

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING

+ + + + +

THURSDAY

JULY 10, 2014

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:37 p.m., Anthony J. Hood, Chairman, presiding.

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

(6:37 p.m.)

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.

1 Please be advised that this
2 proceeding is being recorded by a court
3 reporter, it's also Webcast live. Accordingly
4 I must ask you to refrain from any disruptive
5 noise or actions in the hearing room, including
6 display of any signs or objects. Please turn
7 off all beepers and cell phones.

8 Does the staff have any preliminary
9 matters?

10 MS. SCHELLIN: No, sir.

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

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

19 MR. LAWSON: Thank you, Mr. Chair.
20 We're pleased to present these alternatives for
21 the Zoning Commission. These are in response
22 to some of the concerns that were raised by the

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1 Commission and members of the public up until
2 now.

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

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

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

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

18 Okay Commissioners, we're going to
19 open it up, again we have some alternatives in
20 front of us which we're being asked to setdown.
21 So let's just open it up and start having our
22 comments. Commissioner May.

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1 COMMISSIONER MAY: Mr. Chairman may
2 I make a suggestion? What we received is broken
3 down into sections, zone names, definitions,
4 bike parking, vehicle parking.

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

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

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

17 And then I'll probably have more of
18 my comments on the back end, but that's just me.
19 But if that's the way you guys want to rule, I'm
20 --

21 COMMISSIONER MAY: Yes, I mean our
22 way is questions --

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(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.

1 I guess I can get that far but then when
2 we go into all the additional Rs, it just gets
3 a little confusing. So I'm wondering why we
4 didn't go to R-1C, R-1D, R-1E et cetera? So we
5 that we know what those zones are based on.
6 They're based on R-1 or if they're based on R-2,
7 something like that.

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

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

16 If you know, the Zoning Commission
17 wanted us to look at that we certainly could.

18 We actually think it might, my
19 initial thought would be that might actually
20 make it more complicated rather than less
21 complicated. And insert kind of, you know,
22 kind of re-enforce a bit of a false nomenclature

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1 zone.

2 COMMISSIONER MAY: Well yes, I can
3 understand that, I mean it is, your advantage
4 with either one? I don't know whether each of
5 my fellow commissioners have any thoughts on
6 this. I'm certainly not going to push it unless
7 there were consensus of the Commission that we
8 ought to look at something different.

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

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

18 MS. VITALE: We can certainly do
19 that.

20 COMMISSIONER MAY: Okay, so and
21 then I put those questions to the rest of the
22 Commission. What do you think? Either of

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1 these suggestions resonate? That's it for me
2 on it.

3 CHAIRMAN HOOD: Okay, Vice Chair
4 Cohen.

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

8 CHAIRMAN HOOD: Do you have any
9 questions on this?

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

11 CHAIRMAN HOOD: Yes, on the zone.

12 (Simultaneous speaking)

13 VICE CHAIR COHEN: Just on the zone?

14 CHAIRMAN HOOD: Right.

15 VICE CHAIR COHEN: No.

16 CHAIRMAN HOOD: Mr. Miller.

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

21 MS. VITALE: N.

22 (Off the record comment)

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1 COMMISSIONER MAY: Yes, N became M.
2 Mixed use became MU, mixed use.

3 COMMISSIONER MILLER: But I also
4 support that, I think that's, the direction has
5 all been helpful.

6 I have one question about the new
7 residential flat zones, the RF-4 and RF-5. If
8 you could just briefly remind me what the use
9 is in that zone, in those new two zones are? And
10 whether or not you're proposing any existing
11 areas go into these new zones?

12 MS. VITALE: Certainly. We're not
13 proposing that any areas be zoned with RF-4 or
14 RF-5 at this time. We're just setting those
15 zones up for potential future use. And those
16 would be like the R-4 now which allows the two
17 units by right.

18 RF-4 would allow three units and
19 RF-5 would allow four units. So it kind of
20 fringes that gap between the flats, the two
21 dwelling units and apartment buildings.

22 COMMISSIONER MILLER: And are you

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1 surveying, or is there an intention to survey
2 what existing R-4 zones might be appropriate for
3 those three and four unit residential flat
4 units?

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

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

14 COMMISSIONER MILLER: Okay, thank
15 you.

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

22 So this would be a tool that would

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1 be available not so much to down zone truly
2 apartment areas, but areas that right now there
3 really isn't an appropriate zone.

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

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

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

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

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

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1 possible.

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

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

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

16 I will just note, my only, sorry to
17 go back on something and we'll absolutely do the
18 NDNC, NCR. My only concern about that is that
19 we were trying to move away from calling them
20 commercial zones because they are not
21 commercial zones. They're actually mixed use
22 zones.

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1 So if I'm renaming it into NC, it's
2 going to, it may re-enforce in some people's
3 minds that this is a commercial zone. I'm not
4 terribly worried about it in this case because
5 in this case what's kind of defining about
6 what's special about these zones is how it
7 treats the commercial portion of the zoning.

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

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

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

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

17 MR. LAWSON: I'm sorry.

18 COMMISSIONER MAY: I agree with
19 that. No I think what's confusing is subtitle
20 H is called neighborhood commercial and that's
21 what I was basing it on. Subtitle G is entitled
22 mixed use.

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1 So maybe, you know, maybe Subtitle
2 G should be commercial mixed use and Subtitle
3 H should be neighborhood mixed use. I don't
4 know, I'm not sure what the right thing is but,
5 you know, having the right designation I think
6 does help.

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

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

12 COMMISSIONER MAY: Yes.

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

20 So it builds on the existing
21 designation in the current regulations where
22 they're all within the neighborhood. Most of

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1 them are within the neighborhood commercial
2 overlay section so, it makes sense.

3 COMMISSIONER MAY: Okay, well.

4 CHAIRMAN HOOD: Okay any comments
5 on zone name?

6 COMMISSIONER MILLER: No.

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

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

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

20 When we have, you know, two
21 buildings where they, two theoretically
22 separate buildings except that they are

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1 connected by a corridor or something like that.

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

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

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

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

19 MALE PARTICIPANT: No.

20 COMMISSIONER MAY: Okay, all right,
21 good. So next one is, I found the additional
22 language in building area, to be a bit

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1 confusing. It refers, this is on Page 7. It
2 says "For outside balconies, this term shall not
3 include any projections" et cetera, et cetera.

4 So I mean it's essentially
5 clarifying what the definition is now, which is
6 that if you have a bay that projects into public
7 space, it doesn't count toward FAR. Correct?

8 MR. LAWSON: I believe so, yes.

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

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

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

22 MR. LAWSON: Well it's simply

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1 trying to define what is considered building
2 area. We're just letting the things, further
3 on in the regulations are based on that. And
4 it also includes things that are not included
5 in building area for clarification.

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

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

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

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

21 On the same page, is a reference to
22 development standards. And development

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1 standards I guess that's the title of a section
2 later in the regs, because if not maybe it needs
3 to be defined.

