

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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SPECIAL PUBLIC MEETING

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MONDAY

OCTOBER 6, 2014

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The Special 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 5:55 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

- SARA BENJAMIN BARDIN, Director
- SHARON S. SCHELLIN, Secretary
- ZEE HILL, Special Assistant

OFFICE OF PLANNING STAFF PRESENT:

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JENNIFER STEINGASSER, Deputy Director,
Development Review & Historic
Preservation

JOEL LAWSON
ELISE VITALE

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

The transcript constitutes the minutes from the Special meeting held on October 6,
2014.

PROCEEDINGS

(6:07 p.m.)

MR. HOOD: Okay, testing. Let's go ahead and get started and by the time I get through with all of the opening remarks, Commissioner Miller, who's stuck on the subway should join us. 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 me is Vice Chair Cohen. Soon to be Commissioner Miller, Commissioner May, Commissioner Turnbull. Office of Attorney General's Office, we have Ms. Neberhau and Mr. Redding. From the Office of Zoning, we have Ms. Bardin, our director, Ms. Hill, our special assistant, and Ms. Sharon Schellin, the secretary to the Office of Zoning. As well as the Office of Planning, Ms. Steingasser and Mr. Lawson and Ms. Vitale. Okay. The contents of today's date meeting adjourned are available to you and are located at the door. We do not take any public testimony at our meetings, unless the Commissioner requests someone to come forward. Please be advised this proceeding is being recorded by a court reporter. It's also webcasted live. Accordingly, I must ask you to refrain from any disruptive noises or actions in the hearing room, including the display of any signs or objects. Please turn off all beepers and cell phones. Does the staff have any preliminary matters?

MS. COHEN: No, sir.

MR. HOOD: Tonight we have two, actually two proposed actions in front of us. Deliberations, and we have one proposed action. And I'm going to wait for

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Commissioner Miller. And this is Zoning Commission Case No. 13-14 Vision McMillan Partners, LLC, First Stage PUD related map amendment and consolidated PUD at Square 3128, clarification of the vote. I want to apologize to the public and also to my colleagues, because when I made the vote I didn't include everything. So everything, at least the perception of it, was that I did not approve the consolidated part of the PUD and the related map amendment. So tonight we will be clarifying that. That was the intention. And we actually going to wait for a moment for Commissioner Miller. So we can just go off the record.

OFF THE RECORD

ON THE RECORD

MR. HOOD: We actually have asked the Office of Zoning to work on some worksheets for us. And I think they are, from what I understand, copies are over to the left of what we're going to use to kind of scope out deliberations and discussions. So if you're here tonight, you may want to get that and you can follow along with us through those discussions. And the only other announcement that I will make on the deliberations case, there was an agenda that had specific nights we were going to talk about specific titles. After our review of it again, we've never done a rewrite before, well, revision, whatever you want to call it. I got confused. But anyway, what we want to do now is just make sure we're predictable. So the agenda that was stated for the nights that we were going to talk about those topics that will be the night. It won't be no rolling on and trying

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to continue on. We will do it exactly like that. And, you know, and I want to apologize again, I'm doing a lot of apologizing tonight. After we got into this, I think that we should have done it like that to begin with, so that it could be more predictable for the public. And I know a lot of people are tuning in. And so if you want to come down for night two, we'll be talking about what's on the agenda for night two and night two, only. We won't roll into what's, what's down for night three, okay. I just want to put that clarification. Okay, I've tried to stall enough. And we will just go back off the record.

OFF THE RECORD

ON THE RECORD

MR. HOOD. Okay, the subway finally got Commissioner Miller here, so let's go ahead and move, do we have any preliminary matters, Ms. Schellin?

MS. SCHELLIN: No, sir.

MR. HOOD. Okay. Again as I stated, we have proposed action tonight, the Zoning Commission Case No. 13-14, this is Vision McMillan Partners, LLC First Stage PUD related Map Amendment and Consolidated PUD is Square 3128. This is a clarification vote. Ms. Schellin.

MS. SCHELLIN: Yes, sir, as the secretary to the Zoning Commissioner, after reviewing the video of the meeting, I would just ask that the Commission clarify the vote. There seems to be some uncertainty as to whether the Commission meant to vote for the consolidated PUD and the related map amendment, seems that it was only the first stage. And so we just ask for clarification on that.

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MR. HOOD: Okay, so, colleagues, so on readiness, I would move that we take proposed action to approve Zoning Commission Case No. 13-14, First Stage PUD, Consolidate PUD and related Map Amendment in Square 3128, Lot 800, McMillan Reservoir, Slow Sand Filtration Site. And ask for a second. It=s moved and properly second. Any further discussion? All those in favor. Aye.

UNKNOWN: Aye.

MR. HOOD: Any opposition? Those abstentions. Okay, Ms. Schellin, if you can --

MS. SCHELLIN: -- 4-0-1 to approved proposed action to approve Case No. 13-14 for the First Stage and Consolidated PUDs and the related map amendment. Commissioner Hood moving, Commissioner Miller second and Commissioners Turnbull and May in support, Commissioner Cohen not voting, having not participated.

MR. HOOD: Okay. Thank you. Let=s move right into other proposed action for the night. Zoning Commission Case No. 08-06-A, the Zoning Regulations Review. Ms. Schellin. First, do we have any preliminary matters?

MS. SCHELLIN: No, sir.

MR. HOOD: Okay, proposed action, Ms. Schellin.

MS. SCHELLIN: Yes, sir. You have before you some worksheets as guidance for this case, and staff has nothing further to add, other than to ask the Commission to consider moving forward on this case.

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UNKNOWN: Okay, Commissioner.

MR. HOOD: Okay, colleagues, again, as stated earlier, we had an agenda and this was actually proposed earlier, but as I went through this, we want to make sure that we are predictable to the citizens and to those who are following what we do. We have an agenda for night one, two, three and four. And we're going to follow, I think we had made a motion that we would roll on, we're going to follow the agenda as noted, and we'll be talking on the subjects on the night as noted within the agenda. So for those who are following it, for those who may want to come down for some of those discussions, those particular nights, tomorrow night and Wednesday night and Thursday night, whatever is under those nights is what we will be discussing and deliberating on. Okay, so tonight we have Code Structure Zone Names, Definitions, Use and Use Groups, Administrative Chapters, Board Zoning Adjustment and Zoning Commission, Vested and Effective Date. But before I do that, I would like for any of my colleagues, who would like to, to make an opening statement. Are there any opening statements? Vice Chair Cohen?

MS. COHEN: Thank you, Mr. Chairman. This has been a very long and arduous process for many, many people. But I just want to mention that for me, seeing that over 800 people took the time to either come own and testify, or do so in writing, made me realize that democracy and citizen involvement really is working in our city. I really appreciate that. I respect that. And hopefully I don't believe everyone will end up being happy about the decision-making. But frankly, I have to give the citizens of the District of Columbia, people who participated, a great deal of credit. So that's what I wanted to, and I

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believe my colleagues, well, I know my colleagues share that, but they may want to say it on their own.

MR. HOOD: Any other opening statements? Commissioner Turnbull?

MR. TURNBULL: Well, I just wanted to acknowledge with a lot of gratitude and the hard work of the three individuals to the right of dais, Ms. Steingasser, Mr. Lawson and Ms. Vitale for, and all of their, all of the OP people who have done such a, for, I don't know how many years now we've been working on this. I don't want to give a number out, but I just think that a lot of long hours, a lot of meetings and I think they've really shown what the City can do, and I think what the Office of Planning can do and I just wanted to give my, a vote of thanks and endearment to the three people at the, at the right hand of the dais.

MR. HOOD: Okay, Mr. May, any opening comments?

MR. MAY: Sure. So mine's going to be a little bit redundant, because I have prepared remarks and I'm just not going to try to edit on the fly. So the zoning regulation rewrite has been an extensive effort and now we're at the point where we actually start stepping into, or continuing the decision-making that, you know, had started a little bit early on and, and then was put on hold while we got the whole thing in order. And I think that it's our mission at this point to be forward thinking. And I mean that both in terms of preserving the essential and beneficial qualities of many of our

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different neighborhoods, but also in terms of seeing a different and more sustainable future in certain ways. I was fortunate enough this weekend to talk to John Parsons, my predecessor, and at one point my colleague on the Commission, who told me the story of the housing requirements for downtown and how contentious that was and how the developers fought back and how they were fighting on all sorts of grounds. Like the fact that, you know, they like to have all the toilets stacked up on top of each other, and you can't do that with apartments. I mean all these different, I think colorful arguments. And, and then there were threats about, you know, packing up and heading for Northern Virginia where it's a more friendly development environment. All sorts of comments like that. But the Zoning Commission toughed it out and took the heat and took the risk. I'm sure with the Officer of Planning's assistance and many other people involved, I know there were many people involved in that. But, you know, I think we see the results of that. If it didn't lead to the housing boom that we've experienced, it certainly accommodated it. But it was just the right thing to do at the time and I think that we need to be thinking in those, I think we can take some inspiration from the earlier action of the Zoning Commission in that case. We have received an awful lot of evidence. I have my box here.

MS. COHEN: Organized.

MR. MAY: You know, some of it's pure factual. Some of it's pure opinion. You know, we've seen some pretty extreme information. There is no evidence,

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so and so. And there is, or it's perfectly clear, so and so, either for or against. And so a fair amount of hyperbole. But there are, you know, in the end, I think there are facts that can support or oppose just about any number of these provisions that are in here. And at this point, we just have to make our judgment call. I find some of the comments that we received more problematic than others. Especially disparaging comments about the process or comments directed at certain parties who have participated in, in some form or another. But I'm also especially concerned about some of the comments that were directed at the Office of Planning. I do not agree with everything that the Office of Planning initially proposed. But I have nothing but respect and gratitude for all of their efforts. We have been at quite a few hearings and meetings, but they have been in the trenches studying and re-studying meeting, presenting, listening, drafting, re-drafting, making it possible for this Commission to act. And when we've shifted directions here and there, the Office of Planning has always responded gracefully and effectively. I'm also grateful to the ANCs for all of their participation and their consideration and comments from all the wards. It's essential. I know that this is a burden for them. I know that they're all volunteers and they have regular jobs and they have regular businesses, ANC Commissioners that they need to, to take care of. But their efforts have not been wasted. I would also recommend the any citizens, or, sorry, recognize the many citizens groups and other participants in the process. Many of these are longstanding citywide groups, neighborhood associations and even newly formed groups that came together just to address specific issues that were raised in the zoning regulation rewrite process. And

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we've learned a great deal from all of their participation. And finally to the many 100=s off, 100=s I think of individual citizens who came to testify or submitted testimony, and many have been frequent visitors to the Commission in my nearly ten years. There are certain people who I see regularly, and some of them are sitting here tonight. But then we saw a great number of people come here for the very first time and I'm grateful for all of their participation in this process and in future zoning commission hearings. I have, you know, by the Parsons standard, I have 27 years to go. I'm not sure I'll make it that far and hopefully we'll get zoning done a lot sooner than that, or a zoning rewrite. Thank you. Sorry, that was a bit long.

MS. COHEN: Peter.

MR. HOOD: Any comments? Mr. Miller?

MR. MILLER: Thank you, Mr. Chairman. I would just associate myself with the remarks of my colleagues and particularly the eloquent remarks that Commissioner May just made. And just note that this has been going on since 2007, over seven years. And this Commission has held 15; I think its 15 public hearing since November 13 of last year. So it is time to move forward with something. Thanks.

MR. HOOD: Okay, I'm probably not going to be as organized as Commissioner May, but I'm going to say what I have to say. I've been here from the

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inception of this process and I can tell you that, I hope no one takes any comments personal at the end of the day. I live here, too. And the decisions have been made here today will impact lives in the city, including mine, as well as others. You know, I want to thank everyone that participated. Whether it is the Office of Planning, the Office of Zoning, the hard work that they are doing, especially the Office of Zoning, the hard work they're going to have to do. The Office of Planning for taking this on. You know, I remember that whole discussion, who was going to do this. The Office of Planning, I mean the Office of Zoning wanted it. But politically we couldn't get it. So, you know, I was here for all that. I went through all that. But I will tell you that I took the, an attorney, attorneys, I said everyone, everyone who had anything to do with this, especially the public. And I'm going to get into any specific groups or anything. But anybody who had a part in this, I personally want to thank them for whatever they did, whatever they brought to the table, but you know I took the liberty of going back and thinking about how we got here and Commissioner May mentioned John Parsons. John Parsons' comments when we first started this was don't throw the baby out with the bathwater. Why don't we do an edit? I will tell you, John Parsons, and he and I disagreed on issues, but as I've been through this over these years, was a very wise guy. And I should have listened to him early on in a lot of cases, especially some things that I see develop. One of the things I took the privilege of doing, I kept hearing revision, rewrite and now back to revision. I said let me look up all those words. So I took the provision of looking up rewrite, I mean revision. And I took the provision of looking up rewrite. So look at, review is to look at, or examine again. Rewrite,

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which I don't know where that name came from midway through, to write in a different form or manner. To write again. An instance in writing something again so as to alter or to improve. That last definition I say like improve. When we sat out to of this, we set out to get less pages, to make it easier to read and to me, the way I'm going to base all this on, did we accomplish all that? At the end of the day, did we accomplish it? And I'm not casting any dispersions, trust me, Anthony Hood's skin has gotten real thick. You know, I'm not talking about anyone. I'm not saying anybody did a bad job. But at the end of the day, did we accomplish what we set out to do? This is supposed to be easier for the lay person as well as the person who spends hours on this. Did we do this? Did we do that? Did we accomplish it? I don't know. And from what I see, additional pages, I don't know if we got there yet. I don't think we did. Again, an instance of writing something again, so as to alter it or to improve. Did we get there? I went us to think about this as we deliberate. Another thing is, the zoning code that was in 1958, and I understand everybody saying we, we, we been doing this for a long time. Yes, guess what? Anthony Hood's been here for it, too. But that code lasted, as Mr. Parsons said, and it stood the test of time. Maybe all we need to do is make edits. And, and that's how I'm making this approach. That's how I want, yes, there's some things that need to be refined. But we've heard testimony and someone mentioned to me, one of my colleagues, I think in one of the hearings, sometimes we wonder if this is the Tale of Two Cities. Obvious it is. You know, neighborhoods have their unique situations and circumstances. When I moved in in Woodridge, I moved there for a reason. I didn't move in DuPont Circle. I didn't, some folks who live in Watergate,

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they moved there for a reason. And a lot of people, yes, there is some improvements we can make. But at the end of the day people make choices. And I said this at a hearing. So again, the factor for me is are we improving it? Did we, will it stand the test of time? And again that=s not a disparagement to the Office of Planning, the public, Office of Zoning or my colleagues.

MS. COHEN: Or DuPont Circle.

