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GOVERNMENT OF THE DISTRICT OF COLUMBIA

Zoning Commission

Special Public Meeting

1420th Meeting Session (20th of 2015)

Monday, November 16, 2015

6:20 p.m. to 9:40 p.m.

Jerrily R. Kress Memorial Hearing Room

441 4th Street, N.W., Suite 220 South

Washington, D.C. 20001

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1 Board Members:

2 ANTHONY HOOD, Chairperson

3 MARCIE COHEN, Vice-Chair

4 PETER MAY, Commissioner

5 ROBERT MILLER, Commissioner

6 MICHAEL TURNBULL, Commissioner

7

8 Office of Zoning:

9 SHARON S. SCHELLIN, Secretary

10

11 Office of Planning:

12 ESTHER BUSHMAN

13 STEVE COCHRAN

14 JOEL LAWSON

15 JENNIFER L. STEINGASSER

16 ELISA VITALE

17

18 Other:

19 SARA BARDIN, Director

20 ALAN BERGSTEIN, ESQ.

21 ZEE HILL

22

23

24

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

2 CHAIRMAN HOOD: Good evening, ladies
3 and gentlemen. This is a special public meeting
4 of the Zoning Commission for November the 16th,
5 2015. Tonight the Zoning Commission will be
6 discussing Zoning Commission case numbers 08-06A
7 and 08-06B, and may have a few comments on 08-
8 06C.

9 My name is Anthony Hood, joining me
10 are Vice-Chair Cohen, Commissioner Miller,
11 Commissioner May, and Commissioner Turnbull.

12 We're also joined by the office
13 director here in the Office of Zoning, Ms. Sara
14 Bardin, also Ms. Sharon Schellin, as well as
15 Zellin -- I call her Zee, so forgive me. Zee
16 was her last name.

17 MS. HILL: Hill.

18 CHAIRMAN HOOD: Hill, Hill, okay, I
19 should know. I'm used to calling -- maybe
20 that's a bad. Maybe I'll start calling you Ms.
21 Hill so I won't forget.

22 Office of the Attorney General, Mr.
23 Bergstein, as well as Office of Zoning staff,
24 also Ms. Bushman hiding out on the side from me.

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1 Office of Planning, Ms. Steingasser, Ms. Vitale,
2 and Mr. Cochran and Mr. Lawson.

3 Again, we want to welcome everyone in
4 the audience and all those who are watching us
5 live stream. We do not take any public
6 testimony or comments during our proceedings and
7 our discussion tonight.

8 Since the Zoning Commission has not or
9 the zoning has not had a major overhaul since
10 1958, this is the first time that I've been
11 involved, and I'm sure all of us in this room
12 for the most part, and during a full rewrite.

13 So as we move forward, what I would
14 like to do first is just to give a few ground
15 rules, colleagues. We will not hear from the
16 Office of Planning, Office of Zoning, Office of
17 Attorney General unless we have a specific
18 question.

19 The dialogue will be between us and us
20 only, okay. But if you have a question, we
21 might need to go to them for clarification on
22 some comments.

23 And what I would like to use is the
24 record in which we have established as well as

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1 some documents that are here in front of us
2 tonight. So we're not using any specific
3 documents from any specific entity.

4 We will go by some, which was
5 outlined, which we had requested from the Office
6 of Planning, but we will also be using the
7 record, as well as some of our comments.

8 What I would also like to ask
9 colleagues is that we do 20-minute rounds. If
10 you don't have 20 minutes, then we can move
11 forward.

12 And then after that we can ask our
13 questions, and we go by subtitle, okay. And we
14 probably will have some questions of the Office
15 of Planning as well as the Office of Zoning
16 right off. So any questions or comments on
17 that?

18 The other thing is, I'm going to open
19 it up with opening comments, but before I do
20 that, Ms. Schellin, do we have any preliminary
21 matters?

22 MS. SCHELLIN: Yes, sir, a couple.
23 First, we received three ANC reports: 8E, 7F,
24 and 5B. They all three, the letters are

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1 substantially the same. I just wanted to point
2 out, they are Exhibits 1094, 1095, and 1096.

3 The one thing that I wanted to point
4 out specifically is that they are all seeking an
5 extension of time of no less than three months,
6 so OP may deliver the information that they are
7 seeking in their reports. I wanted to point
8 those out.

9 And then there's one other preliminary
10 matter -- two others, rather. At Exhibit 1098,
11 the Committee of 100 submitted a request asking
12 that the record be reopened. They would like to
13 submit a letter regarding third-party review.
14 If the Commission would like to reopen the
15 record, I have the letter for that.

16 CHAIRMAN HOOD: So we need to open the
17 record for the three ANCs, is that --

18 MS. SCHELLIN: No, those letters are
19 already in there because they are ANCs -- it's
20 their resolutions. It's included within their
21 resolution. I just wanted to point those out to
22 you that they are making that request.

23 CHAIRMAN HOOD: Okay, 8E. Colleagues,
24 I have seen 8E's letter. I'm sure we all have,

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1 and I think that the response that I see is that
2 the Zoning Commission voted five to zero at a
3 September 21st meeting.

4 I don't think the Zoning Commission
5 action, that had nothing to do with the Office
6 of Planning going out to 8E's meeting or -- what
7 were the other ANCs?

8 MS. SCHELLIN: 7F and 5B.

9 CHAIRMAN HOOD: They were requesting
10 that Office of Planning come out to their
11 meeting, am I correct? That was part of their
12 request.

13 MS. SCHELLIN: They were actually --
14 let's see. They were asking for development
15 standard comparison matrix and --

16 CHAIRMAN HOOD: Well, anyway, let me
17 do this. Let the record reflect that our vote
18 on September the 21st had nothing to do with
19 whether the Office of Planning goes out there or
20 not.

21 They can still go out there and still
22 help that community understand exactly what's
23 going on. I notice it's some years later. They
24 probably have some new ANC commissioners in at

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1 least the 5B that I know of.

2 So Office of Planning, as far as we're
3 concerned, the Zoning Commission is concerned,
4 is more than welcome to go out there and try to
5 explain to them what has been done or what is in
6 the process of being done.

7 Anything else Ms. Schellin?

8 MS. SCHELLIN: Then the request to
9 reopen the record from the Commission of 100.
10 They are, as I said, they would like to submit a
11 letter regarding the Commission not taking final
12 action until a third party reviews the proposed
13 zoning regulations.

14 CHAIRMAN HOOD: I actually have no
15 objection in accepting opening that up and
16 letting that come in because we typically do in
17 this particular case. Any objections?

18 Okay, so we'll accept it.

19 MR. MILLER: I'm sorry. Just to allow
20 it into the record but not -- you're not
21 responding to the actual substance of the --

22 CHAIRMAN HOOD: I have not seen the
23 requests, so --

24 MR. MILLER: I'm just seeing it for

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1 the first time.

2 CHAIRMAN HOOD: That's what I'm
3 saying. So we open the record. I don't
4 necessarily know if we'll be responding. I have
5 not seen the question.

6 MR. MILLER: Okay.

7 CHAIRMAN HOOD: What did you say the
8 request was? The opening request is to open the
9 record.

10 MR. MILLER: To reopen the record to
11 allow a third-party independent review of the
12 entire zoning regulations.

13 MS. SCHELLIN: The request is to
14 reopen the record to accept their letter
15 regarding -- so the request is to reopen the
16 record to accept their letter. The letter is
17 regarding a third-party review.

18 CHAIRMAN HOOD: Okay.

19 MR. MILLER: I have no problem of
20 reopening the record, but I do have a problem
21 with subjecting this to an independent third-
22 party review.

23 CHAIRMAN HOOD: Okay. So let me just
24 say that that sounds -- I don't know where that

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1 came from, but I will tell you this. That
2 that's something that I have mentioned numerous
3 times from the dais.

4 I will be inclined. I wouldn't mind
5 looking to see what their recommendation is. I
6 do have a concern, and that's one of the things
7 that I will raise tonight, how that third-party
8 review is done. I'm not sure, but at the end of
9 the day -- I wouldn't get into that. But first
10 let's open the record. Any objections to
11 opening the record?

12 Not seeing any, so the record will be
13 open. Give us a moment to review the letter.

14 (Whereupon, there was a review of the
15 letter.)

16 CHAIRMAN HOOD: Any other questions on
17 this letter? This letter is simply something
18 brought up from the dais on a number of
19 occasions. They also put in here about seeking
20 funding. Let's just see how that goes.

21 But I can tell you that I have already
22 had my mind set on a third party or some type of
23 review, not taking anything away from anyone.
24 But that's just kind of where I am on this.

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1 That's this Commissioner's opinion.

2 Any other comments?

3 MR. MILLER: Are you going to take
4 that up later?

5 CHAIRMAN HOOD: Yeah, I'm going to
6 bring it up. I brought it up before, so
7 actually the only thing different in this
8 letter, what I think if you check the record, I
9 brought this up before early on. The only
10 difference in this letter is they're asking me
11 to seek funding from the council. I don't know
12 if I can do that.

13 MR. MILLER: And the timing of it. I
14 mean, it might have been -- if you were going to
15 do that, it might have been at the time of
16 proposed rulemaking, which was almost one year
17 ago.

18 CHAIRMAN HOOD: Well, actually I
19 brought it up -- I actually have brought this
20 up, Commissioner Miller, years ago, and I
21 brought it up on more than --

22 MR. MILLER: I'm just saying if we
23 were going to do it, there was time to have done
24 it.

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1 CHAIRMAN HOOD: Well, there was time
2 to have done it, but now we have -- well,
3 supposedly we have a final document or close to
4 final. And simply my understanding or the way
5 I'm thinking about this, and I've thought about
6 this this weekend anyway.

7 But my thinking is that the document
8 would not necessarily go tit for tat or going
9 specifically to try to look and identify and
10 make sure that we're not creating any conflicts.

11 And I'm sure that the Office of
12 Planning, they're planners. They know how to
13 write regulations with the Office of the
14 Attorney General.

15 But when your eye has been on
16 something for so long, there are things that you
17 miss. I'm not discrediting anyone, I just know
18 -- and maybe I'm the only one that does that.
19 But anyway, that's something that we can talk
20 about. If there's no concurrence with it, then
21 we'll move forward.

22 Because here's the other thing. We,
23 too, have to live with this document. We, too,
24 are doing it -- we're not doing it for the

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1 District of Columbia, we're doing it also for
2 ourselves because we live here.

3 So, you know, 10 to 12 years from now
4 when I'm off the Commission, I don't want to be
5 the one who chaired the Commission and messed up
6 the whole zoning in the whole city. I've got to
7 live with that.

8 I can't move nowhere. I can't move
9 back to Mississippi. I'm right here, and I've
10 got live with that. So that's why I'm
11 proceeding like I'm proceeding. That's why I
12 would think we need a third party.

13 I'm sure others are involved in this
14 also, but I think it's also good to have an
15 extra pair of optics on this whole equation.

16 But what I'd like to do before we get
17 into all that is open it up for opening
18 comments. You don't necessarily have to comment
19 on anything I've said, but any comments? Any
20 opening comments? Vice-Chair Cohen.

21 MS. COHEN: Thank you, Mr. Chairman.

22 First of all, I am very pleased that
23 we are coming to the end of the zoning rewrite.
24 I have my own personal reasons to state that,

1 but I have been involved with this rewrite for
2 four years.

3 I want to really thank many, many
4 people for coming out and testifying on this
5 document and submitting comments. I want to
6 compliment all the ANCs who have taken this very
7 seriously and have submitted comments
8 throughout.

9 There are many, many people involved.
10 I went back and started looking through my tons
11 of -- as well as on the computer -- documents
12 that have been submitted by the public, and I
13 think it's time now for us to actually take
14 action.

15 I want to really commend the Committee
16 of 100 for their unbelievable review of
17 technical corrections that they have submitted.
18 And that's why I really do believe that with all
19 the public involvement, not only receiving it,
20 but also when the Office of Planning went out
21 and gave some talks about the documents, not
22 everybody will -- is a professional zoning
23 person and will read these documents thoroughly.

24 They will hopefully, though, go for

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1 training and continue to keep up to date as much
2 as possible so that their comments can be given
3 great weight, if they're ANCs. So I just want
4 to thank everybody who has been involved. It is
5 a vast undertaking.

6 And I don't know if this is the proper
7 time, but I think the professionalism of our
8 Office of Planning is highly underrated, and
9 that's unfortunate, since much of their work has
10 been studied by many cities, and their work has
11 been adopted.

12 So I want to thank them: DDOT, DDEE -
13 - it's not OE, it's D-D-E-E I think now -- for
14 all of their work. And those are my opening
15 comments. Thank you.

16 CHAIRMAN HOOD: Anybody else? Any
17 other opening comments? Commissioner Miller.

18 MR. MILLER: Thank you, Mr. Chairman.
19 I'll be very brief. I just wanted to also
20 extend my thanks to the public Office of
21 Assistance Associations and organizations for
22 all the input over the last eight years of this
23 effort to rewrite or reform the District zoning
24 regulations.

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1 And also thank the Office of Planning
2 and our Office of Zoning. There's been an
3 enormous amount of work that's been done by both
4 staffs in each of those offices, and making --
5 and all the outreach that's been done to the
6 community.

7 And thank you, Mr. Chairman, for
8 leading this effort and encouraging us to go
9 back to the community not once, not twice, but
10 many times to make sure we got all the
11 appropriate public input.

12 You know, none of us agrees with
13 everything that's in the regulations. We went
14 meticulously through issue by issue here over
15 several nights, I believe, and there were -- all
16 the votes obviously were not unanimous. There
17 were some very close votes.

18 But I think as a result of all the
19 public input and the input from our Office of
20 Zoning, Office of Planning, and the Office of
21 the Attorney General, I neglected to say all the
22 work that they've done, we really appreciate
23 that.

24 I think we do have a better document

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1 because of all the review and input, and I'm
2 pleased that we have reached this milestone
3 tonight.

4 CHAIRMAN HOOD: Any other comments?
5 Mr. Turnbull.

6 MR. TURNBULL: I would just concur
7 with my colleagues and agree that the tremendous
8 input that we've had over eight-plus years now.

9 And I want to thank also the past
10 members who are no longer with us who served
11 getting us here, not only the Zoning Commission,
12 but in the Office of Planning. I know they've
13 lost some key players early.

14 But I also want to thank the Board of
15 Zoning Adjustment for their input. I don't
16 think we've had much to say about them, but they
17 did provide us a lot of comments.

18 And the Zoning Administrator's office,
19 we've had inputs from them, and so I think we've
20 had a lot of input by a lot of people in the
21 city. I think it's been very well rounded. I
22 think it's been -- as I see it, I think we've
23 been as thorough and as articulate as we can in
24 expressing what we have received and commenting

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1 on it.

2 And I would agree that we're at a
3 point, and I think we've come a long way. And I
4 think we're ready to proceed.

5 CHAIRMAN HOOD: Okay. Commissioner
6 May.

7 MR. MAY: Thank you. So I guess, you
8 know, I wrote a really long speech, but now I
9 have to go and do a short one because
10 everybody's staying brief.

11 I would also echo the comments of my
12 fellow commissioners thanking everybody's who's
13 participated in the process. It has been an
14 extensive process. We are very close to being
15 done, just a few more issues I think to resolve.

16 I would thank everybody who's
17 participated in the process, including the many,
18 many third-party reviewers who've already looked
19 at this, the members of the public and then
20 various institutions and agencies and citizen
21 associations, ANCs, etcetera. We appreciate
22 everybody's effort.

23 And I want to thank the Office of
24 Planning, the Office of Zoning, the Office of

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1 the Attorney General, other agencies who
2 participated.

3 It's true, we have not agreed on
4 everything, but I think that we've gotten a
5 pretty consensus document, and it has certainly
6 evolved from where it started.

7 Even when we were looking at the
8 initial direction on things, when we first
9 started voting on those sorts of issues, I don't
10 know, four or five years ago and started to give
11 the Office of Planning directions on text. And
12 it has certainly changed since what was first
13 presented to us in a draft in the middle of
14 2013.

15 And I think that, you know, I'm very
16 pleased to reach this point. I think this has
17 been a -- I mean, it has been a very long
18 process, but it's also been a very involved
19 process. And I think it has been extremely
20 thorough with the number of work group meetings,
21 task force meetings, Zoning Commission public
22 hearings, Office of Planning presentations to
23 ANCs to other community groups.

24 All of the deliberations that we've

1 had, the public -- the marathon public hearings
2 that we had, and then actually the ones where we
3 went out offsite and solicited more public
4 comment.

5 So I think that everybody has had a
6 good chance to talk to us on it and included
7 this most recent round where we got a couple
8 hundred more comments on something like, you
9 know, 800 discrete statements within them.

10 It's been a lot to review, but I
11 appreciate everybody's effort, and I appreciate
12 the efforts of my fellow commissioners working
13 through this, including those who are not around
14 to vote, but certainly played a role.

15 So back to you, Mr. Chairman.

16 CHAIRMAN HOOD: Okay. And I'm going
17 to just read a statement.

18 "Tonight the Zoning Commission will
19 begin the final phase of the zoning regulation
20 review. Throughout the process that began in
21 2007, the Zoning Commission has heard
22 significant input from both the OP (Office of
23 Planning), civic groups, constant users of the
24 code, anybody who wanted" --

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1 one of them.

2 "As the Commission begins its
3 deliberations, let's keep in mind why we are
4 reviewing the zoning regulations and make sure
5 our decision will accomplish intended outcomes
6 and hopefully will stand the test of time.

7 "Remember, it's not personal, so don't
8 take it the way."

9 And I will tell you that I am very
10 nervous because one of the things I try to do, I
11 always try to achieve -- and it'll be years from
12 now that this zoning code -- I'll look back and
13 say that I had something to do with it.

14 You'd be surprised how that impacts a
15 person, especially if it doesn't work out as
16 well. I want this to work like everyone else
17 does.

18 And I know I'm going to do my thank
19 yous later because I know a lot of work has been
20 put into -- from community groups as well as the
21 Office of Planning, the Office of Zoning, the
22 Office of Attorney General.

23 And a lot of people, including my
24 colleagues who have already been mentioned. But

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1 I'm going to thank everybody later because for
2 me we're still in the game. We haven't finished
3 yet.

