

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC HEARING

----- :
IN THE MATTER OF: :
 :
COMPREHENSIVE ZONING :
REGULATIONS REWRITE: LOADING : Case No.
 : 08-06-3
 :
----- :

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.

C O N T E N T S

<u>WELCOME:</u>	<u>PAGE</u>
Anthony Hood	4
 <u>CASE NO. 08-06-3 (Comprehensive Zoning Regulations Rewrite: Loading)</u>	
 <u>OFFICE OF PLANNING:</u>	
Trevor Parker	7
<u>Q&A SESSION</u>	12
 <u>PERSONS IN SUPPORT</u>	
Steven E. Sher	40
Holland & Knight LLP	
<u>Q&A SESSION</u>	47
 <u>PERSONS IN OPPOSITION</u>	
Barbara Zartman	67
Ann Hargwood	79
<u>Q&A SESSION</u>	86
Adjournment	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

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

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

1 is a request by the Office of Planning for the
2 Commission to review and comment on proposed
3 concepts for text amendments to the zoning
4 regulations.

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

11 Notice of the hearing was
12 published in the D.C. register on July the
13 18th, 2008, and copies of the announcement are
14 available to my left on the wall near the
15 door. The hearing will be conducted in
16 accordance with provisions of 11 DCMR 1301 as
17 follows: preliminary matters, presentations by
18 the Office of Planning, reports of other
19 government agencies, if any, reports of the
20 ANC, organizations and persons in support,
21 organizations and persons in opposition.

22 The following time constraints

1 will be maintained in these hearings.

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

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

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

22 At this time we will consider any

1 preliminary matters. Does the staff have any
2 preliminary matters?

3 MS. SCHELLIN: No, sir.

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

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

14 Recommendation one has to do with
15 the size of loading berths. One thing that
16 we've notice din our work is that the loading
17 requirements for uses tend to require a number
18 of 30 foot spaces and a number of 55 foot
19 spaces, and this is a hard-and-fast
20 requirement, regardless of the business model
21 that's being used, and often especially in
22 areas that are nearer the downtown, 55 foot

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 trucks aren't allowed on the streets, or, you
2 know, certainly can't get to these businesses,
3 and it does not seem appropriate to require 55
4 foot spaces for all of these uses, but,
5 rather, to just allow that type of space and
6 require a space at thirty or more.

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

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

20 This second recommendation would
21 allow for the combination of those
22 requirements as long as both uses had access

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 to the loading docks, so that loading
2 facilities could be shared between multiple
3 uses.

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

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

18 One comment that we've seen from
19 Bill Crews is that we should retain the
20 requirement that loading be screened from
21 residential zones and that was certainly our
22 intent. We had no intention to drop that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 requirement. So that should be read in as
2 well.

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

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

22 Although there are uses that will

1 have external trash receptacles, and we did
2 cover that, that those would need to be
3 screened completely.

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

16 That is it. The seventh one is
17 new from what we had originally sent to the
18 task force. The others are largely unchanged,
19 and we do understand that we had not sent this
20 memo directly to the task force but rather
21 just committed it to the public record. So if
22 there is a desire for the record to remain

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 open, we have no objections to the record
2 remaining open.

3 Thank you.

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

6 Chairman Miller, do you have any
7 questions?

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

11 CHAIRPERSON HOOD: Okay.

12 COMMISSIONER MILLER: Thanks.

13 CHAIRPERSON HOOD: Any questions,
14 Commissioner May?

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

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

22 COMMISSIONER MAY: I'll try.

1 Yeah.

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

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

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

11 MR. PARKER: Okay. I think what
12 we're seeing throughout the different types of
13 uses is more flexibility with the type of
14 delivery that's used, both residential and--
15 well, residential is one use where there are
16 still companies that rely solely on large 55
17 foot trucks, but they aren't the only option,
18 and certainly with business models, we're
19 seeing different models that allow for two
20 stage delivery. So delivery to a facility out
21 of town where things are put into smaller
22 trucks to be brought into the city.

1 I mean, we certainly want to leave
2 that option open. If we require businesses or
3 residential buildings to build a space for a
4 semitrailer, then they have that available and
5 they certainly have no reason to discourage
6 semitrailers from coming to their business.

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

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

18 MR. PARKER: Well, we certainly
19 see a lot of smaller units in the last 10
20 years than we've certainly seen in the past.
21 There's a lot more studios, a lot more
22 efficiencies.