MR. HOOD: Or DuPont Circle. Or whatever I called it. And, and I wasn=t just necessarily referencing, but I was just making a comparison. But I just want to know, is this going to be better off than what we had in 1958, that stood the test of time. So, I think that=s all in my discussion. And again I wrote myself a note for no one not to take it personal, because I sure don=t. No one take it. Already, I=m already getting a complaint, but anyway, so no one take it personal. Okay. Again, thank you for, any other opening comments. Okay. Let=s proceed right along. Okay. And I thank the public, those who just joined us again, we have copies of a worksheet to my left, if you want to follow along. Okay. Zoning Commission Case No. 0806A. The Zoning Regulations Review. Night one, let=s start off with Code Structure and Zone Names. Okay. Looking at our worksheet, there was some topics that were mentioned. And I want to appreciate everyone who worked on this to capture some of the things. This is not, this is some, this is not all, let me back up. One of the things I also want to know is, and, and, and I know, not going to go to Office of Planning that much, but some clarification. But let me go to the

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Office of Planning, I know Office of Zoning, once we finish this process and we start looking at more text, we, we found that there were a lot of mistakes. And I know we've been trying to correct them. Is there a contractor that's going to come in? Someone who, who is, and I don't know if this was ever mentioned, but is there someone who's an attorney or a contractor, who's going to come in and work to make sure that there's no fallacies in, in the code, as we move forward? Let, let me go to you, Ms. Bardin; do you know about that?

MS. BARDIN: Not to my knowledge. I believe that it will be work with the Office of Planning, OAG and the Office of Zoning, to get this complete.

MR. HOOD: To, to make sure that we don't have, I forgot about the mistake, there were some mistakes and we were trying to catch them. And as we move forward, we want to try to, I don't know what other cities do, but I don't know if they have a third party to come in and do an analysis, Ms. Steingasser, I'm not sure what's going to happen. What's going to happen when we get to that point?

MS. STEINGASSER: Well, we've always acknowledged there's a, a lot of mistakes that, people wanted to see the draft in its working form and so we put it out there. We, we know there's a lot of mistakes. We've been, we've been going at them, but the Office of Attorney General will do the legal sufficiency scrub, to make sure that sections aren't conflicting with each other. That it's in the right form. The Office of, of Documents and Administrative Issuances will also look at it for grammatical issues. But we had not planned on going to a, to an outside agency, outside the government.

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MR. HOOD: Okay. Do, do, let me ask you, do we know what other jurisdictions do when they do, do they, and not, trust me, I don't have anything to do with the budget and I know that costs money, but do we have anybody that does like a, a, do we know that other agency, the other jurisdictions do like a check, to make sure that those things don't exist? Because we can miss it.

MS. STEINGASSER: We, we can, we can miss it and we have. And in my 14 years here, several times the Office of Attorney General has issued technical corrections and there will be a small volume of technical renumbering=s and footnotes that were wrong and misspellings. Other jurisdictions, they do it across the board. A lot of them use a national codification company where, where it=s actually maintained outside the government. Like, like Westlaw is for, for, for legal briefs. We can certainly do a quick survey of surrounding jurisdictions that maintain their own regs and see how they=ve handled that issue.

MR. HOOD: Okay and I'll, and I also will do my own, but that would be good if you could now how, how that=s done in all the jurisdictions. Okay. Let=s go back to Code Structure. The Organization of Use Titles. Remember we set down attachment and attachment was attached submissions. There was an alternative to create two additional zones to reflect the Arts and Reed Cooke Overlay zones as unique chapters of Sub-Title K. Some of the public comments is, is noted. And there=s much more. We didn't capture everything. We were just trying to have a reference and had, got out of

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discussion. No change to existing structure. Change to structure, but continue to refine the organization so that it's more logical and easy to use. And support for constituting the Reed Cooke zones into a new RC Zone within Sub-Title Reed Cooke Zone with, within Sub-Title K. And again, we have noted here the Office of Planning's recommendation. Which the alternate is to use the Sub-Title framework. And I think this came out of a lot of discussions and where I saw this, I thought they were trying to capture, this is one part I necessarily saying that I have a problem with it, but I thought they captured this good in trying to reconcile everything of all the different issues we heard on Code Structure, but it says that the Office of Planning Recommendation alternate use the Sub-Title framework reconstituting an arts and Reed Cooke Overlay Zones into unique zones within Sub-Title K, and allow Office of Planning to continue to work with OAG and OZ to refine draft, the draft within the general framework of the sub-title organization. So with that we had to have the frontals, let's open it up for all you all discussions. Commissioner Turnbull?

MR. TURNBULL: Yes, thanks, Mr. Chair. I just want to ask Ms. Steingasser, so basically the framework, the sub-title is the same, but within that you're looking at maybe sub-categories that might develop out of that or --

MS. STEINGASSER: As, as we've been going through and, and responding to comments and, and trying to do some of the edits, we'd like the leeway to continue to regroup some of the information. Right now there's a lot of repetition between Sub-Title C, which is general rules and regulations, that's then repeated over and over in Sub-Title D, E, and F, as you move through the residential zones. So we'd like to

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organize that. But we would like to keep the sub-titles themselves. That, that general organization, which allows then for the chapters within to be more focused.

MR. TURNBULL: So you're not looking for us to later come back and made a modification change to which we've already, if we agree to this tonight, and you'll make some changes within it. We're not looking for major modifications to this thing.

MS. STEINGASSER: It wouldn't be major modifications to the format. So we'd like to be able to put the Reed Cooke Overlay back together. And the reason we've focused on Reed Cooke is because it's an overlay that overlies, overlays zones that are in different sub-titles. This allows them to be put together in one place. So it, the Reed Cooke Overlay's commercial and residential as well. And I think a small piece of industrial. So this allows that to be put together. That's why focus on that and the arts. But other than that, there wouldn't be any major relocations. There'd be tweaking within the chapters.

MR. TURNBULL: Okay. Thank you.

MR. HOOD: Mr. May?

MR. MAY: Yes. I'd just like to follow up on that. So if I understand it correctly, what we'll see in text, when we get the text, soon, it will be RC-1 through RC-7 or whatever. And it will be each of those individual zones. R-5-B and C-2-A, and things like that, that they've been, the ones who are C-2-A/RC, will become RC--

MS. STEINGASSER: -- 1, right. Yes, sir.

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MR. MAY: Okay, I guess what I'm still longing for a better explanation of is why that's the most appropriate or Reed Cooke, Reed Cooke, as opposed to, and, and I think you maybe indicated, the Arts Overlay Zone as well? And why that's most appropriate for those, but not appropriate for some of the other overlays?

MS. STEINGASSER: Well, the Reed Cooke and the Arts Overlay Zones that are in different sub-titles. So you've got, you've got, they're almost divorced. You got similar purpose statements in two different sub-titles covering two different types of zones. The Overlays modify both use and development --

MR. MAY: Mm-hmm.

MS. STEINGASSER: -- standards. And they do it across different sub-title zones. So we thought it would be easier to put them together, keep that whole marriage, if you will, in one place.

MR. MAY: Okay, and is it only, are those really the only ones where that qualifies? Because I can think, or example, I mean with, isn't, the Capitol Interest District, doesn't that have --

MS. STEINGASSER: It --

MR. MAY: -- multiple, I mean that's in a couple of different titles.

MS. STEINGASSER: It does, but it doesn't, it doesn't modify both the uses and the development standards.

MR. MAY: Mm-hmm.

MS. STEINGASSER: The Capitol Overlay actually just modifies the, I

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think the development standards, what was it the height?

MR. MAY: What was the height?

MS. STEINGASSER: But it doesn't change the uses. The DuPont Circle Overlay also overlays local zone, but all that does is restrict the use of PUDs, so we captured that inside the PUD Chapter, as well as no intent within the zones.

MR. MAY: Okay. So we're not going to see a rush of over potential reorganizations like this. These are the only two where it really makes sense?

MS. STEINGASSER: Yes, sir.

MS. COHEN: However, oh, may I? Sorry. However, later on in your response to some comments, you did invite different neighborhoods to come in to specify some specific things that the neighborhood wanted, it appeared to me in some of the response comments by OP.

MS. STEINGASSER: We're trying to stay, to get away from the growth and overlays and rather work through actual zone districts. We would ask that they do it through a process that, that, you know, is community based. That works with the property owners and affected, affected property owners, as well as working through the planning process first, so we don't, would not expect that just to show up through, through an amendment here without having the planning, either a small area plan or some kind of community based plan that --

MR. HOOD: No other comments? Mr. Miller?

MR. MILLER: No, I--

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MS. HOOD: Okay. I guess Ms. Steingasser and maybe I don't understand it. I know that at the end of the day the Reed Cooke Overlay folks came in. We heard a lot from them. They and I don't want to say they made a lot of noise, because that wouldn't be right. But they, they fought for what they, what they thought was right and they thought it would touch, we would, and this may not be the right place for me to say this, but they thought we would be weakening it. I truly don't understand the difference and why we're singling Reed Cooke out and I understand there's some offset interests with, I guess commercial and residential, but I don't understand why we are just isolating the Reed Cooke Overlay Zone and, and not the other one like Langdon. I spoke about, I don't get, I'm not there, which I don't get it. Maybe I'm missing something.

MS. STEINGASSER: Well, Langdon we expanded to cover every industrial zone. So it's not that Landon disappeared. Langdon became, everywhere there's industrial, there's Langdon, there's Langdon requirements.

MR. HOOD: And I know we've had that conversation because I know exactly we've expanded that one.

MS. STEINGASSER: Right.

MR. HOOD: But maybe I don't understand why, why we just didn't keep that one and, it now applies all over the city.

MS. STEINGASSER: Right.

MR. HOOD: I think Mr. May mentioned Capitol Hill. But the, why could not the Reed Cooke also apply all over the city? You know, I don't, I'm not getting

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it. Again for me, if I'm, I've been here all this time, I've having problems, what are the lay people going to be doing?

MS. STEINGASSER: Well, the Reed Cooke is, is a specific set of standards to a very specific geography. And we maintained that geography. We've maintained the purpose statements and the things that are being controlled in, in the Reed Cooke Overlay, are not being controlled citywide. So all the C-2-B is not being treated the same citywide, whereas with Langdon it's performance standards relative to industrial uses. And so that, we did want to expand that citywide. But what's going on in the Reed Cooke Overlay is they're, they're asking that there be a height reduction. That, that, this is what the current regulations establish. There is a height reduction. There is a use restriction. They were the first to approach the issue of affordable housing through, through both a, a special exception requirement. They lowered the height and if you wanted that height back, so they had some very specific goals and requirements. And they apply differently to the commercial pieces that were covered by the Reed Cooke Overlay and then there were residential pieces that were covered by the Reed Cooke Overlay. So we wanted to keep those purpose statements together. All the other zones like the, like, like DuPont Circle, all of those purpose statements are still within the regulations. But they're, they're not split between the purposes of the zones and, and the sub-titles the way Reed Cooke was. So we put Reed Cooke back together in one place, so that all of the purpose statements between the residential and the commercial, and all of the development standards, as well as the use restrictions are all in one place.

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MR. HOOD: So we don't have no other overlays? And I know this sound might redundant, but I have to ask it the way I ask it. And, and I know we're not going to take anything personal. I'm asking, because I know that the lay people are going to have, at least this lay person here, probably going to have some issues later on, and some concerns. But we don't have any other overlays that, that meet that threshold?

MS. STEINGASSER: Not that do what the Reed Cooke Overlay does. The Arts Overlay also has some unique requirements that are relative to different zones that cover two different, three different sub-titles, so we also put those together. But those are the only two, and again it's, it's not just that there's an overlay. It's what is that overlay doing? It's regulating the form of the building, as well as the use of the building. And so when it does both of those, so there's rules and requirements, as well as the purpose, we put those together.

MR. HOOD: So all the other overlays now, I want to make sure I'm right now. I understand we singled this one out because of the way it operates. So all the other overlays include, I still on the Langdon, because that's the one I'm most familiar with, throughout the regulations and across the city, is, is, is that safe to say?

MS. STEINGASSER: No, sir. All of the other overlays are with, are, are married to their base zone and given a new name, but the purpose statements are still there. Whatever development standard requirements are still there. Everything's still there. It's just given another name. So instead of being, well the Neighborhood Commercial is a perfect example. So instead of being Woodley Park - N-1, it's, or -C-1A, it

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now would be N-1. And all of the, if you went to the current regulations and you went to the Woodley Park Overlay, you would find all of those purpose statements, all of the underlying purpose statements that aren't otherwise modified, all of that=s together in the NC-1 Zone.

MR. HOOD: Okay.

MS. STEINGASSER: And all of the building heights, all of those restrict, all of those limitations are all together in one place. So right now you would start with a C-2B, or a C-2A Zone. And then you would go through all those uses, which take you back through the residential, through, through the C-1, then you would go to, to the neighborhood commercial overlay see what, what was changed. Then you go back say, oh, well I can't really have, have a hotel there, like I thought I could. This has put all of that together in one place.

MR. HOOD: Okay. All right. Go ahead, Commissioner Miller.

MR. MILLER: So not to beat a dead horse, but so when you, when you=re proposing to create the put, put up, put the Uptown Arts and Reed Cooke Overlays into the Special Purpose Zones of Title K, then then there, will the, will the mixed, the mixed use zones that they=re currently in, in Sub-Title G disappear?

MS. STEINGASSER: Yes, sir.

MR. MILLER: Okay. I=m generally comfortable. I mean it=s a growing comfort level. It=s a learning curve, because we, when we=re dealing with the same structure forever, it=s a whole new language and a whole new structure, but I think

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there's some logic to what's being proposed here.

MR. MAY: I would agree. I mean the, it was a leap to go from base zone plus overlay into this long list of R Zones, or, you know, N Zones or whatever, which, you know, there's other identifier other than the fact that it's, you know, it's R-19. You know, it doesn't have that identifier on it that says that R-19 is actually part of what used to be an overlay zone. But all of the information, I think is, is there, if you want to, if you're doing residential in that particular area, it's R-19, it's all in one place and that makes sense. What I was uncomfortable with was now sort of stepping back from that and trying to reintroduce a new overlay or, or retain a certain overlay. But that's not what's being proposed here. It's more akin to what we've done at Hill East or St. Elizabeth's or Southeast Federal Center, where it's zones that are specific to those areas and have been defined in that way. So I'm not comfortable with this, having had it explained better here tonight and having had this discussion.

MR. HOOD: Okay. I guess for me, I'm comfortable as well, while I'm still grappling with trying to understand it, but I'll figure it out. I'm more concerned, I'm not concerned about Anthony Hood, I'm understand about, I'm more concerned about the residents of the city understanding it. I'm really not concerned about me. I'll figure it out, I guess. Maybe we all have a class and we all get together and meet somewhere and figure it out. But I guess one of the things that we heard, is there anyone up here who's interested in not changing the current structure. Okay. Okay. Let me hear what you're interested in the Office of Planning's recommendation or, or what? Let me

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hear what you're interested in and I guess we can move, with reservations, I would go with the Office of Planning's recommendation. I'll just put that out there.

MR. TURNBULL: Mr. Chairman, I would go along with that also. I would go along with --

MR. HOOD: With reservations?

MR. TURNBULL: No, with the OP recommendation.

MR. HOOD: But you have reservations as I do?

MR. TURNBULL: No. I --

MR. HOOD: Okay.

MR. TURNBULL: I feel comfortable with it.

