want to actually say a
501(c)(3).

VICE CHAIR COHEN: I think we need
to study that a little bit further because I
don't want to have an unintended consequence for
501(c)(4)s.

COMMISSIONER MAY: Right and I
don't know really the difference between them,
all I know is --

COMMISSIONER MILLER: And we need
to see where it's used in the codes, obviously.

COMMISSIONER MAY: Yes. Okay, I
need a -- I'm unsure what a shared parking space is. It's on that same page. So parking it says that it is "available to more than one use, or to the general public", what does that mean? It's available for retail parking and residents of the building? Is that what shared means?

MR. LAWSON: Yes.

MS. VITALE: That's correct and I think it's also shared in the context of a shared, shared between two uses. You know in the broader sense where you could have a church that is sharing their parking with a --

(Simultaneous speaking)

COMMISSIONER MAY: Right, so it could mean any kind of use. But that's something that we are trying to promote.

MS. VITALE: Correct.

COMMISSIONER MAY: I just want to make sure it, because when I first read it, I was like. It conjured shared, car share parking spaces which is not what is intended to be.
The, on Page 28, that mention of rooming unit references tenements and bachelor apartments which I think are otherwise eliminated from the regulations. So maybe they don't need to be there.

And the last thing is under, on Page 31, accessory use and I know these are, this is a fairly innocuous definition but I'm wondering if -- there has been a standard that has been applied by the Zoning Administrator that an accessory use is 20 percent of the principal use or no more than 20 percent.

I'm not sure where that kicks in. And I'm wondering if that's something that is defined elsewhere?

MR. LAWSON: Not that I recollect so we can certainly talk to the Zoning Administrator and see if that, if he's comfortable with that being kind of encoded --

COMMISSIONER MAY: The percentage, yes. And I'm not sure that necessarily has to be that way. I just remember that it has been
cited in cases before the Commission. That's it for my questions.

    CHAIRMAN HOOD: Okay. Vice Chair Cohen.

    VICE CHAIR COHEN: Thank you, Mr. Chair. On Page 2, the definition for adult day treatment facility implies, look it says implied, states that it's "operated for the purpose of providing medically-supervised day treatment services".

    But there are programs for healthy adult day care and sometimes they're off-site from a senior building. So I would just take a look at that to not exclude a healthy adult day care.

    Page 6, on artist housing you talk about 1000 square feet to be used for, in residential zones where artists may sell or produce their art.

    In some cases, I don't know you got the 1000 square feet, but in some cases some artists actually use their entire apartment.
Their entire 500 square foot apartment to
produce art.

So I think you're being too restrictive with the percentage. And again open studios, they get, it's just for a short purpose but artists do sell from their homes by appointment. That's their livelihood, they may not have a studio. They may not have a gallery. So I really think that, that needs to be loosened.

MR. LAWSON: Right well this actually says that it's a minimum of the space would be used for the studio, so there could be 100 percent.

VICE CHAIR COHEN: Okay.

MR. LAWSON: Like I mean it actually is to provide that level of flexibility.

VICE CHAIR COHEN: All right. I guess, I just really didn't understand the 1000 --

MR. LAWSON: We can make sure that wording is clearer.

VICE CHAIR COHEN: Maybe this is
purpose on the definition of boathouse, on the following page. You know some small boats do have motors. Are we trying to eliminate small boats with motors? And I just didn't quite understand that.

MR. LAWSON: This is an old kind of definition. I actually remember when we came up with these and we worked very, very closely with the marine community on coming up with the definitions for these kinds of uses.

And it took many, many meetings to sort that out. We can certainly reopen that discussion but very small changes I found at the time, were enormous changes to the boating community that I thought were completely kind of innocuous.

So we would, I'm just suggesting we'd want to be very careful in how we treat these definitions.

VICE CHAIR COHEN: Yes. I just don't have a stake in this. As long as you're talking it with the boating community and they
are comfortable with the current definition, I'll defer.

MR. LAWSON: Yes. Typically if it's motorized or if it's bigger, it is more of a marina situation. It's not really a boathouse. If what you're referring to is that a marina can have individual houses for individual boats, I think that is already accommodated in the, probably in the marina definition. But I'd have to check that to make sure.

COMMISSIONER MAY: Can I interject this? We have some experience with boathouses.

MR. LAWSON: Yes.

COMMISSIONER MAY: In the parks services and in the marinas as well. But typically a boathouse is going to be where you keep non-motorized craft. So it's shells and canoes and you know, stand up paddling boards and kayaks and things like that. It's not going to be motorized craft.

There may be incidental motorized
craft if you have a crew rowing, they're going
to have --

VICE CHAIR COHEN: Right.

COMMISSIONER MAY: You know, the
coach in boat with a motor. But that's really
incidental and those actually don't typically
get stored in a boathouse.

VICE CHAIR COHEN: I guess that's
what I was thinking about.

COMMISSIONER MAY: You have to lift
them up and take them out.

VICE CHAIR COHEN: That's exactly
what I was thinking of, so.

COMMISSIONER MAY: Yes, they would
have to go to a different location when they get
trailered.

VICE CHAIR COHEN: Okay.

COMMISSIONER MAY: After
practices.

VICE CHAIR COHEN: I just was
concerned about that particular boat.

I think it would be helpful with the
building height in using it, a pictorial to help
with the definition if you can do that? It
just, I'm very visual and I have to sometimes
read things two and three times before I get it.

MR. LAWSON: I think that's
excellent advice. You know we've been advising
the Zoning Commission all along that we plan on
adding illustrations, kind of as we move along
and get closer towards the final product. So
any place where you think that, that
illustration would be pretty good.

We've already identified a whole
bunch and this is one of them. But any place
where you think that, that illustration would
be helpful we would really appreciate that
feedback.

VICE CHAIR COHEN: I was
disappointed to see the elimination of cabarets
too, Commissioner May.

COMMISSIONER MILLER: But we still
have dinner theaters don't we?

VICE CHAIR COHEN: Yes, we do. The
chanceries, I have a note here. Have you passed these definitions by the people who have come to visit us? I forgot what his title was, but I think he was from the State Department. I just want to make sure that these have all been passed by them.

MS. VITALE: This definition is actually just bringing forward the existing from the current text, so it's not a change. This one for some reason just, it was dropped in the definitions so this is just carrying it forward, the existing.

VICE CHAIR COHEN: Okay, the dormer definition. I presume that you're carrying it over, you're not dropping it. Is that correct? You have a new definition, but it is not needed. I didn't quite understand. It's on Page 15.

MS. VITALE: I believe the issue of dormers are, this is more regulatory language that's discussed in Subtitle C. And so that's why we're proposing that there not be the definition in Subtitle D.
VICE CHAIR COHEN: I don't know why you're doing that. It just doesn't, I think you should continue to keep the dormer definition. And I will, Commissioner May, do you have any?

COMMISSIONER MAY: Well I interpreted this as meaning that it's not relevant to any current regulation with regard to height, mass, bulk, et cetera. It's been, you know, it's no longer part of those definitions, so I mean, or those restrictions. So I'm not sure why it would be needed.

If it's not, if it's not referred to in the BOCA standards then why would it be needed? Is that right?

MR. LAWSON: That's correct.

MS. VITALE: Right. That's correct.

MR. LAWSON: So there's no prohibition on people doing dormers. People can do dormers, but there's not a specific regulations pertaining to them so we're trying not to include definitions of things that aren't
regulated in the regulations.

VICE CHAIR COHEN: Got you, okay.

CHAIRMAN HOOD: Commissioner Miller would you like to, because I noticed Commissioner was only acknowledged. Would you like to say something on there, Commissioner?

COMMISSIONER MILLER: No thank you.

CHAIRMAN HOOD: Okay. Neither would I. Okay. Thank you.

VICE CHAIR COHEN: Is it appropriate, I think on Page 15. Is it, when going to a greater detail in the reference to 48 DCR, in actually identifying its ancillary uses. So I presume that, that's why you sort of a very brief definition. Is that correct?

MR. LAWSON: This is an issue I wasn't really involved in but I see there's a note is that OAG instructed us that the regulatory language should be removed. So we proposed to remove the regulatory language. I'm not sure that answered your question.

VICE CHAIR COHEN: No, I guess I
need to follow through with OAG. Or maybe you can do that, on my behalf.

MR. LAWSON: Can I ask you again what the question was? Because I wasn't quite clear.

VICE CHAIR COHEN: Well why is it such an abbreviated definition for ancillary uses? I mean because one of the things we're trying to avoid is back and forth, you know, have things more clear up front. And I think that a definition is very helpful.

(Off the record comment)

VICE CHAIR COHEN: Don't you agree, Commissioners?

MALE PARTICIPANT: You got them.

VICE CHAIR COHEN: So that's why. It's just that again, I think definitions are the most helpful thing for people like, who are not experts in zoning.

MR. LAWSON: We'll ask OAG, sure.

VICE CHAIR COHEN: And on the Fire Department definitions, I presume that these
have been reconfirmed with the Fire Department?

MR. LAWSON: I assume so.

VICE CHAIR COHEN: Okay, you'll check though?

MR. LAWSON: Sure.

VICE CHAIR COHEN: On Page 18, habitable room. This concerns me and the reason -- that you're not bringing it forward. And the reason why is that this is in HUD's definitions under their programs, I forget what they call these, requirements, they really do discuss habitable rooms.

Like, you know bedrooms, how many people can be in a bedroom? It has to have windows. And I was wondering why you're dropping that?

MR. LAWSON: We're dropping it because it's already related to other regulations.

VICE CHAIR COHEN: Again, that --

MR. LAWSON: Through building code and other regulations. So we don't want to
duplicate those where, where they can then start
to become in conflict with each other in
unintended ways.

Unless the point is that the Zoning
regulations would intentionally have a
different definition of a habitable room, our
opinion and our discussions with OAG is that it
is safer to not include those definitions.

VICE CHAIR COHEN: See, and I think
again to make it more user friendly. You know
I think that zoning dictates a lot of, and I may
end up contradicting myself tonight. But
zoning dictates for PUDs as well as BZA cases
and that's why I thought it would be again, more
helpful.

MR. LAWSON: But I would argue that
zoning actually doesn't dictate what a
habitable room is in this case. So this is
provided for information and it's certainly
through, you know, as we talk about the Zoning
Commission, we expect that whenever something
is approved that part of that will you know, the
explanation and discussion documents that will go on with the regulations themselves.

That may be a more appropriate place for it. But I guess I would argue that anybody who is going to be concerned about exactly what is a habitable room will be working with the building code just as much as the zoning regulations.

COMMISSIONER MAY: May I, can I just to follow up on that. I mean does the word, the phrase habitable room, appear anywhere else in the regulations other than in the definition?

MR. LAWSON: I'd have to check through it to see, but I can't think of where it would be.

COMMISSIONER MAY: Right, so I mean the theory is that if it doesn't appear anywhere else, there is no reason to define it.

MR. LAWSON: Now having said all that as you know, at some point in the very near future you're going to be seeing amendments related to the current amendments to the Height
Act which makes a reference to habitable space.

And so that may be something that we do end up having to define. It'll be very different from a habitable room but it's kind of a related term.

I'm happy to take this particular question up with OAG again. And if the Commission feels that we should err on the side of having more definitions even though that may mean that they become in conflict with the building code, which would in the event, which would ultimately trump the zoning regulations, but we can do that.

VICE CHAIR COHEN: No, I understand now what you're saying that you know, you would have to look at the building code as well. I was just hoping again that it would be, I wouldn't know why we would a different definition than the building code.

MR. LAWSON: Yes, and the point would be that they would be the same when they're adopted. But let's assume for example that the
building code is amended.

We'd have to make sure that we're very vigilant on all of these definitions. That we bring back amendments to you to simultaneously amend the zoning regulations and it seems to me that, that's a problematic step. And it's one that gotten us in trouble in the past.

VICE CHAIR COHEN: Okay, that's fair. I mean what I'm trying to do is make this, I mean I for my use I would say, you know, zoning for dummies. Because frankly I don't want people to have to necessarily hire a lawyer all the time.

MR. LAWSON: I understand and I think that's where the explanation documents will come in. The zoning regulations are a legal document and I think we need to make sure that we keep that in mind as we're going through this.

They can't necessarily be all things. And so OAG is very clear on where they
think it's appropriate for things to be in the zoning regulations because they are a legal document. Zoning for dummies is a great idea, it's something else.

VICE CHAIR COHEN: Okay. Here's another one on Page what? Impervious surface, impervious surface coverage, and you said, "Not brought forward into proposed text". And I don't understand why not. Because I guess, that's not in the building code.

MS. VITALE: I think with those again with GAR, we're moving towards a requirement for a pervious surface provided. So I think it's kind of a shift in how we're looking at sites with respect to area provided on a site that it's pervious versus limiting the percentage of impervious surface.