1 COMMISSIONER MAY: All right. And
2 then in your--I'm not sure that there's a lot
3 of--I put a lot of weight in that particular
4 argument.

5 MR. PARKER: Okay.

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

20 And I mean doesn't happen
21 everywhere but it happens in a bunch of those
22 locations. So I don't think every business is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 going with that new or smaller truck model.
2 So I'm wondering if there is more specific
3 research that supports this?

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

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

20 If CVS wants to build a space,
21 they can build a 55 or 70 foot space. We
22 don't get them to do it now, so I don't know

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 how to improve on that.

2 COMMISSIONER MAY: I guess I would
3 feel more comfortable in pushing the smaller
4 truck model, if I knew that, in fact, there
5 was a reasonable expectation that that truly
6 is the trend, and that the trend is not, you
7 know, toward the CVS model.

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

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

17 COMMISSIONER MAY: Okay. Along
18 the same lines, if there are methods to, you
19 know, encouraging the use of smaller trucks,
20 not that these would necessarily be part of
21 the zoning regulations, but knowing what they
22 are--I mean, right now, the feeling I'm

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 getting is that all of this is still very soft
2 and that there's a desire to have smaller
3 trucks and more manageable traffic, and yet,
4 you know, what is the incentive going to be
5 for businesses?

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

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

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

21 MR. PARKER: We can certainly do
22 that. I mean, just like with parking, the

1 only answer is enforcement, is on-street
2 enforcement. We can force businesses to build
3 eight 55 foot docks, and the truck driver, if
4 given an option, will stop out front and
5 unload from the street.

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

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

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

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

22 MR. PARKER: It's my

1 understanding.

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

5 MR. PARKER: Okay.

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

8 I also want to know for sure what
9 the length of trucks is. I mean, we talk
10 about 55 foot bays and we talk about 30 foot
11 bays, but, you know, the length of a straight
12 truck, I don't know is necessarily limited to
13 30 feet, and certainly a 55 foot truck, if
14 it's got a 44 foot trailer on it, which I
15 think is the limit, could well be quite a bit
16 more than that, and so the truck's popping out
17 beyond its bay. So I'd like to get a sense of
18 what the actual trucks lengths are, not just
19 the 1958 zoning version of it; whatever.

20 And one last point to clarify, and
21 then there are a couple other points that'll
22 probably come up in testimony, I think.

1 Would your recommendation under
2 number five allow the construction of the
3 Harris Teeter Capitol hill that Bill Crews
4 refers to? I mean, is that the way that
5 something like that becomes possible?

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

17 COMMISSIONER MAY: The loading
18 does.

19 MR. PARKER: Loading.

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 the other.

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

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

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

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

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

14 COMMISSIONER MAY: Right.

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

17 COMMISSIONER MAY: Yes. Okay. I
18 wonder if there's something else that can be
19 done in circumstances like that, where there
20 is something else that can be put in the
21 regulations to encourage--something to
22 mitigate the impact of the trucks, in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 particular, going in and out.

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

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

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

17 COMMISSIONER MAY: Right; yes.

18 MR. PARKER: --and you can only do
19 drive-through where you have an alley access
20 or a through lot of some kind, where you have
21 two different streets which you can come in
22 and out on. We'll look into, see if there are

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 other--we haven't found any of the other
2 cities that do anything more innovative yet,
3 but we'll look into it some more.

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

11 That's it for me. Thanks.

12 CHAIRPERSON HOOD: Thank you.

13 Chairperson Miller.

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

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

21 Can you explain to me the
22 rationale for that and how that will serve to

1 protect from adverse impacts.

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

5 MR. PARKER: It is but you lose a
6 lot of that advantage when it's hard to
7 determine or hard to enforce. Number of
8 employees can change over the years, and go up
9 or down. I mean, you may have one number of
10 employees when you get your building permit
11 and build your loading docks and you may have
12 50 more in another five years. But GFA is
13 always tied to a new building permit.

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

18 COMMISSIONER MILLER: Okay. And,
19 you know, I've been on recess this month. I
20 don't remember. I mean, I know like with
21 parking, it's very much tied with schools and
22 institution like that, to employees, etcetera,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 but as far as like loading goes for businesses
2 or whatever, what was it tied to before?

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

8 COMMISSIONER MILLER: Okay. Thank
9 you.

10 CHAIRPERSON HOOD: Commissioner
11 Turnbull, you have a question?

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

21 Are we suggesting--and I'm
22 thinking of like a PUD, when we get--we've

1 often had sort of a, call it a business plan,
2 but they'll come in and argue.

