

CASE NO. 08-06-9
Comprehensive Zoning Regulations Rewrite: Sustainability
Testimony of Marilyn J. Simon, Friendship Neighborhood Association
Thursday, May 21, 2009

My name is Marilyn Simon, and I will be speaking on behalf of Friendship Neighborhood Association. Some of OP's recommendations would implement specific language in the Comprehensive Plan. Examples are listed below. However, there are other recommendations which are contrary to the clear language of the Comprehensive Plan and would have a predictably negative impact on some of the District's neighborhoods. My testimony today focuses on Recommendation 3, Transit Oriented Development (TOD), and Recommendation 18, Green Area Ratio (GAR).

The Comprehensive Plan does specifically call for the creation of a transit oriented development overlay zone which would include some of the provisions included in OP's recommendations. However, the language of the Comprehensive Plan is quite clear: The overlay is not to apply to every Metro station, and the Comprehensive Plan sets out a process and criteria for determining around which Metrorail stations a TOD overlay district should apply.

Action LU-1.3.B: TOD Overlay Zone

During the forthcoming revision to the zoning regulations, create a TOD overlay district. The overlay should include provisions for mixed land uses, minimum and maximum densities (inclusive of density bonuses), parking maximums, and buffering and design standards that reflect the presence of transit facilities. Work with land owners, the DC Council, local ANCs, community organizations, WMATA, and the Zoning Commission to determine the stations where such a zone should be applied. The emphasis should be on stations that have the capacity to accommodate substantial increases in ridership and the potential to become pedestrian-oriented urban villages. Neighborhoods that meet these criteria and that would welcome a TOD overlay are the highest priority. 306.19 Comprehensive Plan, page 3-21

OP chose to ignore the plain language of the Comprehensive Plan and instead recommends that the TOD Overlay Zone be mapped in all "transit accessible areas," which includes all properties within a half-mile of a Metro station, except for those which are currently zoned R-1 through R-5-B. The recommendation also includes properties not zoned R-1 through R-5-B which are within a quarter-mile of a streetcar line or high service bus corridor.¹

In addition, in an earlier proceeding, OP recommended that there be no minimum parking requirements for any use in the TOD Overlay Zone. The earlier recommendation, along with the proposed mapping, has serious implications for many of the District's low and moderate density neighborhoods near Metro stations or high service bus corridors. In the earlier proceeding, this Commission was concerned about the impact of spillover parking on low and moderate density neighborhoods if it adopted OP's recommendation to eliminate minimum parking requirements for high density residential buildings. This Commission should be just as concerned about the elimination of minimum parking requirements for all properties within a half-mile of a Metro station or a quarter-mile of a streetcar or certain bus corridors, except for those properties zoned R-1 through R-5-B.

The current zoning regulations clearly recognize the issue, and in the regulation allowing for a reduction of the parking requirement for non-residential buildings within 800 feet of a Metro station, the rulemaking specifically excluded those properties that were within 800 feet of any R-1 through R-4 District.

¹ The Working Group was told that mapping the TOD overlay area was beyond the scope of this section, and input from the Working Group on this issue was not solicited by OP.

**2104 EXCEPTIONS TO THE SCHEDULE OF REQUIREMENTS:
NEAR METRORAIL STATIONS**

2104.1 The number of parking spaces required under 5 2101.1 for a nonresidential building or structure located within a radius of eight hundred feet (800 ft.) of a Metrorail station entrance may be reduced by up to twenty-five percent (25%); provided:

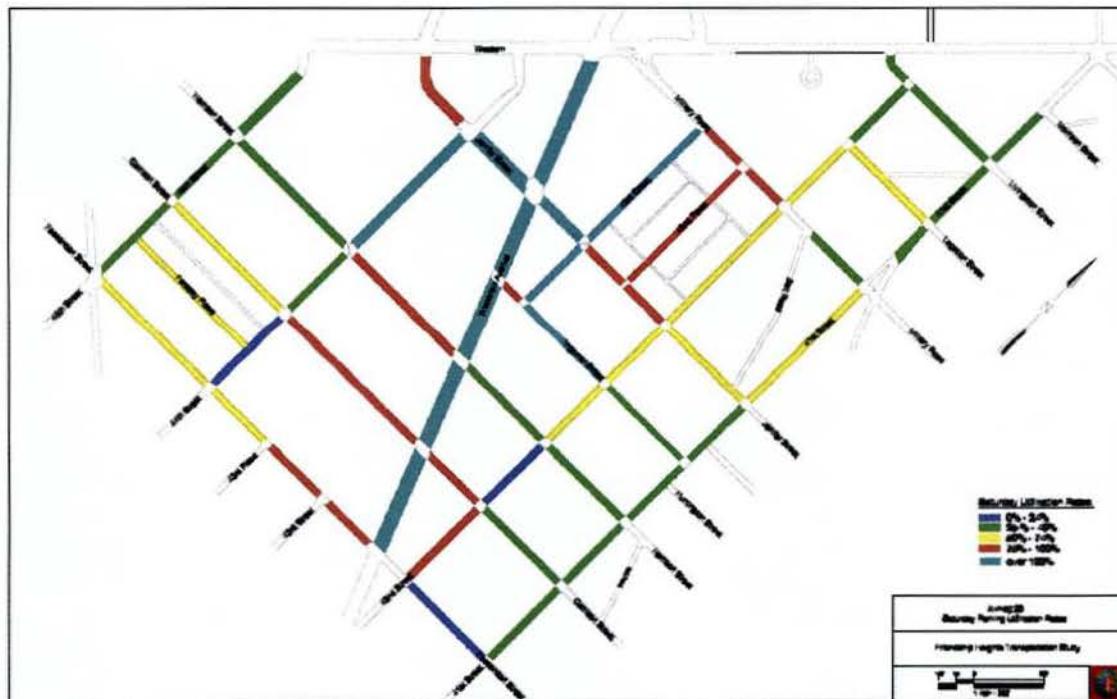
- (a) The building or structure is located in a nonresidential district and is at least eight hundred feet (800 ft.) from any R-1, R-2, R-3, or R-4 District; and
- (b) The Metrorail station is currently in operation or is one for which a construction contract has been awarded.

SOURCE: Final Rulemaking published at 31 DCR 6585, 6597 (December 28, 1984); as amended by Final Rulemaking published at 47 DCR 9741-43 (December 8, 2000), incorporating by reference the text of Proposed Rulemaking published at 47 DCR 8335, 8499-50 (October 20, 2000).

This has provided some protection for low- and moderate density neighborhoods near Metro, although spillover parking remains a serious issue. OP's recommendation to eliminate minimum parking requirements for new commercial and higher density residential development within a half mile of every Metro station will exacerbate existing problems.

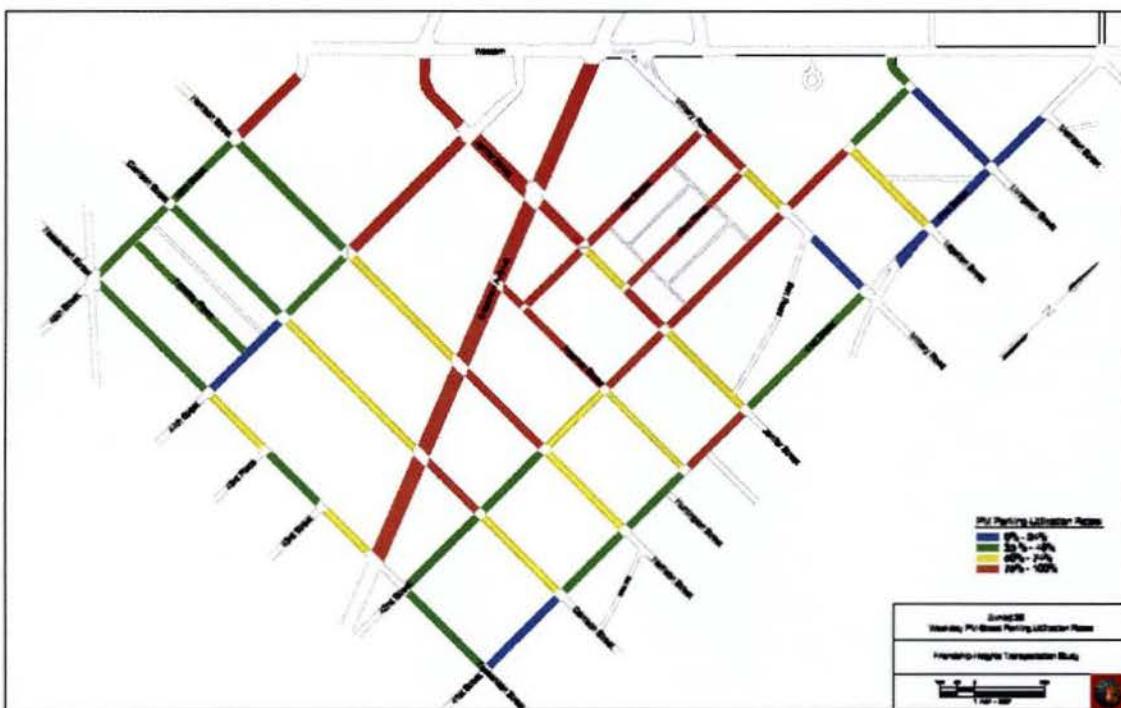
The following charts show DDOT's findings for parking utilization near the Friendship Heights Metro, showing high utilization rates, frequently exceeding 100%, for many blocks near the Metro. OP's recommendation, contrary to the clear language of the Comprehensive Plan, that all the commercially zoned properties in this area be designated as part of a TOD Overlay Zone, and that there be no minimum parking requirements in that area, along with the other provisions for the TOD Overlay Zone, would increase the number of blocks in the Friendship Heights neighborhoods that have excessive parking utilization rates.