So again I think this is something that we're not regulating specifically anymore. So if we carried the definition forward, it would be unnecessary.

VICE CHAIR COHEN: Okay. And the
term inn that you're not bringing forward, I mean there are a number of bed and breakfasts that I believe are covered under another definition. But there are a number of institutions that have the inn as their title, and I just wanted to note that for the record.

Intermediate materials recycling facility, I think you need to define, fully enclosed. Because what, fully enclosed to me especially a recycling facility needs to be really, not necessarily a chain link fence either.

And I believe we've had some experience where chain link was the vehicle used to enclose. And so it's fully enclosed technically. But it's not enclosed as something that really prevents it from being an eyesore to the neighborhood. And I think we need to be more explicit what that means.

Okay, on Page 24, your definition for, you know, lot width could also have an illustration.
MS. VITALE: Certainly.

VICE CHAIR COHEN: Oh, on Page 28, 29, I'm sorry, the definition of schools. You're leaving out charter schools in part of it. And I really think zoning needs to be more involved with private charter schools as well. No?

COMMISSIONER MAY: I'm sorry, I shook my head, but the charter schools are public schools.

VICE CHAIR COHEN: All of them?

COMMISSIONER MAY: Yes, it's either a private school or a public school.

(Simultaneous speaking)

VICE CHAIR COHEN: Or public school and charters are --

COMMISSIONER MAY: And charters are in the public category. Is that, I meant that's correct, right?

MR. LAWSON: That's correct.

VICE CHAIR COHEN: Okay.

Wholesale use, again this is something that I'm
just wondering for the future. There may be some opportunities to have wholesale use in different parts, undeveloped parts of the city. And there, it's a current use, so why is that being not carried forward?

MR. LAWSON: I'd have to look into this one to be sure. But I assume it's because it's now within the PDR use category.

VICE CHAIR COHEN: Okay.

MR. LAWSON: So it's certainly not because we're saying that, that use is not permitted in the District at all. It's just I suspect that the term is being subsumed in another term.

VICE CHAIR COHEN: Okay. Thank you. And lastly, you define Zoning Administrator and Zoning Commission but not the Board of Zoning Adjustment. And those are my comments.

CHAIRMAN HOOD: Okay. Commissioner Miller.

MS. VITALE: Board of Zoning
Adjustment --

CHAIRMAN HOOD: Oh, I'm sorry.

MS. VITALE: -- is on Page 6, so it just alphabetically --

VICE CHAIR COHEN: Oh, it is.

MS. VITALE: -- it's in there as.

VICE CHAIR COHEN: Okay, I missed it.

CHAIRMAN HOOD: Okay, Commissioner Miller.

COMMISSIONER MILLER: Thank you, Mr. Chairman. In general I think all of the, or in general I think most of the new definitions and the clarified definitions all move in the right direction and I appreciate all the work that's been done on that.

In particular I think the clarifications and the new definitions on the affordable housing and inclusionary zoning are helpful.

MS. VITALE: Thank you.

COMMISSIONER MILLER: Although I
have other questions about inclusionary zoning which I'll get to at another point.

Under the, on Page 5 is it, I was wondering whether the, in the definitions of apartment and apartment house whether it is helpful at all to add the word rental, or for rental purposes in that definition somewhere?

But I would just leave that to you, you all know, OAG to look at it because I know you did in all the other things.

MR. LAWSON: Actually in zoning an apartment house, it comes as both a rental or a condo unit. So we would have to amend specifically, separately defined condo throughout the regulations.

COMMISSIONER MILLER: I didn't know that.

MR. LAWSON: Yes, state rental, apartment, or condominium apartment. In this case it includes both because the zoning regulations nowhere make a distinction between the two.
COMMISSIONER MILLER: Let's see --
I didn't even realize that although I guess if
I thought about where it was used in the code,
I would have figured that out. Maybe it's to,
be explicit that it includes both just to be
clear.

Under the automobile laundry, do we
want to call that car wash in such an urban
development?

VICE CHAIR COHEN: I like
automobile laundry.

(Off the record comment)

COMMISSIONER MILLER: Vice Chair
likes automobile laundry. I think we need to
get her to wash her car. There's other ways,
there's other types of cleaning, but it just
seems a little bit awkward.

VICE CHAIR COHEN: A, B test.

MR. LAWSON: You know, we've got to
have some funky terms to replace the yagi
antenna. Yes, you know and the cabaret.

COMMISSIONER MILLER: There are
trade-offs, yes.

(Off the record comments)

MR. LAWSON: We will do an extensive
study of this including a best practice
research.

COMMISSIONER MILLER: Please.

MR. LAWSON: With all other cities
in the United States.

COMMISSIONER MILLER: And
surrounding jurisdictions.

CHAIRMAN HOOD: Because we actually
mentioned about the automobile laundry once
before. So if you look back at it, maybe did
you already look at it? Decide to keep it that
way, or?

MS. VITALE: No, I don't think so.
We can certainly look at updating that.

COMMISSIONER MILLER: On Page 17,
the definition of mechanical parking garage and
I would note for the record that Mr. Lindsley
Williams is in the audience. That he just
submitted some comments which you said we're
going to be looking at and responding to.

But that was one of them, but he points out that isn't exclusively elevators that are in those, in the automated parking. You did make that change. But just pointing out that additional changes that may be necessary with the new definition.

Under the definition of grocery store, I have some questions about that but I'll get to that when we talk about large format retail and when we talk about corner stores maybe.

So well under a public -- under that definition of grocery store, this is the new definition, "use whose primary business is the sale of fresh produce and food products. At least 50 percent of customer-accessible sales and display area is used for the sale of a general line of food products intended for home preparation and consumption, and at least 30 percent of retail space is for perishable goods that include dairy, fresh produce, fresh meats,
poultry, fish and frozen foods.

Groceries represent the majority of the sales in a grocery store although there may be accessory uses such as prepared food and drink, pharmaceuticals, personal and bank services".

This is bringing up the benefit of the public and for myself to remind us of, and my colleagues, what the new definition is.

So those percentages, at least 50 percent of the sales and display areas for a general line of food products intended for home preparation and consumption, and at least 30 percent is for perishable fresh foods, I guess and frozen foods as well is included in that.

I just want some assurance that these, this definition lines up with other definitions of grocery stores which are referred to in other regulations such as the Alcoholic Beverage Control statute.

It may make sense that this be the definition, I just was curious to know what, how
each of the definitions --

    And then I noticed when you came back
to corner store kind of the definitions part,
but it's in the actual corner store regulations.
It is a 20 percent set aside for the fresh foods.

    So I'm confused why the corner store
is 20 percent, this says 30 percent. I just
want to know the rhyme and reason and I'm sure
there is a good rhyme and reason.

    MR. LAWSON: Sure, well this is
definitely an issue that we want to have further
discussion on. And so we're kind of hoping for
some feedback on this one.

    There are other cities that are
starting to institute this kind of a regulation.
It's intended to make sure that a grocery store
does serve a broader range of product I guess,
and not a single product.

    The differentiation I'd be happy to
take a look at the numbers for a corner grocery
store again. You're not the first person to
raise that maybe those numbers are a little low.
We made them a little bit lower because the size is so much smaller. And they're just so much more confined and so we thought that a little bit more flexibility maybe made sense.

But I'm perfectly happy to make those numbers consistent if the Zoning Commission or members of the public as they start to comment on these, feel that, that would be more appropriate.

But the intention certainly is that both corner, the by right corner grocery store and the larger grocery stores both serve a broad range of needs for the neighborhoods that they are in.

COMMISSIONER MILLER: Maybe I'll go to my question on the large scale, large format retail just to get it out of the way.

So in the definition of, or in the regulation of large, the new regulation for, the new proposed regulation for large format retail where special exception is being proposed as the
process as opposed to matter of right.

There's an exception unless it's a grocery store. Do we know for sure, and let's be specific, and maybe it's inappropriate, but do we know for sure that Walmart, Target, Costco don't fall into the definition of grocery store?

MR. LAWSON: That's right.

COMMISSIONER MILLER: That you're excluding them from the, you're excluding grocery store from the large scale format?

MR. LAWSON: The ones that we have seen so far would not. Typically for example, the Walmarts and I believe the Targets as well --

(Off the record comments)

MR. LAWSON: -- are less than 40 percent of the space devoted to any kind of grocery, not just you know, fresh produce and that kind of stuff but you know, and then the rest if devoted to non-grocery items.

So they would not fall within this category. I'm not saying it would be
impossible for one of those stores to reformat so it fit these categories. But if it fit these categories, then it's achieving the purposes that the District has for those uses, so that's the intent of it.

COMMISSIONER MILLER: Thank you. On Page 19, I know the OAG and you all are going to be doing another round of editing, but since I think I brought this up once before.

On the definition, when the Historic Landmark Act is defined and a new definition instead of using the word City Council. It just should use the Council for the District of Columbia as the name, which reminds me this isn't in the definition section.

But it's in the first section of both the existing ZRR, existing zoning regulations and the proposed zoning regulations, which in the very broad language it tells what the purpose of the zoning regulations are.

Did we add, in the original text as advertised, there wasn't a reference as I recall
to the Comprehensive Plan in that. For our purpose in the first chapter, has that been added back in? Had that been added at some point?

MS. VITALE: In ZRR we are proposing to add that language in it, yes.

COMMISSIONER MILLER: Okay. Thank you.

I think I just have a couple more, Mr. Chairman or maybe that's it. I think that is it. Thank you.

CHAIRMAN HOOD: Okay. Let me just say this to Office of Planning, not to try and debate tonight but I will tell you, don't do away with the drive-through. I'm not particularly there, I don't even have this and this is my time. So what I'm just saying, don't do away with drive-through. The other thing is --

COMMISSIONER MAY: Mr. Chairman, I just want to say, I'm not suggesting that we should do away with it, I'm just letting my, you know, my opinion that you know --
CHAIRMAN HOOD: Right, I heard your opinion so I'm also letting them know my opinion.

COMMISSIONER MAY: Yes, yes, that's okay.

CHAIRMAN HOOD: Okay, so let me ask this question, we had talked early on about and I'm trying to think was it 2000 and I believe, I'm remembering something now.

We had talked early on about define a part in the process in the regulations about hiring a director. I don't know why it came to me tonight because of the new direction I was talking about the director. This actually happened some years ago. We need to relook at that.

Because having to hire three since I've been here, there was no process set aside for the Commission. We talked about early on about putting that in the code back in 2007 or '08. That was one of the things that we mentioned.
What brought it to my attention was when I looked at the definition of director which is on Page 13. I think that definition's incomplete. Can we relook at that?

And that's a new definition and that's what brought it to my attention and we had talked about hiring a director. Though male appointees actually have really no clear direction. I know because I've hired three.

Or been involved in hiring three. There's no clear direction and early on we talked about putting that in the code, so let's look at that and I also will follow up with OAG.

And I noticed that, let me just say the issue for the definition of director, because it says, "the Director of the Office of Zoning, or such successor official as shall be designated to be the supervisor of the full-time administrative staff of the Commission, unless otherwise noted".

There's more to that than just the Commission. I think it's just incomplete.
But I'm more concerned about that first one, making sure that our three, the new Commission is at home.

I don't, I do not expect to hire another one in my term here. But the new Commission that comes in, I hope they have a better road map than what we were advised with, okay.

So I'm not sure whether OAG, I'm sure Mr. Bernstein, I know we talked about that earlier about putting that in and I think that's very important to leave it better than where we found it.

MR. LAWSON: We'll make sure to follow up with OAG and with Office of Zoning on that issue. We'll also take a look at it, Subtitle, no I guess this is where it would be. So, well we'll work it out.

CHAIRMAN HOOD: Okay. I don't have anything. Anything else?

(No audible response)

CHAIRMAN HOOD: Okay, let's go to
bicycle parking summary. Let's go in the same order, Commissioner May.

COMMISSIONER MAY: Sure. I have a couple things to say here. I saw under 2004.2 that you're changing the requirement for where short-term bicycle spaces should be located from 50 feet to 120 feet of the primary entrance to the building that they serve.

And it's in response to a comment from, I don't know a follow up, or I can't remember, but it was not a member of the general public it was, you know, on behalf of developer law firm.

And I don't agree with that and I think that we ought to have some discussion on that because when you move the required bicycle parking spaces that far away from the primary entrance. What you will wind up with is bicycles locked to benches, street trees, street lights, signs, et cetera. And I don't think we want to promote that either.

So I think that at least there should
be a requirement for at least some of the
required spaces to be in close proximity.

MS. VITALE: Sure and that's
definitely, your feedback is welcome on that.
We looked at other jurisdictions. To get
credit for LEED, it was actually a surprisingly
large distance that your short-term parking
could be away from the entrance.