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

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

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

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 feel we need?

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

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

9 MR. PARKER: Existing formulas.

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

12 CHAIRPERSON HOOD: Commissioner
13 Etherly.

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

16 Very quickly, Mr. Parker, and
17 thank you for your overview. On
18 recommendation number three, as relates to the
19 DDOT determination of the applicability of a
20 curb cut, have you encountered examples in
21 other jurisdictions where similar practices
22 have been adopted?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 As you may be aware, in the
2 submittal that we received from Holland &
3 Knight, and quite possibly Mr. Sher my testify
4 to it later, there was some concern expressed
5 about the issue of standards with respect to
6 how DDOT would go about arriving at such a
7 decision.

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

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

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

16 MR. PARKER: That's not something
17 we got into at all. We're not able, or we
18 don't want to go down the road of telling DDOT
19 what their policy is, and then DDOT certainly
20 doesn't want us to go down that road either.
21 DDOT has policies now for how they determine
22 whether a curb cut will be granted, and those

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 policies may very well continue to evolve over
2 time. We're saying that whatever those
3 policies are, and we don't have any say over
4 them, this shouldn't be in conflict with them.

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

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

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

20 With respect to the issue of
21 access to loading berths, and this goes to
22 that matter of what DDOT has already studied,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 if you will, is there a sense of, as you run
2 through that recommendation, there appears
3 essentially to be a certain set of steps that
4 you go through to get, to arrive at where the
5 appropriate access would occur, whether it's
6 an improved alley or a secondary street, and
7 if you don't have one or the other, then you
8 can move to the front of the building provided
9 you get the curb cut.

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

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 larger type?

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

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

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

22 It just struck me as king of weird

1 to plop it here. And I think you articulated
2 it a little bit, but could you perhaps just
3 revocalize it for me, because I'm just trying
4 to figure out why is it here, and is it
5 somewhere else that it needs to go?

6 MR. PARKER: You mean another--

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

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

11 COMMISSIONER ETHERLY: Exactly.

12 MR. PARKER: It's an interesting
13 question. These types of--this is a complaint
14 that is often directed to the Zoning
15 Administrator. This is something that the
16 past two Zoning Administrators have brought to
17 me as an issue, that they have to deal with,
18 that there is no requirement to show trash
19 enclosures, and applicants often don't plan
20 for them. So it is something that I've been
21 told needs to be reviewed at the building
22 permit stage. It reasonably could be in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 building code review, I suppose, but the
2 Zoning Administrator has shown a willingness
3 and a desire to include that in their purview.
4 And it certainly is done in other
5 jurisdictions that way.

6 COMMISSIONER ETHERLY: Okay.

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

9 COMMISSIONER ETHERLY: Okay.

10 Thank you. Thank you, Mr. Chair.

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

13 CHAIRPERSON HOOD: That exact
14 point?

15 COMMISSIONER MAY: That exact
16 point.

17 CHAIRPERSON HOOD: Okay. Go right
18 ahead.

19 COMMISSIONER MAY: I would think
20 that one of the reasons why it's tied to
21 loading has to do with the fact that there are
22 big trucks that come and get the trash; right?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Cause, you know, you wind up seeing them, you
2 know, outside of the buildings because they're
3 not readily accessible, and they wind up, you
4 know, outside beautiful, lovely new buildings,
5 you know, kind a in the driveway or in the
6 public space.

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

15 CHAIRPERSON HOOD: Okay. Mr.
16 Parker, I just have a few questions. Actually
17 two, I believe. More of a process question.
18 I saw a e-mail which stated that something was
19 not listed up on the Web, I guess for people
20 to participate, and I guess for the record,
21 can you assure us, or me, specifically, that
22 the task force who is working, I guess hand in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 hand with Office of Planning, was not put at
2 a disadvantage to be able to comment, because
3 I guess they already had--did they have your
4 report?

5 Assure me that they were not put
6 at a disadvantage.

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

21 And as I said, we're happy to
22 leave the--I mean, we will need to leave our

1 record open to answer a lot of the questions
2 that have been raised tonight, so four weeks,
3 or some reasonable term of the record being
4 left open for additional comments is more than
5 reasonable.

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

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

21 You know, we had some testimony
22 and unfortunately some of it was given to us,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 and I have not had a chance to look at it.
2 And some of them, probably some great ideas,
3 all of them are great ideas. Some of us may
4 want to adopt them, include it in what we
5 have, and I want to know if the Office of
6 Planning will assist us in making sure some of
7 these things will not be lost.