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

7 (Simultaneous speaking)

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

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

17 MS. VITALE: Correct.

18 COMMISSIONER MAY: In some regs,
19 so.

20 MS. VITALE: And I don't believe we
21 have a definition of wall plate, so is that
22 something that --

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1 COMMISSIONER MAY: Yes, unless it's
2 defined correctly in Webster's. I'm not sure
3 it is because it's an architectural thing.

4 MS. VITALE: We can certainly add
5 that.

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

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

20 COMMISSIONER MAY: I see, okay.
21 Because I recall this coming up before and I was
22 not a supporter of continuing to have

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1 drive-throughs.

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

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

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

21 On the very next definition, fast
22 food establishment, characteristics of the fast

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1 food establishment may include -- oh okay, so
2 I, never mind. I think my question I just
3 answered my question for myself. Forget that.

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

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

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

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

21 So it may be, if you're saying that
22 you'd like us to relook at how we're defining

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1 that, we'd be happy to. But that's what it's
2 intended to do.

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

7 I'm almost done.

8 CHAIRMAN HOOD: Take your time.

9 (Off the record comment)

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

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

15 (Off the record comment)

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

22 So this is a development standard or

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1 restriction or something like that? Is that
2 appropriately in definitions or should that be
3 moved elsewhere in the title?

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

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

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

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

22 COMMISSIONER MAY: Non-profit

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

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

9 COMMISSIONER MAY: No, I mean I
10 don't know, I guess it's up to the rest of the
11 Commission whether we want to actually say a
12 501(c)(3).

13 VICE CHAIR COHEN: I think we need
14 to study that a little bit further because I
15 don't want to have an unintended consequence for
16 501(c)(4)s.

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

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

22 COMMISSIONER MAY: Yes. Okay, I

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

7 MR. LAWSON: Yes.

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

13 (Simultaneous speaking)

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

17 MS. VITALE: Correct.

18 COMMISSIONER MAY: I just want to
19 make sure it, because when I first read it, I
20 was like. It conjured shared, car share
21 parking spaces which is not what is intended to
22 be.

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1 The, on Page 28, that mention of
2 rooming unit references tenements and bachelor
3 apartments which I think are otherwise
4 eliminated from the regulations. So maybe they
5 don't need to be there.

6 And the last thing is under, on Page
7 31, accessory use and I know these are, this is
8 a fairly innocuous definition but I'm wondering
9 if -- there has been a standard that has been
10 applied by the Zoning Administrator that an
11 accessory use is 20 percent of the principal use
12 or no more than 20 percent.

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

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

20 COMMISSIONER MAY: The percentage,
21 yes. And I'm not sure that necessarily has to
22 be that way. I just remember that it has been

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1 cited in cases before the Commission. That's
2 it for my questions.

3 CHAIRMAN HOOD: Okay. Vice Chair
4 Cohen.

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

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

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

20 In some cases, I don't know you got
21 the 1000 square feet, but in some cases some
22 artists actually use their entire apartment.

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1 Their entire 500 square foot apartment to
2 produce art.

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

11 MR. LAWSON: Right well this
12 actually says that it's a minimum of the space
13 would be used for the studio, so there could be
14 100 percent.

15 VICE CHAIR COHEN: Okay.

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

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

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

22 VICE CHAIR COHEN: Maybe this is

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1 purpose on the definition of boathouse, on the
2 following page. You know some small boats do
3 have motors. Are we trying to eliminate small
4 boats with motors? And I just didn't quite
5 understand that.

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

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

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

20 VICE CHAIR COHEN: Yes. I just
21 don't have a stake in this. As long as you're
22 talking it with the boating community and they

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1 are comfortable with the current definition,
2 I'll defer.

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

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

14 MR. LAWSON: Yes.

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

22 There may be incidental motorized

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1 craft if you have a crew rowing, they're going
2 to have --

3 VICE CHAIR COHEN: Right.

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

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

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

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

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

17 VICE CHAIR COHEN: Okay.

18 COMMISSIONER MAY: After
19 practices.

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

22 I think it would be helpful with the

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

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

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

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

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

22 VICE CHAIR COHEN: Yes, we do. The

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1 chanceries, I have a note here. Have you passed
2 these definitions by the people who have come
3 to visit us? I forgot what his title was, but
4 I think he was from the State Department. I
5 just want to make sure that these have all been
6 passed by them.

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

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

18 MS. VITALE: I believe the issue of
19 dormers are, this is more regulatory language
20 that's discussed in Subtitle C. And so that's
21 why we're proposing that there not be the
22 definition in Subtitle D.

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1 VICE CHAIR COHEN: I don't know why
2 you're doing that. It just doesn't, I think you
3 should continue to keep the dormer definition.
4 And I will, Commissioner May, do you have any?

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

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

15 MR. LAWSON: That's correct.

16 MS. VITALE: Right. That's
17 correct.

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

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1 regulated in the regulations.

2 VICE CHAIR COHEN: Got you, okay.

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

7 COMMISSIONER MILLER: No thank you.

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

10 VICE CHAIR COHEN: Is it
11 appropriate, I think on Page 15. Is it, when
12 going to a greater detail in the reference to
13 48 DCR, in actually identifying its ancillary
14 uses. So I presume that, that's why you sort
15 of a very brief definition. Is that correct?

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

22 VICE CHAIR COHEN: No, I guess I

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1 need to follow through with OAG. Or maybe you
2 can do that, on my behalf.

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

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

12 (Off the record comment)

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

15 MALE PARTICIPANT: You got them.

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

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

21 VICE CHAIR COHEN: And on the Fire
22 Department definitions, I presume that these

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1 have been reconfirmed with the Fire Department?

2 MR. LAWSON: I assume so.

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

5 MR. LAWSON: Sure.

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

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

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

20 VICE CHAIR COHEN: Again, that --

21 MR. LAWSON: Through building code
22 and other regulations. So we don't want to

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1 duplicate those where, where they can then start
2 to become in conflict with each other in
3 unintended ways.

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

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

16 MR. LAWSON: But I would argue that
17 zoning actually doesn't dictate what a
18 habitable room is in this case. So this is
19 provided for information and it's certainly
20 through, you know, as we talk about the Zoning
21 Commission, we expect that whenever something
22 is approved that part of that will you know, the

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1 explanation and discussion documents that will
2 go on with the regulations themselves.

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

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

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

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

19 MR. LAWSON: Now having said all
20 that as you know, at some point in the very near
21 future you're going to be seeing amendments
22 related to the current amendments to the Height

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1 Act which makes a reference to habitable space.

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

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

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

20 MR. LAWSON: Yes, and the point
21 would be that they would be the same when they're
22 adopted. But let's assume for example that the

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1 building code is amended.

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

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

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

21 They can't necessarily be all
22 things. And so OAG is very clear on where they

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1 think it's appropriate for things to be in the
2 zoning regulations because they are a legal
3 document. Zoning for dummies is a great idea,
4 it's something else.

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

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

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

22 VICE CHAIR COHEN: Okay. And the

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1 term inn that you're not bringing forward, I
2 mean there are a number of bed and breakfasts
3 that I believe are covered under another
4 definition. But there are a number of
5 institutions that have the inn as their title,
6 and I just wanted to note that for the record.