4 And when we finish, when we get to the
5 finish line, then I will feel better, but I
6 won't even feel better than. I won't feel
7 better until this is actually in operation and
8 it's working. Then I'll probably rest.

9 I may be long gone from the Zoning
10 Commission by then, but can you imagine having
11 to walk into Costco and know that you were the
12 chair of a commission who messed up the zoning
13 code or who -- now, if I did a very good job, I
14 might stand out in front of Costco, and that's
15 what I'm hoping I'm able to do.

16 So I can tell you, I'm very nervous
17 about what we're doing. It's a major
18 undertaking, and I'm glad -- I hope everybody
19 else is calm. Maybe I'm the only one nervous.
20 But since I am, let's proceed.

21 So we're going to take 20 minutes on
22 this -- 20-minute rounds for any discussions.

23 What I would like to do really is go
24 by subtitle, but let's start off with 20-minute

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1 rounds and see how that goes. And then we have
2 a few sheets that we can follow the merits of
3 the case as well as the diagram we asked for
4 from the Office of Planning.

5 So somebody like to get us started?

6 MR. MAY: Mr. Chairman, are you
7 suggesting 20-minute rounds per commission on
8 each subtitle?

9 CHAIRMAN HOOD: No, no. Twenty-minute
10 rounds to get started, and then we can go down
11 the subtitles.

12 MR. MAY: Oh.

13 CHAIRMAN HOOD: You know, like if you
14 have anything that's out there that may be in a
15 subtitle.

16 MR. MAY: You know, a more general.

17 CHAIRMAN HOOD: Yeah, general. If you
18 have something you might want to go back to the
19 Office of Planning, Office of Zoning, --

20 MR. MAY: I mean, I thought we'd go
21 through, you know, do we have any comments on
22 Section A, and then we can sort of bring them
23 up.

24 CHAIRMAN HOOD: But some of the

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1 comments that you might have come from some of
2 the merits that I believe we may have missed. I
3 mean, you know, I think that we need to --

4 If you don't take the first -- the
5 whole 20 minutes, if you have any general
6 comments of things we might want to ask each
7 other to see if each other may want to go that
8 way or any changes we may want to make, let's do
9 that first, and then let's go down subtitles A,
10 B, C, or whatever in that order.

11 MR. MAY: Okay, I confused a little
12 bit. Let me gather my -- because I was prepared
13 to go through this subtitle by subtitle. I
14 don't think I need a 20-minute round. Let's
15 talk about subtitle A, and then I'll have a few
16 comments.

17 CHAIRMAN HOOD: Well, maybe I need to
18 do -- maybe I'll flush mine out the way that I
19 have it flushed out, --

20 MR. MAY: Okay.

21 CHAIRMAN HOOD: -- and then we can do
22 subtitle. There are some things that we may
23 have visited, I want to revisit, and I didn't
24 flush mine out a lot by subtitle. And I don't

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1 have a whole lot, a few clarifications.

2 In subtitle -- you know what, I did
3 sometime do a subtitle. I can say "Y" and "X."
4 Okay. Hold on one second.

5 Okay. Since nobody has any openings
6 like that, why don't we just go down subtitle.
7 I'll do it like that. That may be easier. And
8 I will tell you that if I ask my questions that
9 are not in the subtitle, so be it, we'll still
10 ask it.

11 Okay, let's go to subtitle A. This
12 subtitle is Authority Applicability of the
13 Zoning Code, Title XI. This is what's being
14 proposed. Anybody have any issues with subtitle
15 A or any concerns? Mr. Miller.

16 MR. MILLER: Mr. Chairman, I hesitate
17 to bring this up, but subtitle A I believe is
18 where the effective date, the applicability is
19 addressed, and I'm prepared to propose one
20 option and see if there's any consensus among
21 us. But if you prefer to wait till the end to
22 do that. But it is in subtitle A, I believe.

23 CHAIRMAN HOOD: I would prefer that we
24 put that in the parking lot, unless you feel

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1 strongly about it. I want to --

2 MR. MILLER: I just want to get
3 through it one way or the other.

4 CHAIRMAN HOOD: Yeah, we can come back
5 to that.

6 MR. MILLER: Okay. That was my only
7 issue with it. I was prepared to propose a --
8 well, I'll leave it until when you want to talk
9 about it.

10 CHAIRMAN HOOD: Okay.

11 MR. MAY: So, Mr. Chairman, I had
12 that, too, but the only other thing I had for
13 subtitle A had to do with the yards question,
14 yards versus setbacks, but that's discussed more
15 thoroughly in later sections. I mean, there's a
16 reference to it in subtitle A, but I think it's
17 more appropriate to discuss that later.

18 CHAIRMAN HOOD: I thought, colleagues
19 -- thank you. I thought, colleagues, that 304
20 deviations and modifications permitted by the
21 Zoning Administrator's rulings, I thought we had
22 took a lot of that out of the new code.

23 And I'm trying to figure out, am I
24 looking at an old version, or did we not agree

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1 to take out the deviations? I thought we said
2 we would take out that two-percent deviation,
3 which seems to give us a sorry mess.

4 Here, I was hoping he wouldn't hear me
5 say this, but it seems to be giving us a lot of
6 appeals, and I thought that we had -- no point
7 intended to him, but, you know, I just think
8 that I thought that that was making things a
9 little more difficult for our Zoning
10 Administrator.

11 I thought that we had decided to take
12 that out? Does anybody else recall that or am I
13 the only one? Maybe it's because I wanted it
14 out.

15 MR. MILLER: I don't recall that.

16 MS. COHEN: I recall that it was
17 mentioned, but I think we should retain it so
18 that we don't get inundated with very, very
19 minor changes. That was my recollection of the
20 discussion.

21 CHAIRMAN HOOD: But it seems like we
22 do get inundated with those changes because a
23 lot of them on the BZA become appeals, and I'm
24 not sure if we need to be more specific or what

1 the case is.

2 But, you know, this is one of the
3 things that I thought that we were taking out
4 that two percent. I know that flexibility is
5 needed, but either we need to be more specific.

6 "Deviations not to exceed two percent
7 of the area requirements governing minimum lot
8 area, lot occupancy, and areas of courts and
9 roof structures;

10 "Deviations not to exceed the greater
11 of two percent or 12 inches of the linear
12 requirements governing minimum lot;

13 "Deviations not to exceed the greater
14 of ten percent or 12 inches of the linear
15 requirement" --

16 I thought we had dealt with some of
17 this? I thought this was supposed to come out?

18 "Deviations not to exceed two percent
19 of the linear frontage limitations for eating
20 and drinking establishments in subtitle K-11.7."

21 Am I the only one -- I guess I'm the
22 only one recalling the mention about taking that
23 out. Is anyone open to that?

24 MR. TURNBULL: Why do you want to take

1 it out?

2 CHAIRMAN HOOD: Well, it seems as
3 though -- the way I read it, it seems as though
4 if you look at what we've been having with the
5 BZA, all the cases of appeals and everything, it
6 seems as though it's discretionary.

7 And it causes -- to me it causes
8 conflicts on when an interpretation is kind of
9 open. I don't know, maybe we need to make it
10 more specific, and I don't --

11 You know, I'm not the zoning guru to
12 make it more specific, but maybe we need to find
13 some way to make it more specified of the two
14 percent of what he's looking at. Maybe we can
15 go into more detail.

16 And I know nobody wants to get more
17 pages because that's where we are now, but I
18 think that that has been an issue with all these
19 appeals, especially when it comes to the
20 question of the Zoning Administrator's
21 deviation.

22 I'm not just talking about -- I'm not
23 talking about one person, I'm not talking about
24 Matt Le Grant. I'm talking about any zoning

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1 administration. At some point in time he's
2 probably going to move on, somebody else may
3 there, but I'm just saying this needs to stand
4 the test of time.

5 What he believes may be one thing,
6 what his predecessors believe was something
7 else, and who comes after him may believe
8 something else. That two percent to me is not
9 specific.

10 MR. TURNBULL: Yeah, but if you don't
11 have anything, then I think the ZA would be the
12 first one to tell you that he'll be procured to
13 do all kinds of things. So I think he needs
14 some kind of guidelines to direct him as to what
15 he can and cannot go to change something.

16 CHAIRMAN HOOD: Well, I guess where
17 I'm going is, what is --

18 MR. TURNBULL: There should be no
19 deviation from anything.

20 CHAIRMAN HOOD: Either come back or we
21 need to be specific. What is the two percent?
22 Two percent -- what does the two percent go to?
23 What two percent are we talking about?

24 That's among interpretation. What is

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1 two percent? It needs to be specified. His two
2 percent is different from my two percent.

3 MR. TURNBULL: Well, the two percent,
4 I mean, what they're calling for in the four
5 areas is two percent of the area, or it's two
6 percent of the linear requirements, or it's ten
7 percent or 12 inches of the linear requirements
8 or two percent of the linear frontage.

9 I mean, if you want to get it tighter,
10 we can always make it tighter.

11 CHAIRMAN HOOD: And that's kind of
12 where I'm going. Now, I just think that may
13 help and it may not help. I'm not sure if
14 that's what we did as we went along, but that
15 was something that was mentioned, and I'm not
16 sure that was done.

17 MR. TURNBULL: Uh-huh.

18 MS. COHEN: Mr. Chairman?

19 CHAIRMAN HOOD: Yes.

20 MS. COHEN: I can't compare my, you
21 know, tenure to your tenure. It's like three
22 times or four times more. But the appeals that
23 I've sat through are really questions that are
24 much more substantive, and that I believe when

1 CHAIRMAN HOOD: Ms. Steingasser, can
2 you help us with this?

3 MS. STEINGASSER: I believe so. You
4 didn't take the two-percent flexibility out of
5 the prerogative of the Zoning Administrator for
6 the R-4 conversions. That's where we were
7 getting a lot of push back, so that has been
8 removed.

9 It's not reflected here because that
10 case was heard after proposed action was -- was
11 decided after proposed action was already taken.
12 But it will be reflected. So there is a
13 limitation on that R-4 two percent.

14 MR. MILLER: Thank you for that
15 answer.

16 CHAIRMAN HOOD: And you don't think us
17 dealing with it in our fork could carry over to
18 some of this what we have in 304.1? And I'm
19 asking you, Ms. Steingasser.

20 MS. STEINGASSER: I believe I would
21 look to the Office of Attorney General, but it
22 wasn't advertised or set down, so I think it
23 might be an extension of what was considered.

24 CHAIRMAN HOOD: Okay.

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1 MR. BERGSTEIN: I'm not talking unless
2 I'm asked. Am I being asked?

3 CHAIRMAN HOOD: I'm not sure if I want
4 to ask you.

5 MR. MAY: Yeah, I don't think that's
6 really the key question because whether we had
7 discussed it before, and I'm, you know, I'm
8 racking my brain and looking through my notes
9 and looking through the past drafts of the regs,
10 and I'm not seeing substantive discussion of it
11 previously.

12 And, I mean, I guess it's something
13 that we could discuss. It wasn't -- I guess I'm
14 a little at a loss because I don't know that it
15 was really identified as one of the issues we
16 were trying to tackle up front.

17 But I don't -- I mean, was that
18 something that was ever part of where you came
19 to us for a recommendation or rather looking for
20 guidance about what to do with that area?

21 MS. STEINGASSER: No, sir. It was not
22 an issue the Office of Planning raised.

23 CHAIRMAN HOOD: Was that an issue that
24 was ever raised? I think -- for some reason I

1 remember saying it myself, and I don't
2 necessarily -- meaning it was just germane to
3 the R-4. So I don't know.

4 There was no support for looking at
5 this, and if it wasn't, it's not like we can't
6 propose it and then put it out there. I'm not
7 sure if y'all -- do I have any support on this?
8 Not hearing any, let's keep moving.

9 MR. TURNBULL: I mean, Mr. Chairman, I
10 just had one other item, and are we still on
11 subtitle A?

12 CHAIRMAN HOOD: Yes.

13 MR. TURNBULL: And maybe that can be -
14 - it's probably a parking lot item, too, but the
15 other item that's in here, there's another date.

16 It's in Section 205.1, which is the
17 zoning map. So that's going to be put in the
18 parking lot -- we're not dealing with the map
19 tonight, I believe. I don't think we're dealing
20 with that.

21 But 205.1 is looking at -- it has a
22 place for a date, so we need to come back and
23 maybe coincide that with the other date.

24 My only question is, there were a

1 couple of comments that came in dealing with
2 maps from real estate attorneys pointing out
3 that to date there's been some changes to the
4 date.

5 They've seen some contradictions
6 between what was -- we don't have a map issued,
7 but the maps that we've shown, the areas, the
8 boundaries that we've shown, don't correspond
9 with some of the text that we've got, so I'm not
10 sure how we're going to handle that or how that
11 gets addressed.

12 And I know we got this whole issue of
13 whether text supercedes the map, the map
14 supercedes, and that there's a conflict. So I'm
15 wondering if the Office of Planning could maybe
16 just comment a bit on the map issue and the
17 coordination of text and map?

18 MS. STEINGASSER: Is there a specific
19 section? Our intent was not to rezone outside
20 of what was advertised in downtown areas. You
21 know, we changed some zone names, but the
22 boundaries of those zones were not intended to
23 be changed.

24 MR. TURNBULL: Well, I was just

1 looking, and there was an exhibit by Holland and
2 Knight and I think -- which was number 18 or --
3 and Goulston and Storrs had one.

4 They're talking -- on our thing here
5 it says Exhibit Number 20 and Exhibit Number 17,
6 but that doesn't correspondent with what we
7 really --

8 MS. STEINGASSER: It's case number C.

9 MR. TURNBULL: Yeah, it's under case
10 number C. It's one of the later ones. It's
11 like one of the last three exhibits that was
12 entered into our documents.

13 They're talking about -- I mean,
14 they've included some things that I'm sure
15 you're going to look at it, but some things that
16 were CM-1 and they're talking about how the way
17 we're talking about things it doesn't really
18 match with what we've been --

19 They mention some of them. And then
20 the Goulston and Storrs talks about certain
21 specific squares. They're talking about the
22 textural instructions. They're talking about
23 square 435, part of L'Enfant Plaza, and then
24 they go back and we look at some of these.

1 They're just looking -- they're
2 mentioning them, and I don't want to get into
3 the weeds, but they're talking about some
4 inconsistencies that they've seen with text and
5 the way they see that things are beginning to be
6 mapped.

7 I mean, we're not going to be dealing
8 with map tonight, but I just wanted -- I mean, I
9 don't know if you had a chance to go through
10 those and look at them.

11 MS. STEINGASSER: I apologize. We
12 didn't bring our case file for C with us this
13 evening.

14 MR. TURNBULL: Yeah, I mean, but so
15 that's something that they brought out when it's
16 with mapping. But I don't know if some of that
17 then overlaps with text.

18 I didn't go through and get into the
19 weeds and nitpick everything and go through it
20 all and relate one to the other. But I just saw
21 those exhibits talking about mapping. And
22 although we're not dealing with mapping, but how
23 that's going to be --

24 MS. STEINGASSER: As I stated, we will

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1 absolutely check that first thing in the
2 morning. We are not intending to rezone or
3 change zones --

4 MR. TURNBULL: What we had already
5 set.

6 MS. STEINGASSER: -- beyond what we'd
7 already set. Now, in this COME zones, there was
8 some change to the FARs, --

9 MR. TURNBULL: Right.

10 MS. STEINGASSER: -- and through the
11 text, but the zones themselves were not intended
12 to be changed.

13 MR. TURNBULL: Okay.

14 CHAIRMAN HOOD: Anything else,
15 subtitle A? And here's the thing, if you think
16 of something, we can always come back.

17 Okay, all right. Let's go to B. I
18 read somewhere, I thought that we were taking
19 the definition of "hotel" out of the
20 regulations, but I see it's still here.

21 So, Ms. Steingasser, we're going to
22 have to call your help to remember some things.
23 So we are keeping the definition of "hotel" in
24 the regulations, correct?

1 MS. STEINGASSER: Yes, sir. I believe
2 the request was to include the definition of
3 "inn" -- I-N-N -- so that there was -- it
4 mirrored the existing code where there's less
5 transient accommodations --

6 CHAIRMAN HOOD: Okay.

7 MS. STEINGASSER: -- less than 30
8 days, more than 30 rooms.

9 CHAIRMAN HOOD: Okay. So in the
10 version we have, we have not added that back in
11 yet, though. Okay, okay. All right. That was
12 all I had on B. Anybody else?

13 MS. COHEN: Mr. Chairman?

14 CHAIRMAN HOOD: Yes.

15 MS. COHEN: I just want to confirm
16 with OP that we're keeping the definitions, the
17 existing definitions of "finished grade" and
18 "natural grade"; is that correct?

19 MS. STEINGASSER: Yes, ma'am. We've
20 not proposed any change. As you can see, we
21 have comments both to change from "finished" to
22 "natural."

23 MS. COHEN: And natural. So that's
24 what confused me as to --

1 MS. STEINGASSER: Consider that in the
2 last ten years and it's a difficult issue.

3 MS. COHEN: But we're not. Thank you.

4 CHAIRMAN HOOD: You know, I do have an
5 issue that was brought up, and I may have missed
6 this. And so this may be something we have to
7 rehash, but I know it was on the table.

8 We had a lot of comments about we're
9 making I think the number was 175 items now are
10 going to be matter of right versus what you used
11 to have some type of zoning.

12 Ms. Steingasser, can you point me
13 where I can find those 175 things that are now
14 matter of right in which we're making matter of
15 right which at one time needed a -- we're taking
16 away public hearing? Can you point me to that?

17 MS. STEINGASSER: We did add a list
18 prior to proposed action, and it's not just that
19 things have gone from special exception to
20 matter of right.

21 But matter of right -- I'm sorry.
22 Things have gone also from variance to special
23 exception so that there's still an increase --
24 or there's still an opportunity for weigh in;

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1 it's just no longer required as a variance.

2 So there were things like theaters in
3 residential zones, in the churches, and
4 community centers, the issue of conversions.
5 And the way we dealt with everything but the 900
6 square feet that moved from a variance to a
7 special exception.

8 I don't have the full list with me,
9 but it was entered into the record prior to
10 proposed action.

11 CHAIRMAN HOOD: Okay. Well, forgive
12 me. I don't remember everything unfortunately.
13 I don't do zoning all day, I actually work on
14 facilities and do printing. So forgive me.