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

18 We work with the task force on our
19 recommendations and we collect comments from
20 those. And the same thing. We will often
21 make change to our recommendations, or we
22 will, you know, keep track of issues that

1 we'll discuss in our report.

2 Thirdly, then, there's the public
3 online review, and we collect those comments,
4 and we will put those in our report as issues
5 that have been raised and we'll address those.

6 The fourth, though, are issues
7 that come in directly to you, either during
8 that public comment time or after we issue our
9 report.

10 I've got several comments from
11 outside, that today is the first time I've
12 seen them, and those obviously aren't in our
13 report, and those we can't at this stage help
14 you collate but we'll certainly take those
15 into account between now and our next
16 deadline.

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Okay. Any other questions?

2 [No response]

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

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

15 MR. SHER: Mr. Chairman, members
16 of the Commission, Ms. Miller, my name is
17 Steven E. Sher. I'm the director of zoning
18 and land use services with the law firm of
19 Holland & Knight. I have given you an outline
20 with some comments, some of which gnaw at some
21 of the details and suggest some areas for
22 clarification as you go along, recognizing

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 that we're not looking at text but at concept.

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

8 We're in support of the idea that
9 55 foot loading berths be reduced to 30 foot
10 berths, and I would say that especially for
11 apartment houses, for residential buildings.
12 This Commission has seen in PUD cases, and the
13 BZA has seen in a number of variance cases,
14 that 55 foot berths are probably not required
15 for the normal apartment house size, and the
16 square footage of the units, and therefore
17 those can be accommodated with smaller berths,
18 and the size that a 55 foot berth takes up on
19 a floor plate, depending on the size of the
20 building and all that, can be a problem in a
21 lot of cases.

22 The idea of shared loading is a

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

9 That policy is so hard to fathom,
10 and written anywhere, that I can find, that
11 says where we can have a curb cut and where we
12 can't. Generally--and I hate to say this for
13 the record, I'm not a lawyer--but my general
14 understanding is if you front on a street you
15 have some rights of access to that street. If
16 you don't front on an alley, if you don't
17 front on any other street, I think
18 constitutionally, and I'm going to put that in
19 quotes because, again, I'm not the expert on
20 the Constitution, I think you're entitled to
21 access, and I think it would be difficult, if
22 not legally impossible, for DDOT to say no,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 you can't have access anywhere. And so that's
2 problematic for me, and I think it's something
3 that needs to be coordinated between what you
4 guys decide and what DDOT's real authority is
5 there.

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

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

21 Alleys may sometimes direct
22 traffic to the rear of a property, which seems

1 like a good idea, but what about when the rear
2 of the property on the other side of the alley
3 are houses? Do you really want the trucks
4 going through the alley? Or would you rather
5 have the trucks coming in off the street, and
6 not impacting the properties that are across
7 the street?

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

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

17 I understand that we need trucks,
18 but--and I certainly wouldn't have a problem
19 if the regulation said your trash receptacles
20 can't occupy the spaces that are required for
21 loading. Right now, they can't be in a
22 loading berth anyhow. But if they're being

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 put in a loading platform and that's a
2 problem, I don't have any problem if you say
3 don't put them there. You've got to have your
4 own dedicated space for your trash
5 receptacles.

6 The question of the making loading
7 based on square footage rather than some other
8 unit of measurement. In fact, the only other
9 unit of measurement used is for apartment
10 units and hotel rooms. There's nothing based
11 on employees for loading. There's nothing
12 based on any other unit of measurement other
13 than square footage, except apartment houses,
14 50 units or more, and hotels based on number
15 of sleeping rooms.

16 To me, it just--I would say that
17 the number of units, or the number of rooms is
18 more likely to be an accurate measure of
19 activity that might result in loading and
20 square footage for those particular uses, but
21 I don't feel strongly about that, one way or
22 the other. I honestly don't know whether

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 there are studies that would show whether the
2 correlation is better off square footage or
3 off units.

4 I guess I'm done.

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

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

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

22 We talk about these things and we

1 don't always agree on them. Sometimes we do;
2 sometimes we don't. That becomes input to OP,
3 and what you are getting is OP's
4 recommendations, not the task force.

