GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF:

COMPREHENSIVE ZONING:
REGULATIONS REWRITE: LOADING:
Case No. 08-06-3:

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Thursday,
September 4, 2008

Hearing Room 220 South
441 4th Street, N.W.
Washington, D.C.

The Public Hearing of Case No. 08-06-3 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
CURTIS L. ETHERLY, JR., Commissioner
MICHAEL G. TURNBULL, Commissioner (AOC)
PETER MAY, Commissioner
RUTHANNE MILLER, Chair, BZA
OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary
DONNA HANOUSEK, Zoning Specialist
ESTHER BUSHMAN, General Counsel

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER
TRAVIS PARKER
MAXINE BROWN-ROBERTS

The transcript constitutes the minutes from the Public Hearing held on September 4, 2008.
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**CASE NO. 08-06-3 (Comprehensive Zoning Regulations Rewrite: Loading)**

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## Adjournment
CHAIRPERSON HOOD: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia for Thursday, September 4th, 2008.

My name is Anthony Hood. Joining me are Commissioners Etherly, Turnbull and May. Also we're joined by the Chairwoman of the Board of Zoning Adjustment, Ruthanne Miller. We're also joined by the Office of Zoning staff, Ms. Sharon Schellin, Donna Hanousek and Esther Bushman. The Office of Planning staff, under the leadership of Mrs. Steingasser.

This proceeding is being recorded by a court reporter. It is also Webcast live. Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room.

The subject of tonight's hearing is Zoning Commission Case No. 080-06-3. This
is a request by the Office of Planning for the Commission to review and comment on proposed concepts for text amendments to the zoning regulations.

This is one in a series of hearings on various subjects currently under review as part of the broader review and rewrite of the zoning regulations. Tonight's hearing will be considered general rules applicable to loading requirements.

Notice of the hearing was published in the D.C. register on July the 18th, 2008, and copies of the announcement are available to my left on the wall near the door. The hearing will be conducted in accordance with provisions of 11 DCMR 1301 as follows: preliminary matters, presentations by the Office of Planning, reports of other government agencies, if any, reports of the ANC, organizations and persons in support, organizations and persons in opposition.

The following time constraints
will be maintained in these hearings.

ANCs, government agencies and organizations, five minutes. Individuals, three minutes. The Commission intends to adhere to the time limits as strictly as possible in order to hear the case in a reasonable period of time.

The Commission reserves the right to change the time limits for presentations, if necessary, and no time shall be exceeded. All persons appearing before the Commission are to fill out two witness cards. These cards are located to my left on the table near the door.

The decision of the Commission in this case must be based exclusively on the public record. The staff will be available throughout the hearing to discuss procedural questions. Please turn off all beepers and cell phones at this time so as not to disrupt these proceedings.

At this time we will consider any
preliminary matters. Does the staff have any preliminary matters?

MS. SCHELLIN: No, sir.

CHAIRPERSON HOOD: Thank you, Ms. Schellin. I believe we'll start, I guess Ms. Steingasser, Ms. Brown-Roberts and Mr. Parker. Okay. All right. Thank you.

MR. PARKER: Good evening, Mr. Chairman. I'm Travis Parker with the Office of Planning. I can keep it fairly brief tonight. We have seven recommendations in loading for you, and the report details the public process up to this point.

Recommendation one has to do with the size of loading berths. One thing that we've notice din our work is that the loading requirements for uses tend to require a number of 30 foot spaces and a number of 55 foot spaces, and this is a hard-and-fast requirement, regardless of the business model that's being used, and often especially in areas that are nearer the downtown, 55 foot
trucks aren't allowed on the streets, or, you know, certainly can't get to these businesses, and it does not seem appropriate to require 55 foot spaces for all of these uses, but, rather, to just allow that type of space and require a space at thirty or more.

So the recommendation is that we maintain the number of spaces required but change the requirements from some at 30 and some at 55 to open the size requirements to the needs of the business.

Recommendation two would allow for sharing of loading facilities. We see often mixed use buildings that have both residential and retail, or office and retail, and under the current arrangements, unless one of these uses less than 10 percent of the building, the loading requirements of both uses have to be met separately.

This second recommendation would allow for the combination of those requirements as long as both uses had access
to the loading docks, so that loading facilities could be shared between multiple uses.

Number three is a carry-over from the parking recommendations that you reviewed in July, that would basically relieve the requirement for loading where there is no curb cut, or where DDOT policy would not allow a curb cut. This just basically avoids conflicting regulations that require a variance where a developer can't get a curb cut.

Number four. The location of loading areas. This would require that loading spaces either be inside a structure or be to the rear of a building and screened so as not to be visible.

One comment that we've seen from Bill Crews is that we should retain the requirement that loading be screened from residential zones and that was certainly our intent. We had no intention to drop that
requirement. So that should be read in as well.

Number five. Access to loading.

This is also the same requirement that you saw in the parking recommendations. In July, loading would be required to be off an alley, if an accessible alley exists. If no alley exists, a secondary road. If that exists, and only on a primary road, meaning a road of 90 feet or more in width, if there's no other access available.

Recommendation six has to do with trash enclosures and requiring that building plan show where interior trash enclosures would be on the lot, and again the comment that we received tonight from Mr. Crews was that this should--and we've received the comment from Ms. McWood as well--that this should be inside the building and should be completely enclosed and screened, and that is certainly our intent, to make that as well.

Although there are uses that will
have external trash receptacles, and we did
cover that, that those would need to be
screened completely.

And the final one is also
something that came out of our parking hearing
as well. In parking, we had discussed
changing the requirements to ensure that they
all follow the same standard and that they
were all based on a square footage measure
that was easier for the Zoning Administrator
to determine than number of employees or
number of units, or something like that, and
we felt it appropriate to carry that over to
loading as well, so that there is consistency
between the two.

That is it. The seventh one is
new from what we had originally sent to the
task force. The others are largely unchanged,
and we do understand that we had not sent this
memo directly to the task force but rather
just committed it to the public record. So if
there is a desire for the record to remain
open, we have no objections to the record remaining open.

Thank you.

CHAIRPERSON HOOD: Okay. Thank you very much, Mr. Parker.

Chairman Miller, do you have any questions?

COMMISSIONER MILLER: No; not at this time. I think I'd like to hear the testimony first.

CHAIRPERSON HOOD: Okay.

COMMISSIONER MILLER: Thanks.

CHAIRPERSON HOOD: Any questions, Commissioner May?

COMMISSIONER MAY: There's a reference in the report to something that has changed in terms of the size of housing units or dwelling units, that would affect the size of trucks.

MR. PARKER: Can you point me to that in the--

COMMISSIONER MAY: I'll try.
Yeah.

MR. PARKER: If you can't, what's the question?

COMMISSIONER MAY: Okay. It's page three of ten, second paragraph, middle sentence.

"The size of housing units within the city has changed and therefore the type and size of trucks used in transportation of furniture has changed."

MR. PARKER: Okay. I think what we're seeing throughout the different types of uses is more flexibility with the type of delivery that's used, both residential and--well, residential is one use where there are still companies that rely solely on large 55 foot trucks, but they aren't the only option, and certainly with business models, we're seeing different models that allow for two stage delivery. So delivery to a facility out of town where things are put into smaller trucks to be brought into the city.
I mean, we certainly want to leave that option open. If we require businesses or residential buildings to build a space for a semitrailer, then they have that available and they certainly have no reason to discourage semitrailers from coming to their business.

So we're looking for any opportunity to allow businesses and developers to discourage larger trucks from coming into the city.

COMMISSIONER MAY: Okay. My question was more specific to the issue of the size of housing units changing. It just seemed like this blanket statement, that somehow housing units are getting smaller or--cause I thought they were, as a rule, getting larger.

MR. PARKER: Well, we certainly see a lot of smaller units in the last 10 years than we've certainly seen in the past. There's a lot more studios, a lot more efficiencies.
COMMISSIONER MAY: All right. And then in your--I'm not sure that there's a lot of--I put a lot of weight in that particular argument.