MR. HOOD: Okay. Again, Ms. Steingasser, maybe I just need to understand a little more. And, and I know we've had a conversation about NC-1 and all that earlier. And I'm talking about earlier than this evening. But maybe I just need to understand exactly. And I understand about the Langdon Overlay. I finally got that down. It's just some other things. And these are the things that, that a lot of residents are going to have to grapple with and understand, I believe. Okay. Vice Chair Cohen?

MS. COHEN: Yes, Mr. Chairman when I was appointed to the Board, I had not read the zoning regulations until I was appointed to the Board. And I found that the modifications were easier to navigate the second time that I read them. So I put myself, you know now that I've worked with it for three years, I can understand why it's harder to understand than if you're just coming to it. Without having as much experience

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in the earlier version, I found the alternative easier to navigate, so I would go along with the OP recommendation as well.

MR. HOOD: Okay. Any other comments on it? If not, somebody can make a motion to accept it?

MR. MAY: Yes, I would just, I want to add a comment, I think the overarching point here is changing the structure, generally. It's not just the Reed Cooke and Arts Overlay issue. It's this, you know, the concept that it's, all, you know, we're dealing with a lot of individual zones. And while on its face it looks like we're going from relatively few classifications to a long list of them, in actuality, it is simplifying it for the first time reader. Perhaps not to the person who's familiar with them and have to sort of figure out a new logic behind them, like us, or like many of the people who, who've been involved in the zoning cases, but to the first time reader, it's going to be a lot simpler. I mean, think about it, you know, if you, if you wanted to figure out what you could do in an R-4 Zone, you had to look at the R-4 Zone and then you had to look at the R-3 Zone and then you had to look at the R-2 Zone and then you had to look at the R-1 Zone and if it, if it was an overlay, then you'd have to look at the overlay restrictions as well. So that's five places to find out what you need. And here it's all going to be in that single zone.

MS. COHEN: Exactly.

MR. MAY: So, I think that's the most important thing and I mean, I understand some unease about moving forward, but I'm very confident that this is the right way to go.

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MR. HOOD: Mr. Miller?

MR. MILLER: Mr. Chairman, the other over optioning principle here is that all of the protections and, that are in the correct overlays are being carried forward. Like that=s the intent. And there have been suggestions along the way that things need to be added back in that somehow were inadvertently left off or people felt that they needed to be emphasized and I think they have, in large part been added back in or clarified, to make sure that the language is there. That, that it was offering the protections to begin with, so.

MR. MAY: Can I add one qualifier to that? I mean going through the actual zone descriptions, there are some very small tweaks, but it has to do with things like courtyard sizes, which have always been problematic. And so it=s those sorts of things, that=s really pretty minor stuff. And, and, you know, the biggest one is probably the fact that we=re not saying explicitly in R Zones you can=t have a penthouse over ten feet. Whereas you used to be able to have one 18=6. So, anyway.

MR. HOOD: Okay. All that sounds good to us. But again, still stay where I am, but I=m not going to let this be a show stopper on this for me. Maybe again I need that 101 Class that I=ve been asking for for a while. Okay. Someone like to make a motion?

MR. TURNBULL: Well, Mr. Chair, I guess, I would move that we approve the code structure, as per the OP recommendation. I=m not sure what else we want to add to that.

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MR. HOOD: The alternate, the alternate recommendation?

MR. TURNBULL: Right.

MR. HOOD: Okay. All right. So it's been moved. Any second?

MS. COHEN: Second.

MR. HOOD: Moved and properly seconded. Any further discussion?

Any additional discussion? All those in favor? Aye.

MEMBERS: Aye.

MR. HOOD: Not hearing any opposition, Ms. Schellin, do we need to record all these votes? Yes, let's --

MS. SCHELLIN: If you're voting, then I need to record it.

MR. HOOD: Do it, undo it, yes.

MS. SCHELLIN: Yes, sir. Yes, Staff records it 5-0-0. Commissioner Turnbull moving, Commissioner Cohen seconding to accept the alternative, or OP's recommendation of the alternative with regard to the code structure for Case No. 0806A. Commissioners Hood, May and Miller in support.

MR. HOOD: Okay. Let's go next with definitions.

MR. MAY: Is that both?

MR. HOOD: I'm sorry?

MR. MAY: All of them? Is that both recommendations for code structure and zone names on that first page?

MR. HOOD: Hold on, let me pull that.

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MS. SCHELLIN: I'm sorry. Did that also include zone names? Did I miss that?

MR. MAY: Right. That's what I was wondering. Because I thought we were moving on to zone names.

MR. HOOD: Oh, I'm sorry. You know what, I moved to definition. I'm sorry.

MR. MAY: Yes.

MR. HOOD: I'm still on code structure. I can't get down to zone names, I'm going to be back in, okay, let's go to zone names. I apologize. Again, sat down attachment, or we had an attachment two lists with the comparison names. The alternate zone names reworked, some of the suggestions, well, the alternate was keeping the existing zones R-1-A, R-1-B, R-2 and R-3 of the Low Density Residential Zones to avoid, to avoid confusion and then one or the other benchmarks was add additional letters to most zones to clarify the zones, such as N to NC. And we just got through talking about that. Signify neighborhood commercial, P to PDR, signify production, distribution and repair, A to RA to signify residential apartments. I know we, we had a lot of comments on that. Then the public comments that, some of the public comments in a nutshell says those who oppose change in structure also oppose changing the names to, zone names and want to keep the overlay names. Those who supported the structure change also had no objection to the name changes and the Office of Planning's recommendation use the July 10th, 2014 alternate name structure, that keeps the R-1-A, R-1-B, R-2 and R-3 Zones and

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adds the clarifying letter to the zone names and notify, noted in the July 10th, 2014 column.

Let's open it up for discussion. I know we had a lot of conversation on this. Any comments?

MS. COHEN: Yes.

MR. HOOD: Vice Chair Cohen?

MS. COHEN: You know, Mr. Chairman, again, when I entered into this task, as a rookie, had I had a more complete breakdown, I think that I wouldn't have had as much early angst in preparation for sitting on some cases. I think this could be much more simplified for users. In my experience you go directly to where, whatever, wherever you live and you could look up that code and it just seems to me, again, ease of use.

MR. HOOD: Any comments?

MR. MAY: I would add it does improve a bit of a, the ease of use and does make some things clearer. The, and I think that adding the R to the apartments to RA makes, makes more sense. Adding, you know, going to PDR, adding, and going to NC makes sense. I especially like, it's not noted specifically here, but I think it includes a recommendation to switch from the overly complicated downtown zone names to a very straight-forward D-1, 2, 3, 4, 5, whatever. And only adding an R when it's a housing priority area. If I understand that correctly. And that really helped me an awful lot, because I just couldn't wrap my head around the D-6 B-1 it was just too many numbers, too many letters and the wrong order. And it's just, you know, I couldn't get that. So I'm much happier with the straight-forward D-1 through 7.

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MR. HOOD: Okay. Commissioner, Commissioner Miller and then we're going to leave it here.

MR. MILLER: So, yes, thank you, I agree that the modifications that have been made are improvements. So on the, so we now got the R-1 and R-2 and R-3 back. And R-4 is part of their residential flat zone and there's going to be a couple new zones in there for three unit and four unit apartments, I believe. Three or four unit dwellings, not necessarily apartments. So it will, and then, and then you go to the R-5 or the R-5 Zone, which becomes RA with a, with a number and RA-1 through whatever it does go, 10. So is, is there not, there isn't going to be a R-4 in this structure? Or is that part of the tweaking that you --

MS. STEINGASSER: There, there will not be an R-4 in this structure.

MR. MILLER: There will not be. So why won't we just include, why wouldn't we keep our, maybe you can just educate me as to what, the rationale, why wouldn't we go, keep using the R-4 for the zones that are currently R-4 and then add some letter to it for, or something to it for the new zones that will be created in that category or, or --

MS. STEINGASSER: We really like the idea of the RF --

MR. MILLER: Yes.

MS. STEINGASSER: -- indicating that these were flats, they were, they were types of multi-family with, with limits. And we found using R-4 in, in the single family grouping got back to that confusion of, I mean R-4 is such an engrained phrase in this city,

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everybody knows what it means. Children know what it means. You know, it's, so trying to call, which is what we ran into with the R-1's changing to an R-2, it just was an unnecessary confusion. So we just put the R-4 aside and stayed with the RF. If the Commission wants us to, to do away with the RF and, that would really change the system, but, when we, when we reintroduced the R-1-A, R-1-B, R-2 and R-3, we just dropped the R-4.

MR. MILLER: People will always know it's kind of associated with that, since it's the missing number. Maybe just put a parenthesis next to it or the old R-4 for the ones that will be the old, I don't know. Other than, other than that, I think I'm comfortable with the names, sub-names.

MR. HOOD: Okay. Commissioner Turnbull?

MR. TURNBULL: Yes, thank you, Mr. Chair. Well, I get, I want to thank OP for her attachment 2, I think it sort of shows the chronology of how we've gone from the more complicated names and we tried to simplify it. And so I appreciate that. I would agree with Commissioner Miller to a point. I think there are some things that from those of us who know what some of those old names were, we're going to still think about them. But I see where you're going and I think there's a logic there. There's a logic to that. Again I think, looking at the, at the last alternate zone names in July 10th, 2014 names, I think adding NC to the end, I think is a big help. I think that there, there's been some subtle changes that they've made that I think are going to help people. I mean M becoming MU, I think it's, it's a subtle change, but I think it makes a lot of sense. So, I'm

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in favor of it.

MR. HOOD: Okay. I would agree. I know, we have actually had a lot of discussion. For example, we used to just have A. Now we have RA. So, so I think that will definitely, this is the kind of thing when I'm talking about simplifying it. I think this will definitely help simplify. One of the comments that I read about PDR=s was that the reason they thought we should have kept it, I don't necessarily agree with, was P because we didn't have a, a definition for repair. Ms. Steingasser could you, I'm not going to comment on everybody=s, because we had a lot of issues, but can we talk about the definition or, or how we looking at repair, production, production, distribution and repair. Can we talk, I think that was someone=s concern. They wanted to keep it at P, which we had proposed and I actually agree, I think it was my suggestion to make it PDR. So, so, I kind of wanted to give that person a confident level if they were watching. I think what, and I think it was accident the Commissioner of Ward 4. This is where I think she and I may disagree. She said we didn't have a definition of repair.

MS. STEINGASSER: You=re correct. That was Commissioner Judy Jones= concerns from 4-B and we=ve worked a lot with her on this issue about auto repair and they have a lot of, of these long narrow industrial tracts that butt up against residential. And they=ve got a lot of auto repair that has formed in those zones. So that=s a great concern to, to that particular ANC. We change from the existing name, which is CM or N, because we don't really have a lot of manufacturing in the District. And that, CM stands

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for commercial manufacturing. So we went to PDR, which is production, distribution and repair, which is more reflective of the type of uses we have in our industrial, what we think of as our industrial zones. It doesn't imply permission, it just kind of identifies that these are, are the kind of uses that would go on in there. So, we did, we did require a special exception, also for auto repair uses, when they are adjoining a residential property, when they abut a property line with, with a set back and significant screening. So that, that's how we try to balance the concerns of the, the District names with, with the implied permissions.

MR. HOOD: I thought we said on there, and forgive me going out of context, but I have to do things while I'm thinking about it. I thought we said on the special exception and the PDR Zone if it was on the same lot, it would require a special exception? I thought we said that.

MS. STEINGASSER: If it adjoins a residential, a residentially zoned property or is separated by an ally. I think is how we went to it.

MR. HOOD: All right.

MS. STEINGASSER: It doesn't have to be on the same lot, it can be two squares.

MR. HOOD: As long as it has a separation, a meaningful separation -

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MS. STEINGASSER: Right.

MR. HOOD: -- I think is what we said. Okay.

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MS. STEINGASSER: Yes, sir.

MR. HOOD: All right. I got to revisit that. Okay. I don't have any other comments on this. Somebody like to make a motion to accept it? I think a lot of work went into this. I'm actually confident, more confident with this than I was with the fracture anyway.

MR. MAY: I would make the motion that we accept the Office of Planning's recommendation to use the July 10th, 2014 alternative name structure, alternate name structure, that keeps R-1-A or 1-B et cetera, et cetera, and adds clarifying letters to zone names, as noted in the July 14th, 2010 --

MR. HOOD: Commissioner May --

MR. MAY: -- July 10th, 2014.

MR. HOOD: Let me just say, I know you said et cetera, et cetera.

MR. MAY: Yes. You want me to say it all?

MR. HOOD: I got messed up on that, that's why we had to do the case, we won't mention it --

MR. MAY: Okay. Alternative name structure that keeps the R-1, R-1-B, R-2 and R-3 Zones and adds clarifying letter, clarifying letter to zone names, as noted in the July 14, July 10th, 2014 column on the list that we were given, so --

MR. HOOD: Okay.

MR. MILLER: Second.

MR. HOOD: Okay. It's been moved and seconded and thank you

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for that clarifying motion. It's been moved and seconded. Any further discussion? All those in favor? Aye?

MEMBERS: Aye.

MR. HOOD: Not hearing any opposition, Ms. Schellin record the vote.

MS. SCHELLIN: This staff records the vote 5 to 0 to 0. Commissioner May moving, Commissioner Miller seconding to accept the zone names per the OP recommendation from the alternative text from the July 10, 2014 set down. Commissioners Hood, Cohen and Turnbull in support.

MR. HOOD: Okay. So now I think we're ready for definitions. So definitions again we had a set down. It was noted in our worksheet, attachment one, it lists the set down definitions in the middle column. The alternate, attachment one lists the additional definition to consider as alternate text in the July 2014 in the left column and then some of the public comments, use the expanded definitions, review proposals and clarify as necessary, the director in gross floor area, consider using some of the height measuring regulations from earlier zoning commission cases, 08-06A, add balustrade A, clarify the non-conforming uses on, or structure will not result from the change in the definitions. Now the Office of Planning's recommendation to us is use the July 10th, 2014 alternate list of definitions, with some additions that may be required after review by Office of Attorney General. Address, public comments, do not include definitions that are not regulated and clarify the words not defined in this section to have the meanings given to

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Webster's Unabridged Dictionary. Let's open it up for any comments on definitions.

MR. MAY: I have a list of questions particularly to the Office of Planning among the, the questions that might, or the definition that might need to be added or clarified. Based on the things that seemed open on the comments that we received. So the first one is the elevator floors issued that was raised by, I forget PDS or the parking, automated parking advocates. Is that, I mean is that one of those things that you're seeking to, to further clarify?

MS. STEINGLASSER: Yes.

MR. MAY: Okay and CCRC's Community, sorry Continuing Care Residential Communities?

MS. STEINGASSER: Yes.

MR. MAY: Okay, I'm sorry, also ve-, vehicular entrances that was also raised by the PDS people, having to do with, I mean that seemed more like a FAR calculation question.

MS. STEINGASSER: Right. And I think that's where we would go, we would address it. I don't think it needs its own definition.

MR. MAY: Okay. Consistency with historic preservation regulation definitions. That was raised in one of these things. Is that another one that you're going to be trying to clarify or is that one where I can look at where the comment was?

MS. STEINGASSER: It's not directly at the top of my mind, but absolutely. We would want to make sure that those regulations, those definitions and

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terms are --

MR. MAY: Were consistent.

MS. STEINGASSER: --consistent.