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

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

20 Okay, on Page 24, your definition
21 for, you know, lot width could also have an
22 illustration.

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1 MS. VITALE: Certainly.

2 VICE CHAIR COHEN: Oh, on Page 28,
3 29, I'm sorry, the definition of schools.
4 You're leaving out charter schools in part of
5 it. And I really think zoning needs to be more
6 involved with private charter schools as well.
7 No?

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

11 VICE CHAIR COHEN: All of them?

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

14 (Simultaneous speaking)

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

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

20 MR. LAWSON: That's correct.

21 VICE CHAIR COHEN: Okay.
22 Wholesale use, again this is something that I'm

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1 just wondering for the future. There may be
2 some opportunities to have wholesale use in
3 different parts, undeveloped parts of the city.
4 And there, it's a current use, so why is that
5 being not carried forward?

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

9 VICE CHAIR COHEN: Okay.

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

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

20 CHAIRMAN HOOD: Okay.
21 Commissioner Miller.

22 MS. VITALE: Board of Zoning

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1 Adjustment --

2 CHAIRMAN HOOD: Oh, I'm sorry.

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

5 VICE CHAIR COHEN: Oh, it is.

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

7 VICE CHAIR COHEN: Okay, I missed
8 it.

9 CHAIRMAN HOOD: Okay, Commissioner
10 Miller.

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

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

21 MS. VITALE: Thank you.

22 COMMISSIONER MILLER: Although I

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1 have other questions about inclusionary zoning
2 which I'll get to at another point.

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

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

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

16 COMMISSIONER MILLER: I didn't know
17 that.

18 MR. LAWSON: Yes, state rental,
19 apartment, or condominium apartment. In this
20 case it includes both because the zoning
21 regulations nowhere make a distinction between
22 the two.

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1 COMMISSIONER MILLER: Let's see --
2 I didn't even realize that although I guess if
3 I thought about where it was used in the code,
4 I would have figured that out. Maybe it's to,
5 be explicit that it includes both just to be
6 clear.

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

10 VICE CHAIR COHEN: I like
11 automobile laundry.

12 (Off the record comment)

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

18 VICE CHAIR COHEN: A, B test.

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

22 COMMISSIONER MILLER: There are

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1 trade-offs, yes.

2 (Off the record comments)

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

6 COMMISSIONER MILLER: Please.

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

9 COMMISSIONER MILLER: And
10 surrounding jurisdictions.

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

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

18 COMMISSIONER MILLER: On Page 17,
19 the definition of mechanical parking garage and
20 I would note for the record that Mr. Lindsley
21 Williams is in the audience. That he just
22 submitted some comments which you said we're

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1 going to be looking at and responding to.

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

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

13 So well under a public -- under that
14 definition of grocery store, this is the new
15 definition, "use whose primary business is the
16 sale of fresh produce and food products. At
17 least 50 percent of customer-accessible sales
18 and display area is used for the sale of a
19 general line of food products intended for home
20 preparation and consumption, and at least 30
21 percent of retail space is for perishable goods
22 that include dairy, fresh produce, fresh meats,

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1 poultry, fish and frozen foods.

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

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

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

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

21 It may make sense that this be the
22 definition, I just was curious to know what, how

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1 each of the definitions --

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

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

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

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

19 The differentiation I'd be happy to
20 take a look at the numbers for a corner grocery
21 store again. You're not the first person to
22 raise that maybe those numbers are a little low.

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1 We made them a little bit lower
2 because the size is so much smaller. And
3 they're just so much more confined and so we
4 thought that a little bit more flexibility maybe
5 made sense.

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

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

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

19 So in the definition of, or in the
20 regulation of large, the new regulation for, the
21 new proposed regulation for large format retail
22 where special exception is being proposed as the

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1 process as opposed to matter of right.

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

7 MR. LAWSON: That's right.

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

11 MR. LAWSON: The ones that we have
12 seen so far would not. Typically for example,
13 the Walmarts and I believe the Targets as well
14 --

15 (Off the record comments)

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

21 So they would not fall within this
22 category. I'm not saying it would be

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1 impossible for one of those stores to reformat
2 so it fit these categories. But if it fit these
3 categories, then it's achieving the purposes
4 that the District has for those uses, so that's
5 the intent of it.

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

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

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

21 Did we add, in the original text as
22 advertised, there wasn't a reference as I recall

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1 to the Comprehensive Plan in that. For our
2 purpose in the first chapter, has that been
3 added back in? Had that been added at some
4 point?

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

7 COMMISSIONER MILLER: Okay. Thank
8 you.

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

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

19 COMMISSIONER MAY: Mr. Chairman, I
20 just want to say, I'm not suggesting that we
21 should do away with it, I'm just letting my, you
22 know, my opinion that you know --

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1 CHAIRMAN HOOD: Right, I heard your
2 opinion so I'm also letting them know my
3 opinion.

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

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

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

17 Because having to hire three since
18 I've been here, there was no process set aside
19 for the Commission. We talked about early on
20 about putting that in the code back in 2007 or
21 '08. That was one of the things that we
22 mentioned.

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1 What brought it to my attention was
2 when I looked at the definition of director
3 which is on Page 13. I think that definition's
4 incomplete. Can we relook at that?

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

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

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

21 There's more to that than just the
22 Commission. I think it's just incomplete.

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1 But I'm more concerned about that first one,
2 making sure that our three, the new Commission
3 is at home.

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

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

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

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

21 (No audible response)

22 CHAIRMAN HOOD: Okay, let's go to

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1 bicycle parking summary. Let's go in the same
2 order, Commissioner May.

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

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

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

22 So I think that at least there should

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1 be a requirement for at least some of the
2 required spaces to be in close proximity.

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

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

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

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

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1 think that's all fine.

2 CHAIRMAN HOOD: Okay, Vice Chair
3 Cohen.

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

9 CHAIRMAN HOOD: Okay, Commissioner
10 Miller.

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

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

19 COMMISSIONER MILLER: Okay, so.
20 But I'll agree with your comments, I just think
21 that we need to just put it in context of right
22 now there isn't any requirement at all and we

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1 honestly want to have a requirement, and it
2 should be a reasonable one that makes sense.

3 COMMISSIONER MAY: Correct, I
4 agree.

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

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

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

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

21 COMMISSIONER MAY: Oh, other than,
22 got it. Okay. All right so. I mean I think

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1 it's arguable that we should continue to have
2 that reduction. And I'm wondering whether it's
3 something that could be available as a special
4 exception rather than a simple straight out
5 elimination?

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

10 COMMISSIONER MAY: It already
11 exists.

12 MR. LAWSON: Yes.

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

19 And I agree with your comments that
20 actually the Office of Planning continues to
21 recommend that there be no minimum requirements
22 in all the D zones, including the west end where

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1 there is high availability of fixed transit
2 options. So I would throw out for my other
3 commissioners, my fellow commissioner to react
4 to.