MR. PARKER: Okay.

COMMISSIONER MAY: That reason doesn't seem like it's very well-supported yet. I am interested in this issue of the size of trucks, and what's appropriate, and you know, what can be done or encouraged in the regulations. But I'm a little bit worried about what that means in certain circumstances, because even though I think, generally speaking, it's correct that smaller trucks are--the use of smaller trucks is probably on the rise, there are still the big old CVS truck that pulls up out in front, an articulated truck with a 40 foot trailer, and they unload everything on to the curb.

And I mean doesn't happen everywhere but it happens in a bunch of those locations. So I don't think every business is
going with that new or smaller truck model. So I'm wondering if there is more specific research that supports this?

MR. PARKER: Well, there certainly always will be businesses--well, I don't know if there always will be--but there certainly are businesses, like you say, like CVS, that rely solely on the larger trucks and have not yet changed business models.

But other similar businesses don't operate in that same manner, and we can't zone strictly for CVS, and doing something like that, requiring businesses of that model to have 55 foot spaces would encourage the businesses that don't use smaller trucks to do, so we'd actually be--by providing more and more spaces, similar with parking, we'd be encouraging more and more larger trucks. We're not disallowing them.

If CVS wants to build a space, they can build a 55 or 70 foot space. We don't get them to do it now, so I don't know
COMMISSIONER MAY: I guess I would feel more comfortable in pushing the smaller truck model, if I knew that, in fact, there was a reasonable expectation that that truly is the trend, and that the trend is not, you know, toward the CVS model.

And again, it goes to, you know, what you found either in your research or in research others may have done.

MR. PARKER: Well, we'll certainly provide some DDOT--I know DDOT has done truck studies, especially in the downtown area, and have consistently pushed for stricter truck regulations in downtown. We'll certainly work with them to provide any more data we can.

COMMISSIONER MAY: Okay. Along the same lines, if there are methods to, you know, encouraging the use of smaller trucks, not that these would necessarily be part of the zoning regulations, but knowing what they are--I mean, right now, the feeling I'm
getting is that all of this is still very soft
and that there's a desire to have smaller
trucks and more manageable traffic, and yet,
you know, what is the incentive going to be
for businesses?

Is the only incentive going to be
the fact that we're going to make it possible
to build buildings with smaller loading docks?

I'm not sure that that's
necessarily going to encourage the result that
you want. Is there some other, you know,
incentive for businesses to go to smaller
trucks? Or is there something else punitive
that you could do? Or something else
regulatory, in terms of the delivery times,
and things like that, to handle that side of
the issue?

And so I'm looking for a more full
picture to support, you know, pushing the
smaller bays.

MR. PARKER: We can certainly do
that. I mean, just like with parking, the
only answer is enforcement, is on-street enforcement. We can force businesses to build eight 55 foot docks, and the truck driver, if given an option, will stop out front and unload from the street.

And often they do. So the businesses have to require the truck drivers to come in and the city has to be better about enforcing the laws in terms of no loading off the street and no double parking, and securing loading areas for these businesses where there is no off-street loading availability.

But we'll work with DDOT and try to get a memo from them to let you know what their enforcement policy is and what changes they have in store for that.

COMMISSIONER MAY: Okay. I'll move on to another topic.

You mentioned the fact that 55 foot trucks are not allowed in certain areas of the city?

MR. PARKER: It's my
understanding.

COMMISSIONER MAY: Okay. If that's a case, I'd just like to get a sense of where that is.

MR. PARKER: Okay.

COMMISSIONER MAY: And if it's not the case, that's fine too.

I also want to know for sure what the length of trucks is. I mean, we talk about 55 foot bays and we talk about 30 foot bays, but, you know, the length of a straight truck, I don't know is necessarily limited to 30 feet, and certainly a 55 foot truck, if it's got a 44 foot trailer on it, which I think is the limit, could well be quite a bit more than that, and so the truck's popping out beyond its bay. So I'd like to get a sense of what the actual trucks lengths are, not just the 1958 zoning version of it; whatever.

And one last point to clarify, and then there are a couple other points that'll probably come up in testimony, I think.
Would your recommendation under number five allow the construction of the Harris Teeter Capitol Hill that Bill Crews refers to? I mean, is that the way that something like that becomes possible?

MR. PARKER: Yes. We talked about that the other day. There are two primary streets on that, so there'd be no distinction on where they could build their loading. We're just saying where you have, say, a corner lot or a through lot, where one side of your building's facing a state street and the other's facing a smaller neighborhood street, the loading needs to come off the street with less pedestrian access, or less pedestrian activity.

COMMISSIONER MAY: The loading does.

MR. PARKER: Loading.

COMMISSIONER MAY: And the parking is going to wind up on the other one, cause you have parking on one side and loading on
the other.

MR. PARKER: Well, no, we're generally encouraging parking in the less-active space as well.

COMMISSIONER MAY: Right. But I don't think that's what happened at the Harris Teeter. I think they wound up--

MR. PARKER: Loading on one side and parking--

COMMISSIONER MAY: Loading on one side and parking on the other.

MR. PARKER: Again, they have two primary streets there.

COMMISSIONER MAY: Right.

MR. PARKER: So there's no distinction between those two streets.

COMMISSIONER MAY: Yes. Okay. I wonder if there's something else that can be done in circumstances like that, where there is something else that can be put in the regulations to encourage--something to mitigate the impact of the trucks, in
particular, going in and out.

And what I'm thinking about is the fact that trucks have to be backed into these spaces, and, you know, is there some way that we can encourage, you know, drive-through loading docks, if you will, the interior equivalent of an alley, or below-grade loading docks that we've gotten a couple a times on PUDs?

I'm just thinking if there's a way to mitigate that impact, it might be--

MR. PARKER: It's difficult just because loading takes so much space, and turning and maneuvering takes so much--I mean, you can only do underground where you have an entire city block, basically--

COMMISSIONER MAY: Right; yes.

MR. PARKER: --and you can only do drive-through where you have an alley access or a through lot of some kind, where you have two different streets which you can come in and out on. We'll look into, see if there are
other—we haven't found any of the other cities that do anything more innovative yet, but we'll look into it some more.

COMMISSIONER MAY: Yes. I guess I'm just thinking that, you know, if there's a way in how it's structured, or whatever relief would be required to encourage those sort of innovative solutions, it's an easier way through the zoning process. But maybe there isn't another way to solve it.

That's it for me. Thanks.

CHAIRPERSON HOOD: Thank you.

Chairperson Miller.

COMMISSIONER MILLER: I actually do have one question I wanted to ask.

You mentioned that the requirements for loading were going to be tied to area, or square footage as opposed to other factors such as number of employees, etcetera, like the parking requirements.

Can you explain to me the rationale for that and how that will serve to
protect from adverse impacts.

How does that--isn't that the point of some of the requirements for the loading?

MR. PARKER: It is but you lose a lot of that advantage when it's hard to determine or hard to enforce. Number of employees can change over the years, and go up or down. I mean, you may have one number of employees when you get your building permit and build your loading docks and you may have 50 more in another five years. But GFA is always tied to a new building permit.

So it's something that the Zoning Administrator can easily determine, can easily keep track of and can easily enforce. That's sort of the thought behind it.

COMMISSIONER MILLER: Okay. And, you know, I've been on recess this month. I don't remember. I mean, I know like with parking, it's very much tied with schools and institution like that, to employees, etcetera,
but as far as like loading goes for businesses or whatever, what was it tied to before?

MR. PARKER: Well, to be honest, loading is 90 percent, or more, tied to GFA already. There's only a couple instances where it wasn't. This is much less of a change for loading than it is for parking.

COMMISSIONER MILLER: Okay. Thank you.

CHAIRPERSON HOOD: Commissioner Turnbull, you have a question?

COMMISSIONER TURNBULL: I just have one. On number two, you talk about on page five, the recommendation requires the same number of spaces in general, but eliminate the separation of 30 feet and 55 feet, businesses would be able to build the type of spaces, either 30 or 55, that they need to operate without requirements that they use larger trucks.