So I think, you know, we're
certainly willing to set aside a certain number
that needs to be within that 50 foot, or decrease
that range somewhere in the middle.

COMMISSIONER MAY: Yes and where I
think that is should be, I mean, my experience
with cyclists and where they want they want to
park, and my own experience and the availability
of places to park is that close to the entrance
is really good, otherwise you end up with, you
know, bikes locked to everything possible.

I think that, you know that was it
for the bicycle parking. The rest of it is
tweaking standards and so on. So I don't, I
think that's all fine.

CHAIRMAN HOOD: Okay, Vice Chair Cohen.

VICE CHAIR COHEN: I have no comments but I think that Commissioner May's comment seems very rational. Let's try to avoid having people tie their bikes closer to the entrance, and on the bicycle racks.

CHAIRMAN HOOD: Okay, Commissioner Miller.

COMMISSIONER MILLER: Just to clarify, I realize that the setdown text had 50 feet to the entrance and this proposed text amendment to the setdown, there were no setdowns, just 120. But right now is there any requirement?

MS. VITALE: No there is not a requirement now.

COMMISSIONER MILLER: Okay, so. But I'll agree with your comments, I just think that we need to just put it in context of right now there isn't any requirement at all and we
honestly want to have a requirement, and it
should be a reasonable one that makes sense.

COMMISSIONER MAY: Correct, I agree.

CHAIRMAN HOOD: Okay, let's go up to
vehicle parking. Any comments?

COMMISSIONER MAY: Same order, right? Okay, so just to clarify on 1902.1 which is on Page 2 and 3. There is the elimination of parking reduction for WMATA priority bus corridor network.

So I mean if I understand this correctly, the elimination of this potential reduction is not of really huge significance because we talking about residential house and residential flat zones. So areas where there are only going to be one or two parking spots required anyway, right?

MR. LAWSON: No, just the opposite.
The initial --

COMMISSIONER MAY: Oh, other than, got it. Okay. All right so. I mean I think
it's arguable that we should continue to have that reduction. And I'm wondering whether it's something that could be available as a special exception rather than a simple straight out elimination?

MR. LAWSON: We're already proposing that parking could be reduced by special exception. So that opportunity would already exist.

COMMISSIONER MAY: It already exists.

MR. LAWSON: Yes.

COMMISSIONER MAY: Okay, all right well that's as far as I would push that at this moment. I guess on 1902.3, I understand that you're recommending a change that would alter or remove the portion of west end area from where downtown parking provisions would apply.

And I agree with your comments that actually the Office of Planning continues to recommend that there be no minimum requirements in all the D zones, including the west end where
there is high availability of fixed transit options. So I would throw out for my other commissioners, my fellow commissioner to react to.

CHAIRMAN HOOD: Okay, Vice Chair Cohen.

VICE CHAIR COHEN: Thank you, Mr. Chairman. I just want to bring up that I think that it's, I don't think we should be removing parking reductions for the bus corridors.

I think that again there are some concerns with regard to service and those are legitimate. I think that however we must begin to recognize that there's just too much congestion and traffic in this city.

And that we have to have to a multi-modal effort. Not everybody, I don't want to take anybody's corridor away but on the other hand if we can encourage people by improving service to use buses and other forms of transportation.

And you know, I know that there's
issues between cars and bicycles and again I won't really go into that here, but we have to recognize that we are choking in this city, or we will choke if we continue our behaviors. So I am not in favor of removing parking reductions.

In addition I also think that we should have no minimum requirement in the D zones, including the west end. The west end has two Metro stops and I don't see why we would then exacerbate traffic problems.

It's so like the old adage that if you widen the roads you get more cars. You provide parking you get more cars. And we have to now bite the bullet and say we can't afford that anymore for health reasons.

And traffic concessions, cars are the second largest producers of carbon emissions after power, after a lot of oil and energy plants. So I really feel strongly about the vehicle parking. Thank you.

CHAIRMAN HOOD: Commissioner
COMMISSIONER MILLER: Thank you, Mr. Chairman. I'm willing to associate myself with Commissioner May's and Vice Chair Cohen's comments about parking. I do not support the elimination of the reduced minimum, in the high transit bus corridors.

I had a question about the west end. I read on the setdown, the original setdown they were in the, and they still remain in the D zone and so there is no parking minimum.

You want them to maintain a parking minimum. Are you actually maintaining the existing parking minimum or they'd get the 50 percent reduced parking minimum?

MR. LAWSON: It would be the reduced parking amount because of the presence of the Metro stations. Yes, sir.

COMMISSIONER MILLER: So it would be 50 percent of the required amount for the residential or other uses, would be the minimum requirement.
COMMISSIONER MILLER: Okay, well I continue to associate myself with the Vice Chair's and Commissioner May's comments about those two changes. I don't really support those two changes. I think that's all I have. Thank you.

CHAIRMAN HOOD: Okay. The, and I'm trying to remember during the hearings about the vehicle parking around, worship, and I want to say we went back to I think what was in the code previously. One for each ten seats of occupancy.

But you know, the accessory parking lots for places of worship I noticed we moved it from 400 feet to 600 feet. Why did we do that? I'm not saying I'm against it, I'm just trying to get the rationale why we did that?

MR. LAWSON: Sure. It was to add more flexibility. There was some questions from the Zoning Commission of where 400 feet came from and so we took a look at that number again.
And 600 feet when we started to map it out meant that, that accessory parking, those accessory parking spaces would be on the same block or on the adjacent block typically and we felt that, that was an appropriate distance.

And also you know, it corresponds with what we were seeing in other cities. So we felt that we were very comfortable with that.

CHAIRMAN HOOD: And they can do more than 600 if they come for a special exception?

MR. LAWSON: That's correct.

CHAIRMAN HOOD: Okay, good. The other thing is again, any time we reduce parking, I'm actually not in agreement with some of what I've heard about cars because we all choose a way of life. And I think we just need to do a balanced approach.

And one of the things that I've watched, you know, and I'll use this example is restaurant row, when this Commission decided that we were going to have a developer come in and say we just have so much parking. But the
caveat to that is, they don't let you park on the first three rows and nobody tells anybody that.

And then I think what we do is we do a disservice to the residents of the city when we squeeze them out of parking and we start having problems with where people park their vehicles. But that's just one of the things I'll be looking at and looking forward to having that discussion.

COMMISSIONER MILLER: Where's restaurant row?

CHAIRMAN HOOD: I mean Rhode Island row.

COMMISSIONER MILLER: Oh, Rhode Island row.

CHAIRMAN HOOD: What did I say, restaurant, I must be hungry, to think about restaurant row. It's Rhode Island row.

COMMISSIONER MAY: I wanted to add one other thing which I forgot to mention when I first --
CHAIRMAN HOOD: Okay, I just don't want that point to get lost because I've heard the developer come in and tell us, actually they saw me in the street. You guys got too much parking.

But the thing is three rows you have cut off. And I forgot exactly why they use those three rows. You've got to get there before a certain time.

You don't park in the other three rows and when I'll go through the lot there is some Maryland tags, but there are a lot of District tags in all those. All right. Thank you. Commissioner May.

COMMISSIONER MAY: Yes, so I forgot to mention this one before and I do want to come back to the couple of other issues that I raised earlier.

One is that the, on 1907, this is on Page 4. We've changed the excess parking penalty, if you will, to require additional TDM measures if the excess parking space is greater
than, instead of 1.5, two times the minimum parking requirement.

We first of all back, you know, I agreed that a threshold of 20 spaces for this to kick in made sense. I'm okay with that. But I'm not convinced that we should go from 1.5 to two times before TDM kicks in.

You know I think that actually this is a good method of persuading reduced vehicle presence. You either you know, if you're going to go with that many more extra spaces than are the minimum required then you need to do things to encourage people not to use cars.

But otherwise if you, you know, it might inspire people to only do one and a half times the limit. So I mean I was okay with one and a half. I don't see why we would want to increase it to two times. And I wonder what the Commission, my fellow commissioners are going to say about that?

And then I'm wondering what we should do about what language we setdown because
I heard three commissioners speak about, speak of their disagreement on 1902.1, (a) and (d) being struck and three commissioners also speak against adding the language in 1902.3(b)(2). So what do we do in those circumstances?

CHAIRMAN HOOD: Let me ask this, was this information advertised already?

MR. LAWSON: No, this is coming before you to see if you would like to set it down, you know, as alternatives to what we've already brought forward. So it's definitely public, it's out there.

CHAIRMAN HOOD: Okay.

MR. LAWSON: It's on the websites and everything but it's not being officially advertised if that's what you mean?

CHAIRMAN HOOD: Well from my standpoint, I you know, what I understand, we want strike and cut and paste. And since this is out there, it's been public. We can always make changes and cut things out. And I heard my colleagues say, you know this is out there, this
is what people have had a chance to digest. And I think this is what I would like to hear them talk about at the alternative hearings.

COMMISSIONER MAY: So I wonder whether though in order to recognize the concerns that we have initially about this and making sure that's communicated to the public, that we advertised two versions of those sections.

COMMISSIONER MILLER: I think that would be a good idea. I would concur with advertising in the alternatives since three Commissioners were somewhat uncomfortable with.

COMMISSIONER MAY: And again, it's not because we're trying to steer in a particular direction, but just to make sure the people are aware that this is something under debate. Because if we simply advertise the language as it was presented to us, people might get the incorrect impression that we're all good with that.
And then you wind up having

discussion and you wind up changing it and then
people are unhappy about that.

CHAIRMAN HOOD: My only comment is

that I just think it's going to help with
discussion, I don't have anything as far as an
alternative. I didn't want to take it out and
then not be able to get public comment.

COMMISSIONER MAY: Oh and I'm fine

with that. So if we could advertise two
versions of it I'd think --

(Simultaneous speaking)

CHAIRMAN HOOD: And I'm fine with

that.

COMMISSIONER MAY: Okay, so then
can I also suggest that we advertise 1907.3(a)
with two versions of it? One the original
version, or sorry, one with two times and one
with 1.5 times because again I'm okay with the
20 space minimum, or the 20 space threshold.

COMMISSIONER MILLER: I would

support that. And with the other, what the Vice
Chair --

CHAIRMAN HOOD: I don't have a problem as long as we have it out there, I don't have a problem. I'm not, I'm going to base a lot of my decisions on public comments, what I hear, what I think is best for the city zones. Anything else on this?

(No audible response)

CHAIRMAN HOOD: All right, let's go to green air and ratio. I'm going to switch it up. Commissioner Miller.

COMMISSIONER MILLER: I have no comments on green air ratio. I think all the changes are good changes.

CHAIRMAN HOOD: Okay. I will ditto, echo that. Commissioner May or Vice Chair Cohen.

VICE CHAIR COHEN: Me too because I think that the proposed changes take into account some of the feedback we did get from the public, so I support my colleagues.

CHAIRMAN HOOD: Commissioner May.
COMMISSIONER MAY: Sorry I have a question. 3402.8(b) where we talk about the definition of vegetative walls and how the area is calculated.

So what we say is, "the area calculated is the height and width of the area to be covered by the vegetation". So are you saying height multiplied by the width?

MS. VITALE: Yes. It would be the area of coverage of the green wall.

COMMISSIONER MAY: The area, okay so I mean, I --

MS. VITALE: And we can clarify --

COMMISSIONER MAY: It should be, because it's portraying it as if it's a calculation and yet it's not.

COMMISSIONER MILLER: It's height and width.

MS. VITALE: Sure we can revise that.

CHAIRMAN HOOD: Okay.

COMMISSIONER MAY: Thank you.
CHAIRMAN HOOD: Let's go to lighting summary. Commissioner Miller.

COMMISSIONER MILLER: I think it will be interesting what reaction we get from the people who know a lot more about this than I do. But the only comment I had, I mean I had this brought to us by the Naval Observatory and then we expanded it to include the entire city.

My only concern I have is I think the Navy needs to be some kind of catch all, or special exception, or just an exception for security and safety. I don't see any reference, and maybe I --

MS. VITALE: I believe we have that, I think if you look on the last page of the proposed language, under the prohibitions. Well we actually say, you know, building illumination, you know limited to security lighting.

And I think there is other language in there that gets at that issue of kind of an exception when lighting is necessary for
security. I think section 700 --

VICE CHAIR COHEN: Point one.

MS. VITALE: -- as well. Where it talks about hours and goes on to say that the hours can be extended if it's for security lighting, if you're illuminating a pathway, or a building entry, or something of that sort.

We can certainly look at making that language more clear and pulling that out specifically that for safety and security.

COMMISSIONER MILLER: Yes, I appreciate pulling it out from where it is. Where it is highlighted I think it may need to be highlighted a little bit more. So if you could just look at that.