5 CHAIRMAN HOOD: Okay, Vice Chair
6 Cohen.

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

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

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

22 And you know, I know that there's

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1 issues between cars and bicycles and again I
2 won't really go into that here, but we have to
3 recognize that we are choking in this city, or
4 we will choke if we continue our behaviors. So
5 I am not in favor of removing parking
6 reductions.

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

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

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

22 CHAIRMAN HOOD: Commissioner

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1 Miller.

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

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

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

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

19 COMMISSIONER MILLER: So it would
20 be 50 percent of the required amount for the
21 residential or other uses, would be the minimum
22 requirement.

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1 COMMISSIONER MILLER: Okay, well I
2 continue to associate myself with the Vice
3 Chair's and Commissioner May's comments about
4 those two changes. I don't really support
5 those two changes. I think that's all I have.
6 Thank you.

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

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

18 MR. LAWSON: Sure. It was to add
19 more flexibility. There was some questions
20 from the Zoning Commission of where 400 feet
21 came from and so we took a look at that number
22 again.

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1 And 600 feet when we started to map
2 it out meant that, that accessory parking, those
3 accessory parking spaces would be on the same
4 block or on the adjacent block typically and we
5 felt that, that was an appropriate distance.

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

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

11 MR. LAWSON: That's correct.

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

18 And one of the things that I've
19 watched, you know, and I'll use this example is
20 restaurant row, when this Commission decided
21 that we were going to have a developer come in
22 and say we just have so much parking. But the

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1 caveat to that is, they don't let you park on
2 the first three rows and nobody tells anybody
3 that.

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

11 COMMISSIONER MILLER: Where's
12 restaurant row?

13 CHAIRMAN HOOD: I mean Rhode Island
14 row.

15 COMMISSIONER MILLER: Oh, Rhode
16 Island row.

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

20 COMMISSIONER MAY: I wanted to add
21 one other thing which I forgot to mention when
22 I first --

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1 CHAIRMAN HOOD: Okay, I just don't
2 want that point to get lost because I've heard
3 the developer come in and tell us, actually they
4 saw me in the street. You guys got too much
5 parking.

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

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

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

19 One is that the, on 1907, this is on
20 Page 4. We've changed the excess parking
21 penalty, if you will, to require additional TDM
22 measures if the excess parking space is greater

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1 than, instead of 1.5, two times the minimum
2 parking requirement.

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

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

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

21 And then I'm wondering what we
22 should do about what language we set down because

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1 I heard three commissioners speak about, speak
2 of their disagreement on 1902.1, (a) and (d)
3 being struck and three commissioners also speak
4 against adding the language in 1902.3(b)(2).
5 So what do we do in those circumstances?

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

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

13 CHAIRMAN HOOD: Okay.

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

17 CHAIRMAN HOOD: Well from my stand
18 point, I you know, what I understand, we want
19 strike and cut and paste. And since this is out
20 there, it's been public. We can always make
21 changes and cut things out. And I heard my
22 colleagues say, you know this is out there, this

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1 is what people have had a chance to digest. And
2 I think this is what I would like to hear them
3 talk about at the alternative hearings.

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

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

15 COMMISSIONER MAY: And again, it's
16 not because we're trying to steer in a
17 particular direction, but just to make sure the
18 people are aware that this is something under
19 debate. Because if we simply advertise the
20 language as it was presented to us, people might
21 get the incorrect impression that we're all good
22 with that.

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1 And then you wind up having
2 discussion and you wind up changing it and then
3 people are unhappy about that.

4 CHAIRMAN HOOD: My only comment is
5 that I just think it's going to help with
6 discussion, I don't have anything as far as an
7 alternative. I didn't want to take it out and
8 then not be able to get public comment.

9 COMMISSIONER MAY: Oh and I'm fine
10 with that. So if we could advertise two
11 versions of it I'd think --

12 (Simultaneous speaking)

13 CHAIRMAN HOOD: And I'm fine with
14 that.

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

21 COMMISSIONER MILLER: I would
22 support that. And with the other, what the Vice

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1 Chair --

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

8 (No audible response)

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

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

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

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

22 CHAIRMAN HOOD: Commissioner May.

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1 COMMISSIONER MAY: Sorry I have a
2 question. 3402.8(b) where we talk about the
3 definition of vegetative walls and how the area
4 is calculated.

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

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

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

13 MS. VITALE: And we can clarify --

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

17 COMMISSIONER MILLER: It's height
18 and width.

19 MS. VITALE: Sure we can revise
20 that.

21 CHAIRMAN HOOD: Okay.

22 COMMISSIONER MAY: Thank you.

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1 CHAIRMAN HOOD: Let's go to
2 lighting summary. Commissioner Miller.

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

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

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

20 And I think there is other language
21 in there that gets at that issue of kind of an
22 exception when lighting is necessary for

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1 security. I think section 700 --

2 VICE CHAIR COHEN: Point one.

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

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

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

16 MS. VITALE: We can.

17 MR. LAWSON: Sure, and certainly
18 the intent of this is to make sure that the
19 lighting does not cause problems with security
20 and safety. Our intent is that any of these
21 restrictions would not result in a situation
22 where there would be an unsafe situation.

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1 So we're also looking forward to
2 feedback on this to make sure that what's being
3 brought forward will not tend to result in that.
4 At least certainly not more than the current
5 situation where of course the zoning
6 regulations don't really regulate external
7 lighting at all.

8 COMMISSIONER MILLER: Right.

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

13 COMMISSIONER MILLER: Yes.

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

16 COMMISSIONER MILLER: Yes, that is
17 what I'm after, so I appreciate that. I think
18 I remember a recent case where they, it was being
19 proffered that they were providing additional
20 lighting in the alley or where ever because it
21 had been a tradition high crime area. And then
22 that we felt that was --

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1 MR. LAWSON: And that's why it will
2 be very desirable. So this isn't really so much
3 about having less lighting, it's about using
4 lighting more strategically, using it smarter.

5 And when you have lighting making
6 sure that the lighting actually shines on what
7 it is that you want to illuminate and not
8 everything else that doesn't need to be
9 illuminated.

10 COMMISSIONER MILLER: Right. I
11 understand. So I appreciate that, and so on
12 800.2 is says, you may need an escape clause here
13 too, "The hours of operation for the lighting
14 system for any game or event shall not exceed
15 one hour after the end of the event".

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

21 MS. VITALE: No, we can certainly
22 provide that and like we said, this is a new

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1 provision. And any thoughts or comments that
2 you have --

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

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

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

17 MS. VITALE: I think this is just
18 saying that you would have an automatic cut-off
19 or an automatic shut-off for exterior lighting
20 that would, you know, make sure that those
21 lights get turned off between 10:00 p.m. and
22 6:00 a.m.

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1 With the exception then that you
2 could have outdoor lights stay on between those
3 hours if you need them, you know, for the use.
4 If they're for, you know, be illuminating flags
5 or other kind of civil structures.

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

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

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

17 CHAIRMAN HOOD: Clear it up a little
18 bit.

19 MS. VITALE: Clear that up.

20 CHAIRMAN HOOD: Something between
21 10:00 p.m. and 6:00 a.m. if it's not of use, it
22 automatically cuts off the service.