Are we suggesting--and I'm thinking of like a PUD, when we get--we've
often had sort of a, call it a business plan, but they'll come in and argue.

I mean, we're still going to require a model that explains why their businesses don't need that kind of a dock. I mean, it's not just this is what we think we need and that's it. Or what?

MR. PARKER: In terms of matter-of-right projects, the business would be able to determine, if they're going to have 55 foot spaces, they can build a 55 foot dock. But if they're only going to have 30 foot trucks, they only need to build a 30 foot dock.

I mean, you'd still have your discretionary projects, and projects that are coming in for variances for other things, that would be reviewed. But matter-of-right projects, this would be a matter-of-right decision.

COMMISSIONER TURNBULL: So it's a matter-of-right decision that they simply say this is our business model and this is what we
feel we need?

MR. PARKER: They have to provide a certain number of loading docks, and it's up to them to decide what types of trucks they're going to have, or going to be using.

COMMISSIONER TURNBULL: And the number of loading docks is determined then by...?

MR. PARKER: Existing formulas.

COMMISSIONER TURNBULL: Okay. All right. I just wanted to be clear. Thank you.

CHAIRPERSON HOOD: Commissioner Etherly.

COMMISSIONER ETHERLY: Thank you very much, Mr. Chair.

Very quickly, Mr. Parker, and thank you for your overview. On recommendation number three, as relates to the DDOT determination of the applicability of a curb cut, have you encountered examples in other jurisdictions where similar practices have been adopted?
As you may be aware, in the submittal that we received from Holland & Knight, and quite possibly Mr. Sher my testify to it later, there was some concern expressed about the issue of standards with respect to how DDOT would go about arriving at such a decision.

Is there a model for that type of process that you looked to in making that determination to look towards DDOT for that kind of decision?

MR. PARKER: You mean is there a model of how that decision is made?

COMMISSIONER ETHERLY: That's a better way of framing it. Yes.

MR. PARKER: That's not something we got into at all. We're not able, or we don't want to go down the road of telling DDOT what their policy is, and then DDOT certainly doesn't want us to go down that road either. DDOT has policies now for how they determine whether a curb cut will be granted, and those...
policies may very well continue to evolve over time. We're saying that whatever those policies are, and we don't have any say over them, this shouldn't be in conflict with them.

So if it's in DDOT's interest to not allow a curb cut, we don't feel that an applicant should have to come in and get a variance when those two conflicts.

COMMISSIONER ETHERLY: Okay. With respect to recommendation number five and the issue of access to loading berths--and actually, let me back up a little bit, just to highlight again something that came up in your discussion with my colleague, Mr. May.

Definitely, it would be very helpful to have copies of DDOT's recent truck studies, truck management studies, and I think you indicated to Mr. May that you'd be more than happy to provide that.

With respect to the issue of access to loading berths, and this goes to that matter of what DDOT has already studied,
if you will, is there a sense of, as you run through that recommendation, there appears essentially to be a certain set of steps that you go through to get, to arrive at where the appropriate access would occur, whether it's an improved alley or a secondary street, and if you don't have one or the other, then you can move to the front of the building provided you get the curb cut.

And then of course if you don't get the curb cut, you can kind a come back to one of the earlier recommendations for relief.

There was some concern expressed in the ANC 6B submittal, and to an extent maybe this might sort of be the Harris Teeter question, I'm not sure--but is there a sense of how many situations like this would occur, where you would get to essentially that third level of review, the concern being that even if an alley is improved, it may not still be of sufficient size to accommodate a delivery vehicle, whether it's a smaller type or a
larger type?

MR. PARKER: Well, in writing this chapter, if this recommendation is, you know, accepted by the Commission in writing this, we'll have to work with DDOT to determine what those parameters are, what sort of turning radiiuses are needed, and what sort of alley widths are needed in order to make that a viable option.

And so when we talk about an accessible alley, we'd have to define what that means and what those are, and that'd be part of the language that would be written and returned to you.

COMMISSIONER ETHERLY: Okay. And then finally, with respect to the issue of trash enclosures, I understand, because I see it quite a bit of course, that especially perhaps in the downtown commercial corridor, trash operations being included in the loading space.

It just struck me as king of weird
to plop it here. And I think you articulated it a little bit, but could you perhaps just revocalize it for me, because I'm just trying to figure out why is it here, and is it somewhere else that it needs to go?

MR. PARKER: You mean another--

COMMISSIONER ETHERLY: Outside of the zoning milieu, if you will.

MR. PARKER: Oh, you mean another, like building code or something?

COMMISSIONER ETHERLY: Exactly.

MR. PARKER: It's an interesting question. These types of--this is a complaint that is often directed to the Zoning Administrator. This is something that the past two Zoning Administrators have brought to me as an issue, that they have to deal with, that there is no requirement to show trash enclosures, and applicants often don't plan for them. So it is something that I've been told needs to be reviewed at the building permit stage. It reasonably could be in
building code review, I suppose, but the
Zoning Administrator has shown a willingness
and a desire to include that in their purview.
And it certainly is done in other
jurisdictions that way.

COMMISSIONER ETHERLY: Okay.

MR. PARKER: So it seemed like a
natural fit for us.

COMMISSIONER ETHERLY: Okay.

Thank you. Thank you, Mr. Chair.

COMMISSIONER MAY: Mr. Chair,
could I follow up on that point.

CHAIRPERSON HOOD: That exact
point?

COMMISSIONER MAY: That exact
point.

CHAIRPERSON HOOD: Okay. Go right
ahead.

COMMISSIONER MAY: I would think
that one of the reasons why it's tied to
loading has to do with the fact that there are
big trucks that come and get the trash; right?
Cause, you know, you wind up seeing them, you know, outside of the buildings because they're not readily accessible, and they wind up, you know, outside beautiful, lovely new buildings, you know, kind a in the driveway or in the public space.

MR. PARKER: Basically, this is a requirement to force applicants to think about how they're going to handle their trash. Right now, it's not something that's in any of the zoning or building codes, so it's not something that's--it's something that some people forget to think about when they're planning a building.

CHAIRPERSON HOOD: Okay. Mr. Parker, I just have a few questions. Actually two, I believe. More of a process question. I saw a e-mail which stated that something was not listed up on the Web, I guess for people to participate, and I guess for the record, can you assure us, or me, specifically, that the task force who is working, I guess hand in
hand with Office of Planning, was not put at a disadvantage to be able to comment, because I guess they already had--did they have your report?

Assure me that they were not put at a disadvantage.

MR. PARKER: Recommendation seven was an add-on based on the parking discussion, to be consistent with parking recommendations. That is not something that was independently sent to the task force, or reviewed by the task force, although it was part of the parking discussions and was hopefully assumed. But regardless, number seven is new. The other six are the recommendations that were reviewed by the task force and have been on the Web as recommendations, albeit maybe in different form. But these are the six recommended changes that had been discussed earlier.

And as I said, we're happy to leave the--I mean, we will need to leave our
record open to answer a lot of the questions that have been raised tonight, so four weeks, or some reasonable term of the record being left open for additional comments is more than reasonable.

CHAIRPERSON HOOD: And once we get to the end and we start looking at texts, there's some comments here that I want to make sure do not get left off. Again, I'm thinking process more oriented than anything. And I guess we'll find out with the one that we have coming on Monday.

I just want to make sure that recommendations from task force, ANCs and the public is not lost through this whole process, because, you know, you may make a recommendation in text and we may not adopt it fully and want to include something that someone may have had an idea, and I'm just concerned. I'm speaking for myself now.

You know, we had some testimony and unfortunately some of it was given to us,
and I have not had a chance to look at it. And some of them, probably some great ideas, all of them are great ideas. Some of us may want to adopt them, include it in what we have, and I want to know if the Office of Planning will assist us in making sure some of these things will not be lost.