15 I do have a full-time job, so I may
16 have missed some stuff. I try to spend a lot of
17 time with this because I think it's important.
18 So I need to really see that list again. If you
19 don't mind helping me, direct me in that
20 position, I would appreciate it.

21 But the key is, we're not taking away
22 the public input.

23 MS. STEINGASSER: No, sir.

24 CHAIRMAN HOOD: Okay.

1 MS. STEINGASSER: No, sir.

2 CHAIRMAN HOOD: Okay. Because when I
3 read that, I said I must have really missed
4 that. So let the record reflect, we will not be
5 taking away public input, but I would like to
6 know exactly what that is.

7 And I would ask Ms. Bardin and Ms.
8 Schellin to keep a list for us, some things that
9 I would like to see -- we would like to see.

10 Okay, Commissioner Miller.

11 MR. MILLER: I just wanted to add, I
12 don't recall the specific categories on that
13 list, either, but I think we should also include
14 on it things that are currently matter of right
15 that now will have a special exception or
16 variance or some kind of public input.

17 Just one comes to my mind. Maybe
18 there is only one, but the large retailer,
19 especially in the downtown area, have some
20 comments against that.

21 But it's not something that -- I think
22 there are other things that I think may fall
23 into that category of things that have gone from
24 matter of right to having a public hearing or

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1 input process.

2 CHAIRMAN HOOD: Okay, that's good. So
3 it's both ways. So some things were a matter or
4 right, now it's a public process, and some
5 things -- well, anyway, I'll leave it alone. I
6 like that. I didn't think of it both ways.

7 Okay. Anything else in subtitle B?

8 MR. MAY: Yeah. I have a couple
9 things to mention. One is that the definition
10 of a courtyard was, the Office of Planning is
11 suggesting some alteration, and this is in
12 response to a comment that I believe came from
13 Goulston and Storrs.

14 "A court shall not include an
15 indentation, recess, or decorative architectural
16 treatment of the exterior wall of a building
17 which opens onto a street, yard,
18 alley, or court."

19 And initially the Office of Planning
20 was -- said they'd take it under study, but then
21 have subsequently, as I understand it, you've
22 added that to your recommended changes.

23 And I understand "indentation" and
24 "decorative architectural treatment," but I

1 don't understand a "recess." And I'm afraid
2 that that opens things up to --

3 I mean, a recess could be a small
4 recess or it could be a very large recess, and
5 so I understand this was trying to capture what
6 might have previously been called the "court
7 niche," but I'm afraid we're throwing the door
8 too far open.

9 So I guess if you have anything to say
10 in response to that, do I understand correctly
11 what you're recommending at this point?

12 MS. STEINGASSER: You are correct. We
13 were trying to recapture the concept of the
14 court niche. And if it's too broad, we'll be
15 happy to bring that back down.

16 MR. MAY: Yeah. I mean, I think
17 indentation and decorative architectural
18 treatment make sense, but I think the word
19 "recess" is just too broad.

20 Then the second area, I mean, there
21 was a lot of discussion of definition of
22 mezzanine and everything from, you know,
23 mezzanine should be a story no matter what.

24 And then also the suggestion that

1 mezzanine should be the only area where there's
2 be a restriction on -- or rather the only area
3 where a mezzanine would be considered to be a
4 story is on buildings 40 feet or less, and when
5 it's above the third floor. That would be
6 considered a story. Right, I mean, something
7 like that.

8 But it was also suggested that any --
9 you know, that this is something that applies
10 anytime a building is below 40 feet. And I'm
11 wondering why -- what you're thinking was in
12 sticking essentially with the, I guess, the
13 definition that came out of the R-4 case? Was
14 it the R-4 case? Yeah, it was R-4 case.

15 MS. STEINGASSER: We did stay with the
16 definitions that came out of the R-4 case, since
17 the Commission had just decided that and that
18 discussion had just happened. That was
19 basically it.

20 MR. MAY: Okay, all right. So I
21 thought it all the way through.

22 MS. STEINGASSER: Yes.

23 MR. MAY: Okay. So then the only
24 other question I have about that is that the

1 definition seems to be including the
2 restriction, and I know that we've tried to
3 avoid that, right, and we wanted to have
4 definitions be definitions and then restrictions
5 occur in other parts of the code.

6 So, I mean, did you just -- was this
7 the fastest way to address it or is it something
8 that could actually be --

9 MS. STEINGASSER: We could take
10 another look at separating the two. There were
11 several definitions that were defined by their
12 rule.

13 MR. MAY: Right.

14 MS. STEINGASSER: Building measure --
15 heights of buildings was one where we had a
16 really hard time separating the definition from
17 that aspect of it that was a rule.

18 MR. MAY: Right. I mean, I would
19 think though that since we're narrowly defining
20 the application of a mezzanine being considered
21 a story to what will be RF zones, that maybe in
22 the RF zone section there would be a way to
23 incorporate that.

24 So there are all sorts of definitions

1 associated with the change from yard to setback.
2 Do we want to get into that? Is this the right
3 time to get into that discussion? I think it is
4 actually, yeah.

5 CHAIRMAN HOOD: Subtitle B?

6 MR. MAY: It's in subtitle B. So,
7 again, I mean, this is mostly a question for the
8 Office of Planning, but if anybody on the
9 Commission has thoughts on this, please chime
10 in.

11 You know, I understand we're just --
12 part of it is just the change in the word,
13 right? We're getting rid of the word "setback,"
14 we're using the word "yard" again.

15 MS. STEINGASSER: It also has a
16 different measuring means of being measured.

17 MR. MAY: Yeah, and I was going to get
18 to that. I mean, that's the more substantive
19 thing. I mean, I think there are a couple of
20 things that need to be addressed in the way
21 these have now changed.

22 First of all, it's now clear for me in
23 the way the definitions are now that -- maybe it
24 wasn't clear when they were called setbacks.

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1 But the front yard is from the front-lot line to
2 the front face of the building extended all the
3 way to the side-lot lines, right?

4 MS. STEINGASSER: Well, there is no
5 front yard in the current regulations. In the
6 CRR proposal we did, that is the proposal.

7 MR. MAY: Right. Well, I'm talking
8 about the proposed language.

9 MS. STEINGASSER: Okay, yes.

10 MR. MAY: Okay. So it's not totally
11 clear to me in the reading of the language that
12 it's the front face of the building extended all
13 the way to the side-lot lines. Because I know
14 that came up in a parking case or something like
15 that, right? I think that should be clear.

16 The other -- okay. So then the other
17 real issue goes to the question of how we
18 measure, and I know that we were of a mind that
19 you should be measuring from the lot line toward
20 the building as opposed to from the building
21 outward.

22 And I saw a lot of testimony from
23 knowledgeable land-use attorneys who said that
24 no, it's always traditionally been from the

1 building out and that's the way it's been
2 regarded, and that's actually more consistent
3 with the zoning law or the zoning act.

4 Okay, I can understand all that. But
5 it still doesn't get to the essential problem
6 which I think is the possibility of structures
7 in yards, you know, basically things above four
8 feet.

9 The thing that pops into mind
10 immediately for me is retaining walls; that can
11 be above. And if you have your required yard
12 that means that you have your required yard out
13 to where you're building your platform with your
14 very high retaining wall.

15 And it's that sort of a circumstance
16 that I think we're trying to avoid. So can we
17 couple this treatment of yards with a
18 restriction on such structures in the entire
19 yard and not just in the required yards, because
20 that was always the sticking point?

21 MS. STEINGASSER: I think we can.

22 MR. MAY: Okay.

23 MS. STEINGASSER: I mean, I know we
24 can. Whether it would require readvertisement,

1 we'd have to --

2 MR. MAY: Okay. We're not making our
3 decisions based on whether we advertise or not.
4 But I think that that's something that should be
5 addressed, because that was what I thought we
6 were trying to get to from measuring from where
7 the lot line is.

8 Because that's really where the impact
9 or the importance of yard to the neighboring
10 properties is. It's between the lot line --
11 measuring from the lot line to the house or to
12 the building.

13 And I think that's something that we
14 have to try to take on. I mean, would others
15 agree with that?

16 CHAIRMAN HOOD: I would agree. Let's
17 put that in. Whatever lot we want to put it in
18 parking lot or lot for us to relook at.

19 MS. COHEN: I have a question.

20 CHAIRMAN HOOD: Yes.

21 MS. COHEN: So your concern is that
22 the retaining wall would be beyond the lot?

23 MR. MAY: Beyond the required rear
24 yard measuring from the building out. So if you

1 have to have a 20-foot yard but you actually
2 have a 40-foot yard, you know, you could have a
3 retaining wall 20 feet away from the house, but
4 20 feet away from the rear property line. And
5 it could be as tall as you want it or something
6 like that.

7 MS. COHEN: Yeah, so that's an
8 important concern because I think that has been
9 done --

10 MR. MAY: Yes, --

11 MS. COHEN: -- before.

12 MR. MAY: -- and it was a very notable
13 case about that. And there have been subsequent
14 cases where this issue has come up, and that's
15 the way the hairs were split was that, well,
16 this retaining wall is not in the required rear
17 yard.

18 MS. COHEN: Yeah.

19 MR. MAY: As to whether that needs to
20 be advertised, I mean, I think that since we had
21 previously advertised measuring the other way,
22 we're not really introducing new impact or new
23 requirement. It's just -- you know, we're
24 changing the definition slightly, but I think

1 that we're capturing that potential impact.

2 CHAIRMAN HOOD: So as we understand, I
3 think it was already on the table.

4 MR. MAY: In my view, it's already on
5 the table, but, you know, eventually we'll get
6 an opinion on that.

7 CHAIRMAN HOOD: Okay. Commissioner
8 May, what definition was that you just
9 mentioned? Was it front lot?

10 MR. MAY: It had to do with yards, so
11 hold on a second. 313 to 324 is where the yards
12 are defined, I think.

13 CHAIRMAN HOOD: Right, okay. And I'm
14 not sure if this is what I've read. Was there -
15 - is this code, and I'm trying to remember where
16 I read it from.

17 Are we saying now that the applicant
18 can determine -- and this may go to something
19 that you dealt with a case, Mr. Turnbull, or I
20 might be getting it mixed up. Where the
21 applicant can determine where the measurement
22 point is -- oh, no, where the front.

23 Is the front the main street? Does
24 anybody recall that where the applicant can

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1 determine -- I read that somewhere.

2 MS. COHEN: I believe you're calling
3 that which street -- there was some concerns
4 about why should you have the choice, if it's
5 bordering on one street, but there are other
6 streets that it impacts. It was a recent UD.

7 CHAIRMAN HOOD: Yeah. But I think
8 it's also addressed here in the code. Mr.
9 Turnbull?

10 MR. TURNBULL: I think you were
11 referring back to many, many years ago there was
12 a BZA case, and Mr. Le Grant was -- we had a
13 what determined the side yard and the rear yard
14 and where it could go.

15 And there was one ZA gave one opinion
16 and then the BCA overruled that in an appeal,
17 and we changed it to what I believe is now what
18 the consistent way that Office of Planning is
19 looking at, how you figure or determine what a
20 rear yard is.

21 It had to do with an angled street
22 coming together and how much play you had to
23 determine where a rear yard can go on, how you
24 label the rear and side yard.

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1 CHAIRMAN HOOD: Okay. And I just want
2 to note, I just remember reading. I read so
3 much, now it's starting to run together. But I
4 just want to make sure, Ms. Steingasser, that it
5 was addressed. And can you right off the cuff
6 tell me where we addressed it at? If not, I'll
7 just put that in the parking lot.

8 MS. STEINGASSER: I believe, Chairman
9 Hood, you're talking about an applicant's right
10 to choose where they measure height, and it's
11 referred to in the public comments as a mix and
12 match.

13 I think two different submittals
14 talked about it, and the mix and match comes
15 right out of the Height Act.

16 CHAIRMAN HOOD: Okay.

17 MS. STEINGASSER: Or the Height Act
18 actually says you shall choose the wider street,
19 and so that is reflected in this --

20 CHAIRMAN HOOD: Okay. So we didn't
21 make any adjustments on that. They're using the
22 wider street to measure the height.

23 MS. STEINGASSER: Yes, sir.

24 CHAIRMAN HOOD: Okay. So if it's 90,

1 then go 90.

2 MS. STEINGASSER: Yes, sir.

3 CHAIRMAN HOOD: Okay, all right.

4 MR. TURNBULL: Yeah. What I was
5 talking about has nothing to do with height. It
6 had to deal with what determined the front of
7 the building and then what then determined the
8 rear of the building.

9 CHAIRMAN HOOD: Well, actually that
10 was good because I want to make sure we get that
11 straight because I remember that case.

12 MR. TURNBULL: Yeah.

13 CHAIRMAN HOOD: And then that was my
14 question, which Ms. Steingasser asked, because I
15 thought I saw it where they can pick which
16 street. But naturally you're going to pick the
17 wider street anyway.

18 Anything else on this? I do have some
19 notes here that I wrote. I'm sure Ms. Kay Low
20 will probably agree with this, but I think it's
21 far too late, seven years too late to agree with
22 the red line.

23 And then when, you know, I looked at
24 all those things that have been said at council

1 is not in B, this is just me digressing to some
2 of the notes that I've made.

3 One of the other things I did want to
4 ask colleagues, and I'm trying to figure out. I
5 guess when I get to the subtitles, and I know we
6 talked about overlays.

7 And I will tell you, Ms. Steingasser,
8 you and I went back and forth on the Langdon
9 Overlay, the Langdon Overlay, the Langdon --

10 I have not understood in here how the
11 overlay is going to work, and I don't know if my
12 colleagues are up to -- and this is on the table
13 -- putting the overlays back into the
14 regulations the way it was.

15 I don't know if we're up to that.
16 Maybe it's just that I don't understand how it
17 is here because I know a lot of stuff went into
18 overlays. And I'm not saying -- that may be the
19 bad word for night and who wants to put overlays
20 back into the regulations.

21 But I can tell you, Anthony Hood does
22 not understand the way overlays are put into
23 this regulation, and I've been going back and
24 forth, the tree and slope, trying to figure this

1 out.

2 And I don't know if it still carries
3 the same weight as we had previously. Probably
4 it might, but I don't see it, so.

5 I don't know if anyone wants to
6 entertain that, or we can put that in the
7 parking lot and have that discussion later,
8 because I don't think it comes up under B.
9 Okay, well, put that in the parking lot for
10 later. That's why I decide to mention that.

11 Okay. Anything else on B?

12 MR. MAY: Mr. Chairman, I have two
13 other questions on yards, sorry.

14 CHAIRMAN HOOD: Sure.

15 MR. MAY: One was the definitions.
16 Now I'm looking at the OP's November 6th report.
17 A yard is generically defined as an exterior
18 space with particular characteristics. And then
19 there are, again, there are restrictions that
20 are written into that definition, and I know
21 that maybe that's unavoidable in this
22 circumstance.

23 But one of the things that seem to
24 have been lost in the rewriting the definitions

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1 is open from the ground to the sky in several,
2 if not all, of those definitions of yard: front
3 yard, rear yard, side yard. And I'm wondering
4 if that's intentional or is there a reason why
5 that's not needed?

6 MR. LAWSON: I think the intent here
7 is that we include it in the more generic
8 definition of a yard, so that --

9 MR. MAY: Oh, I see, right. It is in
10 that generic definition. Okay.

11 MR. LAWSON: Right. So then it would
12 apply to all of those subsequent ones.

13 MR. MAY: Got it. So then along those
14 same lines, a front yard is referred to as an
15 exterior space, whereas the other definitions,
16 rear yard and side yard, are defined as a yard.

17 MS. VITALE: Since front yard is a new
18 definition, I think we can take a look at that
19 and make sure that they all flow together and
20 read the same thing.

21 MR. MAY: They're consistent, yeah.
22 Okay.

23 MS. VITALE: Yeah.

24 MR. MAY: Okay. I think that answers

1 all my questions about yards.

2 Oh, and my concern about, you know, a
3 front yard being continuous from lot line to lot
4 line, I assume that also applies on rear yards;
5 is that correct? Is a rear yard defined all the
6 way back to that face, or is some of that a side
7 yard?

8 MR. LAWSON: We can certainly check
9 and make sure that the language is really clear
10 on that, but certainly my understanding is it
11 applies from the side yard to the side yard.

12 We worked closely with the Zoning
13 Administrator on the issue of rear yards to come
14 up with a series of diagrams and explanations of
15 how to help people I guess define what the rear
16 yard is because it tends to be difficult to
17 determine sometimes because our lots were so
18 oddly shaped.

19 But certainly typically it goes from
20 the, you know, where there are two side yards, -
21 -

22 MR. MAY: Right.

23 MR. LAWSON: -- it goes from side yard
24 to side yard.

1 MR. MAY: Yeah. I'm not trying to
2 imagine all the circumstances that have to be
3 taken into consideration. I'm hoping that
4 that'll get straight. But it's in the basic
5 rectangular lot it ought to be crystal clear,
6 and it wasn't on my reading. Thanks.

7 CHAIRMAN HOOD: Okay. I, too, need to
8 go back to the Office of Planning. There were a
9 number of things in the handouts that you have
10 that says, "OP will examine."

11 Were these things examined or what is
12 the status on -- and I don't want to go through
13 it. There are a number of them here on page 12
14 of 76, for example. Were those things examined?

15 MS. STEINGASSER: Yes, sir, we did do
16 a review of those after we filed that, the
17 spreadsheet, and most of that is captured in the
18 memorandum dated November 6th, --

19 CHAIRMAN HOOD: Okay.

20 MS. STEINGASSER: -- the smaller
21 tables.

22 CHAIRMAN HOOD: Okay, all right.
23 Anything else on B? Let's go to C, subtitle C.
24 Ms. Steingasser or Ms. Vitale or whoever could

1 help me?

2 In Section 401, Tree Protection
3 Regulations, does that come from the Tree and
4 Slope Overlay; am I correct? The Tree
5 Protection, a lot of this came out of the Tree
6 and Slope Overlay. I'm in the proposed code.

7 MS. STEINGASSER: Yes, sir, I believe
8 that's correct.

9 CHAIRMAN HOOD: Okay. And in one of
10 the overlays -- and I guess it's probably in
11 another subtitle, I guess, but it talks about
12 specific squares and lots that it's germane to.