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1 MS. VITALE: It would have a cut-off
2 switch.

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

5 MS. VITALE: Correct.

6 CHAIRMAN HOOD: Okay.

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

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

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

19 CHAIRMAN HOOD: Okay, Commissioner
20 May.

21 COMMISSIONER MAY: Okay, so I agree
22 with what's been said so far and I agree

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1 wholeheartedly in the concept of including this
2 in the zoning regulations is some form. But I
3 have to say that the way the regulations are
4 written, I just see a lot of potential pitfalls
5 and problems.

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

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

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

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

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1 those light fixtures.

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

6 And they do kind of basically the
7 same thing. And you're not going to get the
8 kind of baffling, and directionality out of the
9 \$5 fixture that most people are going to buy.

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

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

20 So does that mean that even though
21 I don't ever require at my house to light the
22 door, because it says only on, you know

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1 non-residential structures you have to light
2 the door.

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

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

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

16 Like we have done with a few other
17 issues to accelerate them, this one I would do
18 it maybe just put it on a different track so we
19 really do think it through and make sure it
20 meshes with the green area ratio requirements
21 and other sustainability issues that we're
22 assessing.

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1 I just was very uncomfortable
2 reading that whole section.

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

8 (Off the record comments)

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

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

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

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1 more fully.

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

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

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

21 And I think there does have to be a
22 lot of outreach to a lot of folks. It's not just

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1 the home owners that might be adversely
2 affected. I think maybe all residential
3 development and the costs of housing is
4 something that we actually take into account.

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

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

18 Like, which we've had a lot of public
19 testimony on, and that's for example
20 inclusionary zoning and having deeper
21 affordability levels. So I just raise that,
22 not taking the self, looking at the big picture.

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1 This is a new issue, we don't have
2 a lot of testimony on it. There are a lot of,
3 it affects the entire city. I think it would
4 be good to consider it separately and not hold
5 up the ZRR because of any pitfalls that might
6 be raised and not overly prolong our, the
7 hearings that we're going to be having on this
8 alternative text.

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

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

21 COMMISSIONER MAY: Can I ask a
22 question of the Office of Planning?

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1 CHAIRMAN HOOD: Oh, sure. Isn't
2 that what we've been doing?

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

8 (Off the record comment)

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

13 (Off the record comments)

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

20 I don't think that we have a strong
21 opinion on that one way or another. It's really
22 what you all are more comfortable with.

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1 We absolutely agree that this kind
2 of came at us, you know, in pretty short order.
3 We wanted to have something to you that was part
4 of this package so that you had the option of
5 moving forward if you were comfortable with it.
6 If you're not comfortable with it, then we're
7 certainly comfortable with whatever your
8 decision is in terms of process.

9 CHAIRMAN HOOD: Okay.

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

16 But you know there is so much that
17 we are trying to digest and write and rewrite
18 in our process for the ZRR that I just think
19 we're better off focusing on the things that
20 we've already been dealing with rather than take
21 on something that seems so new and potent and
22 important as well.

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1 COMMISSIONER MILLER: If I could
2 add, I would prefer that option. Not so
3 strongly but I just don't even know whether the
4 District's buildings, has this been vetted with
5 DGS? Do we have that, whether -- the District
6 Government is subject to zoning.

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

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

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

22 (Simultaneous speaking.)

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1 CHAIRMAN HOOD: -- and yes, because
2 she was saying we'd get public feedback. Well
3 I think we'll get it, I was ready to go back on
4 over it with the Vice Chair, not that I'm
5 waivering, but I think Commissioner Miller
6 brings up a good point.

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

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

13 CHAIRMAN HOOD: Well I've been
14 there before.

15 VICE CHAIR COHEN: Yes, exactly.

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

20 Strong arm you, and give us some more
21 time to look into it at some of the issues that
22 both Commissioner May and Commissioner Miller

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1 had brought up. All right, so we straight on
2 lighting summary? Okay, let's go to accessory
3 apartment summary. Commissioner Miller.

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

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

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

22 You already compromised to require,

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1 and we read, and so did advocates of accessory
2 apartments, that if whether it was going to be
3 a new building or whether there is going a
4 substantial addition to an accessory building
5 that, that would to go through a special
6 exception process.

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

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

20 And so I cannot support the
21 additional compromise that's proposed here that
22 would require all accessory apartments and

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1 accessory buildings to go through a special
2 exception process.

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

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

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

18 Any time you can you get public input
19 and I think this is very critical, where there's
20 no existing. I think this is very critical, but
21 I don't have a problem going with as
22 Commissioner Miller and let's see what the

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1 public has to say about that.

2 Let's just leave it, put what
3 Commissioner Miller said in there and leave
4 what's in there, what's already being
5 recommended, the compromise from Office of
6 Planning, the special exception which I'm
7 totally for with the accessory units and let's
8 just see what the public says. And we'll go
9 from there. Vice Chair Cohen.

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

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

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

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1 people.

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

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

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

20 Some seniors will need help. They
21 may need, either a family member or an outside
22 person to come live with them, not necessarily

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1 in their home. They want their independence
2 and accessory apartments would probably provide
3 that for them.

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

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

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

21 MR. LAWSON: If I may, Mr. Chair,
22 because I want to make sure that everybody is

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1 clear on what it is that we're proposing.

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

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

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

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

22 What we're proposing to change

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1 because we've heard, I'll use the word
2 vociferous, concern, from all parts of the city,
3 all parts of the city, that there are a lot of
4 concerns about the ability to do an accessory
5 dwelling unit within an accessory building.

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

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

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

20 But that's, so the change that we
21 proposed to accessory buildings affects
22 buildings on, that actually is a relatively,

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1 compared to the change we proposed, lie in a
2 relatively live-in scope because of some of the
3 other conditions that are needed to, that would
4 have been needed to be met to do the by right
5 accessory dwelling unit on an accessory lot, or
6 sorry, an accessory building.

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

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

15 CHAIRMAN HOOD: Okay.
16 Commissioner May.

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

22 But actually it may be that a hybrid,

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1 of the old and the new, may be the ideal
2 circumstance. And maybe there are some other
3 suggestions that occurs, some other
4 requirements such as setbacks that would
5 actually address some of the concerns that were
6 raised in those vociferous comments.

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

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

12 MS. VITALE: Correct.

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

17 MR. LAWSON: I believe our intent
18 was, that if you could meet the requirements of
19 the zoning regulations, it's pretty hard to do.
20 To do the second unit within an accessory
21 building, that, that would continue to be
22 allowed in R-4.

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1 COMMISSIONER MAY: And had to do
2 with the alleys?

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

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

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

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

22 MR. LAWSON: That, if my memory and

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1 the R-4 regulation I wrote is correct, then yes.
2 For that you would need a special exception and
3 that would be to allow for that review to happen.

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

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

18 But the objectionable conditions
19 have to be you know, real concerns and not you
20 know, imaginary ones or you know, the fear of
21 the unknown. It has to be based on real
22 instants in the past.