MR. PARKER: We will do our best. You can keep in mind, there are basically going to be four times to comment on these, three of which we can help you with. There's a working group process, and during that process we collect comments, and we work with the working group on a lot of issues, and those become part of our recommendations or become issues that we'll talk about in our report.

We work with the task force on our recommendations and we collect comments from those. And the same thing. We will often make change to our recommendations, or we will, you know, keep track of issues that
the public online review, and we collect those comments, and we will put those in our report as issues that have been raised and we'll address those. The fourth, though, are issues that come in directly to you, either during that public comment time or after we issue our report. I've got several comments from outside, that today is the first time I've seen them, and those obviously aren't in our report, and those we can't at this stage help you collate but we'll certainly take those into account between now and our next deadline.

CHAIRPERSON HOOD: Thank you, and I will say, I'm really glad to see this new business model. I think in some areas we're definitely aware--I know of one, in particular to encourage smaller delivery trucks. So just hopefully keep moving that forward.
Okay. Any other questions?

[No response]

CHAIRPERSON HOOD: All right. Do we have a sign-in sheet? Actually, I think I know everybody in the crowd. We'll just call everybody up. Mr. Sher is in support. Ms. Zartman. And Ms. Hargwood.

There's so many people out there, I'm getting mixed up. There's too many numbers. So all of you all can come forward, please. And I think normally we do ladies first, but Mr. Sher is in support, so we're going to start with you, Mr. Sher. Then Mr. Zartman and then Ms. Hargwood.

MR. SHER: Mr. Chairman, members of the Commission, Ms. Miller, my name is Steven E. Sher. I'm the director of zoning and land use services with the law firm of Holland & Knight. I have given you an outline with some comments, some of which gnaw at some of the details and suggest some areas for clarification as you go along, recognizing
that we're not looking at text but at concept.

There are still some things, in the way they're framed, I think you need to think about how those apply. Let me try and sort of deal with the high points of what I've written here, and what I heard some of your discussion was before.

We're in support of the idea that 55 foot loading berths be reduced to 30 foot berths, and I would say that especially for apartment houses, for residential buildings. This Commission has seen in PUD cases, and the BZA has seen in a number of variance cases, that 55 foot berths are probably not required for the normal apartment house size, and the square footage of the units, and therefore those can be accommodated with smaller berths, and the size that a 55 foot berth takes up on a floor plate, depending on the size of the building and all that, can be a problem in a lot of cases.

The idea of shared loading is a
concept that we support. We raised the
question in the parking hearing, and I'll
raise it again tonight. The idea that DDOT is
going to be able to preclude somebody from
having either parking or, in this case
loading, because they say we have a policy
that says you can't have a curb cut on that
street.

That policy is so hard to fathom, and written anywhere, that I can find, that
says where we can have a curb cut and where we
can't. Generally--and I hate to say this for
the record, I'm not a lawyer--but my general
understanding is if you front on a street you
have some rights of access to that street. If
you don't front on an alley, if you don't
front on any other street, I think
constitutionally, and I'm going to put that in
quotes because, again, I'm not the expert on
the Constitution, I think you're entitled to
access, and I think it would be difficult, if
not legally impossible, for DDOT to say no,
you can't have access anywhere. And so that's problematic for me, and I think it's something that needs to be coordinated between what you guys decide and what DDOT's real authority is there.

The question of this hierarchy of access, if you have an alley you've got to come in off the alley. If you don't have an alley, you've got to come in off the side street, and if you don't have a side street, come off the main street.

To me, I thought that's too rigid a hierarchy. I mean, as Mr. Parker indicated, you've got to decide what actually is an accessible alley. How wide does it have to be? Can you make turns for a 30 foot truck, a 55 foot truck, whatever it is? If you can't get in there, it's in effect not having it, but if somebody says you have to go in that way, you know, what does that mean?

Alleys may sometimes direct traffic to the rear of a property, which seems
like a good idea, but what about when the rear of the property on the other side of the alley are houses? Do you really want the trucks going through the alley? Or would you rather have the trucks coming in off the street, and not impacting the properties that are across the street?

But it just seems to me to be too rigid a hierarchy and not have enough flexibility in it.

I did ponder the same thing, I think, that Mr. Etherly did, about whether the idea of trash receptacles is something that appropriately belongs in the zoning regulations, and if it does, is it part of the loading requirements?

I understand that we need trucks, but--and I certainly wouldn't have a problem if the regulation said your trash receptacles can't occupy the spaces that are required for loading. Right now, they can't be in a loading berth anyhow. But if they're being
put in a loading platform and that's a problem, I don't have any problem if you say don't put them there. You've got to have your own dedicated space for your trash receptacles.

The question of the making loading based on square footage rather than some other unit of measurement. In fact, the only other unit of measurement used is for apartment units and hotel rooms. There's nothing based on employees for loading. There's nothing based on any other unit of measurement other than square footage, except apartment houses, 50 units or more, and hotels based on number of sleeping rooms.

To me, it just--I would say that the number of units, or the number of rooms is more likely to be an accurate measure of activity that might result in loading and square footage for those particular uses, but I don't feel strongly about that, one way or the other. I honestly don't know whether
there are studies that would show whether the
correlation is better off square footage or
off units.

I guess I'm done.

CHAIRPERSON HOOD: I tell you
what, Mr. Sher. Since we only have--I'll give
you a minute to finish up. I know it's a lot
of time--

MR. SHER: I have some general
conclusions at the end but I won't state
those. But there was one other point that--I
did want to make this point, and I know that
it's been made by some of my other colleagues
on the task force, in at least the parking
discussions.

The task force has never, and
doesn't take positions on these things. We
don't vote, we don't come to any collective
understanding of the view of the twenty or so
of us who sit around the table on any given
evening.

We talk about these things and we
don't always agree on them. Sometimes we do; sometimes we don't. That becomes input to OP, and what you are getting is OP's recommendations, not the task force.

So we're a part of the discussion process but the task force is not and is never going to make a recommendation to you about whether something should be done this way or that way.

So I just wanted to make that clear for the record, and I think that's been stated before, but I don't think I've ever stated it before.

I think that's it.

CHAIRPERSON HOOD: Okay. Let's have questions with Mr. Sher, and Mr. Sher, let me just say that I understand that my only issue was--most of this stuff I had here earlier. I know members of the task force. But at least my comments to Mr. Parker earlier, I just didn't want what we've got here individually to get lost in the shuffle
of things, and I understood that the--if that
was in response to my question to Mr. Parker.
If it wasn't--

   MR. SHER: It was just a general
observation.

   CHAIRPERSON HOOD: Okay. Okay.

   All right.

   MR. SHER: It was just a general
observation about what the task force is
doing. I think it was more in response to Mr.
Parker's comments than it was to yours.

   CHAIRPERSON HOOD: Okay. Okay.

   All right. That's good. It was very helpful.

   Commissioner Etherly.

   COMMISSIONER ETHERLY: Thank you
very much. Very quickly, Mr. Sher, and
recognizing this may be well beyond your scope
of expertise. The trend towards smaller
delivery vehicles. Without characterizing
your client base too much, you tend more
frequently to deal with developers and
property owners.
Do you have a sense or a feeling for where that trend is heading, and whether the spirit of some of these changes kind of are moving in the right direction consistent with that trend?

MR. SHER: Certainly in terms of apartment houses. Our experience with our clients who are developers, for the most part, on those buildings, they're not finding the need for 55 foot trucks and believe that a 30 foot size loading berth would be adequate to accommodate the move-in, move-out needs of most residential buildings.

On the other hand, we have dealt with a number of grocery stores lately, and the grocery store operators are very emphatic. They want 55 foot berths. And I think as Mr. Parker was saying, there's no reason they can't provide a 55 foot berth if the requirement is a minimum of thirty. Fifty-five is more than thirty.

But we're working on a project
known as Constitution Square up in Northeast, on 1st, between M and N Streets, and there's going to be a full-size Harris Teeter grocery store on the first floor of the first apartment building there, and it's one of those sites that's big enough to have one common loading area serving the whole thing, and there are like 12 or 13 loading berths in that thing serving a couple million square feet by the time it's all done. And there are 55's and 30's and 20's, and it all depended on who needed what.