13 But I thought that when we made
14 overlays germane to the city that we wouldn't
15 necessarily be particularly to any square or
16 lot. And I'm not sure if this was the overlay,
17 but I want to have that discussion now about
18 overlays.

19 I don't know which overlay it was.
20 Oh, let me see. It might have been Reed-Cooke.
21 No, it wasn't Reed-Cooke.

22 MS. STEINGASSER: It's Langston. It
23 was the industrial standard requirement and the
24 setback requirements.

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1 CHAIRMAN HOOD: Langdon?

2 MS. STEINGASSER: I mean, Langdon.

3 CHAIRMAN HOOD: Okay, Langdon Overlay.

4 Well, let's go to it. That's the one I'm most
5 familiar with. Let's talk about that again.

6 Help me understand. Can you guide me
7 through the Langdon Overlay, and I know we've
8 probably been through this 100 times, but again,
9 forgive me if I'm asking you again.

10 I don't do this every day -- I mean,
11 all day every day. But let's go back to the
12 Langdon Overlay. Help me -- show me how that
13 works. And then I want to go back to the Tree
14 Protection.

15 MS. STEINGASSER: So the Langdon
16 Overlay is reflected in subtitle J, which is the
17 PDR (Production, Distribution, and Repair).

18 CHAIRMAN HOOD: OKAY.

19 MS. STEINGASSER: It's embodied in
20 Zone P-1. And the Langdon Overlay is a CM-1/LO
21 is the current zoning. The provisions of the
22 Langdon Overlay have been extended beyond just
23 the area in the current codes that identified as
24 the Langdon Overlay to all industrial zones.

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1 So all of the issues of external
2 effect, all of the setback and spacing between
3 the residential, the buffering, that's been
4 applied to all, not just the Langdon Overlay.

5 So I guess the way to think about it
6 is it was so good for Langdon, we decided to
7 extend it citywide, so it's no longer just
8 unique to that area. It applies -- so you'll
9 see there's some figures in subtitle J that
10 represent that separation and buffer.

11 CHAIRMAN HOOD: And one of the things
12 that I do look for, Ms. Steingasser, and if you
13 could point me right to the words "external
14 effects"?

15 MS. STEINGASSER: I believe those are
16 --

17 CHAIRMAN HOOD: I mean, if we need
18 time to help me. I'm sure it's in here
19 somewhere, I just don't see it.

20 Okay, colleagues, while we're looking
21 -- I'm looking also for it, and I didn't see it.
22 But anyway, if somebody else has another
23 question or comment. And I know I jumped. I'm
24 in J. Well, I'm in J for the issue. We're

1 going to go back to C.

2 MR. MILLER: I do have a question with
3 C, but I don't want to distract the people who
4 need to answer the question in J.

5 CHAIRMAN HOOD: Well, if you want to
6 help us look for external effect.

7 I'll tell you what, we're not going to
8 hold up time.

9 MS. STEINGASSER: I can --

10 CHAIRMAN HOOD: It's in the uses.

11 MS. STEINGASSER: It's in the uses?

12 CHAIRMAN HOOD: Okay, okay. I
13 thought, the way I understood it, if we're going
14 to capture the Langdon Overlay and we're talking
15 about external effects, it should be where the
16 Langdon Overlay is supposed to be exhibited in
17 the PDR, and that's where we had it in the
18 hearing.

19 And now I'm being told something else,
20 so let's put that in the parking lot because I
21 don't know if that -- because that's an
22 important piece to the Langdon Overlay, external
23 effects.

24 MS. STEINGASSER: It is, yes, sir.

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1 And all of the industrial uses are embodied in
2 subtitle U, all the uses from residential
3 through industrial. And so because that is a
4 use-related standard, it's also with those uses.

5 CHAIRMAN HOOD: Okay. I see it here
6 in F. "The use shall meet the standards of
7 external effects to subtitle U." But in the
8 original it was where -- external effects was
9 associated with the overlay.

10 MS. STEINGASSER: Well, we could put a
11 reference to it in subtitle J so that there is
12 no opportunity for that confusion from an
13 applicant. But it's tied to the uses, and the
14 uses are all in U.

15 CHAIRMAN HOOD: Right. I understand
16 where the uses are.

17 MS. STEINGASSER: Right.

18 CHAIRMAN HOOD: I'm more concerned
19 about the not-so-everyday user --

20 MS. STEINGASSER: Uh-huh.

21 CHAIRMAN HOOD: -- because we're
22 supposed to make this easier. And I'm not
23 saying we didn't.

24 So, again, as my opening statements

1 were, I'm not throwing any stones. I'm just
2 trying to walk through this, and then I'm
3 getting my 101 in which I asked for some years
4 ago. I'm getting it now, and I knew it was
5 going to be time and I'd get it when we have all
6 the text.

7 So we need to make sure that that's
8 there, even though I do see it, and I thank
9 y'all for pointing it out to me. But when I
10 look at overlays and I'm wondering about the
11 other overlays that people have worked on.

12 Has it moved to another section, and
13 maybe that's part of the learning curve. But we
14 want to make sure that if this code is adopted
15 that people understand how to maneuver and how
16 to work through it so it does not become a
17 confusing code.

18 But I know there's a learning curve
19 that we're all going to have, even including
20 commissioners as well as everyone else, so.

21 Okay. Anything else on exhibit -- I
22 mean subtitle C?

23 MR. MILLER: I had a question, Mr.
24 Chairman.

1 CHAIRMAN HOOD: Yes.

2 MR. MILLER: So we had a comment -- I
3 guess this one's from Holland and Knight about
4 long-time bicycle parking. It says:

5 "The provisions related to the
6 quantity of long-term bicycle parking within
7 office buildings should be reduced from the
8 proposed I believe one space per 2500 square
9 feet to one space per 7500 square."

10 This is the summary. It says, if
11 we're going on a typical 300,000 square foot
12 office building, 120 bike spaces is excessive.
13 And OP is not recommending any change to that
14 standard.

15 And I want just to get some more --
16 and I'm not sure that it should be changed, but
17 I just wanted to get a better understanding of
18 what the existing requirement for long term
19 bicycle is.

20 And why you don't think that something
21 in between the 2500 and maybe the 7500 or maybe
22 5,000 square feet might make more sense if 88
23 bike spaces would be required in that example I
24 guess instead of the 120. But maybe if we tried

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1 just a bit of the rationale.

2 MS. VITALE: Sure. This is actually
3 the long-term requirement for something like an
4 office building is new. There are residential
5 requirements on the books now. We've
6 coordinated closely with DDOT on those
7 standards.

8 This comment was submitted previously,
9 and we did take a look at other comparable bike
10 parking regulations in other cities and
11 coordinated with DDOT again on the proposal.

12 And I think we determined we were
13 comfortable with the 7500 square foot, you know,
14 with the requirement as proposed, and that's why
15 we hadn't suggested to change it.

16 MR. MILLER: And do you recall what
17 the existing requirement is for long-term
18 bicycle -- per office buildings, what the number
19 would be?

20 MS. VITALE: No, I'm saying that
21 doesn't exist not.

22 MR. MILLER: It doesn't exist now.

23 MS. STEINGASSER: This would be a new
24 requirement.

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1 MR. MILLER: It doesn't exist now,
2 okay. All right, thank you.

3 MR. TURNBULL: Yeah. Mr. Chairman, I
4 just had one question for OP. In their list of
5 changes on page 6 under Waterfront, 1102.3 where
6 it talks about where there's no L'Enfant grid.

7 Originally it was down to 500 feet and
8 it's now been changed to no building can be
9 longer than 300 feet. I'm okay with that. I'm
10 just wondering, well, how did we get to the 300
11 feet? I can't remember.

12 MS. STEINGASSER: We did a survey of
13 average and typical block lengths along the
14 waterfront within the L'Enfant plan and then
15 just carried that down.

16 MR. TURNBULL: Then carried it down,
17 okay. That makes sense. All right, thank you.

18 CHAIRMAN HOOD: Okay. Anything else
19 on C?

20 MR. MAY: Yes.

21 CHAIRMAN HOOD: Okay, Commissioner
22 May.

23 MR. MAY: So there was discussion in
24 the comments about private streets, theoretical

1 subdivision, etcetera, etcetera. And, I mean,
2 it was a little hard to follow exactly what was
3 being objected to.

4 I think, you know, just to try to
5 simplify things for those of us here who are
6 interested in it. I just want to make sure that
7 when we are evaluating or when we're considering
8 calculations like FAR, lot occupancy, and what
9 not on a development that includes private
10 streets.

11 So the private streets will not be
12 included in that calculation as they would not
13 be, if it were a public street.

14 MS. STEINGASSER: That is our full
15 intention, and the Zoning Commission has already
16 done a text amendment, and we'll make sure
17 that's reflected.

18 MR. MAY: Right, okay. Because it's -
19 - I mean, so what we're talking about here is
20 just fussing about some of the particulars of
21 the language and reconciling it with the process
22 for establishing, you know, streets, you know,
23 and council approval, and all that sort of
24 stuff. It's that kind of coordination that

1 they're talking about.

2 MS. STEINGASSER: Yes, sir.

3 MR. MAY: Okay. Just wanted to make
4 sure I was clear on that. Okay, I think that
5 answers my questions.

6 MS. COHEN: I have one question. On
7 loading, we seem to not need, except for maybe
8 grocery stores and large retail stores of 55-
9 foot truck loading.

10 And I'm wondering, why haven't we
11 looked at adjusting that 55-foot requirement for
12 all projects? Because we're always in PUDs
13 saying, you know, 30-foot is acceptable.

14 It's Chapter 7. You're looking.

15 MS. STEINGASSER: I'm going to speak
16 off the cuff, but we thought we had removed that
17 requirement.

18 MR. LAWSON: That's what I've been
19 looking up as well because I think -- I thought
20 that we had made that change as well. So I was
21 just kind of looking through to see if maybe
22 that wasn't.

23 MS. COHEN: Just confirm that then. I
24 don't need you to confirm it tonight.

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1 MR. LAWSON: Actually, it's in Section
2 905.

3 MS. COHEN: You did remove it then.

4 MR. LAWSON: Well, there is still a
5 loading requirement, but the loading requirement
6 is for a minimum depth of 30 feet.

7 MS. COHEN: Okay, actually that's
8 fine, yeah.

9 MR. LAWSON: Which I think was what
10 you were asking about.

11 MS. COHEN: Yes, that's what I was.
12 Thank you.

13 MR. LAWSON: So I think it's
14 reflected.

15 CHAIRMAN HOOD: Any other questions in
16 C? And if you don't say anything, we can always
17 come back. Anybody else in C?

18 Okay, let's go to D. I'm actually
19 looking for something in particular. Maybe when
20 I get there. It's these use categories, which
21 takes me back to the use, which takes me back to
22 subtitle U. But I haven't got to the subtitle
23 of that question that I have, so that's what my
24 -- one of my issues is.

1 Anything in D? Anyone else?

2 MR. MAY: Yeah.

3 CHAIRMAN HOOD: Commissioner May.

4 MR. MAY: So in some of the comments -
5 - well, Penn Branch Civic Association and
6 perhaps others recommended adding the geographic
7 identifier to residential zone or maybe it's to
8 all zones.

9 And they cited the example, R-11
10 should be listed in the table of contents as R-
11 11 - Naval Observatory/Tree and Slope Protection
12 and Residential House zone. I'm not sure if all
13 that's necessary.

14 But originally the Office of Planning
15 had simply stated they would defer to the Zoning
16 Commission on it, but now you are -- I guess if
17 I read this correctly in your November 6th
18 report -- you're recommending that we actually
19 do go ahead and add those geographic
20 identifiers.

21 And I would just like to hear from the
22 Office of Planning why you think that's
23 necessary, appropriate, recommended.

24 MS. STEINGASSER: It's not necessary,

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1 but if it gives people familiarity, especially
2 as we transition from one to another, it
3 certainly doesn't distract from them.

4 MR. MAY: So then the generic, I guess
5 more generic zones will just simply stay what
6 they are or will they get some other kind of
7 descriptor?

8 MS. STEINGASSER: No, they would stay
9 what they are.

10 MR. MAY: Just R-1 would be R-1 and R-
11 2 would be R-2, and then when you get up to R-11
12 that you wind up with all that extra language or
13 whatever --

14 MS. STEINGASSER: It basically
15 reflects those areas that were covered by --

16 MR. MAY: Overlays --

17 MS. STEINGASSER: -- an overlay.

18 MR. MAY: -- previously. So it's sort
19 of half way back to overlays.

20 MS. STEINGASSER: It's not all back to
21 overlays. It just creates the comfort that
22 people understand that that is a particular
23 area.

24 MR. MAY: Okay. I'm all for the

1 comfort. Thanks.

2 CHAIRMAN HOOD: I would agree for the
3 comfort. Thank you for making that comfortable
4 so I can understand it.

5 Okay. Commission Miller.

6 MR. MILLER: Mr. Chairman, I was just
7 going to agree, also, that on the grounds of
8 user friendliness, including those of us up
9 here, it's user friendly to add that geographic
10 identifier.

11 CHAIRMAN HOOD: Okay, all right.

12 MR. TURNBULL: Yeah. I would just say
13 for long-time residents who are so familiar with
14 those names, I think it's a boon to have that.
15 I think it's a great plus to keep it.

16 MR. MAY: And that'll apply to the R
17 zones, the RF zones, the RA zones. What about
18 MU, NC? It's really not downtown, but it's not
19 noted in MU and NC.

20 MS. STEINGASSER: NC I think it is in
21 the title of the zones because those are the
22 Neighborhood Commercial Overlay zones that we've
23 embodied into one subtitle.

24 MR. MAY: Okay.

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1 MS. STEINGASSER: The NC stands.
2 Yeah, so Cleveland Park neighborhood mix uses
3 and NC-3, Tacoma neighborhood.

4 MR. MAY: But the entire neighborhood
5 name is listed in that zone. So you're already
6 doing it in the NC zone.

7 MS. STEINGASSER: Yes, sir.

8 MR. MAY: And the MU zones?

9 MS. STEINGASSER: I don't think we
10 captured it. We did not capture it in the MU
11 zones.

12 MR. MAY: So, I mean, is it something
13 that can be done in the MU zones? Yes, okay.
14 Thanks.

15 CHAIRMAN HOOD: So we can be
16 consistent. Okay. I did have a question last
17 night about NC-3, but I can't seem to find it.
18 Maybe that was when they kicked the field goals.
19 But anyway.

20 Ms. Steingasser, let me just ask. NC-
21 3 you just said just now was -- I know it's
22 neighborhood commercial 3 -- you said it's
23 Cleveland Park?

24 MS. STEINGASSER: Yes, sir.

1 CHAIRMAN HOOD: Okay. So what is NC-
2 4, if you have that right in front of you, what
3 is that?

4 MS. STEINGASSER: Woodley Park. And
5 Woodley Park is in two zones, so there's an NC-4
6 and an NC-5.

7 CHAIRMAN HOOD: Okay. And I could
8 probably find -- now, where is that table? I
9 know I saw it, the NC, because I had a question
10 about the -- where can I find that in the
11 regulations?

12 MS. STEINGASSER: It's at the front of
13 subtitle H. They're indexed, and then it was
14 also as an independent document in the record.

15 CHAIRMAN HOOD: Okay. I actually used
16 the printed text that the Office of Zoning was
17 so nice to print out for me so I could try to --
18 and I will tell you, I was getting confused
19 yesterday as I was going through.

20 Because what I tried to do when I went
21 through this -- I know what we put in here --
22 was tried to understand like I do now in cases
23 if I read it, how do I find out what's going on.
24 And that's the way I approached it. At least

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1 that's the way I approached it this weekend.

2 NC-3 --

3 MS. STEINGASSER: Would be Chapter 5,

4 --

5 CHAIRMAN HOOD: -- Chapter 3? Chapter

6 5?

7 MS. STEINGASSER: -- subtitle H.

8 CHAIRMAN HOOD: So what's in -- let me
9 ask you this. Yeah, I see it now. It's page
10 13. You might have another version.

11 500, Chapter 500, Purpose of Intent.
12 NC-3, Cleveland Park. So this will not pertain
13 to any other property or area in the city.

14 MS. STEINGASSER: No, sir. This is
15 limited to the -- in this particular case -- to
16 the NC-3 zones, which are the Cleveland Park
17 zones.

18 CHAIRMAN HOOD: Now, if I wanted to
19 find out -- this is my question. This might not
20 be the appropriate time, but I'm going ask. I
21 have to ask questions when I think about them.

22 If I wanted to find out in this code,
23 if I wanted to know what was a matter of right,
24 and maybe this might not be the right scenario.

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1 But if I wanted to know what was a matter of
2 right and I go back to the use. I think it's in
3 the Use table. It had some numbers like R-1, R-
4 2, R-3, R-4, and it was a table.

5 MS. STEINGASSER: Well, for the
6 neighborhood commercial --

7 CHAIRMAN HOOD: Here it is, here it
8 is. Not to cut you off, but that way I can get
9 my question. I can stop thinking about it.
10 Subtitle U, even though I know we haven't got
11 there yet, General Use Provision.

12 Ms. Steingasser, help me understand
13 200.2. "Use groups for the R zones are as
14 follows: (a) R-Use Group A includes the R-1-A,
15 R-1-B, R-6, R-7," --

16 So the R-Use Group A -- hold on a
17 second. Matter-of-Right Uses - R-Use Groups A,
18 B, C, and D.

19 MS. STEINGASSER: Yes, sir.

20 CHAIRMAN HOOD: How do I read that?
21 What do I do?

22 MS. STEINGASSER: So then you would go
23 down to Section 201, directly beneath the table
24 where it says Matter-of-Right Uses - R-Use

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1 Groups A, B, C, and D.

2 And because each one of these use
3 groups reflects a different grouping or a
4 different type of overlay, it became easier to
5 group them this way. So every zone would now
6 fall within a residential use group as well as
7 its own zone.

8 CHAIRMAN HOOD: Okay. Just walk me
9 through this so I can understand. Maybe it'll
10 help some.

11 "A single-household principal dwelling
12 unit shall be permitted as follows: In the R-1-
13 A, R-1-B, and R-16 zones, the principal dwelling
14 unit shall be in a detached dwelling."