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1 I do have a couple other questions.
2 One is that the, on 1606.4 and I know this was
3 in the regulation before, but the aggregate
4 number of persons that may occupy the house and
5 the accessory apartment shall not exceed six.

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

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

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

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

22 COMMISSIONER MAY: Okay, so I think

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1 that's problematic. And I just think that the
2 number of six seems, I mean a family of five is
3 not that unusual. I happen to have a family of
4 five, but that's not about me, Chairman Hood.

5 CHAIRMAN HOOD: Thank you.

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

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

17 Then the last thing I would say is
18 on 1606.6(c)(2), the safe and convenient
19 access, I see that, that has changed from what
20 was, you know before it used to be ten feet, now
21 it's eight feet. So that means if you have a
22 nonconformant side yard of seven feet on both

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1 sides, you could not make use of your accessory
2 apartment.

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

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

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

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

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

22 MR. LAWSON: Yes, we're happy to

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1 continue those discussions. These were based
2 on again discussions with the fire department.
3 They want to make sure that there was you know,
4 that accessibility.

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

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

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

20 (Simultaneous speaking)

21 COMMISSIONER MAY: -- three abreast
22 or something like that.

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1 MR. LAWSON: We didn't discuss --

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

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

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

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

18 MR. LAWSON: And I totally
19 understand your point, in going through special
20 exception, the point of it is to access that.
21 But one of the points of that special exception
22 review is to access that accessibility.

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1 COMMISSIONER MAY: Right and I
2 agree with that but again this is one of the
3 conditions of the special exception that you
4 have to meet.

5 MR. LAWSON: Exactly.

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

8 CHAIRMAN HOOD: Okay. Ready to
9 move on?

10 MALE PARTICIPANT: Yes.

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

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

17 When you said that you wanted it
18 advertised in the alternative, I wasn't sure if
19 you were, you as a body, were intending that all
20 of our changes including the reduction in the
21 lot size, and all these other changes be
22 advertised in the alternative.

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1 Or just that one provision related
2 to accessory apartments and accessory building
3 being by special exception or by right?

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

6 VICE CHAIR COHEN: Yes.

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

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

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

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

21 MR. LAWSON: Well and that's
22 assuming that there was a language advertised

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1 in the alternative, that's true.

2 VICE CHAIR COHEN: I think there
3 was.

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

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

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

19 VICE CHAIR COHEN: Right.

20 COMMISSIONER MILLER: -- could be
21 suggested by Office of Planning to try to
22 address some of those issues that --

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1 MR. LAWSON: I would suggest this is
2 given timing, and since my understanding was
3 that you were going to do something with this
4 tonight, then I think it's important that
5 something happen tonight.

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

15 (Off the record comment)

16 CHAIRMAN HOOD: Hold tight.
17 Commissioner Miller did you have anything you
18 wanted to?

19 COMMISSIONER MILLER: I was just
20 going to throw out the suggestion that maybe
21 between now and two weeks from now, you could
22 reduce this to an options paper that give you

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1 direction on. I don't know if you want to put
2 it off though that way -- you don't want to put
3 it off?

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

10 MR. LAWSON: Yes.

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

17 And then advertise the other
18 version, in the alternate. And then we just
19 have a hearing on all of it. And when we
20 actually wind up making decisions about this,
21 we can you know, mix and match whatever language
22 at that point.

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1 CHAIRMAN HOOD: You know what, we
2 spent ten minutes doing exactly what I thought
3 we did say we were going to do early on. That
4 was exactly what we said we were going to do.

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

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

16 (Off the record comment)

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

20 COMMISSIONER MAY: So, and that's
21 essentially what I was suggesting. That we
22 advertise the languages that appeared before us

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1 today, and the original language.

2 VICE CHAIR COHEN: Exactly.

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

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

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

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

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

21 CHAIRMAN HOOD: She's used to
22 working with us being so complicated. She's

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1 very used to it. Okay, let's go to corner
2 stores and we'll start off with Commissioner
3 May. He knows how to start on the Vice Chair
4 and I. Commissioner May.

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

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

18 And so I think the only question I
19 have is whether it might make sense under
20 1605.12 where we are, let's see, where we start
21 to talk about -- I'm getting to the right one
22 -- where it says under (f), a maximum of fifteen

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1 percent of the gross floor area may be permitted
2 by special exception to be devoted to the sale
3 of alcohol for off-site consumption.

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

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

16 And it may be that it should be timed
17 to the ABC licenses or something like that. Or
18 as long as the ABC license is in place so that,
19 you know, the zoning disappears if they don't
20 behave well, if the operators don't behave well.
21 That was my only suggestion.

22 CHAIRMAN HOOD: Vice Chair Cohen.

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1 VICE CHAIR COHEN: Commissioner
2 May, I would concur with your comments. But
3 also I think corner stores serve a purpose.
4 They're very convenient, they enable people on
5 the way to or from work, often to stop by and
6 purchase things.

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

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

17 CHAIRMAN HOOD: Okay, Commissioner
18 Miller.

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

22 I would note that the existing ABC

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1 statute, and has for some time, generally
2 prohibited any retailers ABC license in a
3 residential zoning, residential use district as
4 defined in the zoning regulations, Section
5 25-336 of the DC Official Code.

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

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

20 But so I think that they just need
21 to take a lot at that and at least have a cross
22 reference to it. If not, line them up together.

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1 CHAIRMAN HOOD: Okay. My only
2 comment Mr. Lawson, is what I told you. Is, I
3 can't find it now it's my time. There was a
4 reference to three squares, like 1357 or
5 somewhere in the corner store --

6 COMMISSIONER MAY: Page 2, 1605.5.

7 CHAIRMAN HOOD: 1605.5?

8 COMMISSIONER MAY: Yes, Page 2.

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

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

21 CHAIRMAN HOOD: So what happens in
22 other areas of the city that may fall, I mean

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1 are we sure there are no other areas that fall
2 into this category?

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

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

19 I get very concerned about this
20 because this has happened in the past. I'm
21 going to make sure that we've gotten all of it
22 in. Is there something else we can do, that we

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1 do not disturb what's over in the Foxhall area
2 but also captured in other areas. You know
3 that's kind of where I am.

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

11 MS. VITALE: Yes.

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

17 MS. VITALE: That is where this
18 issue originated. But I think that, we want to
19 be clear that we're not opposed to the concept
20 of a small house, sited you know with access to
21 water and sewer, on a lot, you know, either an
22 alley lot, or on a you know, a regular lot.

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1 But this does get to the issue of
2 temporary living in these quarters and places
3 where there might not be sufficient sewer and
4 water or you know, actual you know, hookups for
5 those types of facilities.

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

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

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1 calendar year".

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

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

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

21 Whereas, and this is also in the
22 police regulations, that the temporary

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1 establishment of say a camp or other, you know,
2 non-permanent housing structures that, that
3 wouldn't be acceptable.

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

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

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

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

22 Because actually from what was

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1 mentioned to this Commission, is people are
2 living there, they're having parties, they're
3 being very disruptive.