MR. MAY: Okay. And then, I mean that was one of the ones that I thought was flagged in the, in the OP responses. And then the last one was the word about. Are you going to, are you going to go with Webster=s?

MS. STEINGASSER: We=re going to go with Webster=s.

MR. MAY: Okay. I hope that=s satisfactory. I mean I think it=s the application of abut that is the issue. And I think we=re trying to resolve that in another zoning case, right? Okay. Thank you.

MR. HOOD: Okay. Any other, any other comments?

MS. COHEN: Yes.

MR. HOOD: Vice Chair Cohen?

MS. COHEN: Thank you, Mr. Chairman. I would like to see that you illustrate FAR with a formula. I believe we had it. And again, there were a lot of people who are much more visual, and it=s more helpful to do the, visualize the math. Lot width. I think you could also illustrate that. Your definition of hotel, it defines it as 30 plus units. But you didn=t really say what makes up what is 30 units and below. So you=re missing that, maybe there=s a reason. Because you don=t mention it in the definition of inn and bed and breakfast.

MS. STEINGASSER: We=ll, we=ll follow up on that. That, that is a

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breaking point in the current code between, I thought an inn was 30 or less or less than 30.

And beyond that was a --

MS. COHEN: You don't mention the 30. That's the --

MS. STEINGASSER: Okay.

MS. COHEN: So it kind of, it could be a confusion to somebody.

MS. STEINGASSER: Kind of hang, okay.

MS. COHEN: Habitable room, one is not putting, being put forward.

I think it's very important definition to have, because a lot of people may take advantage of people and, and habitable room would, Health and Enforcement. It just seemed like it shouldn't be dropped. I don't know if you agree or disagree. But multifamily project, that I don't believe is defined and there is a standard definition that HUD and lenders use and I think it would be very helpful. I could share it with you, but for purposes of time, you know, the audience that may be tuned in here, multifamily project is a project which consists of not less than five dwelling units on one site. Each such unit providing complete living facilities, including provision for cooking, eating and sanitation within the unit. So I find that to be extraordinarily important. Again, we're getting away from what we have been used to in this, and we've been very fortunate to not have to reduce the square footage of our units until now, because of the cost of construction. But I would like to make sure that there are living facilities that include cooking, eating and sanitation. I'll share that definition. You're not carrying forward impervious and I was kind of concerned about that.

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MS. STEINGASSER: Well, it=s because we switched to the use of regulating pervious surface.

MS. COHEN: Oh, okay.

MS. STEINGASSER: So we, we wanted to stay consistent with the regulation.

MS. COHEN: That makes sense. And then I think you changed the definition of Zoning Administrator, slightly. But I think you should say Zoning Administrator of District of Colombia. Instead of just Zoning Administrator, I mean Zoning Administrator of the Department of Consumer and Regulatory Affairs, District of Colombia. You dropped the Department of Consumer and Regulatory Affairs. I don=t know why.

MS. STEINGASSER: It just recognizes the, sometimes the reorganization that goes on in government.

MS. COHEN: That makes sense, actually, yes.

MS. STEINGASSER: At cases where --

MR. HOOD: So what, what did we, what did we, what, I missed that. It says Zoning Administration.

MS. COHEN: I thought it should probably include Department of, but it --

MS. STEINGASSER: Okay.

MR. HOOD: Okay.

MS. COHEN: And that makes sense now.

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MR. HOOD: Yes.

MS. COHEN: I understand that. And I have a note to myself that says structure. But then I must have taken a break. Because I didn't write anything next to that. So do we have a definition for structure? Oh, no need for language, oh, actually, I don't know, it's okay. I just looked it up now. I'm fine.

MS. STEINGASSER: Okay, it isn't --

MR. HOOD: Ms. Steingasser, you, you want to follow you, okay. Ms. Steingasser, do we, I'm looking here at the draft, and I know that we said if it's not found in the zoning ordinance, we would go to Webster's Unabridged, is that going to be spelled out, right there, where definitions is?

MS. STEINGASSER: Yes, sir. Mm-hmm.

MR. HOOD: Okay. Are we going to put it at the beginning or at the end?

MS. STEINGASSER: Typically it's at the end.

MR. HOOD: At the end.

MS. STEINGASSER: But we can put it at the beginning, is, if --

MR. HOOD: Because I didn't, I didn't see it on our draft. Maybe I'm missing it. I'm looking at it now. But anyway, I think, maybe I'm missing it.

MS. STEINGASSER: it, in the, in the draft, the September 2013 draft it's stated in 100.2F, words not defined in this section shall have the meanings given in Webster's Unabridged Dictionary. And that just reflects its place in the current

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regulations, but we could also --

MR. HOOD: Yes, I think it needs to be more prominent, yes. That, that sounds, I mean, yes it's there, you're right, I missed it. But somewhere, because when you first get started, one of the other things is, I notice that we had, and I should not be an advocate for bicycle parking, I should let Commissioner May do that. I notice that we have, we have bicycle parking, because, you know, when I look up words, I go, when I Google especially, I go by the first word and then it goes down there and it tells you when you go to bicycle parking to go to space parking or something like, bicycle space parking or space bicycle parking. Why didn't we just put the definition bicycle parking?

MS. STEINGASSER: it just reflects the legal formatting of, of how that, those things are referenced. Because a lot of times, it would usually say parking comma, vehicular parking comma, trucks parking comma, bicycle. Because parking --

MR. HOOD: Okay. So all of them, okay, I see --

MS. STEINGASSER: So it's just trying to refer you to that --

MR. HOOD: I understand. It just sends me right to one place, okay. In this part 101 Class B Zoning Administrators I think the question actually came from the Committee of 100, Nancy Wood, she asked were the definitions legally sufficient. Something of that nature and we, we wrote that, in the response, Office of Planning's response we were going to check with OAG. Did we ever find out what the legality of what the, how that stands up in the, in the legal issue? Did we ever find that out?

MS. STEINGASSER: Once, once we get through this exercise and we

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get the next draft, it will be referred over to the Office of Attorney General, and they'll review it for legal sufficiency.

MR. HOOD: We'll be able to answer that question, okay. Oh, no, I'm sorry. It was enforceability of the definitions. Is that still, maybe we'll find out once we turn it over to Office of Attorney General?

MS. STEINGASSER: Yes, and the definitions have been reviewed by the Zoning Administrator and his staff. And they seem very comfortable.

MR. HOOD: Okay. And I like that one of the definitions in particular, I thought was good. The definition of grocery store. And I think I saw, I had it marked where the zoning, some issues that the Zoning Administrator were experiencing and was captured. See those are the kinds of things that I was looking for in the code. It captured some of the experiences he's had over the years. And I can't pinpoint exactly what it is. Maybe I'll do it after my colleagues. But it captures exactly his experience and I think it simplifies what the zone, some of his experiences now have been put into that definition. I'm not exactly sure where it is, but I read that over the weekend. And I thought that is prime example of where we're trying to go, at, at least that we're trying to make it easier. That, that's one commissioner's opinion, Okay. Mr. Turnbull.

MR. TURNBULL: Thank you, Mr. Chair. I want to, I just want to thank OP for the illustrations for certain definitions. I think we've had a lot of in BZA cases on lot lines, rear yards, side yard, so I think, and rear yards and lot lines can be confusing with, especially with our street pattern. So I appreciate your layouts and as much as I want

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to allow the ZA interpretation, I'd like to give him more, I think more information is better than just, just sketchy. I think you've clearly defined a lot of the cases that, I mean I'm sure something's going to come up, but I think you've covered a lot of the crazy situations, the different lots that we have. So --

MS. STEINGASSER: Thank you, Commissioner Turnbull. We had you in mind when we were working through them.

MR. TURNBULL: I'm sure. I really, and I appreciate it, because the case was kind of convoluted case. I'm just curious there's one, on one of the comments here, and your response is that your issue is going to be reviewed. But the term fast casual came up. I'm actually looking to see a fast formal. I thought that would be kind of interesting --

MS. STEINGASSER: I'm sure it's coming with the eating trends. We've had a lot of discussions over the years about fast casual versus fast food. And trying to distinguish it and it's a different type of fast food and it's really difficult for us. We think we've captured it in the definition changes that we have proposed. It's not called fast casual --

MR. TURNBULL: Right.

MS. STEINGASSER: -- but I think we've --

MR. TURNBULL: I didn't see it, you know, called that specifically.

MS. STEINGASSER: But I think we had thought we had captured it and we went back and reviewed it and didn't feel that we needed to make any additional

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changes.

MR. TURNBULL: Okay. Yes.

MR. MILLER: Just as a follow up to that comment, one of the comments about that came from ANC-6B.

MS. STEINGASSER: Mm-hmm.

MR. MILLER: And they, in their comments propose a percentage of revenue, I think. That if, if it, if a carry out, if a carry out is more than, I think 20 percent of the revenue, then it should be in the category of a fast food. I was just wondering, had you, did you all consider a percentage criteria in this particular definition, like you have in other definitions or is it not, doesn't work it well.

MS. STEINGASSER: We didn't, revenue percentages are extremely difficult to, to apply and to enforce. So, I mean even the hot, even Centralia on Pennsylvania Avenue, you can do carryout of their very delicious fried chicken. And but it, you know, it's not a formal carryout, but you can go and they do have a carryout service. So it becomes really difficult to, you know, it puts the burden on somebody in government to go and figure out well how much, how is this revenue broken down and how much is based on carryout and how much is based, so, we were really at, had difficulties with that. And you'll see that when you look at corner store provisions. We also started to back away from the revenue sales of alcohol for that same very reason. Okay. Yes.

MR. MILLER: In the definition of fast food you have that they, that they, they, that they don't advertise themselves as a, as having carryout service. I wonder

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if that would be tweaked to somehow say they don't, they're on these websites you, it, they are principally restaurants, but they do give information about how you could order carryout. So I don't think, and it maybe it should add the word principally advertise --

MS. STEINGASSER: Okay.

MR. MILLER: As, but they should be able to, I think we're infringing on somehow First Amendment somehow, by saying that they can't advertise that they provide this service.

MS. STEINGASSER: Okay.

MR. MILLER: That they actually do provide. Even though that's not their, their main thing. Maybe just adding a word principally.

MS. STEINGASSER: I see it, yes. You're correct. We'll definitely look at that.

MR. MILLER: Thank you, Mr. Trumbull.

MR. TRUMBULL: No, I'm fine. I'm fine.

MR. MILLER: Well, I had some other questions. Thanks, Mr. Chairman. So the, I asked this question the last time about the grocery store exemption. That, the definition of grocery store, which has percentage revenue, has the percentage revenue in it, the part of its definition, twice, I think. And then you have the large format retail definition. And the large format retail definition has an exception if it doesn't apply, if it's a grocery store. I think I'd asked you and you, last time, are the, are the large format retails that we're familiar with in the District, the, the Costco, the Target, and Wal-Mart.

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Do they get swallowed by the excep-, we want to make sure they don=t get swallowed by the exception. And yes, I think you gave me maybe some actual data on what the percentage of revenue came from grocery and perish, perishable, but can you just reassure me of that again?

MR. LAWSON: Sure. The, the ones that we=ve seen so far have less than half of their space devoted to groceries. That doesn=t mean that one couldn=t come in in the future, but the ones that we=ve seen so far have more of their space devoted to non-grocery than devoted to grocery. And that would be pretty much across the board. That would include, that would include Target, which would include the Wal-Mart stores that we=ve seen.

MR. MILLER: Okay. You all suggested in the definition of accessory apartment that, which is defined as a dwelling unit that is secondary to the principal dwelling unit in terms of gross floor area and sensitive use and physical character. You had said in your, your chart here that further clarification could be established by including the phrase single family in between the words principal and dwelling unit. Is there a reason why we shouldn=t go with that further clarification that you suggested?

MS. STEINGASSER: Are you looking at the public comment responses or the --

MR. MILLER: I=m looking at the definition worksheet, page three, I guess.

MS. STEINGASSER: No, that=s just an, there, there=s no reason we

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shouldn't do it. It was an option for the Commission to consider.

MR. MILLER: Is there any downside to, to including it?

MS. STEINGASSER: I don't think so.

MR. MILLER: Well, I would suggest we go with that further clarification. That way we can be further clear, or, or clearer and we have a suggestion from you how to be. And if there's no downside, let's go with it. On automobile laundry, I think I raised this last time. I don't know where my Commissioner notes went. Can't we just call it car wash? Nobody calls it automobile laundry.

MS. STEINGASSER: We'll, we'll call it an automobile, a car wash.

MR. MILLER: Okay, thanks. I realize that some of them do more than car wash.

MS. COHEN: I call them automobile laundry?

MR. MILLER: Oh, you do?

MS. COHEN: Oh, yes.

MR. MILLER: That, is that a New York thing?

MS. COHEN: No, it's to --

MR. MILLER: Okay, I just had one more quick, another question was on the automated parking garage, I see you've made some changes. But Parking Development Solutions submitted comments that it had the use of the word elevators. And the, I guess the park, the park, the kind of parking; automated parking that they do doesn't even use elevators. And it has this lateral, they have a, an alternative definition which talks

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about lateral movement and robotic and computerized and is there, is it, have you looked at that and have any comment on that?

MS. STEINGASSER: We're willing to make those changes.

MR. MILLER: Okay, great. I think I just had one more if I can find it.

That's it. Thank you.

MR. HOOD: All right. Any other comments?

MR. MAY: Mr. Chairman?

MR. HOOD: Yes, Mr. May?

MR. MAY: Yes, I just had a couple others that I'd forgotten about.

Trying to find them. Okay, so on the definition of mezzanine in, in bold and what we received. There's new language that says the mezzanine shall not be permitted above the third floor and those zones that are a two-story limit. But that's a development standard. Why would that be in the definition? I mean maybe you want to change the definition so that in, in zones where only three floors are permitted a mezzanine is considered a floor. And it would keep it in the definition that way, but otherwise it just seems out of place. That's all I was going to say. The rooming unit definition still includes references to tenement and bachelor apartment, which were otherwise deleted. So maybe we need to edit that definition. That was it. The other ones were mentioned by others.

MR. HOOD: Okay. Any other comments? Someone like to make a motion?

MS. COHEN: I'll move to accept the OP recommendation to use the

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July 10th, 2014 Alternative List of Definitions, with some additions, including those made this evening, that may be required after review by OAG, address public comments, do not include definitions that are not regulated, and clarify that words are not defined in this section, shall have meanings given in Webster=s Unabridged Dictionary and that the term Webster=s, the use of Webster=s Unabridged Dictionary will be prevalent, so that people can see it in the document.

MR. MILLER: I=ll second --

MR. HOOD. Okay, it=s been moved and seconded by Commissioner Miller. Any further discussion? I do want to say that, for those who want to tweak and going to get it wrong, I=m going to say this right now. That even though we say we take OP=s recommendation, if you watch us, we make a lot of changes. So it then becomes our recommendation. You know there are a lot of changes, so I don=t want anybody to think that we doing everything that OP say because we not. I want to put that out front right there, because I know we tweak, whatever OP say that=s what it is. No, that=s not true. Because we had a lot of discussion, a lot of changes, things that we wanted to see differently, and input. So that=s what that discussion, and I=ll probably say that again before the night is over. Okay, it=s been moved and properly seconded. Any further discussion? Commissioner Miller?