15 MS. STEINGASSER: Yes, sir. So what
16 those represent today would be the R-1-A, the R-
17 1-B, and the R -- the Sixteenth Street Heights
18 Overlay, R-1-B (sic).

19 CHAIRMAN HOOD: And how would I know?
20 I saw the cross -- when I went back and
21 revisited the crosswalks, --

22 MS. STEINGASSER: Uh-huh.

23 CHAIRMAN HOOD: -- how would I know
24 the R-16 would be the Sixteenth Street Overlay?

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1 Is there something identifying that to me?

2 MS. STEINGASSER: Well, you would have
3 -- the overlays are now married with the zones,
4 so you wouldn't go looking for the Sixteenth
5 Street Heights Overlay.

6 You would now refer to that zone, and
7 that zone would then tell you that these are the
8 purposes, these are the uses, these are the
9 limitations.

10 CHAIRMAN HOOD: But I'm saying, if I -
11 - and I can tell you, we're going to be having
12 this discussion a little more. I'm just trying
13 to realize it and see.

14 Okay. If I want R-16, I'm reading
15 this. I'm in 201.1(a)(1), and I'm looking for
16 "the R-1-A, R-1-B, and R-16 zones, the principal
17 dwelling unit shall be in a detached dwelling."

18 Other than -- okay. How would I find
19 out what the R-16 is? What do I do next?

20 MS. STEINGASSER: You would have that
21 information from subtitle D where the
22 residential zones are described. And then that
23 is the comment that we just discussed about
24 adding that geographic identifier to the title.

1 So you would -- when you're in
2 subtitle D, you would know there that R-16 are
3 the Sixteenth Street Heights zones.

4 If you wanted to find out what uses
5 are permitted, there's a note in subtitle D that
6 says, "For use permissions, go to subtitle U,"
7 and then you would look for any of the use
8 permissions that pertain to the R-16 zone.

9 CHAIRMAN HOOD: So I would go back now
10 to what, subtitle D?

11 MS. STEINGASSER: Yeah. You'd be
12 working between subtitle D and subtitle U.

13 CHAIRMAN HOOD: Okay, and that's my
14 point. So I guess what I found myself doing,
15 and I wanted to know was that the intent?

16 And I guess, I don't know how much you
17 flipped in the old code, but it reads easier.
18 But I found myself flipping around to try to
19 find different things as I have been perusing
20 this document.

21 So I'm just trying to think of for the
22 person who doesn't -- I'm always on the side
23 right now of the people that don't do this. I'm
24 not talking about the people in the community

1 that follow this day and night, I'm not talking
2 about them.

3 I'm talking about the people, folks I
4 hang around sometimes who don't necessarily do
5 this. I'm wondering how easy is this going to
6 be for them?

7 MS. STEINGASSER: Well, we actually
8 think it will be easier once people get familiar
9 with it. Right now to follow the residential
10 use zones, there's a lot of flipping in the
11 current code.

12 You're flipping back and forth between
13 Chapter 2, which has the R-1, Chapter 4, which
14 has your development standards, and then you
15 would go to the overlay, which I believe is in
16 Chapter 15, miscellaneous --

17 And you'd have to work between those
18 three zones just to understand the Sixteenth
19 Street Heights Overlay neighborhood.

20 CHAIRMAN HOOD: So if I go to R-16, I
21 need to go back now to what was it, subtitle D?

22 MS. STEINGASSER: And that would give
23 you your development standards.

24 CHAIRMAN HOOD: Okay.

1 MS. STEINGASSER: Your, you know,
2 heights, your side yards, your things like that,
3 what we now see between Chapters 2 and Chapter
4 4.

5 CHAIRMAN HOOD: Okay, so I'm in D.
6 Okay, all right. I'm going to do more study.
7 And for me the old code, because that's what I
8 learned. And I notice a learning curve, and
9 obviously I'm showing the public there's a
10 learning curve for us also.

11 Okay. Anyway, I guess my colleagues,
12 y'all got it. I can ask y'all while I'm up
13 here. Okay, where are we at, D? Are we on D?

14 MS. STEINGASSER: Yes.

15 CHAIRMAN HOOD: Okay. Any other
16 questions on D?

17 MR. TURNBULL: Yeah, Mr. Chairman. I
18 just had -- the Office of Planning is
19 recommending under Chapter 15, Alley Lots.
20 You're getting rid of the term "alley lots." So
21 how will -- and I understand your logic for
22 doing that, but not having the term, will that
23 be confusing to people?

24 I mean, people are still going to call

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1 it an alley lot because what I'm --

2 MS. STEINGASSER: I guess it's
3 confusion we created. We're not proposing to
4 get rid of the term "alley lot," we're proposing
5 to get rid of the matter of right option to
6 record an A&T lot into a lot of record.

7 MR. TURNBULL: Oh, okay.

8 MS. STEINGASSER: And we've seen some
9 cases recently in the last -- since this was
10 originally set down and considered where those
11 lots, those A&T lots are unknown to the owner of
12 the record lot beneath, and they've been bought
13 out.

14 And so it creates a conflict in title,
15 it creates an unknown opportunity --
16 unpredictable opportunity for someone to build a
17 structure behind another property that didn't
18 even know that this lot existed.

19 So we're just --

20 MR. TURNBULL: Oh, okay.

21 MS. STEINGASSER: -- recommending that
22 that ability to convert an assessment and
23 taxation lot be removed from those alley lots.

24 MR. TURNBULL: Okay. It wasn't quite

1 clear from what I was reading this that was your
2 intent. I don't know if you need to tighten
3 that up a bit or --

4 MS. STEINGASSER: I think so. We've
5 gotten a lot of calls about that.

6 MR. TURNBULL: Oh, okay. All right,
7 thank you.

8 CHAIRMAN HOOD: Let's keep moving.
9 Anything else on subtitle D? Let's go to
10 subtitle E. Okay, anything on that? I don't
11 have anything. Anybody? I don't have anything
12 yet. I might later.

13 Okay, let's go to F, subtitle F.
14 Okay, any questions on that? Okay. Let's go to
15 subtitle G. Any issues on subtitle G?

16 MS. COHEN: Yeah. It's really just,
17 again, a need for clarification. My concern is,
18 again, in mixed use zones.

19 I just want to make sure that we have
20 in place regulations that assure that let's say
21 a bank does not take up and, you know, have
22 blank windows along a mixed use -- you know, in
23 a mixed use zone.

24 That we have activity on the street as

1 opposed to just, you know, like services along
2 the street, and there's no activity to look into
3 the windows. Do we have anything there to
4 protect?

5 I know that it exists in other like
6 the downtown zone, but --

7 MR. LAWSON: Well, that's kind of what
8 I was just going to get at. There are certainly
9 parts of the city where those kinds of
10 provisions do exist; in other words, where there
11 is specific planning in place for a street to be
12 an activated retail street.

13 So many parts of the city, Selfies
14 Photo Center, H Street, Georgia Avenue, I
15 believe, certainly many parts of the downtown,
16 those kind of provisions do exist where the
17 planning work was done to support that kind of
18 requirement.

19 So those have all been translated from
20 the current regulations into the new regulations
21 so they'd all still exist.

22 MS. COHEN: So I could assume that in
23 G we have something that will preclude that from
24 happening, or is it just by area? Is that what

1 you're saying?

2 MR. LAWSON: It would be by zone.

3 MS. COHEN: By zone.

4 MR. LAWSON: There are zones that have
5 specific requirements, and there would be other
6 zones that don't have that requirement. But
7 those requirements don't exist in the existing
8 zones, either, and --

9 MS. COHEN: No, I understand that,
10 but, you know, as the city is being built out, I
11 just want to make sure that we don't have blank
12 spaces in commercial.

13 And when I say "blank," it's, you
14 know, like what we see today downtown with a lot
15 of store front -- I mean street fronts. It's a
16 huge bank is taking up space, and that's a very
17 uninteresting look on the streets. Boring.

18 MR. LAWSON: Right. And it's one of
19 the reasons why we have proposed the retail
20 requirements in so many areas of the city
21 because it helps to discourage those kind of
22 blank walls.

23 We've included I believe language to
24 that effect in PUD review as well, and through

1 the downtown, which you're going to be getting
2 to soon in subtitle I. There are additional
3 streets where those kinds of requirements would
4 be placed.

5 MS. COHEN: So your answer is that
6 you're not going to put it in subtitle G as a
7 specific --

8 MR. LAWSON: No, my answer is that it
9 is in subtitle G --

10 MS. COHEN: Okay.

11 MR. LAWSON: -- in those zones where
12 it current exists.

13 MS. COHEN: Okay, thank you.

14 CHAIRMAN HOOD: You know, maybe one of
15 the things we can do is -- and it's without
16 having to flip through it, and maybe it's
17 sitting here in front of me. But you just
18 mentioned subtitle A or whatever, I, or whatever
19 it is is downtown.

20 Maybe we can index it in the front,
21 especially to make it easier so we know what
22 subtitle we need to go to. It may be here
23 somewhere, but it's not here in what I have here
24 in front of me.

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1 And I noticed that yesterday when I
2 was reading through this, I had to really flip
3 through to find out. I had to do a lot of
4 flipping.

5 And maybe it's something we can think
6 about, everyone to try to figure out a way to
7 make it easier so we know that even though,
8 other than the U being use permissions, subtitle
9 U, you know, those kind of things, there may be
10 some kind of way we can put something in the
11 front.

12 I know there's an index in the front
13 of each subtitle, something a little easier to
14 let you know what each subtitle is. Am I
15 missing that, Ms. Vitale, Ms. Steingasser? Is
16 it here or am I just missing it?

17 MS. VITALE: I believe that's outlined
18 in subtitle A. I don't have the exact page
19 number.

20 CHAIRMAN HOOD: I'm looking right at
21 subtitle A, because I was trying to see if I was
22 missing it. At least what I have here in front
23 of me.

24 MS. STEINGASSER: Are you talking

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1 about perhaps something in the footer, so as
2 you're going --

3 CHAIRMAN HOOD: So it'd be easier so I
4 know exactly where to flip, because Mr. Lawson
5 just said "downtown I." I would think to go to
6 D. I mean, you know, something --

7 MS. STEINGASSER: Oh, I see. Yeah, we
8 couldn't resist U being Uses, but --

9 CHAIRMAN HOOD: Well, yeah, I
10 understood that one. I mean, that wasn't -- I
11 didn't have to finish a whole lot of school to
12 know to go to U. But seriously, I think it
13 would be easier for people to navigate.

14 MR. LAWSON: We think that's an
15 excellent idea, and we'll make sure that there's
16 a really good index at the beginning of the
17 zoning regulations themselves that will provide
18 a lot of direction for people for where they
19 should be looking.

20 CHAIRMAN HOOD: Okay, good. Thank
21 you. Okay. What zone -- where are we at?
22 We're on H. Anything else in H? Oh, wait, I do
23 have -- no, no, we were on G. Anything else on
24 G?

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1 Okay, now we're at H. Somebody else?
2 I do have one thing in H. Somebody else'd like
3 to go first? Nobody, okay. Again, this is
4 probably to help me clarify. Oh, to help me
5 clarify.

6 I'm sorry, if we're not speaking loud
7 enough, just raise your hand and I'll get into
8 the mic.

9 Let's go to 1100. This is probably
10 what my original question was about NC, and
11 let's just walk through it again.

12 Now, NC-1 I need to go to subtitle
13 what, again, Ms. Vitale, to find out what the
14 use group is?

15 MS. VITALE: I'm not sure I'm
16 following your question.

17 CHAIRMAN HOOD: I think we talked
18 about this earlier, but now that I'm here to
19 where I really needed to be, 1100 NC-1 it says,
20 Neighborhood Use Groups A. Where would I need
21 to go to get that again?

22 MS. STEINGASSER: So in this case we
23 put the uses within the Neighborhood Commercial
24 Overlay zones because the purpose of those

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1 overlays actually have such -- were so
2 intricately linked to uses.

3 So you would start with the table on
4 1100.8, which breaks the uses into use groups.

5 CHAIRMAN HOOD: And then go to uses
6 here.

7 MS. STEINGASSER: And then the uses
8 would be here.

9 CHAIRMAN HOOD: 1102 and 1103.

10 MS. STEINGASSER: Yes.

11 CHAIRMAN HOOD: So we deviated from
12 what we did earlier. Earlier it was in the use
13 groups. Now, let me ask you. Would I find
14 these same use groups -- I guess not. I
15 probably answered my own question. It probably
16 is not in subtitle U.

17 MS. STEINGASSER: That is correct, it
18 is not. It is strictly to retain here.

19 CHAIRMAN HOOD: Okay. And we didn't
20 think that this was the best format for all of
21 it, for the whole code.

22 MS. STEINGASSER: Well, we did, but
23 the volume of pages, we were getting feedback
24 that it was resulting in too bulky a document

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1 because it required subtitle U being repeated
2 several times.

3 CHAIRMAN HOOD: That's right because
4 the use is repeated -- oh, I got you, I got you.
5 Okay, and I think we talked about that.

6 So again, in what we're going to do up
7 front, if we can distinguish what we've done
8 here where those uses can be found as opposed to
9 where they are in the other areas, --

10 MS. STEINGASSER: Yes, sir.

11 CHAIRMAN HOOD: -- I think that would
12 help out in the table of contents.

13 MS. STEINGASSER: I think you're
14 right.

15 CHAIRMAN HOOD: Okay. I did have a
16 question about Exhibit 1091-A and C report 4-A,
17 but I think you answered that about the 175
18 matter of right new residential uses. I think
19 we talked about that. Yeah, that's where I got
20 the 175 number from, okay.

21 Anything else, colleagues, in Exhibit
22 -- I mean, subtitle H? What about subtitle I?
23 Subtitle I, anybody? Okay, we can move right
24 on.

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1 MS. COHEN: No, I have --

2 CHAIRMAN HOOD: Okay, Commissioner
3 Cohen.

4 MS. COHEN: Again, I just want to make
5 sure that there is -- it's allowed to convert an
6 office building in downtown to residential; is
7 that correct, I'm understanding?

8 MR. COCHRAN: Yes.

9 MS. COHEN: Okay. And then does it
10 permit -- let's say, you know, this is the
11 future and nobody knows what the future will be.
12 But because we're spreading out office buildings
13 throughout the city, we may end up seeing some
14 vacancies in the actual downtown.

15 Does it permit a, let's say,
16 supporting services such as a grocery store
17 that's about 50,000 square feet?

18 MR. COCHRAN: Yes.

19 MS. COHEN: Thank you.

20 CHAIRMAN HOOD: Any other comments on
21 I? Mr. Miller.

22 MR. MILLER: Thank you, Mr. Chairman.
23 Well, just to follow-up on the last thing, the
24 last dialogue on grocery stores. Isn't it in

1 terms of permitting it, a 50,000 square-foot
2 grocery store would require a special exception
3 under the current proposal?

4 MR. COCHRAN: That is correct under a
5 section other than I.

6 MR. MILLER: Right.

7 MR. COCHRAN: That amount of square
8 footage would have to go through special
9 exception review.

10 MR. MILLER: I just wanted to clarify
11 that, and I don't know if anybody wants to
12 revisit that, but I just wanted to clarify it.

13 MR. MAY: Mr. Chairman, I just have
14 one question for the Office of Planning from
15 their report having to do with subtitle I.

16 So Chapter 6, the Chinatown subarea,
17 and this is probably something that's just
18 straight out of the existing text, but it struck
19 me as odd.

20 "609.5 - A building or structure on a
21 lot with frontage on a designated primary street
22 segment shall: Devote not less than 1.0 FAR of
23 the ground floor gross floor area to uses
24 identified in Subtitle I or to wholesaling

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1 accessory to those uses."

2 So I'm just a little puzzled. I mean,
3 I guess maybe I should have looked at all of the
4 uses that are listed under 601.2, but I didn't.
5 It just caught my eye about how difficult it is
6 to get 1.0 FAR actually physically on the ground
7 floor. I mean, basically, it's every square
8 inch of the site, right?

9 MR. COCHRAN: It was transferred from
10 the existing regulations.

11 MR. MAY: Yeah. So, I mean, is that
12 actually physically possible?

13 MR. COCHRAN: I have not measured
14 enough to answer that with certainty.

15 MR. MAY: It's too bad Matt Le Grant
16 is not in the room anymore. It just struck me
17 as odd. I mean, it's 100 percent lot occupancy
18 and 100 percent devotion to the uses under
19 601.2. I mean, I guess I'll take another look
20 at those and see if it includes, you know,
21 everything that you would have.

22 But, I mean, if you have -- I don't
23 know, if there are any voids or anything like
24 that within the floor area, you wouldn't meet --

1 MR. COCHRAN: I think it's a good
2 question, but it hasn't come up since '15, so --

3 MR. MAY: I mean, that's just a more
4 technical thing that we probably ought to take a
5 look at at some point. And I don't think it's
6 pertinent to what we're doing here really.

7 CHAIRMAN HOOD: Okay. Commissioner
8 May, is that something you wanted to ask someone
9 or are you ready to move on?

10 MR. MAY: No, we don't need to. It's
11 a small I think more technical issue, and it has
12 to do with what's in the existing regs, so I
13 don't think it really has to be resolved right
14 here and now.

15 CHAIRMAN HOOD: Okay. Ms.
16 Steingasser, I guess I'm going to call on you
17 again or my colleagues. There was something in
18 this code that said that the Zoning Commission
19 would not have design review.

20 I mean, I'm not advocating for it, but
21 I thought I read that in the code that we would
22 not have design review on something.

23 MR. COCHRAN: In fact, in at least in
24 anything for downtown, I'm sorry you will have

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1 additional design review.

2 CHAIRMAN HOOD: Okay.

3 MR. COCHRAN: I've already --

4 CHAIRMAN HOOD: There's somewhere in
5 this code that said that we would not have
6 design review, and I --

7 MR. COCHRAN: There are also some
8 sections where some applications also get
9 referred to NCPC for comment. That's new, but
10 that does not undercut any design review that
11 you already have or that is being additionally
12 proposed in this document.

13 CHAIRMAN HOOD: Okay.

14 MR. COCHRAN: At least in downtown. I
15 can't speak outside of subtitle I.

16 CHAIRMAN HOOD: Okay. Again, I may
17 not be in I, but I've read it somewhere. I
18 believe it was in the Title. Anyway, anything
19 else in subtitle I?