MS. VITALE: We can.

MR. LAWSON: Sure, and certainly the intent of this is to make sure that the lighting does not cause problems with security and safety. Our intent is that any of these restrictions would not result in a situation where there would be an unsafe situation.
So we're also looking forward to feedback on this to make sure that what's being brought forward will not tend to result in that. At least certainly not more than the current situation where of course the zoning regulations don't really regulate external lighting at all.

COMMISSIONER MILLER: Right.

MR. LAWSON: So don't really address the issue of lighting and safety. But we're happy to take a look at this and certainly providing some kind of an escape clause.

COMMISSIONER MILLER: Yes.

MR. LAWSON: Which is maybe what you're after?

COMMISSIONER MILLER: Yes, that is what I'm after, so I appreciate that. I think I remember a recent case where they, it was being proffered that they were providing additional lighting in the alley or where ever because it had been a tradition high crime area. And then that we felt that was --
MR. LAWSON: And that's why it will be very desirable. So this isn't really so much about having less lighting, it's about using lighting more strategically, using it smarter. And when you have lighting making sure that the lighting actually shines on what it is that you want to illuminate and not everything else that doesn't need to be illuminated.

COMMISSIONER MILLER: Right. I understand. So I appreciate that, and so on 800.2 is says, you may need an escape clause here too, "The hours of operation for the lighting system for any game or event shall not exceed one hour after the end of the event".

Depending upon, you know, how many cars went to that event or it may be more than one hour. It just needs some, a little bit more flexibility unless you're defining the event as getting all the people who came to the event --

MS. VITALE: No, we can certainly provide that and like we said, this is a new
provision. And any thoughts or comments that
you have --

COMMISSIONER MILLER: And I'm
thrilled to allow public comments because it is
a totally new thing, so that's good. That's all
I have. Thank you, Mr. Chairman.

CHAIRMAN HOOD: Thank you and I
would agree with the last comment of
Commissioner Miller. Some people may have had
a drink or two and make that little hour, longer
than an hour to get sober to drive home safely.

So anyway, help me understand 700.1.
I'm going back and forth and I know it's probably
really easy, I don't want to say zoning dummy.
How'd you like to say ease of use? Help me
understand 700.1, Ms. Vitale?

MS. VITALE: I think this is just
saying that you would have an automatic cut-off
or an automatic shut-off for exterior lighting
that would, you know, make sure that those
lights get turned off between 10:00 p.m. and
6:00 a.m.
With the exception then that you could have outdoor lights stay on between those hours if you need them, you know, for the use. If they're for, you know, be illuminating flags or other kind of civil structures.

And then if it's obviously security lighting or pathway lighting or that sort of thing. I think it's basically to say that cut-off switches for lighting that's not, you know, necessary for safety or security.

CHAIRMAN HOOD: So should we spell that out, or is it, I'm just thinking for to me it wasn't clear. That's what I was trying to piece out.

MS. VITALE: And we can, we can certainly --

CHAIRMAN HOOD: Clear it up a little bit.

MS. VITALE: Clear that up.

CHAIRMAN HOOD: Something between 10:00 p.m. and 6:00 a.m. if it's not of use, it automatically cuts off the service.
MS. VITALE: It would have a cut-off switch.

CHAIRMAN HOOD: If it doesn't affect safety or security.

MS. VITALE: Correct.

CHAIRMAN HOOD: Okay.

MS. VITALE: And we can, we'll look at that language.

CHAIRMAN HOOD: Good and I really appreciate us looking to put this in as Commissioner Miller has already mentioned, putting this section into the regulations. Okay, Vice Chair Cohen.

VICE CHAIR COHEN: Thank you, Mr. Chairman. I would concur with some of the observations of my colleagues. The only thing I have to add is that I was happy to have the discussion referred to the Sustainable DC Plan.

CHAIRMAN HOOD: Okay, Commissioner May.

COMMISSIONER MAY: Okay, so I agree with what's been said so far and I agree
wholeheartedly in the concept of including this in the zoning regulations is some form. But I have to say that the way the regulations are written, I just see a lot of potential pitfalls and problems.

Let me ask one specific question. A light bulb of 10,000 hours, what is that? Is that going to be LED or is that going to be compact fluorescent? I mean what technology gives you 10,000 hours?

MS. VITALE: I think we would need to look into this and get back to you with --

COMMISSIONER MAY: So and I think that's one of the things about it. Because it you know, LED lighting is still very expensive right now. It's going to get cheaper in, you know, five years from now it may be no different whatsoever. But it's an expensive difference.

I think also that light fixtures that are good at shielding the light source, so that it doesn't bleed into an adjacent property kicks you into another level of expenditure for
those light fixtures.

I don't know if you know much about how light fixtures, how much they cost, but you can buy one for 5 bucks or you can buy one for 500.

And they do kind of basically the same thing. And you're not going to get the kind of baffling, and directionality out of the $5 fixture that most people are going to buy.

Now I'm not worried about commercial developments, I think that there's, you know, the standards there are very different and they are going to be buying the $500 dollar fixtures because they're, it's a more strategic investment.

But I think there are a lot of areas where we're kind of venturing in. You know we have statements like, pedestrian walkways shall be illuminated with a half a foot-candle.

So does that mean that even though I don't ever require at my house to light the door, because it says only on, you know
non-residential structures you have to light
the door.

But I have a path leading up to my
house, and it's you know, and it's dark. So
does that mean I have to maintain half a
foot-candle there?

There's just a number of areas like
this where I feel like we haven't quite thought
this through enough. And I think some of the
requirements might be onerous as they are
applied to home owners.

And so I personally would recommend
that, you know, as important as this is, that
we actually take this up as a separate issue and
not in ZRR.

Like we have done with a few other
issues to accelerate them, this one I would do
it maybe just put it on a different track so we
really do think it through and make sure it
meshes with the green area ratio requirements
and other sustainability issues that we're
assessing.
I just was very uncomfortable reading that whole section.

VICE CHAIR COHEN: Mr. Chair, I'd just like to make one observation on the expense of use, LED light. There's been a lot of studies done that not only that may be more expensive --

(Off the record comments)

VICE CHAIR COHEN: -- but they have longer life spans and they also save money if we use them on your monthly bills. So, and I've experienced that personally.

COMMISSIONER MAY: But I agree, and I tend to buy more expensive fixtures myself. But you know when you have a choice between buying one that's 5 bucks, and one that's 100 bucks, and the 100 buck one is what you need to, you know, to control the light bleed off of your site.

I mean a lot of people are not going to be able to afford that difference. And I don't, I think that we have to understand this
more fully.

I mean I'm fully in favor of buying the more efficient light fixtures and the better light fixtures, the sturdier ones, the ones that are going to last longer, but they're not always necessarily in everybody's budget. And you have to buy the cheap ones.

CHAIRMAN HOOD: Why don't we take self out of it and let me go to Commissioner Miller, why don't we take self out of it and try to think of a city as opposed to what we personally do when we do it the right way. So that's just my opinion, I just threw that out there, no comment. But let's take self out of it. Commissioner Miller.

COMMISSIONER MILLER: Thank you, Mr. Chairman. I would support separating it out. It's a big issue and I think it needs maybe a separate focus. We only recently received the one comment from one entity.

And I think there does have to be a lot of outreach to a lot of folks. It's not just
the home owners that might be adversely affected. I think maybe all residential development and the costs of housing is something that we actually take into account.

And I also don't know and I'm sure we would have gotten this at the hearing, but and it may be just having different folks to find from on -- DDOT you know, I know there is a sustainable plan, I know there's a light fixture plan in all the alleys at least to change them into to be more environmentally energy efficient and everything.

But I think I would have a better comfort level if it was separated out. We're going to include new chapters, or revised chapters, the things that would rise higher to the list, I'd like to put into the ZRR right now.

Like, which we've had a lot of public testimony on, and that's for example inclusionary zoning and having deeper affordability levels. So I just raise that, not taking the self, looking at the big picture.
This is a new issue, we don't have a lot of testimony on it. There are a lot of, it affects the entire city. I think it would be good to consider it separately and not hold up the ZRR because of any pitfalls that might be raised and not overly prolong our, the hearings that we're going to be having on this alternative text.

CHAIRMAN HOOD: Well I think we, the Vice Chair needed to say it. I think we do have a number of things that Office of Planning has recommended we take out. And I'm actually persuaded by both arguments. I would be in agreeance. Let me hear from the Commission.

VICE CHAIR COHEN: I was going to suggest that we do put it in the setdown to get feedback. It may not be as controversial as we think. Or we could also get the feedback to help us actually make modifications that are acceptable. So I disagree with my colleagues.

COMMISSIONER MAY: Can I ask a question of the Office of Planning?
CHAIRMAN HOOD: Oh, sure. Isn't that what we've been doing?

COMMISSIONER MAY: So I guess I'm interested in what your take is on this. I mean do you feel like this is really fully baked and ready for, you know, public audience? Or would you actually welcome some additional time?

(Off the record comment)

MR. LAWSON: I think the Office of Planning is pretty precious right now, but I think we would welcome public discussion on this.

(Off the record comments)

MR. LAWSON: Now whether this happened through ZRR or whether it happens through a separate kind of standalone as you're absolutely right, we've done with a number of other issues, including GAR with you in the past.

I don't think that we have a strong opinion on that one way or another. It's really what you all are more comfortable with.
We absolutely agree that this kind of came at us, you know, in pretty short order. We wanted to have something to you that was part of this package so that you had the option of moving forward if you were comfortable with it. If you're not comfortable with it, then we're certainly comfortable with whatever your decision is in terms of process.

CHAIRMAN HOOD: Okay.

COMMISSIONER MAY: I appreciate that. Yes, I'm going to stick with my initial reaction that said it's best taken out of this and dealt with separately. I'm totally in support of doing this and getting public input as soon as it's ready for that.

But you know there is so much that we are trying to digest and write and rewrite in our process for the ZRR that I just think we're better off focusing on the things that we've already been dealing with rather than take on something that seems so new and potent and important as well.
COMMISSIONER MILLER: If I could add, I would prefer that option. Not so strongly but I just don't even know whether the District's buildings, has this been vetted with DGS? Do we have that, whether -- the District Government is subject to zoning.

Is, do we know whether all of District's inventory -- there are a lot of questions and I don't know if it's been -- I think we may end up getting a separate whole day of hearings if we have it as part of ZRR, so it may be the same difference if you're going to have a separate day of hearings for this in or out.

So it may not matter. So I don't feel really strongly but I do think that there are a lot of questions that need to be answered.

CHAIRMAN HOOD: Yes, actually the Vice Chair persuaded me, I thought she brought up a good point. How many years you been, no, I'm just playing. I knew you felt --

(Simultaneous speaking.)
CHAIRMAN HOOD: -- and yes, because she was saying we'd get public feedback. Well I think we'll get it, I was ready to go back on over it with the Vice Chair, not that I'm waiving, but I think Commissioner Miller brings up a good point.

We haven't even talked with DGS and others so I think I would support taking this out for the time being. Okay. All right. Anything else?

VICE CHAIR COHEN: Yes, I'm just commiserating here so, I --

CHAIRMAN HOOD: Well I've been there before.

VICE CHAIR COHEN: Yes, exactly.

CHAIRMAN HOOD: Quite a few times actually. Okay, let's so we'll take that out and then that'll give Mr. Lawson, you all some more time as you mentioned.

Strong arm you, and give us some more time to look into it at some of the issues that both Commissioner May and Commissioner Miller
had brought up. All right, so we straight on
lighting summary? Okay, let's go to accessory
apartment summary. Commissioner Miller.

COMMISSIONER MILLER: Oh, I'm still
on for number one, okay. I support some of the
changes that were proposed. I, OP in response
to public testimony and Commission concerns
about let's see, getting rid of the minimum lot
size, getting rid of the minimum house size and
the certain access width provisions.

Because all those as you pointed
out, that cuts out all these points out that were
overly restrictive and would serve as a
disincentive to having accessory apartments.

However, I strongly oppose the
additional compromise by the Office of
Planning. This is at least the second or third
compromise on this issue that would be being
made, to require all accessory apartments and
accessory buildings to go through a special
exception process.

You already compromised to require,
and we read, and so did advocates of accessory apartments, that if whether it was going to be a new building or whether there is going a substantial addition to an accessory building that, that would to go through a special exception process.

And I think that was a very responsive approach that Office of Planning and the Commission took on this issue.

So I think that when you have an existing building that is not being altered, that can be easily converted to an accessory apartment unit, where the need for affordable housing, really for any kind of housing in the city affordable or not affordable, but particularly for affordable housing is so critical it's listed as a civil priority in the Comprehensive Plan to expand the supply of affordable housing.

And so I cannot support the additional compromise that's proposed here that would require all accessory apartments and
accessory buildings to go through a special exception process.