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

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

14 I think that's it.

15 CHAIRPERSON HOOD: Okay. Let's
16 have questions with Mr. Sher, and Mr. Sher,
17 let me just say that I understand that my only
18 issue was--most of this stuff I had here
19 earlier. I know members of the task force.
20 But at least my comments to Mr. Parker
21 earlier, I just didn't want what we've got
22 here individually to get lost in the shuffle

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 of things, and I understood that the--if that
2 was in response to my question to Mr. Parker.
3 If it wasn't--

4 MR. SHER: It was just a general
5 observation.

6 CHAIRPERSON HOOD: Okay. Okay.
7 All right.

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

12 CHAIRPERSON HOOD: Okay. Okay.
13 All right. That's good. It was very helpful.
14 Commissioner Etherly.

15 COMMISSIONER ETHERLY: Thank you
16 very much. Very quickly, Mr. Sher, and
17 recognizing this may be well beyond your scope
18 of expertise. The trend towards smaller
19 delivery vehicles. Without characterizing
20 your client base too much, you tend more
21 frequently to deal with developers and
22 property owners.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Do you have a sense or a feeling
2 for where that trend is heading, and whether
3 the spirit of some of these changes kind of
4 are moving in the right direction consistent
5 with that trend?

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

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

22 But we're working on a project

1 known as Constitution Square up in Northeast,
2 on 1st, between M and N Streets, and there's
3 going to be a full-size Harris Teeter grocery
4 store on the first floor of the first
5 apartment building there, and it's one of
6 those sites that's big enough to have one
7 common loading area serving the whole thing,
8 and there are like 12 or 13 loading berths in
9 that thing serving a couple million square
10 feet by the time it's all done. And there are
11 55's and 30's and 20's, and it all depended on
12 who needed what.

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 somewhere else.

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

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

18 COMMISSIONER ETHERLY: Okay. My
19 last question, with respect to both
20 recommendations three and four, one, the
21 relief of the loading requirement and four,
22 the location of loading areas.

1 Taking to heart some of your
2 concern about the DDOT role and the issue of
3 the curb cut policy, or lack thereof, or the
4 fact that it's not written, do you see any
5 application in either one of those
6 recommendations for either a special exception
7 relief valve, or some other valve, not
8 suggesting that I'm in the mood to see it
9 introduced.

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

18 I'm just trying to find a way that
19 if, to use your express, it gets too rigid and
20 too hierarchical, is there some room for
21 application of a relief valve so you're not
22 stuck with it?

1 MR. SHER: I think the biggest
2 problem is one that Mr. Parker pointed out,
3 which is the coordination, because if the
4 zoning requires something and the BZA can give
5 relief, but DDOT says we're not going to give
6 you curb cut anyhow, then it almost doesn't
7 matter because the board can't force the
8 issuance of a curb cut.

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

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 primary street.

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

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

19 COMMISSIONER ETHERLY: I would
20 agree with--no, I would most certainly agree
21 with you, again, clearly with the
22 understanding that we're not looking at hard

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 and fast language now, just to an extent more
2 or less conceptual.

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

12 MR. SHER: I hate to say that some
13 10,000 years ago, when I wrote my master's
14 thesis, it was on the secondary effects of
15 zoning on the environment.

16 COMMISSIONER ETHERLY: Can we get
17 copies of that?

18 MR. SHER: Unpublished. Thank
19 God.

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

22 CHAIRPERSON HOOD: Mr. May.

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

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

20 MR. SHER: The real world is more
21 like the former than the latter. You file an
22 application for a curb cut. You see where it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 goes, who gets it, what they say about it, and
2 you try and work it out. That's what we do
3 for our clients, and as I said, if there are
4 written policies that talk about how they're
5 going to make--I mean, there are obviously
6 certain policies about how far they have to be
7 away from curb intersections, and how, if you
8 have a certain width of driveways entering on
9 to a street, there has to be a safety island
10 when it gets to be bigger, so that there's a
11 pedestrian refuge in the middle, and think
12 it's more than 25 feet, or something like
13 that.

14 But whatever. There are certain
15 requirements like that. But whether you can
16 actually have a curb cut at a particular
17 point--I'll say it for the record--it often
18 seems to be whimsical, and to know whether
19 there's a basis for that is sometimes hard to
20 figure out. You know, we've got engineers and
21 we have traffic consultants, and we have
22 planning experts, and we have developers who

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 think they know everything. And sometimes
2 they know more than we do.

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

15 There are always things that you
16 have to know. But when you get in this area
17 of rules that are out there, that aren't
18 available to somebody to understand and look
19 at, I get--personally, that's bothersome to
20 me. And if you've got--if the Commission is
21 going to incorporate into its regulations
22 discretionary standards by somebody else, I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 think you need to have a pretty good
2 understanding of how those standards are going
3 to be developed and applied.