20 MR. TURNBULL: Yeah. Just getting
21 back, Mr. Cochran talked about NCPC review. Is
22 that in -- I mean, I know in the Independence
23 Avenue subarea, but where's that actually
24 reflected that it goes to NCPC?

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1 myself, I thought that it was fine as it was, at
2 least that was my humble opinion.

3 Okay. Anything else in I -- no, J?

4 Okay, what about K?

5 MR. MAY: Okay, Mr. Chairman, thank
6 you.

7 CHAIRMAN HOOD: Yes.

8 MR. MAY: Chapter 8. Under 811.6
9 there is -- you inserted language to include
10 retail service general and service financial
11 uses "shall occupy no less than 50 percent of
12 each building."

13 And so I go back to the Vice-Chair's
14 comments about financial services and how
15 they're not necessarily the most desirable
16 retail uses in terms of their impact on street
17 life.

18 So I know that this was a
19 clarification or a comment that we had received
20 from I'm not sure who, but I remember seeing it
21 at least once. But I'm wondering about the
22 logic that's here.

23 Is it simply that there are enough
24 preferred uses that you're not worried about the

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1 occasional bank, or you want to include the
2 possibility because bank people need banks too?
3 I mean, what is the rationale?

4 MR. LAWSON: That was certainly part
5 of the rationale. The other part of the
6 rationale was, you know, again, making sure that
7 the existing regulations are as -- for something
8 that's as specific as this or as consistent with
9 the current regulations.

10 And so mostly this was to reflect the
11 current regulations, although we did discuss
12 this, and we discussed whether or not this was
13 something that we should take a second look at.

14 If, you know, at some point it's
15 decided to take a second look at it, we
16 certainly can. But to be honest right now, we
17 are actually pretty comfortable with financial
18 institutions being included as part of the arts
19 overlay.

20 MR. MAY: Okay, thank you.

21 MR. MILLER: On that, Mr. Chairman,
22 are those financial institutions part of the
23 preferred uses in some of our neighborhood --
24 are they included in the calculation for the

1 neighborhood commercial preferred uses?

2 MR. LAWSON: We would have to look
3 that one up.

4 MR. MILLER: Yeah.

5 MR. LAWSON: To be honest, the
6 preferred uses are different for each one of
7 these overlays --

8 MR. MILLER: Right.

9 MR. LAWSON: -- for the downtown, for
10 the arts, for the other different overlays.
11 We'd have to look at each specific one and just
12 see.

13 MR. MILLER: Yeah. I think it may be
14 outside of the context of the PDR might be worth
15 a second look to see whether or not they are
16 included some of the preferred uses for the
17 reasons that the Vice-Chair brought up.

18 They take up a lot of space, and they
19 don't activate -- they're not getting at the
20 overall purposes if the purposes is to activate.
21 I mean, it's more active than if you had a
22 vacant space.

23 So that's -- we don't want to do
24 anything resulting in vacancies, but they do

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1 take -- if they're used for the calculation for
2 preferred uses, I think I would share the
3 concern that they're not really the preferred
4 uses --

5 MS. COHEN: But one thing I'd like --

6 MR. MILLER: -- with the amount of
7 space that they take up.

8 MS. COHEN: One thing I'd like to add,
9 though, is that I'm aware that in Ward 8 at
10 least they did not have very many choices for
11 banking, and finally one of the credit unions
12 did open up a store.

13 So we have to be very careful with
14 regards to encouraging and discouraging,
15 especially with regard to certain neighborhoods
16 where they don't exist. And I guess I'm really
17 throwing that comment out at OP.

18 MR. LAWSON: No, we appreciate that,
19 and we've already heard that in some of the
20 neighborhoods where we've done different kinds
21 of new zoning actions where our --

22 Maybe our initial thought would have
23 been to not include financial institutions. And
24 neighborhoods came forward and said, "You know,

1 we need some banks, you know, along these
2 streets."

3 So it would have to be done on a very
4 neighborhood by neighborhood, street by street
5 kind of a relook. But to some extent that, as I
6 said, that's already happened.

7 CHAIRMAN HOOD: Let's go to the --
8 let's go to 715.1. If I ask this, some of my
9 questions may sound redundant, but I'm going to
10 ask them so I can understand. And it's probably
11 helping others, too, hopefully.

12 Uses Not Permitted in Reed-Cooke Zones
13 (RC). Again, I keep going back to these
14 overlays, so I'm trying to understand how we --
15 now, this Reed-Cooke, it's just for the Reed-
16 Cooke. This goes -- basically we put the Reed-
17 Cooke Overlay back at this point. It's back
18 into this code.

19 MS. STEINGASSER: We did the same with
20 the Reed-Cooke Overlay that we've done with the
21 Neighborhood Commercial Overlays, since we gave
22 it the special name Reed-Cooke so that there is
23 that familiarity.

24 And the reason Reed-Cooke is different

1 than the other is because it covers both
2 residential and commercial zones, and everything
3 else that has a geographic identifier is either
4 all residential or all commercial.

5 CHAIRMAN HOOD: So does this overlay
6 apply citywide or is it just to that Reed-Cooke
7 area?

8 MS. STEINGASSER: No, sir, it's only
9 to the Reed-Cooke neighborhood as it is defined
10 today.

11 CHAIRMAN HOOD: Now, the Langdon
12 Overlay applies citywide.

13 MS. STEINGASSER: That will apply
14 citywide.

15 CHAIRMAN HOOD: So what are the only
16 overlays, the Tree and Slope -- what is it? I
17 can't --

18 MS. STEINGASSER: Tree and Slope will
19 apply to Forest Hills, I think University
20 Terrace. But it'll apply to those same
21 boundaries that it applies today, and the Office
22 of the Attorney General has advised us that we
23 need to make that reference clear. That it's
24 not a citywide application.

1 CHAIRMAN HOOD: So we're going to do
2 that for -- we're going to notify -- that's
3 going to be noted in all the ones just for those
4 specific areas.

5 MS. STEINGASSER: Yes, sir.

6 CHAIRMAN HOOD: Okay. So that goes to
7 that thing we're going to do in the front.

8 Okay, good. All right. Anything else on K?

9 I probably can slip past U because I
10 asked so many questions already about U, but
11 let's open it. Any questions on U? And we can
12 always come back to any of them.

13 Now, what about W? And this is
14 probably where I was talking about the different
15 lots. And when I read through this, this is
16 being germane to specific lots and squares,
17 especially squares.

18 And these were former overlays. So
19 what is the purpose of this section when we say
20 we've taken the overlays? Langdon's going to be
21 citywide. What about, well, Fort Totten is
22 unique. Can you help me understand the
23 rationale here, Ms. Steingasser, subtitle W?

24 MS. STEINGASSER: These geographic

1 boundaries were part of the original -- of the
2 1958 code, and so we brought that forward again.
3 It's reflected on the zoning map, which is the
4 official representation of these boundaries.

5 It's also reflected in the orders of
6 the cases that these were created. But there
7 was comfort for people to see it within subtitle
8 W, so we incorporate it there.

9 CHAIRMAN HOOD: And so maybe I'm -- so
10 these are the overlays, right?

11 MS. STEINGASSER: These are the
12 boundaries of the original overlays.

13 CHAIRMAN HOOD: So is this just there
14 for reference purposes or is there actual use?
15 Because a lot of these are citywide, correct?

16 MS. STEINGASSER: They're not
17 citywide.

18 CHAIRMAN HOOD: So the only one that's
19 citywide is Langdon.

20 MS. STEINGASSER: Is Langdon.

21 CHAIRMAN HOOD: Okay.

22 MS. STEINGASSER: Yes, sir.

23 CHAIRMAN HOOD: So these still -- so
24 these are still in effect?

1 MS. STEINGASSER: Those boundaries are
2 still reflected within those zones, yes, sir.

3 CHAIRMAN HOOD: With the necessary
4 stipulations in place?

5 MS. STEINGASSER: Absolutely.

6 CHAIRMAN HOOD: So is it safe for me
7 to say we still have overlays?

8 MS. STEINGASSER: No, sir. We have
9 zones that are unique to those same boundaries
10 that have the same uses and protection. So for
11 something like my favorite is the Capitol Hill
12 DCHC/CAP/C-2-A.

13 That's a whole lot of overlays for a
14 C-2 zone, so we condensed all that and said this
15 zone, this is one zone. I think it's MU-12
16 perhaps.

17 And all of those conditions are in one
18 place now, so you don't have to go to two
19 separate overlays and a base zone to figure out
20 what's going on.

21 CHAIRMAN HOOD: So on down the line if
22 the Zoning Commission had a request to add a
23 square to one of these zones, they can do that?

24 MS. STEINGASSER: Yes, sir.

1 CHAIRMAN HOOD: I don't want to sound
2 cocky, but the Zoning Commission pretty much can
3 do -- but the zoning -- I'm not asking. I'm
4 actually just trying to figure out what happens
5 as we go down the line.

6 So I want to add a square to the
7 Dupont Circle, even though it's not in Dupont
8 Circle?

9 MS. STEINGASSER: Right. We will put
10 the associated name -- zone names with those
11 boundaries once the Commission gives us the go
12 ahead or not. We would put those zones in
13 there, and it would be just like any other map
14 after that.

15 CHAIRMAN HOOD: So it would have the
16 specific effects that happen in the Dupont
17 Circle zones, but it might not be over in Dupont
18 Circle? It'll have the effect of the zone, but
19 it will be in Cleveland -- I'm just using that.

20 MS. STEINGASSER: No. It would be in
21 MU-12. Let me get my notes. MU-26 is Dupont.
22 Oh, I'm sorry, that was your C-2-A.

23 So taking -- let me find. So Dupont,
24 let's say the Dupont C-2-A M-18, that zone M-18

1 could be an R-5-B zone could be rezoned into
2 that zone just like it is today. It would just
3 have the new name.

4 But it would just be a regular map and
5 then if that chapter remained -- that subtitle
6 remains in the zoning regs, we would add those
7 squares to that.

8 CHAIRMAN HOOD: Okay.

9 MR. MAY: But I think to Chairman
10 Hood's point, if somebody said, you know, "This
11 block of our neighborhood or these blocks of our
12 neighborhood should have the same conditions
13 that apply in MU-18."

14 Then it would conceivably create an MU
15 whatever the next number is with similar
16 conditions and bring it forward. I'm assuming
17 that, you know, use supported it.

18 MS. STEINGASSER: Or we could, if it
19 had the exact same conditions, we would just map
20 it as MU-18.

21 MR. MAY: Well, what if it was in
22 Deanwood?

23 MS. STEINGASSER: It would stand the
24 same --

1 MR. MAY: It would be the same.

2 MS. STEINGASSER: -- as a C-2-A stands

3 --

4 MR. MAY: Okay.

5 MS. STEINGASSER: -- differently, you
6 know, throughout the city with the same
7 protections and permissions.

8 MR. MAY: But if we're adding the
9 names to them, it's very confusing.

10 MS. STEINGASSER: Well, I agree. And
11 that's an anomaly to Washington. I've never
12 worked where those are -- those geographic
13 boundaries exist outside the order as actually
14 part of the regulation. They're usually in the
15 order reflected on the map.

16 CHAIRMAN HOOD: The only thing I would
17 ask, Ms. Steingasser, because that's a lot of
18 knowledge for this section that you have, you're
19 carrying around in here.

20 We need to memorialize it as a
21 footnote somewhere so people coming far behind
22 us will know, "Okay, well, this is what they
23 were thinking. And this is how we get there,
24 and this is what this interpretation of this

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1 is."

2 I think we need to be a little more
3 specific whether it be in a footnote. And I'm
4 not trying to add -- hopefully I didn't add but
5 maybe one or two more pages to what we already
6 have. But just a footnote explaining exactly
7 what you did here.

8 I think the concept is fine. I just
9 want to make sure it's memorialized for a while
10 and people understand how we got this.

11 Okay, anything else in subtitle W?
12 What about X? Let me do this. Can we take a
13 five-minute break? Let's take a five-minute
14 break.

15 (Whereupon, there was a brief recess
16 from 8:34 p.m. to 8:40 p.m.)

17 CHAIRMAN HOOD: Okay. Let's go to --
18 we have finished W, let's go to X. And it's
19 just been brought to my attention that we do
20 have an index similar to what I was asking for.

21 But I'm sure that officers would only
22 be working with the Office of Planning to fine
23 tune that, especially in the areas where the --
24 downtown areas where the uses are, so we need to

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1 fine tune.

2 They already have a working document
3 that we can work from. We just need to kind of
4 show -- like in the downtown area, show where
5 the uses are as opposed to in the use section,
6 which makes it easier for users.

7 Okay. I hope it makes it easier.

8 Okay, subtitle X. Any issues on subtitle X?

9 Okay. This may be where I saw the design
10 review.

11 Anyway, any -- Mr. Lawson, since I
12 always give you credit for writing the Capital
13 Gateway. 604.2 for whoever can answer, Ms.
14 Steingasser, whomever, I don't understand that,
15 and I know there's probably a lot of stuff in
16 here I don't understand.

17 Maybe this is -- for nonvoluntary
18 design review, the application must also meet
19 the requirements. What is "nonvoluntary design
20 review"? Nonvoluntary design review, and was
21 that in the old code? I don't remember ever
22 seeing that.

23 MS. STEINGASSER: I don't think this
24 is directly out of the Capital Gateway, and I'm

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1 not sure why we chose the word "nonvoluntary."

2 That would translate to me to mean required.

3 So required design review, the
4 applicant must meet the requirements. So I
5 think that would be referring back to cases like
6 subtitle K where there at one time we had tried
7 to pull out all the design back in, so that may
8 -- I think this is probably just a remnant.

9 CHAIRMAN HOOD: I didn't disagree with
10 what you have here, I was just trying to
11 understand it. So this is saying now required
12 design review. Great, we can talk about some
13 more design, okay.

14 But maybe this was the area. Okay,
15 anyone else on this area while I'm still trying
16 to find what I looked, what I thought I looked
17 at? Maybe that was in the comments, but I do
18 know it was something about design review. But
19 if no one else ran across it, --

20 MR. BERGSTEIN: I can help, if you
21 want.

22 CHAIRMAN HOOD: Yeah, can you help me?

23 MR. BERGSTEIN: Yeah. So before this
24 provision, there were only required design

1 reviews. And it talks about that in 601.1. It
2 says, "In certain zones, some or all
3 developments may require design reviews."

4 And then .2 says, "When not required,
5 a property owner may apply -- voluntarily apply
6 for design review."

7 So I probably took the reverse of that
8 and say nonvoluntary. But you're right that all
9 it's trying to say is where design review is
10 required, like CG, like what's going to happen
11 now in "I" as proposed, there are certain
12 required design reviews.

13 But this provision also permits people
14 to come and ask for certain types of flexibility
15 that would ordinarily be associated with PUDs as
16 part of design review. It's very limited.

17 So now this provision deals with both
18 required design review, the old CG, the new "I,"
19 and also circumstances where someone comes
20 before the Zoning Commission and says, "I want
21 this additional PUD flexibility -- this
22 additional flexibility, and requiring that
23 design review as well."

24 CHAIRMAN HOOD: Does any of my

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1 colleagues have any objections to us kind of
2 rewording that language a little bit?

3 MR. TURNBULL: Well, I just was
4 wondering what kind of flexibility would we be
5 granting them?

6 MR. BERGSTEIN: It says that in 603.1.
7 Standards for height, setback, lot occupancy,
8 courts, and building transitions.

9 MR. TURNBULL: Oh.

10 MR. BERGSTEIN: But R is specifically
11 excluded and IZ --

12 MR. TURNBULL: Okay.

13 MR. BERGSTEIN: -- and green area
14 ratio.

15 MR. TURNBULL: Is excluded?

16 MR. BERGSTEIN: Is excluded.

17 MR. TURNBULL: Right.

18 CHAIRMAN HOOD: Can we relook at that,
19 colleagues, and try to -- as Ms. Steingasser --
20 required as opposed to nonvoluntary? Try to
21 make this sound --

22 MS. STEINGASSER: I think it's clearer
23 if you used required. I agree with you.

24 CHAIRMAN HOOD: Okay. I just want to

1 make sure everybody agrees with that section.
2 It'll make it simpler. Okay, anything else in
3 X? Okay, I guess maybe I was getting tired when
4 I read no design review.

5 But anyway, let's go to subtitle Y.
6 Let's go to -- let me ask the Office of Zoning,
7 Ms. Bardin. Do you have anything that you want
8 to add to Y or Z? Well, this isn't both of
9 them. Any things that may not have -- that you
10 would like for us to look at, relook at?

11 MS. BARDIN: Actually, not at this
12 time. I found something today --

13 CHAIRMAN HOOD: You found something?

14 MS. BARDIN: -- that I had already
15 addressed.

16 CHAIRMAN HOOD: Okay, good. But let
17 me ask, this issue about the 14 and 7 days, or
18 maybe it's the 4 days. Something was 4 days.
19 Hold on, let me go right to it. It was in the
20 comments from I think the ANC or it might have
21 been the Committee of 100. One second.

22 If anybody else has anything while I'm
23 looking for that because I specifically marked
24 it up.

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1 MS. BARDIN: I think you're referring
2 to the 103.5, replaced four-day notice and make
3 it seven-day.

4 CHAIRMAN HOOD: Actually, that is one
5 of them. 103.5, let me turn to it. I think the
6 comment was it's a burden -- why did we say four
7 days? Why are we looking at four days?

8 MS. BARDIN: To allow additional
9 agenda items to be added to a meeting.

10 So the large majority of the cases
11 will be set long before seven days. When the
12 board's deciding when they're going to entertain
13 something, it'll immediately go on the calendar.

14 For instance, if a letter of some kind
15 of correspondence item came in that Wednesday
16 before the Tuesday hearing, it would allow us to
17 put that on the agenda.

18 CHAIRMAN HOOD: So if we add something
19 -- and this is what we get dinged on. If we add
20 something four days, and if people -- I notice
21 in the requirements here.

22 Look on the Web site or you can -- I
23 don't know what other notification would we give
24 to the public that we have added a case in their

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1 neighborhood or something like that on the
2 agenda?

3 MS. BARDIN: For a meeting there
4 isn't. It would be the notices that are in our
5 electronic reading room or what's on our Web
6 site.