And I've been involved in a couple of other places where grocery stores were either--had signed on or were being wooed to come into a development, and the designs of those developments very much had to take into account giving them size berths that they want. They think they're in demand, and they probably are, and they think they have the upper hand, and maybe they do, and they say you don't give us a 55 foot berth, we're going
somewhere else.

So for that type use, that's, I think, going to still be required. Office buildings, we don't require 55 foot berths for the most part, and, you know, the big move-in, move-out of a major tenant in an office building is likely to have a whole bunch of 55 foot trucks doing that.

But once it's in, the service needs on a daily basis are generally 30 foot. So since the move-ins tend to occur at off-peak hours, on the weekends and what have you, that happens and it doesn't to be a huge problem for anybody. You know, the deliveries, the FedEx pickups and the shredding guy, and all the rest of those, they don't come in 55 foot trucks.

COMMISSIONER ETHERLY: Okay. My last question, with respect to both recommendations three and four, one, the relief of the loading requirement and four, the location of loading areas.
Taking to heart some of your concern about the DDOT role and the issue of the curb cut policy, or lack thereof, or the fact that it's not written, do you see any application in either one of those recommendations for either a special exception relief valve, or some other valve, not suggesting that I'm in the mood to see it introduced.

But are those tools that could be helpful in addressing the concern that you raised with respect to the DDOT curb cut policy in number three, and then, to an extent, part of what I was getting at, I believe, in recommendation number--well, actually, it was recommendation number five, the issue of that hierarchy.

I'm just trying to find a way that if, to use your express, it gets too rigid and too hierarchical, is there some room for application of a relief valve so you're not stuck with it?
MR. SHER: I think the biggest problem is one that Mr. Parker pointed out, which is the coordination, because if the zoning requires something and the BZA can give relief, but DDOT says we're not going to give you curb cut anyhow, then it almost doesn't matter because the board can't force the issuance of a curb cut.

And I don't think either Office of Planning and I don't think I, even though we make our living out of that, would necessarily want to send people to the BZA, much as we love seeing you every Tuesday.

If we can write a regulation that makes some sense, I think we ought to do that. But before you can write something that makes sense, I think you, as a Zoning Commission and a zoning authority, need to have an understanding of what DDOT's policies really are, because Mr. Parker at one point said something I hadn't heard before tonight, which was that a street that was 90 feet wide was a
primary street.

I didn't think every 90 foot wide street was a primary street under DDOT's highway classifications. You know, they've got the map that shows arterials, collectors, and whatever, and I could think of many streets that are downtown, that are 90 feet wide, that I wouldn't necessarily think are primary streets but maybe they are.

And even streets in residential neighborhoods are frequently that wide, and I don't think they're primary streets, but again, that would be a discussion that we need to understand from DDOT, how do they classify these things and how do those decisions get made, and I think you need to understand that if you're going to rely on those requirements to govern what are in your regulations.

COMMISSIONER ETHERLY: I would agree with--no, I would most certainly agree with you, again, clearly with the understanding that we're not looking at hard
and fast language now, just to an extent more or less conceptual.

I would suspect that some of the concerns that we may very well of course hear from other witnesses, and some of the concerns that I have, because I see it in my own vicinity of Capitol Hill, is that issue of how do you ensure that the rewrite doesn't have the unintended consequence of pushing more of this traffic into our residential streets.

Okay. Thank you. Thank you.

MR. SHER: I hate to say that some 10,000 years ago, when I wrote my master's thesis, it was on the secondary effects of zoning on the environment.

COMMISSIONER ETHERLY: Can we get copies of that?

MR. SHER: Unpublished. Thank God.

COMMISSIONER ETHERLY: Unofficial request. Thank you, Mr. Chair.

CHAIRPERSON HOOD: Mr. May.
COMMISSIONER MAY: I guess I'm still "hung up" with the DDOT issue, and, you know, I really do appreciate your analysis and the comments that you had, and I hope that the Office of Planning will pay attention to some of those things, cause I made some similar notes. I won't go into those in great detail, about the issues, but I think that Office of Planning will pay attention to what you've written.

On the DDOT question, I guess, generally speaking, is it a matter of just making an application for a curb cut and then, you know, getting a verdict, and sometimes it makes sense and sometimes it doesn't? Or is it a normal, rational process, and there's an avenue of appeal, and, you know, the way good government should work? Or I mean, how does it work?

MR. SHER: The real world is more like the former than the latter. You file an application for a curb cut. You see where it
goes, who gets it, what they say about it, and you try and work it out. That's what we do for our clients, and as I said, if there are written policies that talk about how they're going to make--I mean, there are obviously certain policies about how far they have to be away from curb intersections, and how, if you have a certain width of driveways entering on to a street, there has to be a safety island when it gets to be bigger, so that there's a pedestrian refuge in the middle, and think it's more than 25 feet, or something like that.

But whatever. There are certain requirements like that. But whether you can actually have a curb cut at a particular point--I'll say it for the record--it often seems to be whimsical, and to know whether there's a basis for that is sometimes hard to figure out. You know, we've got engineers and we have traffic consultants, and we have planning experts, and we have developers who
think they know everything. And sometimes they know more than we do.

And then there's always a legitimate public purpose to be served by governmental review. That's clear. But in the absence--one of the things I've always liked about zoning is I can look at the book and I can see what it says. You know, if it says I need to have a side yard of eight feet wide, then I know I need to have a side yard eight feet wide. Now what happens when the lot's on a skew and the building's straight, or the building's on a skew and the lot's straight?

There are always things that you have to know. But when you get in this area of rules that are out there, that aren't available to somebody to understand and look at, I get--personally, that's bothersome to me. And if you've got--if the Commission is going to incorporate into its regulations discretionary standards by somebody else, I
think you need to have a pretty good understanding of how those standards are going to be developed and applied.

I'm very sympathetic to that puzzle and I think that what's being proposed is a bit problematic, because what we're saying is that the current policy for how you get a curb cut is, you know, it's like a puzzle piece, and it's got a certain shape to it. And what we're saying now is that rather than the zoning regulations being cut to fit that puzzle piece, we're just going to draw a square around it and stay out of that square. And I don't know that we really want to just stay out of the square.

I'm not sure that we can truly figure out what the puzzle piece is shaped like, but I think that we ought to make every effort to find that out, and that we should tailor the regulations to fit that, so that it is reasonable.

Because I think that there are
things that we can do to, you know, without
stepping on DDOT's toes, to conform zoning
regulations so that the make sense, and give
guidance to the BZA when they have to consider
cases where it doesn't work.

I also think that it's not, you
know, it's not unreasonable to require certain
output, if you will, from DDOT, in
circumstances where a variance or an exception
might be necessary, a determination of some
sort that's signed off by the director of
DDOT, or what have you.

I mean, it's common to do things
like that in other areas of the government,
this government, the Federal Government, I
mean, to get a fairly definitive word from
somebody high enough up, that opens the door
to getting this other relief.

So those are just things I think
that we ought to think about. Thanks.

CHAIRPERSON HOOD: Chairperson
Miller.
COMMISSIONER MILLER: I just want to comment from what I've observed in the BZA hearings, and it's similar to what Mr. Sher is saying. It sounds like DDOT has specific policies for certain things such as distances from an entrance or something like that, and that is something that I think they could put in writing, if it isn't in writing, and it's understandable.

Then I've seen that there's discretion in other cases, where we've had a witness from DDOT saying, you know, they may or may not recommend a curb cut, and that if the BZA thought there should be one, they'd probably go along with the BZA.

So I don't think it's necessarily that clear, that in discretionary instances, zoning should necessarily defer to DDOT. I'm not sure. I just think that that's something that you might consider.