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

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

22 Because I think that there are

1 things that we can do to, you know, without
2 stepping on DDOT's toes, to conform zoning
3 regulations so that they make sense, and give
4 guidance to the BZA when they have to consider
5 cases where it doesn't work.

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

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

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

21 CHAIRPERSON HOOD: Chairperson
22 Miller.

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

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

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

21 CHAIRPERSON HOOD: Commissioner
22 Turnbull.

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

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

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

14 COMMISSIONER TURNBULL: Right.
15 And you begged of us, don't approve one or the
16 other, cause we don't know if could get the M
17 Street--I think you had to come in from the
18 north end on the alley, you had a loading dock
19 or whatever, and it was a very convoluted
20 scheme. But again, as a Zoning Commission,
21 it's a conundrum for us. We see the merits of
22 what you're trying to do, in the planning it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 makes sense, but there's no way that we could
2 approve the one on M Street knowing that DDOT
3 had already said we're not going to grant you
4 that, although it made, in that case, perfect
5 sense.

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

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

20 I don't know how we--I guess this
21 is a question to Office of Planning. Again,
22 it's getting back to the information coming

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 back from DDOT that would further explain, or
2 give us some guidance as to here's their
3 grading, here's what's going to be in
4 accessible, here's what--how do you say how
5 much an alley can take as far as traffic? And
6 I don't know how you base it--I mean, it's a
7 conundrum.

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

19 So even though it's not pertaining
20 to that case, I will ask Office of Planning if
21 you can go and get that for us. I'm not
22 exactly sure. If you could work with Ms.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Schellen and see exactly, whatever that was we
2 asked for.

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

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

19 COMMISSIONER TURNBULL: Thank you.
20 I wasn't really expecting an answer right
21 away. I mean, I guess it was more of a--we've
22 had a couple of things tonight that says we've

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 got--there's another player in this, that we
2 really, we can't--we need to work with them
3 somehow, but it would be good to come to a
4 consensus as to what we're all looking at, so
5 that we're on the same page as them, and they
6 understand what we're trying to accomplish.

7 CHAIRPERSON HOOD: Okay. Any
8 other questions?

9 [No response]

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

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

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

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

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

22 MR. SHER: If the Nats are losing

1 that bad already--

2 [Laughter]

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

5 MR. SHER: Thank you.

6 CHAIRPERSON HOOD: Thank you.

7 Ms. Zartman.

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

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

22 CHAIRPERSON HOOD: Ms. Zartman,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 can you hold one second. Can we stop the
2 clock.

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

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

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

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

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

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

21 MS. SCHELLIN: When did you send
22 it?

1 MR. PARKER: I haven't received
2 it.

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

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

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

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

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

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

20 MR. PARKER: No.

21 MS. ZARTMAN: I truly don't know
22 how to explain it.

1 CHAIRPERSON HOOD: What we can do,
2 we'll hear your testimony and we'll follow
3 you. I know we like to make marks on the
4 paper, at least I do, but we'll follow you in
5 your testimony.

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

8 CHAIRPERSON HOOD: Okay.

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

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

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

20 It was for that reason that we
21 recommended that the Commission hold a
22 roundtable on parking with those other

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 elements of government that deal with public
2 space, could be present and provide you with
3 the policy framework on which you could base
4 your decisions about the direction in which
5 parking regulations, and I would say loading
6 regulations should go.

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

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

18 As to the specific recommendations
19 that we did know about, I don't understand the
20 issue of smaller loading berths, or the
21 suggestion that you can ban certain size
22 trucks in certain parts of the city. There

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 are already existing large loading bays for 55
2 footers, for 18 wheelers, and they are going
3 to continue to be served by large vehicles.

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

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

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

19 If you allow the developer to have
20 total discretion, he or she may actually
21 compound the problem by building only a 30
22 foot dock when, in fact, larger capacity is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 needed, knowing full well that access to the
2 public space will ultimately be there,
3 compounding the problem.

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

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

17 The third recommendation, about
18 DDOT relieving the requirement for loading,
19 despite my great appreciation, sincerely, and
20 admiration for the work that you all do, I
21 don't believe the Committee of 100 could
22 accept an approach that sacrifices DDOT or

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 zoning standards in order to avoid zoning
2 hearings.