7 CHAIRMAN HOOD: So we're talking
8 basically a difference of three days.

9 MS. BARDIN: Right. For meeting items
10 only.

11 CHAIRMAN HOOD: I'm going to tell you,
12 I'm having problems. Why are we even changing?
13 It says seven days previously, right? What did
14 it say, four?

15 MS. BARDIN: I think in the BZA side
16 it might have said seven, and it was one of
17 those things that we were making consistent with
18 the Zoning Commission side.

19 CHAIRMAN HOOD: So the Zoning
20 Commission says four days.

21 MS. BARDIN: Right.

22 CHAIRMAN HOOD: So the BZA say seven
23 days.

24 MS. BARDIN: Right. So we were trying

1 to make it consistent.

2 CHAIRMAN HOOD: Okay. So the Zoning
3 Commission -- I thought this was something that
4 would change from seven to four, the way I read
5 it.

6 So simply we're just adding something
7 on the agenda. Does anybody else see any issues
8 with this?

9 MS. BARDIN: And I believe there's
10 also a cite that doesn't -- it doesn't stop the
11 board from putting anything else on the agenda
12 whenever they want. So they could conceivably
13 put something on the agenda on Monday.

14 CHAIRMAN HOOD: The board and the
15 Commission or just the board? Well, the
16 Commission already does it.

17 MS. BARDIN: It's both, it's both.

18 CHAIRMAN HOOD: Okay. For some reason
19 I have, okay, an X. Am I at X? Oh, hold on for
20 one second.

21 Oh, can I back track to X? 103.3, I
22 needed to understand, and on this medical campus
23 plans. Medical campus, Ms. Steingasser, I guess
24 I'm going to come to you on this one, 103.3.

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1 "A medical campus plan shall not
2 incorporate a design" -- okay, I knew I had it
3 somewhere. I have to take better notes.

4 "A medical campus plan shall not
5 incorporate a design review of individual
6 buildings but shall focus on the site planning,
7 efficient arrangement of uses and
8 buildings, flexibility to use shared facilities
9 and mitigation of any adverse impacts."

10 Can you help me understand what that
11 means?

12 MS. STEINGASSER: So we were trying to
13 avoid a design review and rather look at the
14 overall campus review and when it comes to
15 medical campus.

16 I'm thinking of something, you know,
17 like the hospital medical center where the
18 review of the hospitals from an architectural
19 standpoint is not as important as the
20 circulation and impact and site planning of the
21 medical campus itself. So I was trying to
22 clarify that.

23 CHAIRMAN HOOD: But when I look at
24 this, I thought about Sibley, when we took off I

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1 think a whole floor, if I remember correctly.

2 And that was part of our -- well, this

3 Commission's design review. So what are we

4 doing now, I mean, you know?

5 MS. STEINGASSER: Sibley came through

6 as a PUD, I believe, so that's why you had that

7 kind of design review.

8 CHAIRMAN HOOD: Sibley had that design

9 review then, okay. So this --

10 MS. STEINGASSER: You would have the

11 prerogative to determine that you would prefer

12 that any of these go through a PUD, if you

13 chose.

14 CHAIRMAN HOOD: Okay, all right.

15 Let's go back. Anybody else -- Mr. Miller.

16 MR. MILLER: I'm just following up on

17 that. Does the Zoning Commission have the

18 prerogative to do design review for -- under

19 this proposal for other campus plans for

20 colleges, universities, and for private schools?

21 MS. STEINGASSER: A further processing

22 really it's evolved into a type of design

23 review, but it's really looking at the

24 compatibility of the individual building with

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1 the campus plan.

2 MR. MILLER: But it's not a specific
3 provision in like there is a medical campus that
4 precludes that type of --

5 MS. STEINGASSER: Let me check on
6 that.

7 MR. MILLER: I was just looking for it
8 for the first time and wasn't finding it. But I
9 was looking quickly.

10 MS. STEINGASSER: There is not the
11 same exclusion.

12 MR. MILLER: Right, and I think that's
13 important. I think that's -- okay, thanks.

14 CHAIRMAN HOOD: Okay. Anything else
15 on X -- I'm sorry, Z and I want to say B because
16 of board, but Z and -- Y and Z?

17 MR. MAY: Can I --

18 CHAIRMAN HOOD: Yes.

19 MR. MAY: Can I just get a
20 clarification? So the regulation regarding the
21 timing of submissions, and, you know, there was
22 a recommendation that -- where we had had the
23 cutoff at 3:00 p.m. on a given day to be
24 considered part of that day.

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1 That it was suggested that it be
2 changed to 5:00 p.m. And then I see something
3 else that came through in your recommendations,
4 the Office of Planning's recommendation, saying
5 that anything received on or before 11:59 p.m.
6 through IZIS would be recorded as being the same
7 day.

8 So are these the same requirements,
9 and are we now blowing out 3:00 p.m. and
10 changing it to 11:59?

11 MS. STEINGASSER: I defer to the
12 office on this.

13 MR. MAY: Okay.

14 MS. BARDIN: So the 3:00 p.m. I
15 believe refers to submissions that are brought
16 into office as well as E-mailed into the office.
17 Those types of documents have to be processed.

18 Somebody has to get them up into the
19 record as opposed to somebody submitting through
20 IZIS directly. It just goes into the system and
21 it's dated and timed when they submit it.

22 MR. MAY: Okay. So is it just a
23 matter of when it gets date stamped? I mean,
24 really, because -- is there any reason why the

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1 processing -- I mean, if it's received at 4:45
2 in E-mail, if the processing doesn't happen till
3 the next day, and couldn't it be, you know, back
4 dated unless there's --

5 MS. BARDIN: Well, the problem with
6 that would be as if somebody submitted something
7 electronically through IZIS at 4:46. That would
8 show up before that record that is then manually
9 uploaded the next day. And so there'd be a
10 conflict.

11 MR. MAY: Well, what difference does
12 it make? I mean, I understand that there's a,
13 you know -- there would be a difference in when
14 the time stamp occurred, and, you know, you
15 could manually time stamp it when it comes in.

16 And maybe it doesn't go in as the next
17 numbered exhibit, but what difference does it
18 make? It really only matters that it be filed
19 on a given day because the deadline is that day.

20 MS. BARDIN: Well, if there was a --
21 right. And if there was a deadline of 3:00 and
22 it came in at 2:59, we can look at it. We can
23 definitely look at it.

24 MR. MAY: But it's something that

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1 always struck me. I mean, I understand why it
2 was -- when everything we did was on paper, it
3 was important, and you wanted to make sure that
4 there was no question about things being
5 received.

6 And people showing up at 5:01 when the
7 door closes at 5:00. And, you know, I mean, I
8 know all about those sorts of things. We want
9 to avoid it by pushing the time up earlier.

10 But, I mean, you know, it seems to me
11 that as long as somebody walks in the door on a
12 given business day, there ought to be a way to
13 accept that and date it that day.

14 And whatever the end of the office day
15 is, I mean, I don't know when the office door
16 closes, whether it's at 5:00 or -- is it 5:00?
17 I mean, I would think that we ought to be able
18 to do that.

19 MS. BARDIN: I'll definitely look into
20 it.

21 MR. MAY: All right, thanks.

22 CHAIRMAN HOOD: Ms. Bardin, did we
23 have -- I'm trying to flip back through here.
24 Did we have in here a discussion? I know this

1 was mentioned, it may be in here. I just don't
2 see it right away.

3 I do know that the chairman -- how the
4 chairman is picked and all that is done for the
5 BZA and Zoning Commission. I know we
6 memorialized that. But also I wanted to see
7 something about how to hire a director. Can you
8 tell me exactly where that is?

9 And I'll tell you why, for those who
10 may be frowning up. I've had to do it three
11 times in the city, and I didn't get any help.
12 Trust me. I've done it three times.

13 Got in trouble the first time, didn't
14 get it right the second time, and finally got it
15 right the third time. Right, Ms. Bardin? So
16 that's why.

17 I would like to see stuff easier than
18 the way I found it.

19 MS. BARDIN: It's in Chapter 17.

20 CHAIRMAN HOOD: Chapter 17, okay. So
21 where did you say it was, 17?

22 MS. BARDIN: The Z.

23 CHAIRMAN HOOD: Okay. And Vice-Chair
24 Cohen is telling me the reason it went so well

1 the third time is because she helped. That's
2 probably what it was. Okay, good.

3 This is good because I can tell you,
4 if you walk in the shoes I've walked in, first
5 time -- and I don't mind saying on the record.
6 First time in the Washington Post, everybody's
7 mad with your problems. Second time problems,
8 but the third time is a charm. Trust me.

9 Okay, so good. That's memorialized
10 for when they do have -- when you do retire or
11 hit the lottery, okay. All right, that's all.
12 Anything else?

13 Okay, what are the questions? I'm
14 going to open it up. I've talked enough for two
15 hours.

16 MR. MAY: Mr. Chairman, if you're
17 opening up to anything?

18 CHAIRMAN HOOD: Yeah, anything.

19 MR. MAY: Okay. So just because it
20 was at the very end of the OP report, the
21 attachment 1A, subtitle B 317. I guess I should
22 have mentioned this under B, but I forgot it was
23 in B.

24 So we're moving away from a table of

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1 projection allowances and going back to the
2 previous text having to do with -- and I know
3 this is tied to the change in how we treat rear
4 yards.

5 But I'm just wondering. Is it really
6 substantively that different that we have to
7 throw away an easy-to-read chart and instead get
8 the old language back?

9 MS. STEINGASSER: Well, we could take
10 the old language and put it into a chart.

11 MR. MAY: Well, I mean, is it really
12 that different?

13 MS. STEINGASSER: Yes. Some of the
14 projections are increased, --

15 MR. MAY: I see.

16 MS. STEINGASSER: -- and some of the
17 projections permitted exceed the required side
18 yards, for example.

19 MR. MAY: Oh, okay. All right. Well,
20 I don't feel very strongly one way or another,
21 just mostly trying to understand it.

22 I would also say that previously this
23 was in two sections, 2502 and 2503, right? And
24 so now the header for the section is 317,

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1 projection allowances.

2 And then 317.10 has really nothing to
3 do with projections. It has to do with allowed
4 permitted structures. Structures, you know,
5 permitted in a rear yard or not permitted in a
6 rear yard.

7 And so it either needs to be its own
8 section like 318 or whatever or you need to
9 change the title of it and, I don't know, just
10 do something that makes sense so that people can
11 find it.

12 I would also say that under 317.10, a
13 lot of that language is essentially redundant
14 with a new definition of a yard, and maybe it
15 doesn't need to be. You don't want to be
16 defining yards, I don't know.

17 And then the last question has to do
18 with one of my favorite topics that came up
19 earlier, which is retaining walls and similar
20 structures in rear yards: elevated, structured,
21 soil, platforms, all those different things.

22 We actually had a case where we
23 addressed what is or is not a structure and
24 clarified that again, right? And we deal with

1 retaining -- we had a retaining wall case.

2 MR. LAWSON: Yes, yes.

3 MR. MAY: And all that was done, so --
4 and I'm assuming that's being ported into the
5 new regulations. Can you point me to where it
6 is?

7 And if you can't, that's okay. I'll
8 go look for it. I mean, it's just -- in reading
9 this, your report, I was trying to remember
10 where it was, and I couldn't remember.

11 MS. VITALE: I think it's in subtitle
12 C.

13 MR. MAY: Okay.

14 MS. VITALE: Yeah. It's subtitle C,
15 Chapter 14 is the retaining wall language.

16 MR. MAY: Excellent, thank you. Mr.
17 Chairman, that's it for me.

18 CHAIRMAN HOOD: Okay. Let me read the
19 list that I have here. I think after my
20 discussion this evening with Office of Planning
21 and not hearing any other concerns about
22 overlays, I think that was needed since we
23 visited that. I want to take that off after
24 I've been able to go through the regulations.

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1 Yes, I've been through it for all
2 these years, but now it's all in one place.
3 It's been in one place. We've made the final --
4 some of the final edits. And understanding and
5 seeing how to navigate through the code, it's
6 started to come together for me.

7 So others may have gotten it earlier,
8 I understand it now. But I think for those who
9 don't do this all the time, I think that would
10 be a good and easy discussion to have.

11 Okay. Also, the applying date I think
12 we started talking about that earlier. We need
13 to deal with that. PR uses, I don't think I
14 need to revisit that because we're going to deal
15 with that up front.

16 And then the third-party issue. Why
17 don't we do the third-party issue first? My
18 colleagues want to have some comments on the
19 third party. I've been mentioning that for a
20 while. Again, I'm not discrediting anyone, but
21 I thought it -- even if it's not a full vetting,
22 at least a perusal.

23 Because, again, this is a document
24 that we want to make sure stands the test of

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1 time. But then again, I think the Committee of
2 100 is asking me to go up to the council and see
3 if --

4 I don't know how successful I'll be
5 with that. But it won't be the first time I
6 went in front of council and asked for money.
7 So anyway, let me hear your thoughts,
8 colleagues, on that, the third-party review.

9 If you need some time to think about
10 it -- it's not off the cuff. If you need some
11 time to think about it, then we can revisit it
12 later.

13 MS. COHEN: Mr. Chairman, --

14 CHAIRMAN HOOD: Yes.

15 MS. COHEN: -- my initial reaction is
16 that it's not necessary. I think there have
17 been dozens and dozens of eyes on this rewrite
18 throughout many years. I know that there have
19 been --

20 You know, there's need for technical
21 corrections, as I complimented the Committee of
22 100. They did a terrific job in bringing up
23 some, you know, very technical corrections,
24 which OP is accepting.

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1 I feel that if you bring in somebody,
2 it's required of them. They always feel -- this
3 is like a consultancy. They always feel they
4 have to find something that's wrong, terribly
5 wrong. And I don't think this is a necessary --

6 We've all been through it quite a few
7 times. Yes, there are certain things that were
8 missed, but a lot of that had to do when it was
9 actually published, but some offsetting
10 happened.

11 OZ looked at it, OAG looked at it, the
12 Zoning Administrator has looked at it. The
13 community has looked at it, and we really have
14 taken into consideration and made many, many
15 changes from the original to today.

16 We've had attorneys look at it, we've
17 had, you know, so many people looking at it and
18 catching things, and I think we're at a point
19 where we've exhausted the input. And I
20 personally don't believe we need a third party
21 to look at it.

22 CHAIRMAN HOOD: Okay. Any other
23 comments? Commissioner Miller.

24 MR. MILLER: I would share the vice-

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1 chair's view and the comment made earlier in the
2 evening by Commissioner May that there had been
3 multiple third parties looking at this
4 throughout the process.

5 And there's nothing to prevent people
6 from looking at it going forward. The zoning
7 regulations are a living document, which we
8 amend all the time.

9 And if amendments need to be made,
10 whether it's corrections or whether it's policy
11 changes, that can be done. There's a process
12 for that. And I think it's time to move
13 forward.

14 CHAIRMAN HOOD: Okay. Anyone else?
15 All right, Mr. Turnbull, did you want to add
16 something?

17 MR. TURNBULL: I would just concur
18 with the vice-chair and Commissioner Miller that
19 I think we've had -- we've been at this now for
20 eight years, a lot of input.

21 As we've said earlier, broad based
22 National Capital Planning Commission has looked
23 at this. We've had input from a lot of people,
24 and I think this thing has been well vetted.

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1 research, and I've heard over time of -- we've
2 been spending all this time on it.

3 But, you know, there are some cities -
4 - and know others don't want to be associated
5 with some of them -- that have done it for 17
6 years, so we should applaud ourselves.

7 The second thing is, I thought that
8 when the Office of Planning, OAG, Office of
9 Zoning, us, the commissioners, we're all looking
10 at it, even with the third parties that we have
11 here, we're all looking at it.

12 I thought it would be good as we
13 started out in 2007. And I think Mr. Mark
14 White's role when we were trying to figure out
15 who was going to do it, was the Office of Zoning
16 going to do the rewrite or was the Office of
17 Planning?

18 I forgot how all those discussions
19 happened. It's only been a few years ago. But
20 when we started out, we had someone we were
21 bringing down to kind of do this. And I thought
22 that maybe we needed to go back and revisit that
23 at this time.

24 Again, not discrediting anyone

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1 whatsoever. I know a lot of hard work went into
2 this, but I was not discrediting anyone. I just
3 thought that maybe a fresh pair of eyes on this.

4 And you're right, Mr. Turnbull, they
5 may come back and look at it and try to -- like
6 the -- I shouldn't say this -- the OAG and
7 certain government agencies. When they look at
8 specific subject matters in your agency, they do
9 a findings. And they work until they find
10 something.

11 So, you know, but sometime I thought
12 that it would have been good to look at it
13 through another pair of lens and make sure that
14 this -- we don't have any zoning conflicts or
15 any issues and problems.

16 But I heard my colleagues loud and
17 clear. I don't have a problem of being a
18 follower. I will follow that lead that I'm
19 hearing from my colleagues and move forward
20 because we think what we have is a good
21 document.

22 I think, though, what would really
23 help and I mentioned this, and I'm going to say
24 it again, and I'm going to be impressing upon

1 this.

2 If this is approved, there are other
3 courses of action that it needs to go, I would
4 just encourage the Office of Planning to maybe
5 have some sessions here and kind of go through
6 how to navigate the document, as you did with
7 me. I think that would really help the citizens
8 of this city to ease comfort levels.

9 Because I can tell you, when I came
10 here this evening, I was very uncomfortable.
11 But after we went through those exercises and
12 I'm trying to figure out how to navigate and
13 understand where the uses are and where they're
14 not.

15 I think this is a well-written
16 document. I just don't know. I'm still nervous
17 about the conflicts and how we can make changes
18 if we have to.

19 Again, I'm not discrediting anyone. I
20 don't do this for a living, so I'm like the
21 folks in the neighborhood who say, "Well, this
22 is new." That's why, so anyway.

23 Hopefully everybody understand and
24 don't take it personal. Like I said earlier in

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1 my earlier comments, I want this to succeed just
2 like everybody else, and I'm sure it will, from
3 what I heard from the experts tonight. So
4 that's what we'll do. We'll move on.

5 So any other subjects? Commissioner
6 Miller.

7 MR. MILLER: There was the
8 applicability provision. Can we get into that?

9 CHAIRMAN HOOD: Yes. You want to
10 start us off on that?

11 MR. MILLER: Sure. So it's in
12 subchapter A. And I would just as a
13 conversation starter throw out that we could go
14 with the --

15 Something to the effect of that the
16 amendments shall become effective upon the
17 publication of this in the D.C. Register, but
18 shall not become applicable until six months
19 after that publication of the final -- notice of
20 the final order, the final rulemaking.