That can be a real burdensome process for an individual home owner and they just will either do it illegally as I guess is being done now, or it won't be. Or the housing just won't be provided.

So it likely, I could potentially tuck in the vehicle parking area. I would suggest that we, it's depending on where my colleagues are on this, but I would concur to maybe just advertise this and add parking to the alternative.

CHAIRMAN HOOD: I'm going to speak to that same subject. I actually like the alternative, of it being a recommendation of special exception.

Any time you can you get public input and I think this is very critical, where there's no existing. I think this is very critical, but I don't have a problem going with as Commissioner Miller and let's see what the
Let's just leave it, put what Commissioner Miller said in there and leave what's in there, what's already being recommended, the compromise from Office of Planning, the special exception which I'm totally for with the accessory units and let's just see what the public says. And we'll go from there. Vice Chair Cohen.

VICE CHAIR COHEN: Thank you, Mr. Chairman. I strongly concur with my colleague, Commissioner Miller. I think that we're at a point where as a city we are obligated to create more housing. We're in a crisis.

Of course many of us do have our own homes but there are a lot of people coming into our city on a monthly basis. I think the estimate was a 1000 people per month.

And we have high, high need as supported by the DC Housing Authority waiting list of 70,000 households. And we have many, many homeless. I think the data suggests 7,000
people.

Accessory apartments provide an alternative of affordable units. Many of them form a city of English basements, and many neighborhoods already have them, Georgetown, Dupont Circle, Capitol Hill.

They did not have to go through a lot of process to become English basements. It's the same, it's a sexier word. So I'm very, very concerned about the need for affordable housing and many cities throughout the country are looking at accessory apartments as addressing some of the need.

But I also think that one of the areas that we're seeing change, is that seniors are able to stay in place for a longer period of time. There's a creation, something called a village which provides support for seniors who do want to remain at home.

Some seniors will need help. They may need, either a family member or an outside person to come live with them, not necessarily
in their home. They want their independence and accessory apartments would probably provide that for them.

And to subject them to any process other than the process of getting the proper building permits and proper certificates of occupancy, I think that's enough process for them to go through as opposed to going to zoning for an exception.

So I'm looking at it as an opportunity to meet the desperate housing needs of many people in our city as well as the seniors who may want to have family members, or caretaker come live with them and maintain their independence as long as possible.

So I will go with the exception, you know, the second discussion we sent out, being published which is we've already compromised once. And I think this is watering it down too much and it's bad public policy.

MR. LAWSON: If I may, Mr. Chair, because I want to make sure that everybody is
clear on what it is that we're proposing.

In the last, in the previous proposal, we had proposed that an accessory dwelling be allowed within a principal dwelling where the lot conforms to the zoning regulation requirements by right.

And it would be allowed within an accessory building that exists, by right. And it would be allowed within a new accessory building by special exception.

What we're proposing now are basically a couple of changes. Number one is, Commissioner Miller pointed out, we removed, we were proposing to remove the requirement that the house be on a lot that conforms to the area.

That is going to enormously increase, more than double, but enormously increase the number of properties where an accessory dwelling unit would be possible by right. Because that would be allowed by right within the house.

What we're proposing to change
because we've heard, I'll use the word vociferous, concern, from all parts of the city, all parts of the city, that there are a lot of concerns about the ability to do an accessory dwelling unit within an accessory building.

Now we made be able to address some of those concerns if the Commission decides that, that should be, continue to be allowed the way that we proposed it originally.

There may be some ways that we can address some of those concerns through setback requirements, through, you know through some means like that because it is about, most of the concerns that we've heard, not all, have been about neighborhood character.

And preserving residential neighborhood character there may be some ways that we could tweak the existing regulations to address those more.

But that's, so the change that we proposed to accessory buildings affects buildings on, that actually is a relatively,
compared to the change we proposed, lie in a relatively live-in scope because of some of the other conditions that are needed to, that would have been needed to be met to do the by right accessory dwelling unit on an accessory lot, or sorry, an accessory building.

Anyways I'm afraid I'm confusing things more than explaining them now, but I can start, hopefully I won't have to start again. I just want to make sure that it was clear what it was that we were proposing here.

We're happy to take the feedback from the Commission, and I guess that's all I've got.

CHAIRMAN HOOD: Okay. Commissioner May.

COMMISSIONER MILLER: Okay, I am now confused, sorry. Yes, I think generally speaking I am supportive of advertising this as an alternative because it may be that what we had before was in some ways better.

But actually it may be that a hybrid,
of the old and the new, may be the ideal circumstance. And maybe there are some other suggestions that occurs, some other requirements such as setbacks that would actually address some of the concerns that were raised in those vociferous comments.

I do want to make clear on something though for the residential flat zones. So that's formally R-3 and R-4, no R-4, right?

So residential flat zones, you can still have, I mean it's flats, you get two units.

MS. VITALE: Correct.

COMMISSIONER MAY: And those two units can be in the principal dwelling, or can it be in a principal dwelling and in an accessory building?

MR. LAWSON: I believe our intent was, that if you could meet the requirements of the zoning regulations, it's pretty hard to do. To do the second unit within an accessory building, that, that would continue to be allowed in R-4.
COMMISSIONER MAY: And had to do with the alleys?

MR. LAWSON: That's the main thing, is that's in the alley. Yes. Or some other, providing some other access to the --

COMMISSIONER MAY: So as I read it, you're relaxing the width of the alley requirement in the R zones now. Right, so that it's not, it used to be spelled out that it had to be 24 foot wide, public way, or something like that. Now some of that has been relaxed?

MR. LAWSON: I see what you're saying. Yes, absolutely because now it would be by special exception. Every case could be reviewed by the fire department, by the police department to make sure that, that accessibility could be provided.

COMMISSIONER MAY: Got it, okay. But that isn't going to help on a, in a flat an RF zone where there might be a 20 foot alley instead of a 25 foot alley?

MR. LAWSON: That, if my memory and
the R-4 regulation I wrote is correct, then yes.
For that you would need a special exception and
that would be to allow for that review to happen.

COMMISSIONER MAY: Okay. Yes, I
mean given the number of things that are up in
the air, it probably is worth advertising the
alternative. You know both what you proposed
tonight and what was previously proposed, and
again some mixture of that might be where we wind
up landing to get the maximum impact and
flexibility.

I do think that we, you know we
should be trying to encourage accessory
apartments to the greatest extent possible, but
we also don't want to create, you know
automatically create objectionable conditions
for neighbors, such apartments.

But the objectionable conditions
have to be you know, real concerns and not you
know, imaginary ones or you know, the fear of
the unknown. It has to be based on real
instants in the past.
I do have a couple other questions. One is that the, on 1606.4 and I know this was in the regulation before, but the aggregate number of persons that may occupy the house and the accessory apartment shall not exceed six.

So that means that if I have a family of five and I want to have grandma and grandpa live in a separate apartment over the garage, it isn't going to work?

MR. LAWSON: No, as family members that would be permitted. This is all kind of spelled out in definitions and thing like that, but family members, this would not apply to family members. Now if you had seven or five people who you wanted to rent out your unit to, an unrelated couple, that would be a problem.

COMMISSIONER MAY: So I'm a family of five, and I have a young couple living in the garage, that wouldn't work?

MR. LAWSON: That would be contrary to the regulations, yes.

COMMISSIONER MAY: Okay, so I think
that's problematic. And I just think that the
number of six seems, I mean a family of five is
not that unusual. I happen to have a family ofive, but that's not about me, Chairman Hood.

CHAIRMAN HOOD: Thank you.

COMMISSIONER MAY: But I think it
actually it is quite common for people to have
more than you know five or six people in the
household and then it kind of rules out the
possibility that you can make use of that
accessory apartment.

And I'm not sure that's what we
should be doing. Maybe we need a limit on the
number of people who can be in the accessory
unit, as opposed to the aggregate? I don't know
but I would appreciate some thought on that.

Then the last thing I would say is
on 1606.6(c)(2), the safe and convenient
access, I see that, that has changed from what
was, you know before it used to be ten feet, now
it's eight feet. So that means if you have a
nonconformant side yard of seven feet on both
sides, you could not make use of your accessory apartment.

MR. LAWSON: Not by right, not by right.

COMMISSIONER MAY: But these are all by special exception anyway. These are conditions for special exception. 1606.6 are the conditions for special exception. And the applicant has to demonstrate that he's got eight foot side yards.

MS. VITALE: That's the way it's written, yes.

COMMISSIONER MAY: Yes. So I think that is problematic. I'm not sure how many, you know if we now change the conditions for accessory apartments to allow houses that are not currently conforming.

One of the areas where they might not be conforming is the side yards, or width of yards or things like that. So you may actually with that condition take out some of those.

MR. LAWSON: Yes, we're happy to
continue those discussions. These were based on again discussions with the fire department. They want to make sure that there was you know, that accessibility.

If the accessibility to that accessory unit's through that side yard, they'd originally requested ten feet. And we said well, and that's what we originally proposed.

And in this round we're proposing eight feet because that is consistent with the required side yard in the area. But we're happy to take another look at that and see if there is some comfort in either removing that number or reducing that number.

COMMISSIONER MAY: Yes, I would appreciate your looking at that, I mean I'm curious as to why the fire department thinks that eight feet is that much better than six feet?

(Simultaneous speaking)

COMMISSIONER MAY: -- three abreast or something like that.
MR. LAWSON: We didn't discuss --

COMMISSIONER MAY: -- they're not going to be driving a vehicle through that.

MR. LAWSON: Yes, no they would not. We did not discuss that number with the fire department, the number they suggested to us was ten feet.

COMMISSIONER MAY: Right. So it may well be that in circumstances where there is not other vehicular access to the accessory apartment, because I mean typically this is going to be a garage, right?

An exterior garage building or out in the back, it might be out in the alley and the alley might be accessible to a fire truck in which case, what's the point of having an eight foot side yard?

MR. LAWSON: And I totally understand your point, in going through special exception, the point of it is to access that. But one of the points of that special exception review is to access that accessibility.
COMMISSIONER MAY: Right and I agree with that but again this is one of the conditions of the special exception that you have to meet.

MR. LAWSON: Exactly.

COMMISSIONER MAY: So it waivable or something. Okay, thank you.

CHAIRMAN HOOD: Okay. Ready to move on?

MALE PARTICIPANT: Yes.

CHAIRMAN HOOD: Let's go to the corner store.

MR. LAWSON: That's great. Can I, I'd just like to ask one question because I want to make sure that we're clear as we're writing anything up.

When you said that you wanted it advertised in the alternative, I wasn't sure if you were, you as a body, were intending that all of our changes including the reduction in the lot size, and all these other changes be advertised in the alternative.
Or just that one provision related to accessory apartments and accessory building being by special exception or by right?

CHAIRMAN HOOD: From my understanding, I think it was the later.

VICE CHAIR COHEN: Yes.

COMMISSIONER MAY: Yes, I think it was well, I mean it's all under 1606.5, right? So you're saying that is it all of 1606.5, or is it just the first paragraph of 1606.5?

MR. LAWSON: Well I was more getting at how broad did you want the alternative language to be? Because if obviously, well obviously people can comment on it anyways.

It's just a question of what it is that you're specifically requesting feedback from the community on and you know, Option A or Option B scenario?

VICE CHAIR COHEN: I would like you to go back to the original language.

MR. LAWSON: Well and that's assuming that there was a language advertised
in the alternative, that's true.

VICE CHAIR COHEN: I think there was.

COMMISSIONER MAY: So I'll try to clarify, so one you could advertise it as you have proposed it here tonight. And you can advertise it without the changes that were proposed here tonight.

And that would get everything out there but it wouldn't necessarily get them out there in the right combination that some people might want to see which is the minimums, house area being reduced. But the special exception not being introduced, I heard support for that kind of a position.

COMMISSIONER MILLER: So it may be in this case, if I could add, maybe a hybrid or a second alternative --

VICE CHAIR COHEN: Right.

COMMISSIONER MILLER: -- could be suggested by Office of Planning to try to address some of those issues that --
MR. LAWSON: I would suggest this is
given timing, and since my understanding was
that you were going to do something with this	onight, then I think it's important that
something happen tonight.

This is kind of the last
opportunity, the last realistic opportunity
before your August break. We're happy to
certainly examine some of those other
alternatives, but if you're proposing to
setdown some language, I think I just wanted
some clarification of whether you were going to
setdown some language and if so what that was
going to be? Just so that we know --

(Off the record comment)

CHAIRMAN HOOD: Hold tight.

Commissioner Miller did you have anything you
wanted to?

COMMISSIONER MILLER: I was just
going to throw out the suggestion that maybe
between now and two weeks from now, you could
reduce this to an options paper that give you
direction on. I don't know if you want to put it off though that way -- you don't want to put it off?