MR. MILLER: I did, I did have, thank you Commissioner, I did have one other question about PUD=s and the, on the definition of Zoning Commission, where it says what we do, I was wondering is there a reason why, an independent quasi-judicial

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body charged with preparing, adopting, or amending the zoning regulations and zoning map, air rights in public space and planned unit developments. It may be, it may just need some tweaking just to add campus plans in there, which are including but not limiting to, because we, we, campus plans certainly take up a lot of time here. But just might need some tweaking. So if we could add that to the, to the, to the revisions that, that OP makes when they are, what they should look at when they do, when they=re putting this to text, that would be helpful, I think.

MR. HOOD: Okay. It=s been moved and properly seconded. Any further discussion? All those in favor? Aye.

MEMBERS: Aye.

MR. HOOD: Not hearing any opposition, Ms. Schellin, record the vote.

MS. SCHELLIN: Yes, staff records the vote 5 to 0 to 0. Commissioner Cohen moving, Commissioner Hood seconding to accept the definition section of, per the OP recommendation using the July 10th, 2014 Alternative List of Definitions with some additions, including those made by, or suggested by the Commission this evening. And after review by OAG and addressing the public comments, not including definitions that are not regulating and clarifying that words not defined in this section shall have the meanings given by Webster=s Unabridged Dictionary. Commissioners May, Turnbull and Miller in support.

MR. HOOD: Was there any reason the other two was left, May,

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Turnbull, Miller.

MS. SCHELLIN: You guys made and second.

MR. HOOD: Who made the motion?

MS. SCHELLIN: Cohen and Hood.

MR. HOOD: Okay.

MS. SCHELLIN: I called you first.

MR. HOOD: Don=t, don=t put me with Cohen. Commissioner Miller made the second.

MS. SCHELLIN: Oh, I thought that you --

MR. HOOD: I don=t want to be with Cohen. Commissioner Miller made the second. No, I=m just messing with you. Actually Commissioner Miller seconded. I usually yield to my colleagues.

MS. SCHELLIN: Okay, Commissioner --

MR. HOOD: And I was just joking --

MS. SCHELLIN: I correct that then. Commissioner Cohen moving, Commissioner Miller seconding, Commissioners May, Hood and Turnbull in support.

MR. HOOD: Okay, again, I was just joking. So city paper don=t get that wrong. I was just joking with Commissioner, Vice Chair Cohen. Okay. Let=s go to Uses, Uses and Use Groups. Uses, again the worksheet we have in front of us. Okay, set, set down with sub-title B with Use Groups and Individual Use Definitions. The public

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comments we've heard are use groups too broad. Refine some of the uses. Clarify the use within each zone and make more direct link between impacts and use. Theater use and all RNRA Zones by special exception. Clarify the permitted uses. Also allow as accessory uses. Clarify accessory uses permitted within parking garages. And then Office of Planning has a recommendation, set down but refine the use groups including, but not limited to agriculture, residential, institutional and clarify, identify uses with, within zones, clarify, identify accessory and incidental use. Do not include use tables, as they were set down within the regulatory structure. Distinguish rules from definitions. Align the definitions relative to IZ, allow theater use by special exception, review CBRF and Continuing Care Retirement Communities. It's a whole lot of recommendations. Okay. Okay, let's open it up for comments. Any comments?

MR. TURNBULL: Well, Mr. Chair, I guess there are a lot of items that are sort of left open, so I'm just, I'm just curious. I mean one of the comments, there was one comment in, on the comment sheets and OP remarks, OP is reviewing the organization of US and agrees that more detailed an organization is needed. Now the detail and organization that we're looking for, how much more is that going to be different or, what, I mean what, I guess if, if we approve and go ahead with, I think the basic uses, are we going to see, look at many changes to these?

MS. STEINGASSER: No, sir, it will actually come back to you looking a lot more familiar. We, we found working with the use groups was indeed too broad. And it was difficult. And by the time we added all the impact to describe, you know, a service

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facility where people went in and sat in chairs and had their haircuts, it was just easier to say it's a barber shop. You know it, and --

MR. TURNBULL: Okay.

MS. STEINGASSER: So we want to kind of break up some of the, of the use groups and make them more focused. And in some cases just go back to having particular types of uses. Personal care uses including beauty shops, barber shops, whatever. But we just found it became, that's part of why the document feels so bulky. Since we're repeating these over and over and over. And it just seemed easier if we could go back to --

MR. TURNBULL: Well, are you looking to simplify then on some of these or?

MS. STEINGASSER: Simplify and to clarify. All right. So they would be --

MR. TURNBULL: Detail would be what?

MS. STEINGASSER: it would be part of the clarification. So if there is a, a use that has particular conditions to it, let's just put them together and, and, and I'm trying to think of what I was working on this afternoon, you know, a child care center, a child care home development center in the home can have up to six children. You know and what we had it in is, is a, a day, what were we calling them? Daytime care/child.

MR. TURNBULL: Right.

MS. STEINGASSER: And then went through these descriptions to

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describe the amount of things that could happen in the home. And it just seemed like let's just call it a daycare. It's a defined term. You can have six kids. Took half a line. And then we were on to the next. So it's, it's providing both that detail and that clarity that people are used to.

MR. TURNBULL: Okay, so I mean when do you think that will happen at final? You'll have, or --

MS. STEINGASSER: You'll see it in the, in, in this next draft, yes.

MR. TURNBULL: The next draft.

MS. STEINGASSER: Absolutely.

MR. TURNBULL: Okay. All right. Thank you.

MR. HOOD: Any other comments on this? Mr. May? And then we'll go to Vice Chair Cohen.

MR. MAY: Yes, so do not include use tables as they were set down within the regulatory structure. Explain that one to me.

MS. STEINGASSER: Well, We've been wrestling with these use tables. They, they, they, they started out being really good tools to help us to organize them. But then we've also found that they can also be just as confusing to say residential uses S.C. So that means it's allowed by special exception. It's also allowed as a matter of right with conditions. So then you have to go down and you have to find it. Then you have to find what the conditions are. And then if the conditions don't exist, then you have to go over to special, so it kind of defeated that whole purpose that the Chairman was talking

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about, about usability and ease of understanding. So we've gotten rid of the tables, again, which takes up a lot of just space on the page. And gone back to this listing, the types of uses and the use scripts that are convenient. And, and group them, so you'll see a heading that says uses as a matter of right --

MR. MAY: Matter of right. Uses as --

MS. STEINGASSER: -- as special exception. Uses as accessory --

MR. MAY: All right. Well, I kind of like the charts, but I understand why you needed to go this direction, because you wind up with, instead of having the relatively short list of uses that you had started out with, now that you're going to have, I don't know 50 or 60 of them, it's really long tables that you'd wind up having to do, right. So --

MS. STEINGASSER: And the uses will come back, I mean the tables will come back in, in a summary form after the code's adopted and we'll be working with the Office of Zoning on, on the handbook type --

MR. MAY: Right.

MS. STEINGASSER: -- approach. That's where they'll be.

MR. MAY: That would be great. Okay. Yes, I mean we had a lot of comments that were, that related to uses. But most of them had to do with uses within particular zones. So I think that those are questions that I would defer until we take up those zones. So, now that I have this in front of me, I don't think I have any further questions.

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MR. HOOD: Okay. Vice Chair Cohen?

MR. COHEN: Thank you, Mr. Chairman. We're asking for special exempt, well, let me just preface that with in in the comprehensive plan encourages a lot of arts uses in the District of Colombia. And that sort of use, I think making our city very arts friendly in the last year, few years, with the growth. Why is it a special exemption in RA Zones?

MS. STEINGASSER: A, a, a theater use is not typically a residential use. And while many people don't mind living by them, they can also draw in hundreds of people into a neighborhood that is not necessarily equipped to, to accommodate it, whether it's on a narrow street, whether it's, it's a shared parking facility, whether it's an all-night, you know, dancateria. So it's just a way to kind of capture that and have, have it go through a public process so that its operation can be somewhat vetted, so that there is no adverse impact on the residents. There can be hours of, of operation put on it, the number of events during a year. it, you know, it's just an opportunity for you.

MS. COHEN: Yes, you know, I saw that, but, I guess I'm wondering if we can't, well, first of all, how many theaters will be out of sync with our zoning regulations and will have to come in for variances, which is, could be an expensive process.

MS. STEINGASSER: There are very, I don't know of any theaters, whether it's performing arts or movie theaters that are in a residential zone. But we'll definitely make sure of that. There will also be a provision that the Office of Attorney General will make sure happens, is that any use, a use will not become non-conforming by

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virtue of a change. It will be, it will be deemed legally conforming. So if there's one there now that we don't know of, but most of the ones in residential zones now are related to a church or a school, and those kinds of things. And so even, even to allow for a commercial use of those. And by commercial, I mean a, a for-profit or a non-institutional related activity. It's, it's just an opportunity to, to regulate those and, and view those or adverse impact.

MS. COHEN: So, even so as theater, by seats, you're not willing to consider?

MS. STEINGASSER: Well, if this --

MS. COHEN: -- some theaters --

MS. STEINGASSER: -- the Zoning Commission is willing to consider.

MS. COHEN: I'm sorry. Did you consider --

MS. STEINGASSER: We, we did, but we, our, our, our feeling is that at, once you start allowing an outside operator to use these facilities, that there needs to be some kind of review for adverse impact on a neighborhood. And again it gets, it gets to hours of operation, lighting, parking, how, you know, how many people are coming in, how many, a church having a, you know a few recitals a year or, or, you know, a weekly, or bi-weekly choral arrangements is different than arena stage. You, you're using rehearsal space and bringing people in from all over the city.

MS. COHEN: Thank you.

MR. HOOD: Okay. Any comments? Commissioner Miller?

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MR. MILLER: Thank you, Mr. Chairman. Yes, I was just want to, express my appreciation to the Office of Planning, for, on, in the theater use area for moving to include a broader definition of the theater and to include it by special exception and, and all the R, R Zones, I think that does take care of the adverse impacts, and by having, being able to do the conditions that mitigate the particular theater use of operations. But, but to get it out of the variance category I think was, was, was a critical element, so I appreciate the alternate suggestion on that.

MR. HOOD: Okay. Any other comments? I would also say that I think the record reflected that we needed to have some type of review. And, and, and I'm sure that the person who wrote us the one recently about the theater issue, definitely needs to have, I think it's improving on, encroaching upon the person's home. I forgot what all it said in the, in that submittal to us, but I think this will make things easy on her life. And that, that's what this is about. Making sure things easy, or make sure there's public review.

MR. MAY: Mr. Chairman, can I swear that?

MR. HOOD: Oh, you want to swear that?

MR. MAY: On that, on that specific point?

MR. HOOD: Do you, do you agree with me or don't? Disagree?

MR. MAY: I agree.

MR. HOOD: Oh, okay. You can go right ahead.

MR. MAY: The thing I'd want to clarify is that actually what, what

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was submitted was sort of before and after. It was, you know, they were operating before without necessarily following, you know, the rules about the impacts being assessed. And it was a success story that this is something that, that had gone through the special exception process and certain conditions were put on the use of that facility. And once those conditions were being met, that person who wrote to us seemed to be very satisfied with it. So it was sort of a testament that this is the right way to go. And I do, I do appreciate that. I also agree that special exception is the right process. Because unlike a variance, with a special exception there's a presumption of some level of compatibility. As oppose to a variance where you've got to prove that, there's really no other way to use the property. This is what I have to do. So, I don't --

MR. HOOD: Okay. And I think that in this recommendation, which now has been kind of talked, discussed, when I look at the comments from the public and everyone, I think this whole piece comes together in that long laundry list of, of things that Office of Planning is continuing to refine and deal with as we move forward in this recommendation, that they understand we have tweaked a little bit. So, somebody like to make a motion? Mr. Turnbull?

MR. TURNBULL: Yes, Mr. Chair, I would move that we approve Use and Use Groups Sub-Title B, with the OP recommendation to refine the use groups, by including, but not limited to agriculture, residential and institutional, clearly identified uses within the zone, clearly identified accessory and incidental uses. Do not include use tables as they were set down within a regulatory structure, distinguish rules from definition, align

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the definitions relative to I.C., allow theater use by special exception, review CBRF and Continuing Care Retirement Communities.

MR. MILLER: I second.

MR. HOOD: Okay. It's been moved and properly second. Any further discussion? Commissioner Miller second. Any further discussion? All those in favor? Aye.

MEMBERS: Aye.

MR. HOOD: Not hearing any opposition of those present, Ms. Schellin would you record the vote?

MS. SCHELLIN: Staff records the vote 5 to 0 to 0 to approve the Uses and Use Groups in Sub-Title B. Commissioner Turnbull moving. Commissioner Miller seconding. And that's as discussed this evening with the, any changes that were discussed. Commissioner Turnbull moving as stated. Commissioner Miller seconding. Commissioners May, Cohen and Hood in support.

MR. HOOD: Okay. Let's move right on to the Large Format Retail. Set down non-alternate requires special exception from large format retailer and establish review criteria. Public comments support the special exception requirement, clarify that the user cannot choose between a large tract review and special exception, clarify other types of large format, inquire special exception into the PDR Industrial Zones, require a transportation demand management plan as a special exception requirement for this use and then the Office of Planning recommendation as is on the fact says alternate text

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requires special exception for the use. Include the PDR Zones, clarify the large tract review, exemptions are only for those sites that have an existing and approved LTR large tract review. Require TDM, which is the Transportation Demand Management Plan as a special exception requirement and expand and clarify the definition of large format retail. Okay. Okay, commissioners, we've, we've heard a lot of public, public testimony in this special exception for large format retail. Any, anyone have any comments? Vice Chair Cohen?

MS. COHEN: Yes. Mr. Chairman, I think that this is pretty comprehensive. I think it addresses a lot of the public comment, well, I'd say the majority of the public comments with regarding large format retail. So I find it to be quite adequate.

MR. HOOD: Okay. Any, any objection? Anyone disagree? Okay. Someone like to make a motion? I think that's pretty straight-forward. Mr. Miller?

MR. MILLER: I would move that the Zoning Commission approve the large format retail provision. The objective text it requires special exception for the use including the PDR Zones, clarify that large tract review exemptions are only for those sites that have an existing and approved LTR, require a TDM plan as a special exempt requirement and expand and clarify the definition of large format retail. And I will just note that this is something that came out of the public hearing process. It wasn't part of the OPM, the proposal, it's something that the commissioners positively responded to and, and, and we appreciate OP then coming up with the, with the conditions and the process for, for that review to take place. And that, with that, that's my motion.

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MR. HOOD: Okay. Move and can I get a second?

MR. MAY: Second.

MR. HOOD: It's moved and properly second. Any further discussion? All those in favor? Aye.

MEMBERS: Aye.

MR. HOOD: Any opposition? Not hearing. Ms. Schellin record the vote.

MS. SCHELLIN: Staff records the vote 5 to 0 to 0 to accept the large format retail per OP's recommendation of the alternative text. Commissioner Miller moving, Commissioner May seconding. Commissioners Cohen, Hood and Turnbull in support.

