

John Epting/Jeff Utz Testimony before the Zoning Commission – ZC Case No. 08-06-10

- Good evening members of the Zoning Commission. My name is John Epting here on behalf of Pillsbury Winthrop Shaw Pittman. Thank you for the opportunity to testify at this hearing.
- To begin with, Pillsbury we like to express our appreciate for the Office of Planning's outreach to all interested parties. It is clear that OP has put a lot of time and effort into the Downtown District Regulations re-write and has gone to great lengths to be inclusive.
- Pillsbury Winthrop has been involved in and processed over 80 transactions involving the sale and purchase of TDRs and CLDs, so we have developed deep understanding of the TDR and CLD process and markets.
- With that background, we support the intent of the new Housing Credit regime.
 - We believe the expansion of the areas that can utilize Housing Credits (and TDRs/CLDs) is a good direction for city planning.
 - The new program incentivizes the production of housing in additional areas beyond the Downtown area.
 - Important to the development community that no zoning envelope has been decreased on any property as a result of the proposals.
- However, there is a great deal of concern in the marketplace regarding the practical implementation of the Housing Credit regime. Simply put, much of the development community believes that the value of their TDRs and CLDs will drop significantly as a result of the new Housing Credit regime. Since the owners and buyers have assumed the risk in the current market, it is not equitable to alter the rules and possibly undercut their value/rights.
- We believe that there are many ideas that can be included in the Housing Credit mechanism to guarantee the value of TDRs and CLDs.
 - Housing Credits should not be able to be utilized until TDRs and CLDs are burned off.
 - There must be some mechanism inserted to ensure that a floor is placed on TDR and CLD value. Either phasing the sale or all TDRs and CLDs first or a conversion factor (3:1 CLDs; 2:1 or 1.5:1 TDRs).
 - Housing Credits should be vested at 50% completion.

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- Support a burnoff period. During this period, if all CLDs are sold, TDRs could be utilized instead of such rights.
- It would also be beneficial to allow legacy TDRs and CLDs to be utilized to satisfy properties' retail and arts requirements, at a higher conversation rate than would apply for other commercial development.
- We do think that a few additional areas could be added to the DD/trading area construct as experimental areas such as Anacostia, Benning, and Hill East. These areas would just act as receiving zones to ensure that there is greater demand for Housing Credits (and TDRs).
- We also believe that it's important that the process for transferring the new Housing Credits is streamlined from the current TDR and CLD process. We believe that the proposed process can be documented and implemented through a simple document and review process rather than the current process which often requires multiple documents and a great deal of review. Such review creates significant cost and delay.
- We also hope that the Housing Credits are altered so that they can be banked and banked Housing Credits can be transferred to a bank.
- We look forward to working with OP and OAG to draft the regulations to implement the new policies.
- Thank you very much for the opportunity to testify before you this evening.