CHAIRPERSON HOOD: Commissioner Turnbull.
COMMISSIONER TURNBULL: Thank you, Mr. Chair. I have a question for Mr. Sher, just comments that--and you've sort of reminded me of, and I think we are expecting something from DDOT on alleys, on whether an alley can be used or it can't be used, and how accessible it really is.

I think we had a project, I think it was a Holland & Knight project, where we had an alley, and I think you had two schemes. It was on M--was it on M Street?

MR. SHER: Yeah. New Jersey and M, Southeast.

COMMISSIONER TURNBULL: Right. And you begged of us, don't approve one or the other, cause we don't know if could get the M Street--I think you had to come in from the north end on the alley, you had a loading dock or whatever, and it was a very convoluted scheme. But again, as a Zoning Commission, it's a conundrum for us. We see the merits of what you're trying to do, in the planning it
makes sense, but there's no way that we could approve the one on M Street knowing that DDOT had already said we're not going to grant you that, although it made, in that case, perfect sense.

And I think in that case, and there was another one after that where I think DDOT had promised to come up with something on alleys, in either grading them or scaling them, or telling something, what could be used. I don't think we've ever received anything.

But even then, if it becomes a discretionary thing on their part, how does an applicant go ahead and make a rational decision on how it's going to lay out his project? Again, that's one of the things that we're sort of at the tail end, and they're jumping through hoops.

I don't know how we--I guess this is a question to Office of Planning. Again, it's getting back to the information coming
back from DDOT that would further explain, or
give us some guidance as to here's their
grading, here's what's going to be in
accessible, here's what--how do you say how
much an alley can take as far as traffic? And
I don't know how you base it--I mean, it's a
conundrum.

CHAIRPERSON HOOD: You know what,
Mr. Turnbull. I'm glad you brought that up.
First of all, everything's starting to run
together for me. So I'm not sure. Did we
deal with that case yet? We did? And I think
we gave it flexibility. So we did give it
flex--and I think Commissioner May--and I'm
going off my memory, which is a terrible thing
to do--I think Commissioner May was the one
who requested that of DDOT, and that's been a
while back.

So even though it's not pertaining
to that case, I will ask Office of Planning if
you can go and get that for us. I'm not
exactly sure. If you could work with Ms.
Schellen and see exactly, whatever that was we asked for.

I know at the time, it sounded like a good tool for us to use and look at. So it's not relevant to--well, it has some relevance. So I thank you for bringing that up. But Office of Planning, if you want to respond to Mr. Turnbull, or if you want, to make sure we get that piece from DDOT.

MR. PARKER: Yes. That will certainly be part of the discussions that we have with DDOT over the next few weeks, and what we bring back to you is both their thoughts on alleys and any work they've done on what makes an alley accessible. And also we'll try and get them to put into some writing, or give us their thought process on curb cuts as well.

COMMISSIONER TURNBULL: Thank you. I wasn't really expecting an answer right away. I mean, I guess it was more of a--we've had a couple of things tonight that says we've
got--there's another player in this, that we really, we can't--we need to work with them somehow, but it would be good to come to a consensus as to what we're all looking at, so that we're on the same page as them, and they understand what we're trying to accomplish.

CHAIRPERSON HOOD: Okay. Any other questions?

[No response]

CHAIRPERSON HOOD: Okay. Let's move to opposition. We'll start with Ms. Zartman and then we'll go to Ms. Hargwood.

MR. SHER: Mr. Chairman, may I ask, may I be excused?

CHAIRPERSON HOOD: Sure. You have somebody--you want to go see somebody, huh?

MR. SHER: No. I don't. Actually, I have a date with the spouse.

CHAIRPERSON HOOD: Oh. Well, go right ahead. I was just going to tell you that, seven nothing, so don't rush.

MR. SHER: If the Nats are losing
that bad already--

[Laughter]

CHAIRPERSON HOOD: No. I mean the Redskins. But that's fine.

MR. SHER: Thank you.

CHAIRPERSON HOOD: Thank you.

Ms. Zartman.

MS. ZARTMAN: Actually, I should say this is one of those cases where I wish there was an intermediate step between proponents and opponent. As we said in our comments on parking, we can endorse almost everything that Steve submitted as a proponent, and we were opponents. So it's a lot--is subjective. However, there are things that we are troubled by in the proposals that you have before you tonight.

You've seen the testimony that the Committee of 100 submitted, so I won't bore you by reading it. I will make a few comments about both process and--

CHAIRPERSON HOOD: Ms. Zartman,
can you hold one second. Can we stop the
clock.

    MS. SCHELLIN: We have checked the
record. We don't have any comments from you.

    MS. ZARTMAN: I both had them
couriered over and I e-mailed them to you.

    MS. SCHELLIN: Well, e-mail I'm
not going to do anything with, cause we can't
accept it by e-mail, but--

    MS. ZARTMAN: No, but I mean it
was in both formats in case it was easier for
you to handle as an electronic letter.

    MS. SCHELLIN: Donna has checked
the record, and for some reason, either--maybe
it got misfiled. Do you have your copy in
front of you with the case number on it?

    MS. ZARTMAN: I don't have my--I
never thought it wasn't with you since it was
couriered over at noontime, and I think Travis
was even copied in on the e-mail.

    MS. SCHELLIN: When did you send
it?
MR. PARKER: I haven't received it.

MS. ZARTMAN: It was on the morning of Friday, the closing date for filing.

MS. SCHELLIN: We checked today only because Mr. Crews I believe made reference to your report, and we figured, well, she must be bringing it tonight, he must have it. So no, we don't have it.

MS. ZARTMAN: You're going to get it.

MS. SCHELLIN: But I will go check my e-mail, see if I saved it.

CHAIRPERSON HOOD: Hopefully, that means that we're going to get the copy; not "get it."

I think--Mr. Parker, have you seen it?

MR. PARKER: No.

MS. ZARTMAN: I truly don't know how to explain it.
CHAIRPERSON HOOD: What we can do, we'll hear your testimony and we'll follow you. I know we like to make marks on the paper, at least I do, but we'll follow you in your testimony.

MS. ZARTMAN: I fully understand. That I'm a note-taker myself.

CHAIRPERSON HOOD: Okay.

MS. ZARTMAN: I don't know what went wrong. That's never happened before.

At any rate, what you would have read, if you had gotten it, would be a reminder that the task force was working from a limited review.

We were to deal only with lot and square, private property, many of the things that are being discussed tonight were outside the purview of the task force as those of you who've been at the meetings know.

It was for that reason that we recommended that the Commission hold a roundtable on parking with those other
elements of government that deal with public space, could be present and provide you with the policy framework on which you could base your decisions about the direction in which parking regulations, and I would say loading regulations should go.

I would hope that that is something that can at least be considered, because tonight has proven to me that there is still a great deal that is not on the table, and that will shape the impact of the regulations.

As was mentioned earlier, I'm sorry to say that our comments do not include the latest report from OP. I did not see that until last night, and I was Old Georgetown board hearings all day today.

As to the specific recommendations that we did know about, I don't understand the issue of smaller loading berths, or the suggestion that you can ban certain size trucks in certain parts of the city. There
are already existing large loading bays for 55
footers, for 18 wheelers, and they are going
to continue to be served by large vehicles.

It would be unreasonable to suggest that business is using those perfectly legal loading bays, would tolerate being told that they can only use smaller vehicles.

As a matter of fact, at one of the working group meetings, Ellen Jones, representing the downtown BID, said that it was their conclusion that what was needed downtown were 100 foot curbside loading zones, so that trucks would pull in, unload, and pull out without having to park.

That was kind of a shocker but it certainly would go against the suggestion that smaller and smaller trucks are being adopted for use.

If you allow the developer to have total discretion, he or she may actually compound the problem by building only a 30 foot dock when, in fact, larger capacity is
needed, knowing full well that access to the
public space will ultimately be there,
compounding the problem.

Second, regarding shared loading
facilities, I think it's a wonderful idea, but
they should be protected with a covenant
that's acceptable to the Zoning Administrator,
not a simple agreement.