21 I would suggest that as a way to give
22 this a period of time for transition from the
23 old to the new, allows existing projects that
24 are in the pipeline to move forward.

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1 You'll know the date certain will run
2 once the final ruling is published, and we can
3 put that on the Web site, which I'm sure we will
4 put them on our Web site. So that's what I
5 would just suggest as one option that we should
6 consider.

7 CHAIRMAN HOOD: Okay. Vice-Chair
8 Cohen.

9 MS. COHEN: Let me just ask a
10 clarification. So basically you're stating that
11 it'll take effect no matter what in six months,
12 not just those projects that have been set down.

13 Because what you're suggesting is that
14 there are a lot of projects that are still being
15 reviewed and analyzed by OP. And there's
16 discussions about them, so it goes into effect
17 at six months. It really goes into effect. I
18 mean, I'm trying to get my arms around this,
19 what you just --

20 MR. MILLER: Six months after
21 publication is when the new zoning rules would
22 apply.

23 MS. COHEN: I could live with that,
24 yeah, definitely.

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1 MR. MILLER: Which is the -- is this
2 in subtitle --

3 MR. BERGSTEIN: Oh, I'm sorry. It's
4 in subtitle A, Section 102, it's vested rights
5 under the previous 1958 zoning regulations.

6 MR. TURNBULL: I don't see it. It's
7 not on our tablet. It's not on the -- is it in
8 the printed one?

9 CHAIRMAN HOOD: It's in the printed.
10 It's in the printed copy.

11 MR. MILLER: It's in the printed one.

12 CHAIRMAN HOOD: Yeah, it's in the
13 printed. You got it on the tab? Okay.

14 MR. TURNBULL: So let me just say, if
15 this thing got published January 1st and June
16 1st it takes effect -- July 1st I should say,
17 yeah, July 1st it takes effect -- I can't add --
18 so explain to me what I'm reading here about
19 this vesting.

20 MR. BERGSTEIN: I'm sorry.

21 MR. TURNBULL: Considering I'm Winnie
22 the Pooh and a bear with very little brains
23 here, and I'm just trying to sort through all
24 this.

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1 MR. BERGSTEIN: So as I understand, as
2 I'm reading this, but the Office of Planning
3 confirmed it with me. If you set an
4 applicability date six months from the
5 publication date, and let's say that comes to be
6 June 1st.

7 Any application for which a building
8 permit has been accepted as complete would come
9 under the 1958 rules and would not come under
10 the new rules.

11 And that's different from the normal
12 vesting provision which says you're not vested
13 to date your building permit is actually issued.
14 This vests you if you filed for a building
15 permit before the applicability date, period.

16 Then in addition, if you have an
17 unexpired first stage, second stage consolidated
18 approval, special exception camps plan,
19 etcetera, you're also vested. Even if the
20 application is filed after the effective date of
21 the new regulations, after let's say June 1st,
22 2016.

23 So I'm sorry you don't have this
24 before you. It is in the version that's

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1 available to you on your tablets under Section
2 102.

3 But 102.3 provides vesting in five
4 different circumstances, so do you all not have
5 this available to you? They do. So I think it
6 is self-evident what 102.2 and 102.3 provide.
7 And as I said, it's very similar to the vesting
8 provisions that you adopted for the R4
9 regulations.

10 CHAIRMAN HOOD: Okay. Were the all
11 the questions asked? Any additional questions?

12 Mr. Bergstein, do we need to make a
13 motion on that, because I think a lot of the
14 vesting rule is here in the -- already in this
15 section. But what do we --

16 MR. BERGSTEIN: Are you referring to
17 the suggestion that Commissioner Miller has made
18 in terms of a six months --

19 CHAIRMAN HOOD: Well, I know we need
20 to make a motion on that.

21 MR. BERGSTEIN: Yes.

22 CHAIRMAN HOOD: But I mean do we need
23 to do anything other than that?

24 MR. BERGSTEIN: No, in terms of -- you

1 mean in terms of concluding your proceedings
2 tonight or in terms of the issue that's before
3 you?

4 CHAIRMAN HOOD: No, no, hold on. I'm
5 jumping ahead of myself. Hold on. We're going
6 to vote on that. Did you want to make a motion?

7 MR. MILLER: Sure. I'm sorry, I was
8 in sidebar. So I would -- on the applicability
9 provision, Mr. Chairman, I would move that the
10 Zoning Commission adopt an applicability
11 provision that would be six months following the
12 date of publication of the notice of final rule
13 making, the notice of final order in the D.C.
14 Register. Is there a second?

15 MS. COHEN: Second.

16 CHAIRMAN HOOD: Okay, it's been moved
17 and properly seconded. Any further discussion?

18 MR. MAY: Mr. Chairman, I would just
19 mention that we did hear a fair amount in the
20 comments about what the timing should be, and
21 there were suggestions of dual applicability and
22 things like that.

23 And I think considering that issue, I
24 think it just gets way too complicated, and I'm

1 much more in favor of a simple straight-up six-
2 month applicability. So I'm in favor of this
3 proposal.

4 CHAIRMAN HOOD: Okay. Any other
5 questions or concerns, comments? All in favor,
6 aye.

7 BOARD MEMBERS: Aye.

8 CHAIRMAN HOOD: Not hearing any
9 opposition, Ms. Schellin, record the vote.

10 MS. SCHELLIN: Yes, sir. Staff
11 records the vote five to zero to zero to approve
12 the applicability being six months following the
13 date of publication in the D.C. Register.

14 Commissioner Miller moving,
15 Commissioner Cohen seconding, Commissioners
16 Hood, May, and Turnbull in support.

17 CHAIRMAN HOOD: Okay. Commissioners,
18 are we ready to move on this tonight?

19 MR. MAY: Yes. Mr. Chairman, I do
20 have one small matter that I'd forgotten in X,
21 subtitle X, and it was a comment from the
22 Committee of 100, suggestion that under 701.

23 We add historic view sheds and vistas
24 to the list of goals that the Zoning Commission

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1 wants protected when review air space developed.

2 And the Office of Planning did not
3 recommend going on with this because they
4 thought it was already addressed in the existing
5 provisions A through D.

6 And I looked at A through D pretty
7 carefully, and I'm not as convinced that it's
8 well covered there, and I would like to suggest
9 that maybe we actually should include that.

10 Of course, I mean, it's a
11 consideration, it's not an absolute requirement.
12 And I think it's just -- you know, having that
13 list be explicit about the things to take under
14 consideration I think is actually helpful for
15 this Commission and future versions of this
16 Commission, so.

17 CHAIRMAN HOOD: Any objections to that
18 addition? Not hearing any, I don't think we
19 need to vote on that. I think that could be
20 added.

21 Okay, anything else? Commissioner
22 Miller.

23 MR. MILLER: Thank you, Mr. Chairman.
24 I would move that the Zoning Commission take

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1 preliminary final action this evening to approve
2 the zoning regulation for revision rewrite.

3 Subject to the revisions agreed upon
4 tonight that the Office of Planning provide
5 final text based upon the deliberations this
6 evening, including a redline version of the
7 changes since notice of proposed rule making.

8 And that the Commission consider
9 whether to take final final action on this case
10 at our January 14, 2016, meeting.

11 And finally that except for Office of
12 Planning's submission with OAG's guidance that
13 the record would remain closed.

14 CHAIRMAN HOOD: I will second that
15 motion, but I would just ask that we not require
16 a redline, that we just ask for just something -
17 -

18 MR. MILLER: Okay.

19 CHAIRMAN HOOD: -- to show our change.
20 I don't think we necessarily need a redline.

21 MR. MILLER: No, that's fine. I think
22 it would be helpful for us and for the public.
23 It doesn't have to be part of the motion.

24 CHAIRMAN HOOD: Okay.

1 MR. MAY: I'm sorry. So are we going
2 to get a redline or not, because I really want
3 to see a redline. It's not that hard to do at
4 this point, right? We're talking about --

5 CHAIRMAN HOOD: I don't think we
6 necessarily need a redline. I don't think we
7 do. But if you want a redline -- anybody --
8 let's take a vote on the redline.

9 MR. TURNBULL: I could -- wonder if
10 Commissioner Miller could just clarify, it's
11 just A and B?

12 CHAIRMAN HOOD: Oh, yeah.

13 MR. MAY: Yes, just Zoning Commission
14 cases A and B. Because we don't have the map in
15 front of us.

16 CHAIRMAN HOOD: I really -- just show
17 us the difference. I don't necessarily think we
18 need it. I don't think we need a redline.

19 MR. MAY: Okay. I would really,
20 really like to have a redline. How hard is it
21 to produce a redline version showing the old to
22 the new?

23 CHAIRMAN HOOD: The same redline would
24 we should reduce --

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1 MR. MAY: No, no, no, no, no. In the
2 very beginning when we were talking about
3 changing the original regulations to these
4 regulations, so much was changing, a redline was
5 impractical.

6 Now that we're at the point where
7 we're just tweaking the language, as we often do
8 in text amendment cases, we see a final version
9 with its -- I mean, a legal blackline, a redline
10 version, whatever you want to call it.

11 Just something that tracks the changes
12 from what we had in the notice for rulemaking
13 versus what we have right now. That
14 incorporates all the changes that have been
15 made.

16 CHAIRMAN HOOD: Is there anyone else
17 who would like to see a redline?

18 MR. MILLER: I guess I would like to
19 know the answer from Office of Planning and
20 Office of Zoning as to how difficult that would
21 be to produce.

22 CHAIRMAN HOOD: First, let me ask the
23 commissioners because I'm sure they can come up
24 with whatever we ask for. But is there anyone

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1 else who's stuck on seeing a redline version?

2 MR. MILLER: I would like to see a
3 redline version, if it's not too burdensome for
4 them to produce it. If it's going to -- I know
5 they are a very overworked professional office,
6 both of the offices, and I don't want to burden
7 them unreasonably.

8 CHAIRMAN HOOD: Okay.

9 MS. COHEN: Is it a practical thing to
10 do, I think Commissioner May had asked?

11 MS. STEINGASSER: Would you subtract
12 change operation and that should be able to move
13 things around?

14 MR. MAY: Okay. We are talking about
15 an existing body of text, and we're talking
16 about a whole lot of small changes to it. We're
17 not talking about moving major sections around,
18 right?

19 MR. COCHRAN: I think it would be
20 helpful to give more specific guidance on which
21 date of the publication you're referring to as
22 the base, and then from there --

23 MR. MAY: No, just the notice of
24 public rulemaking. The version that we are

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1 taking preliminary final action on right now.

2 MS. STEINGASSER: It'll look littered,
3 but it'll be legible when we start doing all the
4 small technical corrections.

5 MR. MAY: Yeah, right. I mean, you
6 know, if it's really that hard, you can just
7 give me the Word versions and I'll do it myself.
8 It's not that hard to do, I don't think.

9 MR. MILLER: As the maker of the
10 motion, I will take it out of the motion because
11 the seconder of the motion has a problem with
12 it. So I don't want to -- had concern about it.

13 So I don't want to -- I want this
14 motion to go forward, but then not get hung up
15 on the redline. I want to get on the Redline to
16 go home.

17 CHAIRMAN HOOD: I want to get on the
18 Redline, too. I just think that we can find --
19 I would leave it up to the Office of Planning
20 and the Office of Zoning to work out whatever
21 you want to call it blueline, sinc line, no
22 line, whatever kind of line.

23 But I think I would leave that up to
24 them if we want to see what the differences are

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1 because there are a lot of corrections that need
2 to be made, titles that are going to be worked
3 on.

4 I don't -- don't show hood no typo.
5 I'm not going to look at no typos. I know that
6 the Office of Zoning and Office of Planning can
7 deal with that. So, you know, I'd rather just
8 leave that up to them. I don't necessarily want
9 to call it a redline because I like to be
10 consistent.

11 You want to add something, Ms.
12 Schellin?

13 MS. SCHELLIN: I mean, might we
14 suggest that we put the final version in the
15 record, and for the commissioners who want
16 the redline copy, we provide them with it.

17 CHAIRMAN HOOD: However you want to do
18 it. I think we just need to be consistent.
19 I'll leave that up to the Office --

20 Let me just say this. I'll leave it
21 up to the -- I don't think that we need to get
22 to this point and get stuck on a redline
23 version.

24 So I think I'll leave it up to the

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1 Office of Planning and Office of Zoning to work
2 out what the differences are and show the
3 commissioners what corrections were made, and
4 call it what you want.

5 But whatever's easy for you all to get
6 done and identify it, make it identifiable,
7 let's do it that way. Okay.

8 Even if you have to have page 1, this
9 is what you had first; page 2, this is what we
10 changed. And you put it in a different color,
11 whatever, redline, blueline, doesn't matter.
12 But I think we don't need to get hung up on
13 that. I'm not going to get hung up on that.

14 Okay. So the motion's been moved and
15 properly seconded. Any further discussion?

16 MR. MAY: Yes. So I assume that in
17 this -- even though we didn't have explicit
18 discussion of all of the recommendations that
19 came from the Office of Planning in their report
20 or the various comments that they made on the
21 comments that were submitted, I assumed that we
22 are adopting all of those suggested changes and
23 responses.

24 CHAIRMAN HOOD: I would take it a step

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1 further and say not assume. I think you can
2 record that as accurate.

3 MR. MAY: Very good, thank you. I
4 just want to be clear about that because nobody
5 said it earlier.

6 CHAIRMAN HOOD: Okay. Anything else?
7 Any further discussion? All those in favor,
8 aye.

9 BOARD MEMBERS: Aye.

10 CHAIRMAN HOOD: Any opposition? So
11 ordered. Ms. Schellin, record the vote.

12 MS. SCHELLIN: Yes, sir. Staff
13 records the vote five to zero to zero for the
14 Zoning Commission to take preliminary final
15 action to approve Zoning Commission case number
16 08-06A and 08-06B, subject to the revisions
17 agreed upon this evening.

18 And also for the Office of Planning to
19 provide the final text based upon the
20 deliberations. Commission will consider whether
21 to take final action on these cases at the
22 special public meeting that will be scheduled
23 for January 14th, 2016, at 6:30 p.m.

24 Except for the Office of Planning

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1 submission, the record remains closed.
2 Commissioner Miller moving, Commissioner Hood
3 seconding, Commissioners May, Cohen, and
4 Turnbull in support.

5 CHAIRMAN HOOD: Okay. At the
6 beginning a lot of people did their thank yous.
7 I want to do mine now, so indulge me for a
8 minute or two.

9 First, and this goes way back. I want
10 to thank the task force. The task force has
11 spent many nights going and working with the
12 Office of Planning and having those endeavors.

13 And I also want to thank the work
14 groups, the folks who spent time going over to
15 Office of Planning's headquarters and coming
16 down here or wherever else they went. I think
17 they went over on North Capitol Street in doing
18 the work group sessions.

19 Also, I want to thank the citizens as
20 well as developers and the mayors. I think
21 we've had three mayors and city council members
22 as well for being supportive.

23 Specifically, I would like to thank
24 the Office of Zoning, Office of the Attorney

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1 But when I first got on the Zoning
2 Commission, we didn't even get reports for BZA
3 cases. So, you know, thanks to the wisdom of
4 the council and those who worked for the council
5 at that time, they made it better. The system's
6 getting better.

7 And one of the things that I've always
8 told Andy Altman when he first got here was,
9 "One of the things I've noticed under your
10 tenure is citizens have a place at the table."

11 We might not always get the results
12 that we want. Even as a commissioner, I don't
13 get -- sometime it don't go the way I want it to
14 go, but at the end of the day I think all of us
15 are trying to achieve the same goal.

16 So I especially want to thank the
17 Office of Planning for doing all what we ask
18 them to do. Not one time -- and I'll say this
19 in front of the council -- not one time have
20 they told us no.

21 And maybe that's because that's their
22 job. But not one time have they told us that
23 they don't mind going out to the communities.
24 Everything we've ever asked them to do they've

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1 done.

2 And the key was, we never wanted to
3 make anything personal. We appreciate all the
4 work you've done. You all have worked hard.
5 You finally -- we finally got a document that we
6 can proceed with.

7 And, again, I specifically want to go
8 back to the Office of Zoning, because that's our
9 staff. They're the ones who get us ready when
10 we come in here.

11 And for those who may think otherwise,
12 and I'm going to say this on the record, the
13 decision is made by the Zoning Commission, not
14 the Office of Zoning. We make the decisions.

15 The Office of Zoning gets us ready and
16 gives us preparation on materials so we can make
17 an informed decision. But the decisions are
18 made by this Commission.

19 And, yes, we disagree sometimes, and I
20 want to particularly thank this Commission for
21 putting up with me and me putting up with you,
22 and us getting through this thing.

23 Because, you know, sometime it ain't
24 easy among the five of us. You know, sometime

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1 we have our attitudes and we come across. So I
2 don't exempt myself from anything.

3 But I want to thank everyone who had
4 anything to do with this document. If I left
5 you out, let the office know and I'll mention it
6 at our next meeting. Okay, so with that, I want
7 to thank everyone for their participation
8 tonight.

9 Ms. Schellin, do we have anything
10 else?

11 Again, I want to thank the director
12 and the Office of the Attorney General and the
13 Office of Planning and everyone. Everyone I've
14 named, thank you.

15 This is what I want to do. And for
16 those who are watching, when I say -- I'm going
17 to say, "I want to," and I want you to say your
18 name. That way I can thank everybody, okay? So
19 when I say -- this is just something I do, if
20 you ever see me do stuff when I'm in operation,
21 I do this.

22 I'm going to say, "I want to thank,"
23 and I want you to call your name. Okay, even
24 those in the audience.

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1 I want to thank -- (no response). You
2 all don't get it. So you all don't want to be
3 thanked? When I say, "I want to thank," I want
4 everybody to call their name out, okay, and
5 those at home do it, too.

6 I want to thank --

7 (Voices.)

8 -- for everything you did in this CRR
9 process, so I don't think I've left anybody out.
10 So with that this meeting is adjourned.

11 (Whereupon, the meeting was adjourned
12 at 9:40 p.m.)

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