MR. HOOD: Okay. Commissioner we need to take a break? A five minute break? We good? Okay. We'll take a five minute break. We may have some questions for the Office of Zoning. This is Sub-Title Y. So we may go to Director Bardin or Ms. Schellin or Ms. Hill. Okay. Take a five minute break.

HEARING IN RECESS

HEARING RECONVENED

MR. HOOD: Okay. Can we please come back to order? A lot of these questions will probably go to the Office of Zoning. This is Sub-Title Y. And I'm going to read a number of things to my colleagues in this worksheet. I'm just going to talk about the titles and, and a couple comments and the set down and all that within the

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description as we go through it. Because this is quite a bit. It's 20 items, as opposed to doing it like we did the others. A lot of this is pretty straight-forward and any questions or subjects, I would ask that you mark them and let's go back and talk about them. The other ones we'll just move forward. Number one, Sub-title Y, Rules of Ethics, filing documents electronically. And some things already, have already been implemented. Review and process, processing of application, public notice requirements, public, public notice requirements.

MR. MAY: Are we supposed to jump in when we have things to mention?

MR. HOOD: No. I was just going to go through the whole --

MR. MAY: Okay.

MR. HOOD: Then we can come back and go through it all. Parties establish guidelines and request parties' status. Party status guidelines and requested party status two, one and two. First one is one, this is two. Party status guidelines and requested party status, three. Party status guidelines and requested party status, four. And the distinct difference we have to look into those. Some of the commission, some of the board. The party status guidelines and requested party status, five. Reports of public agencies, reports which is one, reports of public agencies, two. Final decisions of the effective date of decision and then final decisions and effective date of decision, two. Which is, okay and then we have the time extensions and variances. Okay. Commissioners, who would like to start off in any one of those topics?

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MR. MAY: Do I just go through them like one, two?

MR. HOOD: Mr. May?

MR. MAY: Okay. So I don't have anything to say about number one. Number two, I only have one comment, which is that I think we've been getting documents that have been filed electronically and they're printed out for us. And they're printed out for us in microscopic type. So it's very hard to read those. That's just a, this is just when I remembered to mention it to the, to the OC staff. And if you actually print out any of those things or if we see them, it may be mute if we're all going to be in ZDOCs right?

MS. SCHELLIN: Exactly. It will be.

MR. MAY: Yes, okay.

MS. SCHELLIN: And I think the problem was it was, it wasn't, it was part of the way that things were uploaded. They were uploaded from the outside.

MR. MAY: Right.

MS. SCHELLIN: And it was, it was --

MR. MAY: I mean it's a minor point. It's just --

MS. SCHELLIN: We'll take care of it. Yes, now it's ZDOCS.

MR. MAY: It's just a strain on my, my eyesight.

MS. SCHELLIN: I understand. I did see a few of those, yes.

MR. MAY: Yes. You want me to keep going? I mean the ones that I have --

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MR. HOOD: Yes, keep, keep going. Why don't we do this? Why don't, let's do the first page.

MR. MAY: Yes.

MR. HOOD: Let's do the first page and let's all talk about the first page.

MR. MAY: And I have no, no issues with anything else on, on one through four or five for that matter.

MR. HOOD: Okay. Anyone else on the first page? Okay.

MR. MILLER: Oh, I --

MR. HOOD: Commissioner Miller?

MR. MILLER: Yes, on the notice. On the notice provision. I kind of like the, well is this recommending that all persons within 200 feet give notice and just, is it just the ANC in which the project is located gets the notice, or does if, if someone within 200 feet, is in a different ANC, does that ANC also get the notice? Right, they do? Okay, so both, both ANCs would get the notice. Good, okay. Thanks.

MS. SCHELLIN: They do now, I think.

MR. MILLER: They do now.

MS. SCHELLIN: They currently, they currently do and they will continue to, yes.

MR. MAY: Thanks. I was just --

MS. SCHELLIN: Court of Appeals they found that, yes.

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MR. MAY: Currently, what was proposed. Okay, great.

MR. HOOD: Okay. Why, why do I have, okay, never mind. I got something mixed up. Okay. Any other comments? Okay. Let=s go to the second page. Party status?

MR. MAY: I would just add, I strongly agree with the alternative language in number six. That has the option of having party status determine in advance of a hearing. I think that=s a very useful thing as long as we have the right process for being able to do it and handle it efficiently.

MR. HOOD: Yes, I would agree. Have we nailed it down?

MS. SCHELLIN: Yes.

MR. HOOD: We=ve, we=ve already nailed it down. Okay. I know that West End were, they=ve been talking about that for a while now. And we=ve looked at this before. So I think we=ve nailed that down, right?

MS. SCHELLIN: Yes, they do have the option of requesting party status be approved at a meeting prior to the hearing. Or they can have it entertained at the public, the meeting, the public hearing, excuse me.

MR. HOOD: Okay, any, any other comments on that page? Colleague, Mr. Turnbull?

MR. TURNBULL: Yes, thank you, Mr. Chair. I just want, I just need it clarified. On the party status, the other worksheet that we have here, 404.4 through 404.9 you add, add a lot of different new things. And I just want to make sure that I understand

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that to, for consideration in the future, for party status, we're, we're going to have a, a public meeting. So in other words, even before the hearing is set, your, the party who wants to have party status would send in a notice to the Zoning Commission. We would then have a public meeting. At which point we would, they don't have to be there, or they wouldn't, or --

MS. SCHELLIN: The requester does have to --

MR. TURNBULL: Oh, they do have to be there --

MS. SCHELLIN: Yes.

MR. TURNBULL: -- at the public, public meeting. Okay. So then we would, this would be like a new format for us in the public meetings. We're going to have like a, it will be like the first thing or second thing or whatever.

MS. SCHELLIN: Exactly.

MR. TURNBULL: So a new docket item. And so then we will then review, now how, it, is this 14 days in advance of the hearing? I mean is it like 28 days total, how, or could it be months in advance?

MS. SCHELLIN: It could be. It, as long as it's not less than, is it 28, 28 days? I can't remember. I think it figures to be somewhere in the 21 day range. Because it has to be 14 days in advance, but at a meeting.

MR. TURNBULL: At a meeting.

MS. SCHELLIN: Therefore, you have to work backwards to find out what meeting that's going to be at.

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MR. TURNBULL: Okay. So anyone, so if somebody wanted to still, somebody could still apply for party status request, but they would have to do it the day of the hearing. We would review it at the day of the hearing? Or is, or is it like a one-time shot?

MS. SCHELLIN: When, when they apply, they can request it to be a meeting, or at the hearing?

MR. TURNBULL: Oh, at the hearing.

MS. SCHELLIN: Exactly. So they'll make that, they'll distinguish and, on their initial application. So it will be in 14 days in advance either way.

MR. TURNBULL: Okay, either way.

MS. SCHELLING: It has to be.

MR. TURNBULL: So if they missed their opportunity to do the meeting --

MS. SCHELLIN: Correct.

MR. TURNBULL: -- they could still submit for the hearing.

MS. SCHELLIN: Exactly.

MR. TURNBULL: Okay. All right. Thank you.

MR. HOOD: I know that we, I know there's a distinct difference between Sub-Title Y and Z, because Y is the Board Zone Adjustment and Z is the Zoning Commission. Z I can understand, but Y is Y, but anyway, I'm looking did we, did we do away, I don't want to disregard what the Chairman had asked this Commission to do. And

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maybe this is going out of line, you know what, because I don't see it on here. Just let me wait until we finish. Anything on the second page about party status?

MR. MAY: I had one other question. Which is the number nine. Which the Board may specify whether a person will be permitted to participate as a party for a general or limited purposes. And honestly, I don't recall where this came from or why we were driven to, to include this language. Unless it's, I mean is this just a carry-over from what was previous in the regs?

MS. BARDIN: I don't remember whether it's a carry over or whether it was part of working with some suggestions that we had had from OAG from years ago that we incorporated in.

MR. MAY: Mm-hmm.

MR. BARDIN: I can certainly find out for you.

MR. MAY: Okay. I mean does anybody else on the Commission have a recollection why this might be useful or --

MS. BARDIN: No, I found it. I just found it strange that, because I didn't think we ever did limited purpose.

MR. MAY: Right. So and I don't recall it ever occurring before. I don't have any objection at this moment, but I think I want to know a little bit more about why, and I don't know that this is a topic that we've had a lot of discussion on previously.

MR. HOOD: I would agree. Let's, let's leave it in there until we find out exactly why. Because after so many years things get lost. And, and there's

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obviously a reason. We just got to figure out what that reason is. Anything else?

Commissioner Miller?

MR. MILLER: Is the provision still in there that doesn't allow a request for reconsideration of a party status?

MS. BARDIN: I believe it is.

MR. TURNBULL: Yes.

MS. BARDIN: Yes. 404.14.

MR. MILLER: I guess I'm not sure what the rationale is there, or if we're going to have that, then I think we need to clarify that the Commission on its own can move to reconsider. Because I remember one case where we did get a request to reconsider and we did reconsider it. And, but this is DZA, but here they did --

MS. BARDIN: This could be on both sides, right.

MR. MILLER: Yes, the standards would be the same. I don't know what my tele-commissioners think about that. I don't know what the harm is necessarily for allowing the request. We can deny it if there's a time period where you, because there won't be, there won't be that lag where you could come in with a motion. It would be the same day as the hearing.

MS. BARDIN: Yes. I think that's the problem. Is because you've already started the process, the hearing process. And if someone makes a request, then you've already started the hearing, and you've already gone through. And in that one case that you're thinking about, the applicant had already done their presentation and

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they weren't here. And, and as you know, at least if it's the case I'm thinking about, they came back and they had, they didn't, they weren't here for that. And they were asking questions, or didn't listen to the applicant's presentation and it did cause some delay or they didn't know what was going on. So, I think that is part of it is because they would make, when would they be making that request for reconsideration? It would be kind of after the fact.

MR. HOOD: But we also, I think that's a good point, though. Even though that case was hot at one, obviously I remember a time back where it actually worked. So I think, I think that's a valid, valid point. Where we, you know, to reconsider that. All right. But we can do that anyway on our own motion anyway.

MR. MILLER: Right. Well, you need kind of a clarifying provision if you're going to have it this explicit. No, no we wouldn't request it, but the Commission Board on its own can, can --

MR. HOOD: Director Bardin, you mentioned, you said 4, 4.14 or 4?

MS. BARDIN: 404. It's --

MR. HOOD: Trying to go high tech now. I'm opening ZDOCs. Okay. Okay. All right. Anything else? All right. Let's go to page, worksheet page three. And again use is, this is, a lot of it is BZA and a lot of it is germane to, to the Zoning Commission. Are we comfortable?

MR. MILLER: Is this the section that, and it reports of public agencies. Is one of these where, where we're increasing the time that the, ahead of hearing that the

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applicant should submit, or the, no, I'm sorry. That the agency.

MS. BARDIN: That OP submits it ten days in advance, rather than seven.

MR. MILLER: This isn't, this isn't where the applicant is, okay. That's in a different position.

MR. HOOD: Okay. Anything else on page, worksheet three? Okay. Let's go to worksheet four. Time extension. Any issues? MS. COHEN: Mr. Chairman?

MR. HOOD: Yes.

MS. COHEN: I think that this language is quite appropriate. I think that the extensions of, will tighten up, you know development time tables and instead of extending it up there into never never land, especially when it's a public process. I think it behooves the development team to move forward expeditiously. So I really believe that this is an important addition.

MR. HOOD: And I can't remember the rationale. Why did we single out electronic EEFs, tech, what did they call it? Tech hotels one time? Am I getting this confused? We, we singled that out. I remember we had all those hearings about tech hotels and they disappeared. But anyway, one year for electronic equipment facility. Why did we single that out to one year? I'm just trying to remember it.

MS. COHEN: I don't recall it. I don't know if the Office of Planning remembers.

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MR. MAY: Wasn't it a relatively recent case, I don't know the last three or four years that we even allowed extensions for BCA cases?

MR. HOOD: Yes, we, we had some issues about the extensions. I think regulations said only one extension.

MR. MAY: No, I don't think it was

MR. HOOD: Did it have a number?

MR. MAY: I don't think there was any, any provision for extension.

MR. HOOD: Oh, okay. But, but then added --

MR. MAY: Then we added, we added a provision.

MR. HOOD: One extension.

MR. MAY: One extension.

MR. HOOD: Okay.

MR. MAY: And and, there must have been a reason at the time. Because I mean this is the existing language carried over, right?

MR. HOOD: So EEFs was spelled out?

MR. MAY: But you'd have to go back into that case to figure out why.

MR. HOOD: I'm not going to. Okay. And the time extension now to affect the way we have it is that it doesn't have a limit. It depends on the merits, right?

MS. BARDIN: Right.

MR. HOOD: Okay. All right. Anything else? What about variance?

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Anyone have the issues? And the COZ=s recommendation. Okay. Is that it? Do we have another page?

MS. BARDIN: The next several sheets go along with that first section.

MR. HOOD: All right. I would move that we adopt Sub-Title Y with the corrections as noted by the comments here tonight, and ask for a second.

MR. TURNBULL: Second.

MR. HOOD: It=s been moved and properly seconded. Any further discussion --

MR. MAY: Yes, I just have a question. We had that markup that was, that followed the worksheet that we just did. And I=m, I just want to confirm that what we are endorsing on the worksheets is consistent with the recommendations that we had seen in that, the mark up that followed.

MS. BARDIN: I=m sorry. Can you repeat that?

MR. MAY: Well, the markup that followed was what, was the markup we had received from --

MS. BARDIN: Right.

MR. MAY: -- the VZA Chairman, correct?

MS. BARDIN: Right. Right.

MR. MAY: And there were recommendations from the Office of Zoning and some that were, you know, filtered through from the Office of the Attorney

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General, I believe. In any case, what's, what's in the worksheet is consistent with the Office of Planning's recommendations from that markup that was provided?

MS. BARDIN: First, OAG's comments are not in this, the set of worksheets that behind Y.

MR. MAY: And that's not what I was suggesting. All I was suggesting is I thought there was some mention in the OZ recommendation, sorry the, yes, the OZ recommendations that indicated legal issues with some of the markups. That were suggested by the Chairman.

MS. BARDIN: Right. The legal comes from our --

MR. MAY: Oh, from your attorney. Got it.

MS. BARDIN: General Counsel, yes.

MR. MAY: Well, I know that actually, isn't she technically an OAG person? No. Oh, it's one of those weird ones.

MS. BARDIN: Yes.

MR. MAY: Completely separate. Okay.

MR. HOOD: Okay. Anything different? Commissioner Miller?

MR. MILLER: This is the sub-title that has the, that has a change in the amount of time that the applicant has to submit a transportation consultant report?

MS. BARDIN: I believe that if, if you're referring to the PD, PUD Section, that's in X.

MR. MILLER: Okay.

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MS. BARDIN: And then the other types of cases are right now in Y and Z, but I think we're looking to maybe put those in X, too. We haven't gotten there yet.

MR. MILLER: Okay. Okay. Go ahead, well I don't know if it's in, some of it's in Y, but you, so, so right now Government Agency reports must be filed seven days ahead of the --

MS. BARDIN: No, you're right. It is in this section.