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

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

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

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

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1 Chair Cohen.

2 VICE CHAIR COHEN: I have no comment
3 on this.

4 CHAIRMAN HOOD: Commissioner May.

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

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

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

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1 requirement.

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

6 COMMISSIONER MAY: On an alley lot.

7 MR. LAWSON: Right.

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

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

19 I think that the idea of allowing
20 tiny houses as structures on alley lots subject
21 to appropriate regulation, you know that could
22 make sense. But this seems just weird to me.

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1 CHAIRMAN HOOD: Okay, I'm not sure
2 and I agree with the comments I've heard. I'm
3 just trying to figure out how do we give folks
4 some relief because they've skated around the
5 zoning laws, which I have a problem with to be
6 quite honest with you. Anyway leave this in
7 here, let's see what happens.

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

12 CHAIRMAN HOOD: Right. It's more
13 --

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

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

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1 is about a whole community.

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

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

9 VICE CHAIR COHEN: Oh, I --

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

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

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

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1 want to comment.

2 COMMISSIONER MILLER: No, I'm good.

3 Thank you.

4 CHAIRMAN HOOD: Okay, all right.

5 Let's move on to theater space summary. Any

6 comments? Anyone want to start?

7 VICE CHAIR COHEN: Yes.

8 CHAIRMAN HOOD: Vice Chair Cohen.

9 VICE CHAIR COHEN: I have a problem

10 where you're permitting entertainment,

11 assembly, and performing arts uses where there

12 is not a related party with the tenant.

13 I don't know what purpose that

14 serves. I know that there are organizations

15 of mixed use for theater groups in mixed use

16 neighborhoods, and they own the building, and

17 they perform there.

18 And I think that you need to be a bit

19 more flexible and just delete, not related to

20 the building owner or to tenant.

21 COMMISSIONER MAY: Can I ask a

22 question, I mean this is intended to address the

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1 situation like a you know, a school building or
2 something like that, renting out their
3 auditorium for performances by a non-profit
4 theater group or something like that.

5 MR. LAWSON: That's correct.

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

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

11 COMMISSIONER MAY: Yes, right.

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

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

21 VICE CHAIR COHEN: There would be --

22 MR. LAWSON: That a new theater use

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1 in that residential zone, would not be permitted
2 by right.

3 COMMISSIONER MAY: So maybe I think
4 what you want to do is you want to add use by
5 the group that, in other words it would allow
6 --

7 MR. LAWSON: Well I --

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

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

17 VICE CHAIR COHEN: That's what I --

18 MR. LAWSON: Theater uses as a
19 principal use I guess would be the difference.
20 Because the one you're talking about, the
21 theater is the use within the building whereas
22 what this is intended to address is that there's

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1 a theater use within a building which is really
2 used for something else, like a church or a
3 school.

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

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

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

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

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

21 COMMISSIONER MILLER: Mr.
22 Chairman. I sat on that BZA case that the Vice

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1 Chair referred to, and first let me say that I
2 want to thank the Office of Planning for
3 responding to public testimony and Zoning
4 Commission Member comments that wanted to see
5 something in this area that would be a little
6 more flexible than the existing code.

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

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

18 And I think there's similarly
19 situated properties around the city where it
20 would come down to it. Whether there are
21 adverse impacts or not and if there are, then
22 the neighbors are opposed to it, and the ANC

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1 opposed to it, then BZA won't -- they'll
2 probably recommend against it, and you get all
3 that great weight and it would be denied.

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

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

11 VICE CHAIR COHEN: Auto repair,
12 auto repair next.

13 MALE PARTICIPANT: Auto repair.

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

18 COMMISSIONER MAY: I don't have any
19 questions.

20 VICE CHAIR COHEN: My concern is
21 when you talk about a required buffer area, can
22 you elaborate more because a buffer area could

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1 be you know, ten feet.

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

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

14 VICE CHAIR COHEN: Okay.

15 CHAIRMAN HOOD: Commissioner
16 Miller.

17 COMMISSIONER MILLER: No.

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

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1 and PDR zones.

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

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

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

14 CHAIRMAN HOOD: So this is added?

15 MR. LAWSON: This is the added one.

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

21 MR. LAWSON: Sure, there are other
22 uses that we've made by special exception and

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1 then that buffer area is now required for all
2 industrial zones, all industrial areas such as
3 into residential.

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

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

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

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

22 MR. LAWSON: What section is that?

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1 VICE CHAIR COHEN: It's under where
2 you mention 305.9, "the use of barbed or razor
3 wire".

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

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

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

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

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

16 VICE CHAIR COHEN: Yes.

17 COMMISSIONER MAY: I wouldn't agree
18 with that.

19 VICE CHAIR COHEN: But some of them
20 are near residential and so it's a, you're on
21 the second story of a house and you're looking
22 over a PDR. It just came up in a case.

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1 MR. LAWSON: Just to clarify. This
2 is, what this is, is the use of the use of barbed
3 or razor wire adjacent to any residentially
4 zoned land shall be prohibited.

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

10 VICE CHAIR COHEN: Correct.

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

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

18 And there are ways, I mean the fact
19 that you're looking at it from a residential
20 neighborhood, I mean you could have your own
21 fence. I mean if you really don't want to look
22 at it.

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1 VICE CHAIR COHEN: Again, it's
2 often fences are higher than let's say six feet.
3 If you're in a second story you can see it and
4 I think it does have a negative impact. They
5 are prison like in appearance, and I think that
6 it's inappropriate. But again let's just wait
7 for comment, additional comments. I would like
8 to see that omitted.

9 CHAIRMAN HOOD: I probably would
10 fall, believe it or not, fall in line with
11 Commissioner May. There needs to be some type
12 of separation, you know, you can have vegetation
13 running through it or whatever the case may be.

14 But we can always, we have
15 exclusions, we can wait for public comment, then
16 we can deliberate at the appropriate time.
17 Commissioner Miller you have anything on this?

18 COMMISSIONER MILLER: I understand
19 why she has concerns but I would tend to, and
20 there's chain link fence and then there's chain
21 link fence that can be painted. If it's in good
22 condition and it's painted black for example,

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1 green, it looks a lot better than something
2 that's falling apart and it's rusty and so there
3 may need to be more flexibility here for these
4 industrially zoned lands.

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

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

17 MR. LAWSON: That regulation exists
18 right now.

19 VICE CHAIR COHEN: Okay.

20 MR. LAWSON: Parking in front of the
21 building is not permitted. Parking within a
22 building must be setback at least 20 feet from

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1 the property line. That's in the current
2 regulations and that carried forward.

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

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

8 VICE CHAIR COHEN: Oh, okay.

9 MR. LAWSON: Because under the
10 parking regulations themselves.

11 VICE CHAIR COHEN: Okay. Thank
12 you.

13 CHAIRMAN HOOD: Okay, Commissioner
14 May.

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

20 Some of them make sense, in the first
21 one, "Building design shall incorporate
22 architectural features and patterns to provide

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1 visual interest. Exterior walls shall feature
2 projections and recesses". I mean those are
3 easy to understand and I can go with those.