FHTS: Weekend Parking Utilization Rates



Light blue indicates streets where parking utilization exceeds 100%, i.e. all legal spaces used with some additional cars parked illegally.

FHTS: Weekday PM Parking Utilization Rates



In addition, we have concerns about some of the recommendations for the requirements of the TOD Overlay Zone.

- (1) **Parking Maximums:** Imposition of parking maximums which are too restrictive can make projects less desirable to prospective tenants, and/or might cause parking spillover, which would negatively impact the quality of life in adjoining neighborhoods. Overly restrictive parking maximums, perhaps based on an unrealistic view of how well our public transportation system can meet all the needs of a building's residents, customers or employees, might deter development in some neighborhoods.
- (2) **Design Guidelines:** In creating design guidelines, it is important that these guidelines "get it right" and allow sufficient flexibility so as not to create an unnatural uniformity.
- (3) **Required Access and Orientation to Transit:** This might be appropriate, but it probably should be fairly limited in scope and flexible. The requirements need to be carefully drafted to avoid unintended consequences.
- (4) **Permitted Mixed-Use:** Many areas near Metro currently include zoning districts which allow mixed use. This is not the case in all the areas which OP proposes to include in the TOD Overlay Zone, and it is contrary to the Comprehensive Plan policy encouraging nodal development.

Policy LU-2.4.5: Encouraging Nodal Development

Discourage auto-oriented commercial "strip" development and instead encourage pedestrian-oriented "nodes" of commercial development at key locations along major corridors. Zoning and design standards should ensure that the height, mass, and scale of development within nodes respects the integrity and character of surrounding residential areas and does not unreasonably impact them. 312.9

Allowing mixed use for all properties along corridors which are planned for nodal development will undercut this goal.

(5) Minimum Bulk/Form Standards: These types of requirements, like parking maximums, can deter some development when profitable development on a smaller scale might be possible and profitable, but a building meeting this standard might not be profitable. Minimum bulk and form standards might also create an unnatural uniformity in the area.

(6) Maximum bulk/form standards: Maximum bulk/form standards are specifically mentioned in the Comprehensive Plan (Action LU-1.3.B, §306.19) for the TOD overlay district. That section calls for "maximum densities (inclusive of density bonuses)". This provision is critical, not just for TOD Overlay Zones, but for all areas where bonus densities are being considered.

(7) Bulk Transitions to Surrounding Residential Neighborhoods: As noted in OP's report, this is a recurrent theme in the Comprehensive Plan. The OP proposal to include tools such as angled height setbacks is useful, but woefully inadequate. In addition to using these tools, it is also necessary to maintain an area with intermediate zoning wherever it currently exists. This is critical in areas such as Friendship Heights, where a Regional Center is near a low density residential neighborhood. As a result of an interjurisdictional planning effort, this Commission adopted a zoning map which created a moderate density residential zone between the low-density residential neighborhood and the higher density commercial zones at the core of the regional center.

We ask this Commission to follow the clear language of the Comprehensive Plan and limit the mapping of the Transit Oriented Development Overlay Zone, and that this Commission carefully consider that some of the provisions, such as parking maximums, minimum bulk or required mixed use, might deter desirable development, and that other provisions, such as permitting mixed use for every property in the TOD overlay district, will undercut other important policies in the Comprehensive Plan.

The Office of Planning recommends the adoption of a "Green Area Ratio" ("GAR"), a point threshold system dealing with a wide range of environmental goals. It is not clear how the trade-offs available through this point system would work or whether this might replace other important zoning restrictions, such as limitations on lot occupancy, which partially address environmental issues, but also relate to the impact of a building on its neighbors. If a GAR replaces other zoning restrictions, this system might result in having open space that would otherwise be available at ground level eliminated because of the inclusion of a green roof.

The sample score sheet included in the OP report includes several calculations that will create perverse incentives and bizarre inequities. For example, in the sample, the developer calculates the land area excluding the public space, but is allowed to take credit for landscaping in the public space, including publicly planted trees in the public space. This inflates the ratio for buildings abutting a large public space, particularly those which include a substantial number of street trees. While this is simply a sample score sheet, it does demonstrate the difficulties involved in devising a fair and effective score system.

We hope that the Commission will make it clear that this type of provision does not replace other important zoning restrictions, and that, if it is to be implemented, it should be on a small scale, as a pilot, perhaps after evaluating its effectiveness in other U.S. jurisdictions, and only after careful consideration about how this system would interact with DC's other regulations.