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

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

15 I'm delighted to hear Travis say
16 that there will be screening for residential
17 areas. There may also need to be distance
18 standards set, especially near food stores,
19 restaurants, other places that are, I'm sorry
20 to say, in just about every part of the city,
21 home to vermin that are unwelcome visitors to
22 anyone's home and property.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 And I know, because Georgetown has
2 lots of them.

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

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 footage of the operation.

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

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

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

15 MS. ZARTMAN: One more minute?

16 CHAIRPERSON HOOD: To finish up.

17 MS. ZARTMAN: I'll be done by
18 then. In particular, the question of
19 expansion of a historic property. If a
20 significant expansion of any other building is
21 a 25 percent increase in its capacity, that
22 should be the standard for triggering a review

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 in a historic property. You're going to add
2 25 percent to the bulk of the property.

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

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

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

18 CHAIRPERSON HOOD: Okay.

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

21 MS. ZARTMAN: They were in the
22 same envelope.

1 MS. SCHELLIN: Well, we just made
2 a copy of it, and it all says parking.
3 There's four pages.

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

8 CHAIRPERSON HOOD: Okay.

9 MS. ZARTMAN: My colleague has
10 lost her glasses.

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

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

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

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

22 Ms. Hargwood.

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

12 You know, other cities have deputy
13 mayors and also city managers who are convened
14 for the purpose of trying to bring together
15 various agencies to come together, with an
16 understanding of how things will be processed.
17 And I think it's that we should insist that
18 something like that be done for situations
19 like this. There's just no excuse for this
20 continuing problem that is going on. And I
21 don't think that in the process, that the
22 answer is to in any way reduce our standards.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 And I want to start with something on another
2 page, which is the whole issue of defining
3 what a primary and secondary street is.

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

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

19 And once those criteria are
20 define, that's the basis of the definition,
21 not something like the height act or how DOT
22 does it, because both of those have limited

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 definitions in terms of usefulness, in terms
2 of making a decision about where these
3 facilities should go.

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

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

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

21 We've got a parking regulation
22 that you guys thought was a good idea to raise

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 the exemption to 50 percent for historic
2 properties. Many of us very adamantly
3 disagree with that because we are aware, for
4 example, that there are many churches, and
5 there are many schools that are going private-
6 partner, you know, private-public
7 partnerships, many entities that are very
8 large, that sit in the middle of residential
9 zones, that would be excused from having to
10 provide loading.

11 Can you imagine that? No loading
12 facilities required for these additional uses
13 at a high percentage of use? In our case, you
14 can take the Hilton hotel as an example, which
15 has recently been designated a landmark. It
16 will not have to provide additional loading
17 facilities for the 200 condos which will be
18 there, nor will it have to do anything with
19 the parking if it doesn't want to, but of
20 course it wants to in order to see its units.
21 But it doesn't have to do anything about the
22 deficient parking in the garage.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 I don't think, when we see a
2 situation like that, and you talk about Harris
3 Teeter--our organization took no position on
4 that, and I'm not trying to raise the specter
5 about that one again--but when someone
6 describes 30 foot wide streets on each side of
7 this thing, as primary streets, inadequate for
8 large, you know, 55 foot trucks to be able to
9 make the turn radius into docks, something's
10 really strongly amiss.

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

19 We're talking about new structures
20 in this regulation. So in that event, why
21 shouldn't we declare that there should be
22 drive-through lanes for such a thing? Or that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 the lanes be on site for these loading
2 facilities. Or that the loading facilities
3 fully meet our specifications as well as the
4 DOT's specifications in terms of public
5 safety, because there's a difference in
6 parking requirements and loading requirements
7 when it comes to public safety.

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

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

19 So I think we should take a look
20 at what we can do, and I'm sorry, I hope
21 you'll have time to read through some of this
22 stuff, because there's a lot of stuff about

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 criteria and work that will have to be done
2 with other agencies as well.

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

7 MS. HARGWOOD: Since Mr. Sher
8 brought up the very interesting issue, which
9 has plagued all of us, I think, but different
10 uses, not just square footage, have different
11 impacts in terms of what you need by way of
12 loading, if it's true that apartment houses
13 don't need, say, you know, long berths, like
14 55 foot berths, if we can sustain that through
15 a genuine survey of the new ones that are
16 being built, to come to that conclusion,
17 that's one thing. But if you look at other
18 uses, drug stores, grocery stores, hotels,
19 which, you know, do exist, right--you know,
20 hotels are residentially zones, many of them,
21 in residential zones. They have a right to
22 be, if they were there in 1986, when the new

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 regulations were passed about them.