CHAIRMAN HOOD: Oh now, you know what, we can do whatever we want, I mean, we can set it down, and we can look at options in two weeks at our meeting. I mean come on, I don't want to sound like we're all out, but there's no limits.

MR. LAWSON: Yes.

COMMISSIONER MAY: Can I make a different suggestion which is that in order to keep it simple, as we have done before with the other ones where we had some concern about the proposed new language, that we simply advertise what you've shown us tonight.

And then advertise the other version, in the alternate. And then we just have a hearing on all of it. And when we actually wind up making decisions about this, we can you know, mix and match whatever language at that point.
CHAIRMAN HOOD: You know what, we spent ten minutes doing exactly what I thought we did say we were going to do early on. That was exactly what we said we were going to do.

I don't know Mr. Lawson, if you, I'm just talking to my colleagues here, but I don't know if we made that clear. You're unclear on what direction we're trying to move in?

VICE CHAIR COHEN: I would like to just say that there are some changes you made in the language, which you show that, you've crossed out things. To make this more of an exception and as a right, and I would go back to the original and at least that's my opinion. I don't know again what Commissioner Miller --

(Off the record comment)

VICE CHAIR COHEN: Commissioner Hood, and Commissioner Mr. May feel. But I would like to go back original.

COMMISSIONER MAY: So, and that's essentially what I was suggesting. That we advertise the languages that appeared before us
today, and the original language.

VICE CHAIR COHEN: Exactly.

COMMISSIONER MAY: I'll leave it at that. And that's where the Chairman was in the beginning.

CHAIRMAN HOOD: That's where we were early on about what, fifteen, twenty minutes ago.

COMMISSIONER MILLER: Mr. Lawson did educate, me at least, as to how some of the changes you made would open up accessory apartment capability. So, yes I think that as they were suggesting the advertising alternative will cover it all. And we'll get good technical feedback on it all.

CHAIRMAN HOOD: Okay, anything else? Mr. Lawson are you straight? Are we straight?

MR. LAWSON: I think that Ms. Schellin is straight, so ---

CHAIRMAN HOOD: She's used to working with us being so complicated. She's
very used to it. Okay, let's go to corner
stores and we'll start off with Commissioner
May. He knows how to start on the Vice Chair
and I. Commissioner May.

COMMISSIONER MAY: Why thank you.
I have, I really only have one comment. I think
generally speaking the further modifications
are fairly modest. I believe that expanded
availability of corner stores is an important
concept in the new, in the revised zoning
regulations.

And I think that some of the concern
that we have are that, you know, while they're
desirable and work well in some neighborhoods,
they're not always a desirable presence in every
neighborhood. Particularly when alcohol sales
are involved.

And so I think the only question I
have is whether it might make sense under
1605.12 where we are, let's see, where we start
to talk about -- I'm getting to the right one
-- where it says under (f), a maximum of fifteen
percent of the gross floor area may be permitted by special exception to be devoted to the sale of alcohol for off-site consumption.

And I'm wondering if that special exception needs to be time limited within the regulations? In other words that, that's something that's available only for three years and needs to be renewed or something like that?

And I don't know if the three years is the right number, but you know, ABC licenses are not indefinite. They're time limited as well. I don't know what the timing is on those but I'm just thinking that, you know, that's the sort of thing that's most likely to become objectionable.

And it may be that it should be timed to the ABC licenses or something like that. Or as long as the ABC license is in place so that, you know, the zoning disappears if they don't behave well, if the operators don't behave well. That was my only suggestion.
VICE CHAIR COHEN: Commissioner May, I would concur with your comments. But also I think corner stores serve a purpose. They're very convenient, they enable people on the way to or from work, often to stop by and purchase things.

My concern is not so much the corner stores, my concern is with the enforcement of the requirements that govern corner stores. And I believe where public comment was made, more of it had to do with an enforcement issue.

And again I think that each neighborhood needs to demand that corner stores do not fall into bad practices. But I think what we have in front of us, is acceptable to me. No problems.

CHAIRMAN HOOD: Okay, Commissioner Miller.

COMMISSIONER MILLER: Yes, I concur generally with the comments of Mr. May and Vice Chair Cohen.

I would note that the existing ABC
statute, and has for some time, generally prohibited any retailers ABC license in a residential zoning, residential use district as defined in the zoning regulations, Section 25-336 of the DC Official Code.

And I think maybe Office of Planning just needs to look at that because maybe this special exception will never be of value because they're not going to be able to get license according to the law, unless the Council changes the law.

The community just needs to have a reference at least to the law. And maybe that would alleviate some of the concern in the community that right now, you can't get an ABC license, a new one. Maybe there are some that are some that are going to be grandfathered in, that have been there forever in the neighborhood.

But so I think that they just need to take a lot at that and at least have a cross reference to it. If not, line them up together.
CHAIRMAN HOOD: Okay. My only comment Mr. Lawson, is what I told you. Is, I can't find it now it's my time. There was a reference to three squares, like 1357 or somewhere in the corner store --

COMMISSIONER MAY: Page 2, 1605.5.

CHAIRMAN HOOD: 1605.5?

COMMISSIONER MAY: Yes, Page 2.

CHAIRMAN HOOD: Yes, that's it. Thank you, Mr. May. 1605.5, a corner store shall not be permitted, then it says (d), on an R zoned lot within Squares 1327 or 1350, I don't know, what are squares 1327, 1350 and 1353?

MS. VITALE: Sure as you can see from the discussion in the far right column, this is to address the historic Foxhall Village that was a planned community that had the low density, commercial kind of integrated into that neighborhood. So those squares are referring specifically to Foxhall.

CHAIRMAN HOOD: So what happens in other areas of the city that may fall, I mean
are we sure there are no other areas that fall into this category?

MS. VITALE: We don't believe that there are other communities that would fit the same profile as Foxhall in terms of being this historically canned community. But that doesn't mean it, commercial within it, fit, that would have the same kind of R-3 or R-4 zoning in close proximity. We do think this was a unique situation.

CHAIRMAN HOOD: Okay, I don't usually have problems with it, but when we start singling out squares and lots in the city that's got their final zone and regulations and later on we'll see something, we'll have to add something, the 1327, 1315, 1353. We have to come up with 1425, and 1416. And then two weeks later we'll have to come up with 1708.

I get very concerned about this because this has happened in the past. I'm going to make sure that we've gotten all of it in. Is there something else we can do, that we
do not disturb what's over in the Foxhall area
but also captured in other areas. You know
that's kind of where I am.

This is not the first time we
identified a specific square or lot. And we've
had to have like four different additional
hearings to do amendments to add on. That's
just something, not that I'm saying we need to
do away with it, but I just want to make sure
we capture it.

MS. VITALE: Yes.

CHAIRMAN HOOD: That's all I had on
the corner stores. Anything else? All right
let's go to camping in alleys summary. I'm
actually going to start on this. It's just
again, this is a tiny, are these the tiny houses?

MS. VITALE: That is where this
issue originated. But I think that, we want to
be clear that we're not opposed to the concept
of a small house, sited you know with access to
water and sewer, on a lot, you know, either an
alley lot, or on a you know, a regular lot.
But this does get to the issue of temporary living in these quarters and places where there might not be sufficient sewer and water or you know, actual you know, hookups for those types of facilities.

CHAIRMAN HOOD: I think it's, when I look at the regulations I think it's a little more than that. I think it's, I know this is a good stab at it. But I think there's a little more to it, more on, I see where it says, "No camp or any temporary place of abode in any tent, wagon, van, automobile, truck, or trailer of any description shall be permitted on an alley lot unless approved as a special exception subject to the following conditions.

The use shall be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, parking, lighting, sanitation, or other" -- "open fires shall not be permitted. The use shall not be approved for more than two consecutive weeks and no more than one month per
calendar year".

So what are we saying there? Are we saying you can only setup, you can setup, because I know they're having parties in particularly in Ward 5 on some of the tiny houses which are on trailers. That's how they get around zoning.

So I mean how is that going to, we've heard testimony about those tiny houses. How is that going to give some of those communities some resolution from this further happening in their communities and people partying and saying that we're allowed to be there because first of all we sit up on a trailer. Help me through all that. What's being proposed here? Help me through that.

MS. VITALE: I think what we're saying here is that again, use of a property either a normal lot or an alley lot, with a non-temporary structure would be acceptable.

Whereas, and this is also in the police regulations, that the temporary
establishment of say a camp or other, you know, non-permanent housing structures that, that wouldn't be acceptable.

And we're trying to place someone that's here in terms of timing, and then the requirements to seek special exception approval to address those issues.

Again the police regulations they set a 30 day limit and they also require consent from the mayor for establishment of something, again temporary camp.

CHAIRMAN HOOD: So, I'm just trying to see whose got tiny, I'm typically interested in those tiny houses which basically have been there for months.

How do, will this go to future tiny houses on trailers? That's, I'm trying to make sure we accomplish some of the things that I asked Office of Planning to look into. Are we accomplishing what we need to accomplish here and have some type of input?

Because actually from what was
mentioned to this Commission, is people are living there, they're having parties, they're being very disruptive.

MS. VITALE: But I think this could address that. It calls out, you know, trailers.

So you could not have a temporary place of abode in a trailer without special exception approval. One of the criteria is not being objectionable to adjoining or nearby properties.

And then criteria three, which also spells out the time limit that, that couldn't be approved for more than two consecutive weeks and no more than one month per calendar year.

CHAIRMAN HOOD: Okay, I'm actually, and I hope my colleagues agree, I'm really actually looking forward to hearing comments from the public on this. And I'm hoping this accomplishes something that needs to be dealt with and those particularly in Ward 5. Okay, thank you. Any other? Yes, go ahead, Vice
Chair Cohen.

VICE CHAIR COHEN: I have no comment on this.

CHAIRMAN HOOD: Commissioner May.

COMMISSIONER MAY: Yes, I do have a question. So basically saying that you have to go through a special, in order to -- let's take the example of the tiny house.

I want to put a tiny house on an alley lot. To do that I have to get a special exception and once I did, I would be able to have it there for two weeks. And then I'd have to take it away, and then I could have it for two more weeks. And then I would have to take it away for the rest of the year?

MS. VITALE: No, a tiny house, if you, if it wasn't on a, if you took it off the trailer, or it was not considered a, it was considered a structure and not a trailer, or a tent, or a wagon, if it was no longer mobile, you wouldn't be subject to that two week or one month time limit in the special exception
requirement.

MR. LAWSON: But you would be subject to the requirements putting a house on an alley lot whether it was big or little, on an alley lot.

COMMISSIONER MAY: On an alley lot.

MR. LAWSON: Right.

COMMISSIONER MAY: So I mean, okay basically we're saying, I mean this is a special exception that I don't think would ever be applied for because it's, because of the limited time duration.

So I wonder why we'd even go through that, why we'd even bother? Why don't we simply say, no camp shall be permitted if that's what you're, because this language just seems like it's a ruse. It's a special exception to get almost nothing.

I think that the idea of allowing tiny houses as structures on alley lots subject to appropriate regulation, you know that could make sense. But this seems just weird to me.
CHAIRMAN HOOD: Okay, I'm not sure and I agree with the comments I've heard. I'm just trying to figure out how do we give folks some relief because they've skated around the zoning laws, which I have a problem with to be quite honest with you. Anyway leave this in here, let's see what happens.

COMMISSIONER MAY: Yes, I was just going to say, yes this is as good as any way of getting it out there for public comment discussion.

CHAIRMAN HOOD: Right. It's more --

COMMISSIONER MAY: Let's leave it at that but --

CHAIRMAN HOOD: It's more than what we had. I think it needs to be touched up a little bit. We've heard the comments about the tiny houses, and I keep going tiny house because that's what I keep remembering, about the parties and people having issues and especially in Ward 5. And again, it's not about self, this
is about a whole community.

COMMISSIONER MAY: So I, on a related note, I just read an advertisement for a tiny house television program on one of the cable channels coming up soon, so if you want to learn more about tiny houses.

CHAIRMAN HOOD: No, I try not to do anything outside the record. Vice Chair Cohen.

VICE CHAIR COHEN: Oh, I --

CHAIRMAN HOOD: Oh. You didn't have any comments?

VICE CHAIR COHEN: No, I thought that Commissioner May's observation was pretty accurate, that who would go through this, it's just maybe window dressing. But I think it's worth you know, having comments from our residents to see how these play out.

CHAIRMAN HOOD: Well I appreciate the comments, but I think again this is the first step of trying to put something in place which is nothing going on there at this point, so this is the first step. Commissioner Miller, do you
want to comment.

    COMMISSIONER MILLER: No, I'm good.

Thank you.

    CHAIRMAN HOOD: Okay, all right.