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

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

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

18 And then, "landscaping shall be
19 provided in the rear and side yards to screen
20 and limit visibility of storage areas". So I'm
21 not sure that, that's necessary in all
22 circumstances.

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1 It kind of depends on what your
2 backing up to. But if it is backing up, I mean
3 maybe it needs to be more like PDR where you have
4 buffer areas that are defined and you have to
5 have certain things in them and so on.

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

11 VICE CHAIR COHEN: I'll agree with
12 8 but not with (f). I would really argue
13 strongly for (f) because a lot of the retail
14 buildings especially those that are for large
15 format do not include any of these.

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

22 COMMISSIONER MAY: And I don't

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1 disagree that it's a priority. I just think
2 that this might be redundant with GAR. If it's
3 not redundant with GAR then I don't really have
4 a problem it.

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

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

16 Starting in special section process
17 for large format retail, I think all the
18 language is good for the public hearing comment
19 and I would agree with the comment to strike,
20 Mr. May's comment, to strike 8 in section 206.8,
21 to strike this section about the provision of
22 pitched roofs.

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1 But on (f), I think I would agree
2 with, I would suggest that in line with what the
3 Vice Chair was saying and the Chairman.

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

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

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

21 We don't want that retailer saying
22 well you didn't put it in, you didn't say

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1 anything, couldn't do the parking in the front.
2 And you referenced parking in this, in that (f).

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

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

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

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

21 And then similarly, the exception at
22 the end. It says, this section doesn't apply

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1 to large format retail that to a Planned Unit
2 Development. That makes sense.

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

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

12 COMMISSIONER MILLER: Already.

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

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

21 MR. LAWSON: Yes, it's very good
22 clarification.

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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.

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1 And I know we're putting off inclusionary zoning
2 as a separate case, but now that we've put off
3 ZRR for as long as we have.

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

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

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

21 MR. LAWSON: Sure. We have
22 provided those maps. We can certainly resubmit

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1 those. It's the areas that would be included
2 within the downtown areas that are not within
3 the current downtown overlay. And not within
4 the TDR receiving zones.

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

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

12 COMMISSIONER MILLER: Where is that
13 language?

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

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

18 MR. LAWSON: It's already in there.

19 COMMISSIONER MILLER: -- now?

20 MR. LAWSON: Yes.

21 COMMISSIONER MILLER: Then maybe
22 you can just send it to me, or to us, all five

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1 and just so -- and then maybe we could just have
2 the list or just direct me to the map that you
3 created and by words where IZ would now apply
4 because it doesn't currently.

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

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

16 COMMISSIONER MILLER: Okay. Thank
17 you.

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

20 COMMISSIONER MAY: No.

21 CHAIRMAN HOOD: Okay, Vice Chair
22 Cohen, you have anything?

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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.

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1 We heard a lot of objections from people about
2 that.

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

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

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

18 MR. LAWSON: Well they're floating
19 out there anyways. It's just a question of
20 whether they're floating out there as TDRs or
21 floating out there as, you know under the new
22 system as credits.

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1 So you know, again if the Zoning
2 Commission is, I guess what I'm saying, we're
3 comfortable with removing this provision.
4 We're comfortable that the process will work
5 well without that limit.

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

9 VICE CHAIR COHEN: Those are my
10 comments.

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

14 (Off the record comment)

15 CHAIRMAN HOOD: Commissioner Miller.

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

20 CHAIRMAN HOOD: Okay. Thank you.
21 Let's go to party status. Is this part and I
22 know party status has been around forever. I

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1 think as I mentioned previously, we started to
2 move forward and get this thing -- but this did
3 we only do it for the Zoning Commission and not
4 the Board of Zoning Adjustment?

5 We did it ourselves. We did it for both?

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

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

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

21 COMMISSIONER MAY: No.

22 CHAIRMAN HOOD: Okay.

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

4 CHAIRMAN HOOD: Well we haven't
5 finished --

6 COMMISSIONER MAY: I know, I know.

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

10 COMMISSIONER MAY: I agree.

11 CHAIRMAN HOOD: Okay.

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

14 CHAIRMAN HOOD: Okay.
15 Commissioner Miller.

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

21 But I had some additional questions
22 but they don't have to be answered tonight. But

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1 perhaps they could be answered soon by the
2 Office of Planning, maybe soon.

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

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

19 And in some cases they do have a
20 problem with it. It's for those simple
21 additions to home owners' homes. It just seems
22 the variance standard is just way too

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1 restrictive. And I don't know if we changed it
2 at all for the rear deck particularly. But the
3 roof deck as well.

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

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

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

20 It just, so I would like them, I'd
21 like the Office of Planning to look at that and
22 give us something back on that.

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1 And finally Mr. Chairman, sorry to
2 pull on this, I saw a recent exhibit filed by
3 the National Capitol Planning Commission staff.
4 And I know you're responding to all the late
5 breaking, well your responding throughout the
6 ZRR to comments that have come in.

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

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

18 MS. SCHELLIN: Just so that
19 Commissioner Miller knows, that's not been
20 provided to anybody. It's in the record but
21 since the record is so open, those documents
22 will be provided at the appropriate time.

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1 So it's not been provided, so unless
2 OP has actually gone on line and looked, they've
3 not been provided to anyone yet. But they will
4 be.

5 MR. LAWSON: Right, so --

6 MS. SCHELLIN: It is available but
7 --

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

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

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

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1 discussed already with NCPC.

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

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

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

14 (No audible response)

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

21 So I need to, I don't need them
22 written out or rehashed, but I think it's clear

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1 Ms. Schellin and I'm sure Mr. Lawson and Ms.
2 Vitale have it together, the comments that we
3 have amended things, and we've asked that it be
4 setdown together, things we've asked taken out.

5 I think we agreed with most of that.
6 Things that stayed in there, so I move that we
7 set this down.

8 COMMISSIONER MAY: Second.

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

11 (No audible response)

12 CHAIRMAN HOOD: All those in favor?
13 Aye.

14 (Chorus of Ayes)

15 CHAIRMAN HOOD: I'm not hearing any
16 opposed here. I will tell you that Mr.
17 Turnbull's comments, he says, I believe that my
18 comments for setdown will merit many of the
19 comments presented by my fellow commissioners.

20 I look forward to the upcoming
21 hearings and the input of the community on the
22 proposed revisions to date.

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1 It is moved and properly seconded.
2 All those who voted, I'm not hearing any in
3 opposition that are in attendance. And Mr.
4 Turnbull also has an absentee vote.

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

7 MS. SCHELLIN: Yes, sir. Staff
8 records the vote 5-0-0 to setdown Zoning
9 Commission, the alternative text that's been
10 proposed with the discussion that's been made
11 this evening in Zoning Commission Case No.
12 08-06A.

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

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

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1 website.

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

5 Okay, any further discussion,
6 anything else?

7 MS. SCHELLIN: No, sir.

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

13 VICE CHAIR COHEN: No.

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

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