

**Comprehensive Zoning Regulations Rewrite:
Downtown Zoning Commission Case No. 08-06-10,
Zoning Commission Public Hearing;
November 2, 2009 at 6:30PM**

**Testimony of Charles C. Wilkes on Behalf of The Wilkes Company and
Other Owners of TDRs**

Good evening, Mr. Chairman, and members of the Commission. I am Charles Wilkes, Chairman of The Wilkes Company, a Washington DC-based real estate development company founded in 1980. Recently, in association with our partner, Quadrangle Development Corporation, we generated a substantial number of Transferable Development Rights from our development of The Sonata at 301 Massachusetts Avenue, NW and Madrigal Lofts at 811 4th Street, NW – both located in Housing Priority Area “A” of the DD overlay district.

This evening, I appear before you on behalf of my company, as well other owners of TDRs who, collectively, own the majority of the vested TDRs available in the market at this time.

Support of Office of Planning approach

First of all, we would like to voice our strong support of, and appreciation for, the manner in which the Office of Planning has approached the re-write of the Regulations and its openness to ideas from all interested parties. OP has communicated effectively with the development community and has been more than willing to meet to discuss its recommendations and to reflect on our responses.

**ZONING COMMISSION
District of Columbia**

CASE NO. 08-06-10
EXHIBIT NO. 21
ZONING COMMISSION
District of Columbia
CASE NO.08-06-10
EXHIBIT NO.21

Concerns about Office of Planning Recommendations

Nevertheless, as current owners of TDRs, we have certain concerns with respect to the recommendations being reviewed this evening with the Commission.

First, we believe that the proposal as currently envisioned will, in all likelihood, flood the market with Housing Credits and that the value of the vested TDRs and CLDs, generated in reliance on the current Regulations, will be driven down as a result. We believe that the residential sector will be the first to recover in many areas of our city. Such residential development will generate large numbers of Housing Credits in the to-be-expanded Downtown Development District. We also believe that the demand for these Housing Credits will fall far short of supply because there is a great deal of office space that is currently vacant and absorption of this space is likely to delay meaningful, new commercial development well into the future.

Accordingly, a significant loss in the value of legacy TDRs and CLDs can and should be avoided – especially since developers relied on the current system when they built the residential projects that generated these TDRs and CLDs. In fact, most, if not all of these projects, were underwritten with dollar values specifically attributed to their TDRs and CLDs. Hence, we believe that real care should be taken to protect the value of legacy TDRs and CLDs as a matter of fundamental fairness and sound economic policy.

Ideas to Improve Recommendations

As a result, we have formulated an approach that we respectfully urge the Zoning Commission to consider in order to maintain the value and marketability of the legacy TDRs and CLDs.

Transition Period

We believe a five to seven year burn-off period should be included in the Regulations, during which time only legacy TDRs and CLDs can be utilized in what will be the expanded trading and receiving areas. This will have many important benefits. First, it is likely that all of the cumbersome CLDs will be sold or otherwise utilized during such a burn-off period. In addition, most if not all, of the legacy TDRs will be sold or otherwise deployed. Then, by a set date, owners of legacy TDRs and CLDs will have them converted into Housing Credits at a conversion rate of 2 Housing Credits for each TDR or CLD – with portability to any of the trading areas. This will protect the value of the legacy TDRs and CLDs that were created in good faith and which helped create the “Living Downtown”.

In addition, a mechanism can be included that will allow some amount of the new Housing Credits to be utilized during the burn-off period if the number of remaining legacy TDRs and CLDs is below a certain threshold in order to ensure that there is sufficient supply of such rights in the marketplace.

Additional Rights of Legacy TDRs and CLDs

We also believe that TDRs and CLDs should also be given certain additional rights to ensure their value and usage.

For instance, we believe that legacy TDRs and CLDs might be used to reduce or offset affordable housing requirements in the DD zones. Through the purchase of legacy TDRs and CLDs, residential developers could either move up the AMI scale or reduce a certain percentage of their affordable housing requirements. Alternatively, legacy TDRs

and CLDs could be donated to the Housing Production Trust Fund to offset affordable housing requirements. The Fund could then sell them to provide an in-flow of cash to the Fund.

Parking Maximums for Residential Developments

Finally, one other matter not related to TDRs and CLDs but also of great concern to many of our fellow developers is the possible adoption of parking maximums for residential projects in the DD District. The reality is that the construction of parking is prohibitively expensive, so developers only include parking where it is absolutely demanded by the market. The creation of parking maximums could have the effect of making residential projects in the DD zones less competitive with residential projects elsewhere – including the suburban jurisdictions. The use of automobiles by downtown residents is not largely determined by the availability or lack of availability of parking spaces but many other factors including personal choice and the adequacy and quality of public transit.

In conclusion, we want to thank you for your consideration of our views, and would be happy to answer any questions.