We all know the world of business
too well to pretend that there aren't
circumstances in which once cooperative
business partners no longer share the same
goal, and somebody wants to get somebody else
off a lease, and scheduling your loading can
be a very complex matter under the best of
circumstances.

The third recommendation, about
DDOT relieving the requirement for loading,
despite my great appreciation, sincerely, and
admiration for the work that you all do, I
don't believe the Committee of 100 could
accept an approach that sacrifices DDOT or
zoning standards in order to avoid zoning hearings.

A standard that presumes all applicants will be approved, one way or another, or one that sets transitory goals above the stability of residential neighborhoods.

This presumption that all applications will be accepted, one way or another, there are certain programs that simply should not be allowed to operate in certain places, and there is language that seems to suggest there will be a way to accommodate the use, one way or another.

I'm delighted to hear Travis say that there will be screening for residential areas. There may also need to be distance standards set, especially near food stores, restaurants, other places that are, I'm sorry to say, in just about every part of the city, home to vermin that are unwelcome visitors to anyone's home and property.
And I know, because Georgetown has lots of them.

The fact that there are no definitions for recommendation five makes it very difficult to assess impact. It was expressed during the task force discussion. There was concern that adequate protections for residents along the streets leading to commercial areas be put in place. They shouldn't be burdened with heavy commercial traffic in order to support the goal of more pedestrian-friendly environments. Street widths and turning ratios alone are inadequate standards.

The square foot basis still gives me pause. Obviously, I didn't see this recommendation until hearing about it tonight. Do I have to say the term, Papa John's? Square footage, minimal impact. 18 wheelers delivering frozen pizza from North Carolina. There's no correlation between the impact of that commercial operation and the square
footage of the operation.

It may be the GSF is the way to go, in general, but there is an alternative additional standard that can be incorporated to deal with particularly heavy impact, especially near residential neighborhoods.

These proposals also don't deal with historic properties, and I think it's critical that we know how it's intended that they be handled, either individuals or historic districts.

CHAIRPERSON HOOD: Ms. Zartman, we're going to give you a minute, the same thing we gave--

MS. ZARTMAN: One more minute?

CHAIRPERSON HOOD: To finish up.

MS. ZARTMAN: I'll be done by then. In particular, the question of expansion of a historic property. If a significant expansion of any other building is a 25 percent increase in its capacity, that should be the standard for triggering a review
in a historic property. You're going to add 25 percent to the bulk of the property.

Design considerations are handled by other bodies, and I think the issue for you is simply whether something constitutes a significant change that could merit reconsideration of loading as with parking requirements.

Also, I didn't see anything that was a follow-on to something mentioned in earlier documents about lighting these facilities. It can be extremely intrusive and it certainly ought to be part of what's presented to the public.

Well, that was more formal than I intended to night, but the Committee's statement will be in your hands, shortly.

CHAIRPERSON HOOD: Okay.

MS. SCHELLEN: Just to clarify, Ms. Zartman, what we got was the parking.

MS. ZARTMAN: They were in the same envelope.
MS. SCHELLIN: Well, we just made a copy of it, and it all says parking. There's four pages.

MS. ZARTMAN: Both pieces were I believe three pages with a cover letter. They were in the same envelope. You will have it again tomorrow.

CHAIRPERSON HOOD: Okay.

MS. ZARTMAN: My colleague has lost her glasses.

CHAIRPERSON HOOD: Okay. We'll work with that.

MS. ZARTMAN: We tend to see things the same way.

CHAIRPERSON HOOD: Before we ask questions, Ms. Zartman, if you can cut your mike off. We're going to go to Ms. Hargwood.

Is there anyone else here--I see one young lady--that wants to testify or say anything? Okay. So we'll hear from Mr. Hargwood and then we will ask our questions.

Ms. Hargwood.
MS. HARGWOOD: I appreciate the discussion tonight, that would try to relate the zoning regulations to reality out in the real world. I think that's very important in trying to make these decisions and I'm very concerned that we have not quite done an adequate job of it. And I also appreciate the conversation about interagency arrangements that should be made on these matters, and have suggested that we act a little bit like other cities.

You know, other cities have deputy mayors and also city managers who are convened for the purpose of trying to bring together various agencies to come together, with an understanding of how things will be processed. And I think it's that we should insist that something like that be done for situations like this. There's just no excuse for this continuing problem that is going on. And I don't think that in the process, that the answer is to in any way reduce our standards.
And I want to start with something on another page, which is the whole issue of defining what a primary and secondary street is.

For purposes of trying to decide how to use those street designations for determining where you would locate areas for loading type services and delivery services, are loading berths, which are two different things, and are not properly distinguishable in this draft. Then you would need to have a whole set of criteria that would be involved.

Like the street widths that are involved, whether or not the trucks can make it, the turning radius satisfactorily, whether they're residually zoned, whether they're one-way streets, whether the whole square is bounded by primary streets. How do we define that?

And once those criteria are define, that's the basis of the definition, not something like the height act or how DOT does it, because both of those have limited
definitions in terms of usefulness, in terms of making a decision about where these facilities should go.

So I think it really deserves some attention and would urge the Office of Planning, for example, to get together with DOT to take a look at some of these streets, and then come up with a criteria for your review, that would help you make a decision about what we mean when we say how we will locate these things.

Cause I think some of the issues have been raised tonight about the difficulties we can get into.

But I also want to raise, quite quickly, the historic issue that Mrs. Zartman has raised, and that goes to the fact that there's confusion in the code, because we have different standards in the parking regulations than we do in the loading regulations.

We've got a parking regulation that you guys thought was a good idea to raise
the exemption to 50 percent for historic properties. Many of us very adamantly disagree with that because we are aware, for example, that there are many churches, and there are many schools that are going private-partner, you know, private-public partnerships, many entities that are very large, that sit in the middle of residential zones, that would be excused from having to provide loading.

Can you imagine that? No loading facilities required for these additional uses at a high percentage of use? In our case, you can take the Hilton hotel as an example, which has recently been designated a landmark. It will not have to provide additional loading facilities for the 200 condos which will be there, nor will it have to do anything with the parking if it doesn't want to, but of course it wants to in order to see its units. But it doesn't have to do anything about the deficient parking in the garage.
I don't think, when we see a situation like that, and you talk about Harris Teeter--our organization took no position on that, and I'm not trying to raise the specter about that one again--but when someone describes 30 foot wide streets on each side of this thing, as primary streets, inadequate for large, you know, 55 foot trucks to be able to make the turn radius into docks, something's really strongly amiss.

So I would like to hope, that when we make our regulations regarding areas that can be set aside for loading as distinguished from docks, that we make a clear distinction between the two, and with regard to docks, I think we need to look at the whole set of regulations we have right now, which give probably too much flexibility regarding docks.

We're talking about new structures in this regulation. So in that event, why shouldn't we declare that there should be drive-through lanes for such a thing? Or that
the lanes be on site for these loading
facilities. Or that the loading facilities
fully meet our specifications as well as the
DOT's specifications in terms of public
safety, because there's a difference in
parking requirements and loading requirements
when it comes to public safety.

You can have a great deal of
discussion about whether or not you want to,
you know, "hammer people" with regard to
parking, notwithstanding the fact that we're
not doing very well regionally to provide a
better transportation alternative for people.

You can have that kind of
discussion without a great deal of personal
harm. But when we allow loading docks to go
on in a situation which is genuinely a public
problem, public safety, that's another matter.

So I think we should take a look
at what we can do, and I'm sorry, I hope
you'll have time to read through some of this
stuff, because there's a lot of stuff about
criteria and work that will have to be done
with other agencies as well.

CHAIRPERSON HOOD: Ms. Hargwood,
we're going to give you a minute to finish up.
I think we've been consistent with the minute
to finish up with everyone.