MR. MILLER: It is in this section. Okay.

MS. BARDIN: Yes.

MR. MILLER: So right now Government Agency reports must be filed seven days prior to the hearing, and this would extend it to ten days? This Transportation Consultation Report. The applicant must be filed currently 20 days ahead of the hearing, and this would extend it to 45. I think that seems a little long.

MS. BARDIN: What section are you looking at?

MR. MILLER: I'm looking actually at the public comment response to Sub-Titles Y and Z.

MS. BARDIN: But what section?

MR. MILLER: It is section

MS. SCHELLIN: It's on page one of five.

MR. MILLER: I'm on page, this doesn't have a page number. One, two, three, four, page four of the Summary of Public comment response Sub-Titles Y and Z.

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Do you, I just thought it, I didn't have a problem with extending the times generally, but I thought 30 to 45 days, that the 20 days to 45 days for the Transportation Consultant Report seemed a little too long. I thought it should go to 30. But maybe that can be looked at by OZ and OP. Supplemental information would have to be filed.

MR. LAWSON: Sir, if I could just come in that event. I sort of remember some of the history of this one. That request actually came from DDOT, because they found that that's the time that DDOT needed to do an analysis of the transportation study, what was ever, whatever was submitted. So this actually came up quite some time ago, about, for their own internal purposes, 45 days was kind of the minimum they needed to provide the analysis, that the Zoning Commission of the VZA was, was asking them to provide.

MR. MILLER: I can see why it needed to be extended from 20. I just seemed, to triple it seemed to, I mean, and well I see your point.

MR. HOOD: Any other comments? I'm trying to make sure, and I know we have a motion to second, but I'm trying to remember the Chairman of the Board of Zoning Adjustment had mentioned about I guess tele, I don't, I forgot what the word is -

MS. BARDIN: Tele-commute.

MR. HOOD: No, not tele-commuting, but tele-serving. Like if you wanted to call in and all the, did we, did we go through all that? I know --

MS. BARDIN: That's the next thing.

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MR. HOOD: Oh, it was the next, okay, that=s for us. Oh, okay. I=ll take care of it then. Anything else? Okay. Somebody like to make a motion? We all clear?

MR. MILLER: I think you already did.

MR. HOOD: Oh, I did make a motion. Okay. It=s been moved and properly second. Any further discussion? All those in favor?

MEMBERS: Aye.

MR. HOOD: Any opposition? Not hearing any. Ms. Schellin, would you record the vote?

MS. SCHELLIN: The staff records the vote 5 to 0 to 0 to approve the recommendations for Sub-Title Y as presented by the Office of Zoning with the discussion made this evening by the Zoning Commission. Commissioner Hood moving. Commissioner Turnbull seconding. Commissioners Miller, Cohen and May in support.

MR. HOOD: My colleagues, let=s go to Sub-Title Z. This is --

MS. BARDIN: I=m sorry. Excuse me. This is the set of comments from the Board of Zoning Adjustment. The next, right after Title Y.

MR. HOOD: Okay, that=s what --

MS. BARDIN: Sub-title Y.

MR. HOOD: That=s what I was, that=s what I was looking at right now. Okay.

MR. MAY: I got confused, too. Because that=s what I was asking about was whether the recommendations that Dale XXX-8:23:12 had in the worksheet

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rolled in their recommendations on the, on the markup that we received. But no, we're going to have to go through the markup line by line.

MR. HOOD: And this is, this is what I was talking about, referring to this. And you said it was, is it in the next section or is it now?

MS. BARDIN: No, it's in this section. I'm sorry.

MR. HOOD: Okay

MS. BARDIN: Yes.

MR. HOOD: I wanted to start and I was looking through there here again trying to remember. I thought we had already had a discussion on the, being able to call in, what is it tele, I forgot how it's worded. Tele-conference zone? Is that located in --

MR. MAY: Video conference in.

MR. HOOD: Video conference in. And I thought that there were a lot of other things that factored in to that. To that equation. And, and the discussions even, even when the Chairman came down to, for the hearing. But I don't know, have we discussed that yet, colleagues? Okay. Is there any, any interest to expound [phone ringing] that may be the Chairman calling now. Was there any interest to, to, to, to investigate or, or move forward with something of that nature?

MR. MAY: I don't have any interest in going that direction. I think that's, I think it would be a profound disservice to the people who were bringing cases before the VZA to have, to not have the Commission there in front of them. I don't think it's, you know, videoconferencing is sophisticated enough to be able to, you know, catch

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everything back and forth. I mean, it doesn't exist. And I think that it, I don't see any reason to go there.

MR. HOOD: Well, I think that we may have asked, and I can't remember, but I know the Chairman, went, we went back and had a discussion. His issue was other jurisdictions had, had, were doing that, and I was not aware. I think we asked for public comment of Office of Planning to, to investigate that. And I'm not sure if anything ever came back. I don't think we found that. But anyway, Commissioner Miller.

MR. MILLER: I would, well, I would just note the, I think this is the section where the office, our Office of Zoning commented that the cost of establishing a system to allow this video conferencing would be prohibitive. There would be, also be many logistical issues to overcome. Those would make case files and video available for any board member to review the full record for purposes of voting on a case. So I think those are some legitimate points about that.

MR. MAY: Where, where are you reading from? What number?

MR. MILLER: Page three of the Sub-Title Y, additional worksheet.

MR. MAY: Right. But it's, what number on --

MR. MILLER: It says new, it says new, it's under, it's after 104.4 --

MR. MAY: Got it.

MR. MILLER: -- just has new section.

MR. MAY: There we go.

MR. HOOD: Member qualifications for electronic attendance. And I

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think the reason he suggested that, if I remember, a lot of it was because of, if there were quorum issues. But anyway, you know, and I mention that in that conversation, I thought there were a lot of fallacies and a lot of things that could happen. I went on to say it was a disservice, but, I'm wondering how that would work. And, and we haven't gotten anything back on that, Chairman Jordan? I know you probably watching. We haven't gotten anything back on that, to let us know how other jurisdictions were doing. And, and I don't know if I would go all the way with Commissioner May on that comment of disservice, but, because a disservice would be to come here and not have a quorum. That would be a big disservice. So hopefully we, we would, won't have those problems. I've been here for a while and I think, I don't think that may have happened once or twice and the office was able to make the readjustments. At least for faxing. Anyway, let's go through this additional worksheet. Start with page one, two, let's just go through it. Any comments?

MS. COHEN: Yes. On 101.7, is there a reason why it's just the Board of Adjustment instead of adding Zoning? The Board of Zoning Adjustment? Is that just an omission? Or is that purpose?

MS. BARDIN: Well, these are VSA comments, so --

MS. COHEN: Oh, okay.

MS. BARDIN: So, pretty much anything that you request here, we would try to mirror it on your side.

MS. COHEN: Okay.

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MR. HOOD: Now let me ask this and, let me see, I think we do have, I know we have it on our side, where the, I think we might, where the, no, not, it=s probably not here. Where the chairperson and the vice chairman, vice chairperson on the Board of Zone Adjustment is a mayoral appointee. Did we, is that in here? No, because it=s not in here, it should, I know the Zone Commission does the mayoral appointee seat to be the chairman and the vice chairman. But on the, we, we ran into that issue on the BZA one time. Did we, did we fix that?

MS. BARDIN: Right. I do, I do think we fixed it. I don=t have the text in front of me right now.

MR. HOOD: Well, I hope, I hope we fixed it. We, we at least need to make sure that the chairman is the mayoral appointee. I=m not sure about the vice chairman. I think, not that we trying to exclude our, our fellow representation, because we love them. But the problem is if it=s not written, you, you can lose friends, trust me. I think I lost a friend. He haven=t spoken to me since then. So it=s good to have it in black and white.

MS. BARDIN: And I believe it is.

MR. HOOD: Okay. At least with the BZA, at least the chairman. I think the vice chairman can also be a, a fellow representative.

MR. MAY: So 102.6.

MR. HOOD: Oh, NCPC.

MR. MAY: Says Chairman of the person of the board shall be

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selected from one of the three mayoral appointees.

MS. BARDIN: Right.

MR. HOOD: Where's he at?

MR. MAY: 102.6.

MR. HOOD: 102.6. I don't see that in here. Oh, you know what, okay. I don't --

MR. MAY: I am, I am looking at the amended regulation. I'm not looking at the existing regulations. I'm looking at what I thought was the latest complete version.

MR. HOOD: Okay. Well, as long as we got it spelled out. What, what did you say again?

MR. MAY: 102.6.

MR. HOOD: No, I mean read it again. Is that --

MR. MAY: Chairperson of the board shall be selected from one of the three mayoral appointees to the board.

MR. HOOD: Chairperson of the board, okay. That's good. All right. Any other comments? Any of these? All right. Have we exhausted, some of these items I think we've already talked about. Okay. Somebody like to, we need more time? Okay. I will move that we accept the recommendations with Office of Zoning, well, do I need to do a motion, because we didn't really do anything?

MS. SCHELLIN: You don't have to --

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MR. HOOD: Those were comments.

MS. SCHELLIN: A lot of these comments were already part of OZ=s recommendations that you=d already voted on.

MR. HOOD: Okay, so we=ve already voted on it. Okay. All right. Are we ready to move to Sub-Title Z?

MS. COHEN: Yes.

MR. HOOD: Okay. Let=s go to Sub-Title Z. This is, the Zoning Commission Rules of Ethics, filing documents electronically, filing documents electronic, set down procedures, public notice requirements. Let=s do the first page first. Any comments on this? The new section, including ex parte communications to, to include rule making cases, the public comments we had none. And the Office of Zoning recommends that we set it down. The filing of documents electronically. This request has already been implemented and we are doing that as we speak. I know a great way to watch it and some others had issues and a number of residents had issue about us accepting things electronically, and I think that, that=s mute now. As, as we=re doing things, things through the ISIS, the ZDOCs and ISIS. The set down procedures. Addition of the ASE report form. I think we=re doing, the issue was, one of the issues was should this be extended to the public and neighborhood associations. I saw that, let=s, let=s, did we have, let=s have a discussion on that, about neighborhood, neighborhood civic, civic and citizens associations. Any comments? I would, when I was thinking about this, I was thinking

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about the charter. There are charters in the city for the citizen=s associations, the civic associations. The problem where it gets sticky for me is certain cases and certain projects, people form civic and, well, what they call civic and citizen associations, just for that project. And that could cause a problem. But I think if you come up under the charter, there=s a charter in this city for civic and citizen=s associations. Now I=m not sure about how to deal with the public issue. But for the civic and citizen associations they are people who come, associations that come up under the federation of citizens association and then also charter, and associations that come up under the, come under the civic associations, then. That=s one thing I do know.

MS. COHEN: Yes --

MR. HOOD: Vice Chair Cohen.

MS. COHEN: I think that, I believe that they register with us, and then I would be more comfortable that we would be able to review their charter. Yes, they would submit a request and their charter and register. Then they could be notified that a particular case. But there are often groups that just formulate amongst one particular project. And I think that, you know, they have notification, because there=s always a poster. And they would just come forward either prior to or the day of the public hearing. But there are a number of, as you mentioned, legitimate chartered long-standing organizations that can be considered for notification.

MR. MAY: So are we talking about, are we talking about notification, or are we talking about the set down procedure?

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MR. HOOD: Set, set, set down.

MR. MAY: So, you know, we're really, what we're really talking about is whether we, when we consider setting down a case, whether, I mean right now what we have to react to is essentially the set down report and the initial application from the applicant. The question is whether we should get feedback from a, a, you know, a potentially affected civic association at that moment. Not whether they should ever be heard from, but whether they should be heard from at that moment. We're already expanding it to include the ANC Report. Because I know that, you know, very often, that's my first question when we're considering something for a set down is what does the ANC think? And I think it's perfectly appropriate for us to get that kind of feedback, or at least ask for it, when we have a case that comes before us for set down. But I'm not sure that we need to cast the net that widely, just at set down. We ought to get a, be able to get a reading from the ANC. And that ought to be sufficient. And if there is substantial neighborhood resistance or something like that, hopefully we will hear that from the Office of Planning. So I don't, I don't think it's necessary. I think there is a concern that if we start to do that, even if we go off of some official list that there are people who feel like they're being left out of the process. I'd rather just keep it to the ANC and let that be the avenue for the preliminary discussion before set down.

MS. COHEN: Actually, you do make a good point. Because once you accept one group, then you're right, another group will say we were left out. So I'll go along with that of just notifying the ANCs.

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MR. HOOD: I actually think, I actually think that there's a, a, there's an incorrectness in that statement, but I mean it actually, I know it is, because again what I said was under the charter. There are two charters in the city. And if you know how the charter works, there are groups that are recognized under the charters. I mean if we wanted to go to that, I'm just trying to, to take this into consideration what we were asked to do through this, through this rewrite, rewrite, revision, whatever you want to call it, process. And we were asked to look at civic and citizen's associations. And there is a way to do it. The civic association, which I was the president of for 20 years. And I know how it works. There's a charter. And under that charter, they have a list. An organized list that this office could keep. And this office could also notify. The only, the only problem is I'm talking through this, only problem is I don't know how the address works, because it changes and it shifts. So, you know, as I'm talking through this, there are some problems. But I think we need to be considerate and at least consider them. Try to make it work like we did with XXX-8:36:40 status for those years. We finally got it to work. And, and if the citizens of the City were in those groups have asked us to look at that, I think we should. But right now want to, as I'm talking this out loud, there is a problem with the address issue, I think. But there is a way to maybe at some point in time to relook at this, because there is a charter in the city for citizens and civic associations, and those groups exist. And I know the citizen's groups are very organized. And the civic association is very organized. And they have a list. They publish a book once a year. At least I know the civic group does. Of, of all of their organizations that fall up under their prevue. Up under their umbrella. So

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anyway, I'm not going to belabor that point. Push it. Commissioner Turnbull.

MR. TURNBULL: Yes, so you're, basically what you're trying to include are the chartered civic associations that are, that are organized. Not the *ad hoc*--

MR. HOOD: No, not the *ad hoc*--

MR. TURNBULL: Associations that come up per an applicant or whatever case we're on, that sort of form around a certain issue per se. Just the charter civic associations.

MR. HOOD: Right. The ones under the charter. And I know that will cause a, it may, it may cause, it may cause more problems than what it's worth, too. So I don't know. I'm just thinking out loud. This was a request of this commission to look at that, and I think we supposed to do our due diligence. Anyway, Commissioner Miller?

MR. MILLER: Yes, I think it would create some. It might very well create more problem than it's worth. I think it would, within, as vice chair suggested have them, if they want to register with the, with the Office of Zoning and, and, and say that they want to be notified. But, and they can, OZ can formally notify them in particular cases where we can figure out that they, the interested neighborhood association, but the ANC is the, is the statutorily District of Columbia official code neighborhood body that is entitled to the great way we're expanding this set down notice to, to include the ANC for the first time. Maybe we should just see how that works before going beyond that.

MR. HOOD: Aren't we already, we already doing it, right? We're not, what, what are we doing with the ANC with the set down? We doing something, oh,

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we getting comments. We're doing something.

MS. SCHELLIN: No. Not yet.