Let's move on to theater space summary. Any comments? Anyone want to start?

    VICE CHAIR COHEN: Yes.

    CHAIRMAN HOOD: Vice Chair Cohen.

    VICE CHAIR COHEN: I have a problem where you're permitting entertainment, assembly, and performing arts uses where there is not a related party with the tenant.

I don't know what purpose that serves. I know that there are organizations of mixed use for theater groups in mixed use neighborhoods, and they own the building, and they perform there.

And I think that you need to be a bit more flexible and just delete, not related to the building owner or to tenant.

    COMMISSIONER MAY: Can I ask a question, I mean this is intended to address the
situation like a you know, a school building or something like that, renting out their auditorium for performances by a non-profit theater group or something like that.

MR. LAWSON: That's correct.

COMMISSIONER MAY: Whereas, other theaters are permitted under other portions of the regulations?

MR. LAWSON: In different zones, and at different levels, yes.

COMMISSIONER MAY: Yes, right.

VICE CHAIR COHEN: Okay, I'm thinking of a case that went before the BZA in the overbuilding and they're in a R-5 zone, so would that be acceptable?

MR. LAWSON: Under the current regs obviously not, because they had to go through a special exception, I know the one you're talking about. Under the proposed regulations, I suspect it's the same situation.

VICE CHAIR COHEN: There would be --

MR. LAWSON: That a new theater use
in that residential zone, would not be permitted by right.

   COMMISSIONER MAY: So maybe I think what you want to do is you want to add use by the group that, in other words it would allow --

   MR. LAWSON: Well I --

   COMMISSIONER MAY: -- groups that are not related to the building owner or tenant, or groups that are.

   MR. LAWSON: Well this is intended to serve a very specific purpose. And addresses a very specific issue. I think what the Commission is saying is that theater uses should be a permitted use within residential zones. That's a very different question.

   VICE CHAIR COHEN: That's what I --

   MR. LAWSON: Theater uses as a principal use I guess would be the difference. Because the one you're talking about, the theater is the use within the building whereas what this is intended to address is that there's
a theater use within a building which is really used for something else, like a church or a school.

MS. VITALE: And these provisions too, I would note, are only for the R and RF zones. And these aren't for like the residential apartment zones. So this would be the lower density residential zones, not R-5.

VICE CHAIR COHEN: All right. I guess, well I read it and became immediately confused so if there is some way of stating what you just told me, would be very helpful.

Maybe I'm the only one who read it that way, but --

MR. LAWSON: I can absolutely see how it could be read that way. It seems to me that some clarification of that is needed.

VICE CHAIR COHEN: Okay, because truthfully this was brought to the attention of a number of the neighbors in my area.

COMMISSIONER MILLER: Mr. Chairman. I sat on that BZA case that the Vice
Chair referred to, and first let me say that I want to thank the Office of Planning for responding to public testimony and Zoning Commission Member comments that wanted to see something in this area that would be a little more flexible than the existing code.

And it's my opinion that the existing code requires a variance. And we wanted, this should all be about adverse impact on the neighborhood and the special exception process allows that to be evaluated.

I don't think that it needs to be, a lot of theater use particularly if it's not running there for a long time, but even a new use, if the neighbors don't object, the ANC wants it, which is what was the case in the case I sat on.

And I think there's similarly situated properties around the city where it would come down to it. Whether there are adverse impacts or not and if there are, then the neighbors are opposed to it, and the ANC
opposed to it, then BZA won't -- they'll probably recommend against it, and you get all that great weight and it would be denied.

But so I think it's just written a little bit too narrowly than what I was trying to get at in response to the public testimony I heard and the BZA case that I sat on.

CHAIRMAN HOOD: Any other comments?
Okay let's move it to production distribution and repair summary, PDR. You want to go now?

VICE CHAIR COHEN: Auto repair, auto repair next.

MALE PARTICIPANT: Auto repair.

CHAIRMAN HOOD: Okay so auto repair, I'm sorry. I thought we were doing something else. Okay, Mr. Lawson, no, let me see. Commissioner May.

COMMISSIONER MAY: I don't have any questions.

VICE CHAIR COHEN: My concern is when you talk about a required buffer area, can you elaborate more because a buffer area could
be you know, ten feet.

It could also be that chain link fence that I deplore. So I really would like to make sure that auto repair shops are well enclosed and not an eyesore for the neighborhood.

MR. LAWSON: Right. The required buffer area that is, there's actually a term in the zoning regulations now. That's that area that is intended to buffer between residential areas and industrial uses. So it's just saying that it can't be located within that strip of land.

VICE CHAIR COHEN: Okay.

CHAIRMAN HOOD: Commissioner Miller.

COMMISSIONER MILLER: No.

CHAIRMAN HOOD: Okay, Mr. Lawson I thought and I noticed a lot of this came from a young lady, a Commissioner in Ward 4, I thought when we looked at this that we wanted to look at talking about other uses besides auto repair
and PDR zones.

As far as one of them being on a certain lot in, I thought we were looking at more than just auto repair shops and I know that's what the person from Ward 4 mentioned, the Commissioner from Ward 4.

But I thought in that conversation we were looking at other uses such as auto repair and I can't think of anything similar.

MR. LAWSON: Yes, and those were all addressed in the original round of proposals brought forward. This is the additional one that we're proposing as --

CHAIRMAN HOOD: So this is added?

MR. LAWSON: This is the added one.

CHAIRMAN HOOD: So I must have missed that because I remember her having that conversation and I wanted to make sure that, so I'll be looking forward to seeing it, but you say that it's already in the original?

MR. LAWSON: Sure, there are other uses that we've made by special exception and
then that buffer area is now required for all industrial zones, all industrial areas such as into residential.

CHAIRMAN HOOD: Okay, got you. Let's go up to standards of external effects. I know I was one of the people who were heartedly pushing this and I want to thank Ms. Steingasser, and Mr. Lawson, and Ms. Vitale, and the Office of Planning for making sure that this is in the code.

These have actually been around for a while, but they haven't been exercised by the city. And I'm glad to see that now in the code we have something to look to. And I hope my colleagues will support again the standards of external effects.

Okay let me open it up. Any questions, Vice Chair Cohen?

VICE CHAIR COHEN: Yes. I just want to say I do support it but I just would like you to add under 305.9 my chain link fencing.

MR. LAWSON: What section is that?
VICE CHAIR COHEN: It's under where you mention 305.9, "the use of barbed or razor wire".

MR. LAWSON: Got it, thanks. So, I'm sorry. No chain link fence may be used?

VICE CHAIR COHEN: No, it's prison like.

MR. LAWSON: You want to ban, where does this take effect? Where is this, under PDR? So you can't use chain link fence in a PDR zone?

VICE CHAIR COHEN: No because sometimes they are adjacent to --

MR. LAWSON: I'm just asking if that's what you proposing?

VICE CHAIR COHEN: Yes.

COMMISSIONER MAY: I wouldn't agree with that.

VICE CHAIR COHEN: But some of them are near residential and so it's a, you're on the second story of a house and you're looking over a PDR. It just came up in a case.
MR. LAWSON: Just to clarify. This is, what this is, is the use of the use of barbed or razor wire adjacent to any residentially zoned land shall be prohibited.

What my understanding from Ms. Cohen is that chain link fence would be prohibited. She's not proposing it be prohibited anywhere in a residential zone, just where it's directly adjacent to a residential.

VICE CHAIR COHEN: Correct.

MR. LAWSON: And I'm not advocating for or against but I believe that's what she's saying.

COMMISSIONER MAY: Okay, but even still I'm not sure that I, I mean that seems, I'm not great fan of chain link fence but it is very practical and it's very effective.

And there are ways, I mean the fact that you're looking at it from a residential neighborhood, I mean you could have your own fence. I mean if you really don't want to look at it.
VICE CHAIR COHEN: Again, it's often fences are higher than let's say six feet. If you're in a second story you can see it and I think it does have a negative impact. They are prison like in appearance, and I think that it's inappropriate. But again let's just wait for comment, additional comments. I would like to see that omitted.

CHAIRMAN HOOD: I probably would fall, believe it or not, fall in line with Commissioner May. There needs to be some type of separation, you know, you can have vegetation running through it or whatever the case may be. But we can always, we have exclusions, we can wait for public comment, then we can deliberate at the appropriate time. Commissioner Miller you have anything on this?

COMMISSIONER MILLER: I understand why she has concerns but I would tend to, and there's chain link fence and then there's chain link fence that can be painted. If it's in good condition and it's painted black for example,
green, it looks a lot better than something that's falling apart and it's rusty and so there may need to be more flexibility here for these industrially zoned lands.

CHAIRMAN HOOD: Okay and again, they'll be plenty of time for us to deliberate that. Let's go to large format retail. Vice Chair Cohen.

VICE CHAIR COHEN: Thank you, Mr. Chairman. My only comment is to add in the appropriate section because I'm not really sure where it could go, that I strongly support frontage of any retail on the street and parking in back or underground, that we are not a suburban area, and parking in front is inappropriate for an urban context.

MR. LAWSON: That regulation exists right now.

VICE CHAIR COHEN: Okay.

MR. LAWSON: Parking in front of the building is not permitted. Parking within a building must be setback at least 20 feet from
the property line. That's in the current regulations and that carried forward.

VICE CHAIR COHEN: But wouldn't you want to include it also onto this regulation because a lot of the --

MR. LAWSON: It exists everywhere. It exists for all uses in all zones.

VICE CHAIR COHEN: Oh, okay.

MR. LAWSON: Because under the parking regulations themselves.

VICE CHAIR COHEN: Okay. Thank you.

CHAIRMAN HOOD: Okay, Commissioner May.

COMMISSIONER MAY: So I'm a little concerned about the, under 206.8 the guideline for the design of large format buildings and it's a list of guidelines that should be considered.

Some of them make sense, in the first one, "Building design shall incorporate architectural features and patterns to provide
visual interest. Exterior walls shall feature projections and recesses". I mean those are easy to understand and I can go with those.

"Building roofs shall incorporate pitched roof lines and detailed roofing materials". I don't agree with that one because I'm not sure that we're ever, I mean it's a flat roof, we're never going to see it.

But this might imply that we need to put in some sort of faux Mansour group on it or something like that for visual interest which I don't think you want to encourage.

Building materials I get, entryways well marked I get, and then sustainable features under (f), I thought that might be redundant with GAR. I mean do we really need to have that here?

And then, "landscaping shall be provided in the rear and side yards to screen and limit visibility of storage areas". So I'm not sure that, that's necessary in all circumstances.
It kind of depends on what your backing up to. But if it is backing up, I mean maybe it needs to be more like PDR where you have buffer areas that are defined and you have to have certain things in them and so on.

And they are in play based on what you're backing up to. That being said, I'm not, I think the only thing I would like to do right now is just to strike 8 and maybe (f) if my fellow commissioners agree.

VICE CHAIR COHEN: I'll agree with 8 but not with (f). I would really argue strongly for (f) because a lot of the retail buildings especially those that are for large format do not include any of these.

They do, you know, building cheaply and I think that they would, that this would encourage them to be part of our whole sustainability efforts in the city. I think it is a priority to the city, so I would argue against eliminating (f).

COMMISSIONER MAY: And I don't
disagree that it's a priority. I just think that this might be redundant with GAR. If it's not redundant with GAR then I don't really have a problem it.

CHAIRMAN HOOD: Okay, I would agree with leaving (f) in. Let's go to Commissioner Miller.

COMMISSIONER MILLER: Thank you, Mr. Chairman. This one -- thank again the Office of Planning for being response to a substantial amount of public hearing testimony you heard and member comments, Commissioner Member comments on it, in terms of providing bidding exception process for large format retail.

Starting in special section process for large format retail, I think all the language is good for the public hearing comment and I would agree with the comment to strike, Mr. May's comment, to strike 8 in section 206.8, to strike this section about the provision of pitched roofs.
But on (f), I think I would agree with, I would suggest that in line with what the Vice Chair was saying and the Chairman.

And maybe there could just left here, it could be a reference, a cross reference to GAR there in addition so that it's clear to the BZA when they're looking, or Zoning Commission when they're looking at this special exception that, that's a standard.

And if any of those sustainable measures aren't in the GAR, they should be called out here and then maybe the others should just be as provided for, required in the GAR.

And similarly, in the, I mean you might want to call out in this section the cost reference to the parking section, that the Vice Chair raised. Because the whole point of this user friendly, people want to look at one place and see what are the standards for design and not have to go back and forwards.

We don't want that retailer saying well you didn't put it in, you didn't say
anything, couldn't do the parking in the front. And you referenced parking in this, in that (f).

And so maybe it just needs a cross reference to the parking requirements. Just a suggestion but I don't think it needs to be there for the setdown. Just something that --

The only other comments I had, Mr. Chairman were the comment I made previously, somewhat concerned whether or not, I guess I want to know the percentage of grocery store use by the existing large format retail stores in the District.