MS. HARGWOOD: Since Mr. Sher
brought up the very interesting issue, which
has plagued all of us, I think, but different
uses, not just square footage, have different
impacts in terms of what you need by way of
loading, if it's true that apartment houses
don't need, say, you know, long berths, like
55 foot berths, if we can sustain that through
a genuine survey of the new ones that are
being built, to come to that conclusion,
that's one thing. But if you look at other
uses, drug stores, grocery stores, hotels,
which, you know, do exist, right--you know,
hotels are residentially zones, many of them,
in residential zones. They have a right to
be, if they were there in 1986, when the new
regulations were passed about them.

We have a lot of big things like that in these areas, a lot of big institutions. That's a different matter, entirely. That's a completely different matter.

So I would hope that we could take a look at all of those things from that perspective, and I have some suggestions, when you have time. When you can't go to sleep at night, you can read them.

CHAIRPERSON HOOD: Thank you both. Let's open up. Any questions of either one of our witnesses?

Chairman Miller.

COMMISSIONER MILLER: Okay. Just a question about, say, if additional loading isn't required for historic buildings, and the property owner actually has a need for loading, is it your point that they wouldn't provide a loading berth and that therefore they would use the public streets?
MS. HARGWOOD: My problem is I think—my problem is that some developers won't because it's more expensive to provide it than not to provide it. And then the Hilton may ultimately provide another loading berth, but it's not been decided whether it will do anything other than use the current facilities. And that's the way they have a right to do, because it's matter of right. My suggestion in this paper was that we go back to the standard of 25 percent, if someone is expanding as part of the exemption, that that be applicable to all properties as it is under loading right now, but that we include historic properties in that envelope of 25 percent and not exempt them any further as a special entity.

That would be a fair way of dealing with it, because, again, it's not the fact that something's historic, and I live in a historic district and help with those kinds of things. It's not the fact that something's
historic, that has anything to do whatsoever in terms of what the loading requirements are.

To me, the loading, you know, requirements are more important than parking. But in case of the Hilton, which will now have to bring its garage up to standards, there are between 700 and 800 employees that work there, around the clock. They don't have public transportation at night. Many of them have to use the streets, and when there are special events for thousands of people, you know, it's really quite a problem for the neighborhood and they have been exempted by virtue of what you did last year.

So my suggestion is not to say, oh, you know, everybody's evil, wicked or bad in these situations, but that we have a fair understanding when we put forward zoning regulations about what the impacts may be. That's really crucial in a case like this.

COMMISSIONER MILLER: That's basically my question. I'm trying to figure
out what the consequences are, if they really
need it and they don't provide it. Because I
think that--

    MS. HARGWOOD: Well, that just
means that you're going to have overuse of
whatever it is that you have, and you just
have added to the congestion already with
additional trucks that will come.
Incidentally, I've attached pictures with this
to show you a bit of what it's like when you
have to live with inadequate loading docks
that are improperly put there.

    I think dozens of pictures would
show it. But you've got them in your packet.

    COMMISSIONER MILLER: And Mr.
Zartman, was your point that if a property
owner assessed that only needed 30 feet
instead of 55 feet, and that in fact 55 foot
trucks might come and end up parking on the
street, and that there's no consequence to
them for that?

    MS. ZARTMAN: We discussed it
earlier, it's enforcement, and I'm not sure that I have a great deal of faith. This evening, in the rush hour, there was another CVS truck unloading on M Street in rush hour, completely filling the sidewalk with their plastic boxes. We can't stop that somehow, and I am cautious about adding still more systems that rely on an enforcement system that has, time and again, proved it has difficulty.

You know, who was it who said "Insanity is going through the same thing twice and expecting a different outcome"?

COMMISSIONER MILLER: Well, are you opposed to the smaller loading berths, in general, or just to their being tied to square footage? For instance, if they were tied to a use that clearly never needed large trucks, would you have a different position?

MS. ZARTMAN: I would think that this is an area where a fairly complex scheme of requirements is appropriate, because they
are so different, and the impact can be so significant.

COMMISSIONER MILLER: Thank you.

COMMISSIONER TURNBULL: Mr. Chair.

CHAIRPERSON HOOD: Mr. Turnbull.

COMMISSIONER TURNBULL: I think Ms. Hargwood brought up an interesting point about the historic property, such as the Washington Hilton. You know, I've been there any number of times for conferences. So it's not just a hotel, it's not just a place to sleep, it's a place of a lot of activity and there's a lot of trucks unloading, and I think that's something that OP needs to really look at. That it's not just--it's the actual use of the property and what's going to be intended by it.

I think your photographs do tell quite a story. You can see that there's quite a lot of activity going on and--

MS. HARGWOOD: It's all a residentially-zoned street.
COMMISSIONER TURNBULL: Right.

MS. HARGWOOD: There's a school next door. Nobody can walk across the loading dock area because they can be hit. Little children are ferreted, not infrequently, outside into the street.

COMMISSIONER TURNBULL: And I've walked around there many times. I know it can be a little treacherous, at best. So I think that's something that OP really does need to look at, is from a historic standpoint, the use of the facility and what's the intended impact of what it could be.

MS. HARGWOOD: Well, I didn't--I just brought that up as an example of--

COMMISSIONER TURNBULL: No, but it's a significant one. Thank you.

MS. HARGWOOD: Thank you.

CHAIRPERSON HOOD: Okay. Thank you. Ms. Zartman, I appreciate your comments, and I have to back up in my thinking about this new business model with the 30 foot
berth. I need to think some of that through
before we get the text and deliberate. But I
appreciate your comments and looking forward
to getting your testimony.

Ms. Hargwood, help me out. I
actually see these reports, these are the
impact on docking and loading operations at
the Hilton. Is this some kind of manual
that's prepared?, or explain to me what I have
here. And obviously different, because I look
at the pictures--

MS. ZARTMAN: These were--yes.

Well, they're just different times. That's
all.

CHAIRPERSON HOOD: Oh, okay.

MS. ZARTMAN: They were not taken
by me. They were taken by a neighbor who
lives across the street, but they were taken
with my camera, and so I know that they are
real, that they happened recently.

In a meeting, the other night, we
learned from the Hilton itself, that it has
now admitted that just management alone cannot take care of the problem.

They think that maybe if they make one loading dock at the end, which doesn't meet code, because it's not 40 feet from the corner, for example, a little bit deeper, that will help. At least you won't have them hanging out so much over the sidewalk.

But the problem is that does not correct the problem. There's an inadequate turning radius to get into those docks, and there's no way you're not going to have these big trucks arriving.

One suggestion I made here which--and I realize you're the Zoning Commission, but I think again this is more of a coordination with our whole city--we need somebody to be able to say that we've got to have some staging area, somewhere, for trucks, where they can also unload the smaller trucks, if we want them to. There's not anything like that now.
Some of these trucks come from long distances into the city, and they're not about to unload all their--the expense of time--into a smaller truck to unload their goods. And I don't know about the CVS trucks but I've seen plenty of them in my neighborhood too, and very large trucks also associated with grocery stores.

It would be nice to continue the conversation that was with Mr. Sher about some of the behavior of these things, and we could get at it in a really systematic way.

CHAIRPERSON HOOD: All right.

Thank you. Any other questions? Comments?

[No response]

CHAIRPERSON HOOD: All right.

Thank you both for coming out and providing testimony. We appreciate all the hard work that you all are doing.

Ms. Schellen, where do we go from here? Are these some dates?

MS. SCHELLIN: Yes. We are ready.
We're going to leave the record open until October 3rd to allow OP to make a recommendation after checking on some of the items discussed tonight. And then if the public wants to make any responses to what OP files on October 3rd, they have until October 10th to do that. And then we'll consider this, or have a dialogue at our October 20th meeting as far as what direction the Zoning Commission wants them to go to write the language.

CHAIRPERSON HOOD: All right. Is everyone clear? Any other questions?

[No response]

CHAIRPERSON HOOD: I appreciate every's attention--I mean participation to night, and attention, actually, and if you have any further questions, staff will be available. Ms. Schellen and Ms. Hanousek. And with that, this meeting is adjourned.

[Whereupon, at 7:56 p.m., the meeting was adjourned.]