MR. MAY: This would provide for that comment from the ANCs at set down. Right now if we're hearing from the ANCs, it's through the Office of Planning.

MS. SCHELLIN: Right.

MR. HOOD: I thought we were getting a sheet of paper from the ANCs or was it, maybe I'm dreaming this stuff.

MS. SCHELLIN: I think maybe you're thinking about the ANC report form that we created. You might be thinking about that.

MR. HOOD: Okay. That's, that's probably it.

MS. SCHELLIN: That we're now using to help them to provide information.

MR. HOOD: Okay.

MS. SCHELLIN: So you may be thinking about that. That's a new form that we've assisted the ANCs in using.

MR. HOOD: Have we started, have we started doing that already?

MS. SCHELLIN: Oh, that form, yes. That--

MR. HOOD: Okay. That's, that's what I'm talking about.

MS. SCHELLIN: And a lot of the ANCs do use it. Absolutely.

MR. HOOD: All right. I'm dreaming this stuff. Okay. Maybe that's what I'm talking about. Okay. I know we get something to kind of start outlining.

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The one page, okay. I know we were doing something. Okay. I will withdraw my comments for now about the neighborhood associations. But we need to continue work on that. I'm sure the next time you all do this rewrite or revision, that we'll come up with something. I'll be 100 then. I know I'll be gone. Well, I hope to be living. Okay.

Anything else on the first page?

UNKNOWN: And you'll probably be Chairman, too.

MR. HOOD: Anything else on the first page? Okay. Let's go up to the second page. Anything on the second page? Commissioner Miller?

MR. MILLER: Thank you, Mr. Chairman. I just had a question about the reports of Public Agencies. I know we're getting a, a DDOT report in every Zoning Commission case and every VCA case. I'm wondering why don't just codify the requirement that DDOT needs to submit a report like OP does? But maybe there's a rationale for that.

MS. SCHELLIN: My understanding from the Office of Attorney General is the Zoning Commission does not have the authority to instruct other agencies outside the Office of Zoning and the Office of Planning, which makes itself available to be instructed. But the, that's why it's always, everything comes from a referral from one of the two, other two agents, from either OP or OZ.

MR. MAY: Oh, okay, okay. Well we, we are getting, we are getting one in every case. They're not always here at the BZA, but they're, the report is, is always here. And I think it's almost always necessary and helpful, so, as long as that practice

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continues, I guess we're okay.

MR. MILLER: Well, and it's a lot better now than it was ten years ago.

MR. HOOD: It took a little, little work for us to get to where we are. So we want to thank DDOT for continuing to be supportive and to make sure that we get the reports we need. Okay.

MS. SCHELLIN: I think it started when I arrived.

MR. HOOD: That's, no I'm not, I'm not going to do that Okay. Anything else from the second page worksheet? Okay, let's, so we'll adopt those recommendations. Let's go to the third page. There's some changes here that we've sat down, as you can see, with the ANC Report about orally written report recite its written report. And the Office of Zoning has recommendations. The motion, motions procedure. And then the state of the final, anything else on page three? Okay. Let's go to page four. Are we comfortable with the time extensions? What we see here?

MS. COHEN: Yes.

MR. HOOD: Okay. Anything else on page four?

MS. COHEN: Can I ask a question?

MR. HOOD: Yes.

MS. COHEN: Thank you. On the extensions though, again, it seems to be quite routine that the issue is the lack of financing. And that's often acceptable but it's often a choice. In other words, they continue to hold out until the financing, you

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know, the market ends up being much more favorable. And I was just wondering if we need to, and I don't know where to do it, provide greater guidance in assuring that the information provided to us is more extensive in granting the extensions. Just, I think it's become much too routine in my experience of opinion. I don't know how others feel. And I don't know if this is the place either, frankly.

MR. MAY: Well, you know, I think what, what's being proposed here is a limitation on that. It somewhat addresses what, you know, we've discussed that we routinely get requests for extensions based on the fact that they couldn't get funding. And now we get, you know, what we're saying is you can, you can come in once and get two years. And you can come in a second time and get one year and then after that you're done. As opposed to the, you know, we've had some PUDs come in for two and three two-year extensions. So this is setting a guideline that drives that down.

MS. COHEN: Okay, then that's acceptable.

MR. HOOD: Well, actually a lot of this started under Herb Franklin when we used to have those 10 and 15 year PUDs that were out there for time extensions years ago.

MR. MAY: You know, I mean I think --

MR. HOOD: It's one thing I got. I got the history. A little bit of it.

MR. MAY: So, I mean I think to some extent this puts us at risk for longer up front terms. We get more of those PUDs that ask for, you know, five years, ten years to fully vest. And, you know, we mind up seeing more of that because of the concern

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that they can only get three years in the end, as an extension later on. But I think it= worth attempting now to limit it.

MR. HOOD: Okay. Anything else?

MR. MILLER: Just back to the previous subject. So is the same limitation being proposed for BZA? Orders that the same, to the two year and the one year?

MS. COHEN: I believe so.

MR. MILLER: Okay. That makes sense.

MS. COHEN: No.

MR. MILLER: No.

MR. MAY: One for two years.

MR. MILLER: One for two years and they don=t get the second one for one year.

MR. MAY: Right.

MR. MILLER: Okay.

MR. HOOD: Well, a lot of that will depend, the Commission, is that going to be a hard fast rule or is that, that=s the attempt you=re trying to achieve? Well, let me, you know what, let me withdraw that. Let=s not even comment on that. Let me, let me withdraw that comment. I don=t even want us to respond. Okay. Anything else? Okay. I=m not sure, you know, I had mentioned, I don=t know if this is the section, Office of Planning may need to weigh in. I had asked to talk about the hiring of the Director of Office of Zoning. Is that somewhere?

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MS. BARDIN: No, not in these regs. It's in the DPM.

MR. HOOD: Okay.

MS. BARDIN: The --

MR. HOOD: No, it ain't in, no, I asked for it to be in the regulation, in the code. It needs to be in this code somewhere. The hiring of the, I specifically remember, because I said I had the pleasure of hiring two. And I had the pleasure of hiring, but anyway, we need to, we need to, we need, it needs to be spelled out for someone. Because I can tell you there's no road map. I've, I've been through it. There's no road map. And I think the Vice Chair the last, well, it was easier, though, when the Vice Chair came on, but it, when Jerrily and, and the other person, it was no road map. And we need to identify a road map. See I look, three mayoral appointees, where they needed to go, what they need to do and then possibly what agency they need to see to help. So there needs to be a, a plan laid out.

MS. BARDIN: We'll draft some text.

MR. HOOD: So, and it needs to be in this section. Okay. And what their responsibilities are. Three mayoral appointees are responsible for the hiring and alongside of the Office of Zoning Director. And it needs to be the plan spelled out, I think. Okay. Any, any further comment?

MR. MILLER: No, so, there's an indication from Office of Zoning that you are drafting procedures for remand, to have timelines and priority considerations? Something suggested by, in the public hearing testimony and --

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MS. BARDIN: YES.

MR. MILLER: So we'll see that, we'll see that in the text?

MS. BARDIN: Yes.

MR. MILLER: I think that's a good thing. For both, for both VSIN, VSIN zoning commission --

MS. BARDIN: Yes.

MR. MILLER: Okay.

MR. HOOD: And Director if we could use your model of how, how you came on and you were hired. I think that's the model for this book, okay? Trust me, I've had three. That's the model. Okay. Anything else? Somebody like to make a motion?

MR. TURNBULL: Mr. Chair, I would move that we approve Sub-Title Z, God, how do you want to, there's, everything from Section 105, I mean all the four pages with all the comments that we've talked about tonight. And look for a second.

MS. COHEN: Second.

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

MR. MAY: I would just mention that I think I have five pages.

MR. HOOD: Whatever was submitted under Sub-Title Z.

MR. MAY: Right.

MR. HOOD: Yes.

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MR. MAY: Just want to make sure.

MR. TURNBULL: Absolutely.

MR. HOOD: Okay. Any further discussion? All those in favor?

MEMBERS: Aye.

MR. HOOD: Not hearing any opposition, Ms. Schellin record the vote.

MS. SHELLIN: Yes, staff records the vote 5 to 0 to 0 to approve Sub-Title Z as discussed this evening. Commission Turnbull moving, Commission Cohen second. Commissioners May, Hood and Miller in support.

MR. HOOD: And last worksheet we have for tonight is Vesting and Effective Dates. Vesting, we need to have a set down. The public comments were vesting under existing projects in the pipeline is important. Consider vesting at least that, for the new construction code, allow vesting of any project in the design development process, including ones that have gone through the BZA Zoning Commission, LTR, HBR/BCFA process and any project for which a building permit or a foundation permit has been filed. Any comments?

MR. MAY: I think it's sensible for there to be some statement about how the regulations will go into effect. But I think that what's been proposed is over-broad and I don't think we need to be that specific. It's very different when you're investing a lot of money in preparing construction documents and you have to meet current codes, and you find out that something is different, and you got to go back and

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change a lot of stuff. I don't think that we're changing that many things that are going to effect the entitlements related to a particular project. I have a hard time believing that it's going to be that impactful in terms of the regulations that we're drafting. But that doesn't mean that we shouldn't have something. I think we should have something and it should make sense. But I'm not willing to just say, you know, let's, let's do what, you know, this law firm or that law firm has suggested.

MR. HOOD: Okay. Any other comments? All right. I'm trying to figure out, I think it's a valid point. Is as soon as processing these rules go into place, was that what was in the pipeline? I guess, can we come up with something, who's writing this? Zoning? Oh, together. I guess if we can come up with something that, that, I mean again we go back to predictability and, and not that uncertainty. So we need to find a way that we can achieve this. I'm not necessarily saying this particular law firm, but I think due diligence is, if I came into the, started a process on this certain regulations, I should be able to complete my process under the rules that, when the time started. That's just, I don't know how we get there, but we need to come up with some language that, that will look out for those projects that have already started. Not that they have to start and then go back and change the rules in the middle of the game. So that's kind of where I am on that.

MS. COHEN: And I would agree with you, Chairman. Because I don't want to cast dispersions on architects or lawyers, but a, an approval housing project really cannot afford going back to redo what's already been done. They're already burdened by the soft costs that they have to encounter. So I would like further

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clarification. And I especially am urging that we, if we don't do it for every project that's on the drawing boards, that I think we have to make a special exception for affordable housing.

MR. HOOD: Commissioner Miller? And then we'll go to Commissioner --

MR. MILLER: Yes, I would agree with you, Mr. Chairman, that I think something that we've approved has gone through a very complete process and I don't want to see these projects back again if, when they were playing by the rules as, as they existed. So I don't want, I don't, I'm comfortable with the concept that has been laid out by the Office of Zoning, Office of Planning, for the best --

MR. MAY: I don't think they've actually proposed anything yet.

MR. MILLER: I said concept.

MR. MAY: Yes, well, we haven't, we don't have anything in concept yet. What we have is comments from law firms representing their, you know, their clients. you know, I think we all are on the same page in terms of wanting to make sure that there's, there's some predictability about it. And I'm certainly not suggesting that we would be changing the rules on anything that has been approved by this com-, by this commission or by the VZA. all I'm suggesting is that it's, it's perhaps, what's, what's been proposed to us in these comments is probably more than they need. And I just, I would rely on the Office of Zoning and the Office of Planning to come up with a good recommendation for us.

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MR. HOOD: Yes.

MR. MAY: I'm just saying I'm skeptical.

MR. HOOD: I know that, Mr. Chairman, but, but I know that you're the most powerful guy, no, I'm just, no, I'm just, okay, but I agree. I think that's where we're going, though, seriously, Commissioner May, but let me go to Commissioner Turnbull.

MR. TURNBULL: Yes, thank you, Mr. Chair. I would, I mean there will probably, there will be some changes in either FAR calculations when we go over some GAR. There are some calculations and some changes that they'll have to adjust. But I'm, well, I'm not looking that this would be a large period of time for vesting. I don't think it's a year. Is it three months? I don't know, but I think there's a reasonable amount of time. I mean I think that's what has to be looked at between OP and OZ as to what's a reasonable time for, for vesting? And how much, and I think maybe the Office of Planning has got a better idea of how much, from the standpoint of projects in the pipeline and, and what's out there, as to how complicated or how big the changes are. But some period.

MR. HOOD: Let, let me just say, first of all, I was, I was just joking with Commissioner May. I was very upset with all those nice comments I say and the city paper, and they didn't put but two items in there. I spoke very highly of Commissioner May and I was very upset they didn't do that, so that's why I had to throw my digs in on Commissioner May. But, but Ms. Schellin, do we have any dates that we can maybe ask and we can come back with some language as my colleagues has mentioned?

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MS. SCHELLIN: Sure.

MR. HOOD: And maybe look and maybe ask the Zoning Administrator to come down and --

MS. SCHELLIN: Okay.

MR. HOOD: I don=t know.

MR. MAY: Well, when are we scheduled to receive the full draft? Isn=t that coming in mid-November or something?

MS. SCHELLIN: The alternative text, if we could have the Office of Planning and then there=s something from the Office of Zoning, we would submit that by 3:00 p.m. November 3rd. And then the Commission could have a special public meeting at 6:00 p.m. December 11th and take, and review it.

MR. HOOD: Do, do we need the Zoning, colleagues, do we need the Zoning Administrator to come in and kind of work with us on this? Anybody think so?

MS. COHEN: Probably, probably not. What we=ll do is we=ll take a look at our most recent regulation change. Green area ratio and prevea surfaces, the Commission recognized the amount of time, time to vest projects and the effective date. And I think it=s also important that the Office of Planning and the Office of Zoning work with OAG. The effective date is really what=s going to cover most of the vesting issues.

MR. HOOD: Okay. So do we need to, did we make a motion?

MR. SCHELLIN: No.

MR. HOOD: Okay. Somebody like to make a motion?

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MR. COHEN: Or if, if this is one of those, this may be one of those topics that you may decide to hold off until December. I mean you may not want to make a decision on the vesting and effective date until December.

MR. HOOD: Okay. Let's, let's wait until --

MR. MAY: Well, there really isn't anything to vote on right now.

MS. SCHELLIN: Right, exactly. Until you have something --

MR. MAY: -- get it, we'll get it November for the --

MS. SCHELLIN: Some, yes, some recommendation at that time, yes.

Yes, sir.

MS. COHEN: I just want to be on record, Mr. Chairman, that I didn't think the, and this is maybe unusual from any of the attorneys. I think that the comments we got were not unreasonable.

MR. HOOD: Okay. So, so I guess we all, by general consensus don't necessarily need a motion is that we do general consensus that we move in the fashion in which we, we won't do the motion, but we want to make sure we get Office of Planning, Office of Attorney General, and the Office of Zoning concurrence to move forward in the fashion that we're doing. So we, we all agree with that, right?

MR. MILLER: Yes.

MR. HOOD: Okay. So we're good. Ms. Schellin, do we have anything else?

MS. SHELLIN: That's it for this evening.

MR. HOOD: Okay. Again, tomorrow night=s agenda, we=ll be talking about Residential Development Standards and Uses, Corners, no, yes, Corner Stores, Accessory Apartments, Alley Lots and, and RF Zones, okay. All right. So with that, this deliberation hearing is adjourned.

(Off the record.)