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

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

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

15 Chairman Miller.

16 COMMISSIONER MILLER: Okay. Just
17 a question about, say, if additional loading
18 isn't required for historic buildings, and the
19 property owner actually has a need for
20 loading, is it your point that they wouldn't
21 provide a loading berth and that therefore
22 they would use the public streets?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MS. HARGWOOD: My problem is I
2 think--my problem is that some developers
3 won't because it's more expensive to provide
4 it than not to provide it. And then the
5 Hilton may ultimately provide another loading
6 berth, but it's not been decided whether it
7 will do anything other than use the current
8 facilities. And that's the way they have a
9 right to do, because it's matter of right. My
10 suggestion in this paper was that we go back
11 to the standard of 25 percent, if someone is
12 expanding as part of the exemption, that that
13 be applicable to all properties as it is under
14 loading right now, but that we include
15 historic properties in that envelope of 25
16 percent and not exempt them any further as a
17 special entity.

18 That would be a fair way of
19 dealing with it, because, again, it's not the
20 fact that something's historic, and I live in
21 a historic district and help with those kinds
22 of things. It's not the fact that something's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 historic, that has anything to do whatsoever
2 in terms of what the loading requirements are.

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

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

21 COMMISSIONER MILLER: That's
22 basically my question. I'm trying to figure

1 out what the consequences are, if they really
2 need it and they don't provide it. Because I
3 think that--

4 MS. HARGWOOD: Well, that just
5 means that you're going to have overuse of
6 whatever it is that you have, and you just
7 have added to the congestion already with
8 additional trucks that will come.

9 Incidentally, I've attached pictures with this
10 to show you a bit of what it's like when you
11 have to live with inadequate loading docks
12 that are improperly put there.

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

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

22 MS. ZARTMAN: We discussed it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

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

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

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

20 MS. ZARTMAN: I would think that
21 this is an area where a fairly complex scheme
22 of requirements is appropriate, because they

1 are so different, and the impact can be so
2 significant.

3 COMMISSIONER MILLER: Thank you.

4 COMMISSIONER TURNBULL: Mr. Chair.

5 CHAIRPERSON HOOD: Mr. Turnbull.

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

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

21 MS. HARGWOOD: It's all a
22 residentially-zoned street.

1 COMMISSIONER TURNBULL: Right.

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

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

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

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

18 MS. HARGWOOD: Thank you.

19 CHAIRPERSON HOOD: Okay. Thank
20 you. Ms. Zartman, I appreciate your comments,
21 and I have to back up in my thinking about
22 this new business model with the 30 foot

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 berth. I need to think some of that through
2 before we get the text and deliberate. But I
3 appreciate your comments and looking forward
4 to getting your testimony.

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

12 MS. ZARTMAN: These were--yes.
13 Well, they're just different times. That's
14 all.

15 CHAIRPERSON HOOD: Oh, okay.

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

21 In a meeting, the other night, we
22 learned from the Hilton itself, that it has

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 now admitted that just management alone cannot
2 take care of the problem.

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

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

14 One suggestion I made here which--
15 and I realize you're the Zoning Commission,
16 but I think again this is more of a
17 coordination with our whole city--we need
18 somebody to be able to say that we've got to
19 have some staging area, somewhere, for trucks,
20 where they can also unload the smaller trucks,
21 if we want them to. There's not anything like
22 that now.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Some of these trucks come from
2 long distances into the city, and they're not
3 about to unload all their--the expense of
4 time--into a smaller truck to unload their
5 goods. And I don't know about the CVS trucks
6 but I've seen plenty of them in my
7 neighborhood too, and very large trucks also
8 associated with grocery stores.

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

13 CHAIRPERSON HOOD: All right.
14 Thank you. Any other questions? Comments?

15 [No response]

16 CHAIRPERSON HOOD: All right.
17 Thank you both for coming out and providing
18 testimony. We appreciate all the hard work
19 that you all are doing.

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

22 MS. SCHELLIN: Yes. We are ready.

1 We're going to leave the record
2 open until October 3rd to allow OP to make a
3 recommendation after checking on some of the
4 items discussed tonight. And then if the
5 public wants to make any responses to what OP
6 files on October 3rd, they have until October
7 10th to do that. And then we'll consider
8 this, or have a dialogue at our October 20th
9 meeting as far as what direction the Zoning
10 Commission wants them to go to write the
11 language.

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

14 [No response]

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

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