Just to know where are they, are they at 40 percent? Are they about to be swallowed up by that grocery store exception that they wink at the special exception review?

Just to, I don't think we need that for the purposes of the setdown but it's just something, information that I think we'd like to have when we have the hearing.

And then similarly, the exception at the end. It says, this section doesn't apply
to large format retail that to a Planned Unit
Development. That makes sense.

But then it doesn't apply to a large
format retail that went through a large tract
review process. That's not an enforceable
process as I understand it. It's a voluntary
process.

MR. LAWSON: It's been pointed out
to us that there's a wording error here. The
intent of this is to no large, sorry, parties
have gone through large tract review already --

COMMISSIONER MILLER: Already.

MR. LAWSON: -- are being approved,
but not future ones. So that, it's already
brought up that we need to clarify that. It's
kind of the same provision as (a), that related
to large tract review.

COMMISSIONER MILLER: As an
effective date, I see. Yes, that's, yes that's
a good clarification.

MR. LAWSON: Yes, it's very good
clarification.
COMMISSIONER MILLER: Thanks.

CHAIRMAN HOOD: Okay, let's go to downtown.

COMMISSIONER MILLER: Downtown?

CHAIRMAN HOOD: Downtown.

Commissioner Miller.

COMMISSIONER MILLER: Feel like singing the Petula Clark song, downtown.

VICE CHAIR COHEN: Please, don't.

(Off the record comments)

COMMISSIONER MILLER: I think, this is a general question I have on this and I think I had it several months ago. And I'm still not sure what the answer is.

I'm okay with everything that's been suggested here. However, information I that I would like from OP at some point, is where are we increasing heights and densities, permitted heights and densities in not just downtown, but in all of the zones?

I think we need to know that. And it for me, it relates to inclusionary zoning.
And I know we're putting off inclusionary zoning as a separate case, but now that we've put off ZRR for as long as we have.

We originally didn't think IZ was going to be coming so, we thought it would be coming early this year but the comprehensive look at it, and the first amendments to it.

So we're going to be increasing matter-of-right heights or densities of stones whether it's downtown zones here or elsewhere in the city.

And I think that we need to make sure that IZ is applying because IZ doesn't currently apply in a lot of downtown or near downtown zones, because we thought they were at the maximum like NoMA and they weren't going to be able to squeeze anything out, and it was not appropriate to have that affordable housing trigger. So I just think we need some clarity on, where increasing heights and densities --

MR. LAWSON: Sure. We have provided those maps. We can certainly resubmit
those. It's the areas that would be included within the downtown areas that are not within the current downtown overlay. And not within the TDR receiving zones.

So the area is kind of in between those two. Those are the areas where some additional height and or density would be possible for residential purposes under ZRR.

And ZRR includes the new language under ZRR includes that those areas would be subject to IZ.

COMMISSIONER MILLER: Where is that language?

MR. LAWSON: It's in the downtown chapter for --

COMMISSIONER MILLER: So it's not a change. It's already in there --

MR. LAWSON: It's already in there.

COMMISSIONER MILLER: -- now?

MR. LAWSON: Yes.

COMMISSIONER MILLER: Then maybe you can just send it to me, or to us, all five
and just so -- and then maybe we could just have
the list or just direct me to the map that you
created and by words where IZ would now apply
because it doesn't currently.

MR. LAWSON: Sure and just to be
really clear, OP is not proposing the change of
height and density. Typically in other areas
the Zoning Commission has looked at a couple of
very specific instances of height and
densities.

Sometimes related to use in the
commercial zones, density in some of the
industrial zones, but generally over all
through ZRR we're not proposing to change height
and density, the downtown is the exception.

COMMISSIONER MILLER: Okay. Thank
you.

CHAIRMAN HOOD: Okay. Commissioner May. You have anything?

COMMISSIONER MAY: No.

CHAIRMAN HOOD: Okay, Vice Chair Cohen, you have anything?
VICE CHAIR COHEN: Yes.

CHAIRMAN HOOD: Want to turn your mic on.

VICE CHAIR COHEN: Oh, thank you for reminding me. 301.4, I think that could be an illustration as well.

And then my question is about the credit. I don't recall, help me recall why we're eliminating the three year time limit? So I know you're trying to simplify credit tracking but I don't really, can you explain that to me?

MR. LAWSON: The system would still remain. We're not proposing to eliminate the system. So the credit system is still what we're proposing, we just established, or we propose to establish this time limit by which, and I hope I'm getting this right, because it's way outside parts of the ZRR that I've worked on.

But we had proposed that there be a kind of a cut-off date where existing TDRs would have to be converted into the new credit system.
We heard a lot of objections from people about that.

And we're pretty comfortable actually just removing that time limit they would need to be, my understanding is, they'd need to be converted credits to be actually utilized.

And of course because of the way the process works right now, they are somewhat fluid and there was just the request that the three years was an unnecessary time limit. And we didn't disagree with that.

VICE CHAIR COHEN: Is it really unnecessary or just the time period unreasonable? In other words, should there be a cut-off? They're just always floating out there?

MR. LAWSON: Well they're floating out there anyways. It's just a question of whether they're floating out there as TDRs or floating out there as, you know under the new system as credits.
So you know, again if the Zoning Commission is, I guess what I'm saying, we're comfortable with removing this provision. We're comfortable that the process will work well without that limit.

And there were a lot of concerns raised that, that limit is an unnecessary burden, I guess is what I'm saying.

VICE CHAIR COHEN: Those are my comments.

CHAIRMAN HOOD: Okay. Anybody else? Okay, let's go on to private schools. Anybody ever attend a private school?

(Off the record comment)

CHAIRMAN HOOD: Commissioner Miller.

COMMISSIONER MILLER: I just wanted to again thank the Office of Planning for being so responsive to all the testimony and taking some time to put your comments on that issue.

CHAIRMAN HOOD: Okay. Thank you. Let's go to party status. Is this part and I know party status has been around forever. I
think as I mentioned previously, we started to move forward and get this thing -- but this did we only do it for the Zoning Commission and not the Board of Zoning Adjustment?
We did it ourselves. We did it for both?

MS. SCHELLIN: This was -- we actually, the Office of Planning started this and then, the Office of Zoning then picked up on it and at this point we only did it for the Zoning Commission.

The BZA, we didn't really hear anything from them that they seems to have an issue with it.

CHAIRMAN HOOD: Well, let's move forward with what we have for the Zoning Commission and maybe we can -- if we have to fine tune it we'll do it later, but this is a great start. We've been talking about this since I've been here. So let's see if we can finally made some difference. Commissioner May.

COMMISSIONER MAY: No.

CHAIRMAN HOOD: Okay.
COMMISSIONER MAY: I was just going to pull the microphone close because we'd like actually like to make a motion to set this down.

CHAIRMAN HOOD: Well we haven't finished --

COMMISSIONER MAY: I know, I know.

CHAIRMAN HOOD: We haven't finished. I want to allow everybody else a chance to speak. Is that okay?

COMMISSIONER MAY: I agree.

CHAIRMAN HOOD: Okay.

COMMISSIONER MAY: I wasn't pushing the button, I was just pulling the microphone.

CHAIRMAN HOOD: Okay.

Commissioner Miller.

COMMISSIONER MILLER: Yes, no I'm finished speaking about the additional text and changes that the Office of Planning provided us in that June 16th document which is on our website.

But I had some additional questions but they don't have to be answered tonight. But
perhaps they could be answered soon by the Office of Planning, maybe soon.

One, is I don't have a good grip on what is changing in this, my own failing, but and we didn't want to talk about self, but what I want specifically, where, what, we have changed from variance to a special exception of process?

I know we've added some special exception processes that didn't exist previously, in this previously, but I think there may be additional areas from my own experience on the BZA where the Board including myself, are jumping through hoops to try to allow what seems a very simple request for a rear deck or a roof deck that doesn't quite, that the neighbors don't have a problem with, and ANC doesn't have a problem with.

And in some cases they do have a problem with it. It's for those simple additions to home owners' homes. It just seems the variance standard is just way too
restrictive. And I don't know if we changed it at all for the rear deck particularly. But the roof deck as well.

It just seems too much of a hurdle for somebody who is trying to enjoy the property the way that many, many of their neighbors already enjoy. I think that they added prior.

So it's just something I'd like information on in terms of the list of what's gone from variance to a special exception, which I think I agree with almost all of them, that have been proposed that way.

But maybe there might be other areas where we want to explore. Where it really should be about the adverse impacts on the neighborhood, not about whether there's a uniqueness of the lot, or the sides and the exceptional conditions and the practical difficulty.

It just, so I would like them, I'd like the Office of Planning to look at that and give us something back on that.
And finally Mr. Chairman, sorry to pull on this, I saw a recent exhibit filed by the National Capitol Planning Commission staff. And I know you're responding to all the late breaking, well your responding throughout the ZRR to comments that have come in.

But at some point, I assume you're going to be preparing a response. I think a letter was suggested, Mr. Chairman Hood. And there are things in there that I don't know if they're true or not. I don't know if I would agree even if they were with the NCPC staff concerns.

The NCPC itself hasn't considered that letter but I just think we need to have a response to it so we can try to iron out those difficulties as early as possible.

MS. SCHELLIN: Just so that Commissioner Miller knows, that's not been provided to anybody. It's in the record but since the record is so open, those documents will be provided at the appropriate time.
So it's not been provided, so unless OP has actually gone online and looked, they've not been provided to anyone yet. But they will be.

MR. LAWSON: Right, so --

MS. SCHELLIN: It is available but --

COMMISSIONER MILLER: Right and I was just saying I was calling it out because it was a recent exhibit and they'd said they, and they have commented on every single public hearing, or public comment that's been submitted.

And I just would, I think, I'm expecting that you'll be doing that for all the recent ones and the ones that we're going to get in the months ahead.

MR. LAWSON: We do have the letter. And we had extensive, many, many, many conversations with NCPC. So it is an ongoing issue. I, you know I'm sure there's nothing in the letter that isn't, that hasn't been
discussed already with NCPC.

But yes we will be literally continuing to respond to comments submitted to the record the way that we have been so far.

COMMISSIONER MILLER: Not many have private briefings before we get the public comments that, you'll be submitting as part of the public record as well. So just as Vice Chair of NCPC and I want to, and as a member of this body I want to just know how the two bodies are interacting.

CHAIRMAN HOOD: Okay. Any other comments, any other questions?

(No audible response)

CHAIRMAN HOOD: All right, not hearing any I would move that we set down the Zoning Commission Case No. 08-06A with the comments that we have mentioned today. And the way we asked is what I think we did all that as we went along.

So I need to, I don't need them written out or rehashed, but I think it's clear
Ms. Schellin and I'm sure Mr. Lawson and Ms. Vitale have it together, the comments that we have amended things, and we've asked that it be setdown together, things we've asked taken out. I think we agreed with most of that. Things that stayed in there, so I move that we set this down.

COMMISSIONER MAY: Second.

CHAIRMAN HOOD: It's been moved and properly seconded. Any further discussion?

(No audible response)

CHAIRMAN HOOD: All those in favor?

Aye.

(Chorus of Ayes)

CHAIRMAN HOOD: I'm not hearing any opposed here. I will tell you that Mr. Turnbull's comments, he says, I believe that my comments for setdown will merit many of the comments presented by my fellow commissioners. I look forward to the upcoming hearings and the input of the community on the proposed revisions to date.
It is moved and properly seconded.
All those who voted, I'm not hearing any in
opposition that are in attendance. And Mr.
Turnbull also has an absentee vote.

And I'll let Ms. Schellin, would you
record the vote?

MS. SCHELLIN: Yes, sir. Staff
records the vote 5-0-0 to setdown Zoning
Commission, the alternative text that's been
proposed with the discussion that's been made
this evening in Zoning Commission Case No.
08-06A.

Commissioner Hood moving.
Commissioner May second, Commissioners Miller,
Cohen in support. Commissioner Turnbull in
support by absentee ballot. And this is being
setdown as a rulemaking case.

CHAIRMAN HOOD: I would again
encourage those who watch in webcast live and
of course the audience to follow how we're
proceeding with this as we we're going through
this process, either Office of Zoning or the
website.

   Even in our meetings when we do
updates or just stay in tune with what's coming
out from the office.

   Okay, any further discussion,
anything else?

   MS. SCHELLIN: No, sir.

   CHAIRMAN HOOD: Okay. I want to
thank the Office of Planning for answering our
questions. As always I want thank the Office
of Zoning for the hard work they do and anything
else Commissioners?

   VICE CHAIR COHEN: No.

   (Whereupon, the above-entitled
matter went off the record at 9:22 p.m.)