The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:30 p.m., Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD CHAIRMAN
GREGORY JEFFRIES VICE CHAIRMAN
MICHAEL G. TURNBULL, FAIA COMMISSIONER (OAC)
PETER G. MAY COMMISSIONER (NPS)
OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN Secretary
DONNA HANOUSEK Zoning Specialist
ESTHER BUSHMAN General Counsel

OFFICE OF PLANNING STAFF PRESENT:

TRAVIS PARKER
PAUL GOLDSTEIN

The transcript constitutes the minutes from the Public Hearing held on November 20, 2008.
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CHAIRMAN HOOD: This is a public hearing of the Zoning Commission of the District of Columbia for Thursday, November 20th, 2008.

My name is Anthony Hood. Joining me this evening are Vice Chairman Jeffries, Commissioner May and Commissioner Turnbull.

We're also joined by the Office of Zoning Staff Ms. Schellin and Ms. Hanousek. Also, the Office of Planning Staff Mr. Parker and you know what? I shouldn't have called Mr. Parker's name because I've now forgotten. What's your name?

MR. GOLDSTEIN: Paul Goldstein.

CHAIRMAN HOOD: Mr. Goldstein.

Okay. Thank you, Mr. Goldstein. Sorry about that.

This proceeding is being recorded by a court reporter and it's 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 Number 08-06-6. This is a request by the Office of Planning for the Commission review and comment on proposed concepts for the 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 consider general rules applicable to industrial zones.

Notice of the hearing was published on October the 3rd, 2008 and copies of the announcement are available to my left on the wall near the door.

The hearing will conducted in accordance with the provisions of 11 DCMR 3021 as follows: Preliminary matters, presentations by the Office of Planning, reports of other government agencies, report
of the ANCs, organizations and persons in support, organizations and persons in opposition.

The following time constraints will be maintained in this hearing: ANCs, government agencies and organizations five minutes, individuals three minutes.

The decision of the Commission in this case must be based exclusively on the public record. To avoid any appearance to the contrary, the Commission requests that persons present not engage the Members of the Commission in conversation during any recess or any time.

Please turn off all beepers and cell phones at this time so not to disrupt these proceedings.

And I did not read part of the opening statement because it looks like I see a lot of familiar faces.

Okay. Ms. Schellin, do we have any preliminary matters?
MRS. SCHELLIN: No, sir.

CHAIRMAN HOOD: Okay. So, what we'll do is Mr. Parker. We'll go to Mr. Parker, Office of Planning.

MR. PARKER: Good evening.

CHAIRMAN HOOD: Good evening.

MR. PARKER: Good evening, Mr. Chairman and Members of the Commission.

This is the sixth of our 18 or so public hearings on the Zoning Rewrite.

The Industrial Working Group met this summer of 2008. The recommendations that came out of that working group were forwarded to the task force which reviewed them in September of this year and here we are reviewing the product of that work.

We had three general goals in laying out these recommendations. First, the preservation of PDR land for PDR use. Second, the improved buffering standard and protection of residential zones surrounding industrial land and third, just basically updating and
simplifying the PDR chapter. You know, part of our overall simplification and ease of use goals in the zoning rewrite.

So, these were the general goals that we were working under mostly from the Comp Plan as we reviewed this subject and in light of that, that third goal to update and simplify the chapter, we have the first three recommendations that I think are fairly straightforward and I'll run through quickly so we can concentrate on the last two.

The first recommendation is simply a name change. The Comp Plan, the 2006 Comp Plan, recognized that the term industrial may be a little outdated and have a bad connotation for some and an updated term that came through the Comp planning process is production, distribution and repair or PDR which embodies a little bit more of what happens in these zones. Not all certainly, but it comes a little closer than industrial.

So, our first recommendation is
that we just rename the districts to PDR rather than industrial.

Our second recommendation has to do with performance measures. Right now, the controls on industrial uses are by performance measure for things like noise and air quality and dust and vibration and things.

We would like to where possible update these standards. Right now, I think for smoke we're using the 1950's era Ringlemann Smoke Chart and it actually took us a couple of days to track that down when we tried to figure out what our current standards are.

I know DDOE has some more modern standards that they use and it remains to be seen whether the best way as Holland & Knight pointed out in their comments is to repeat the standards in the Zoning text or just reference them, but either way, we'd recommend dropping what we have now and using DDOE as our guide for what those standards should be today.
And the third recommendation I don't think we'll have to discuss tonight. It has to do with simplifying the uses into use category. We had a rather lengthy discussion on that general concept at the retail hearing in the context of all of our different zones and classifications of uses. This is a common recommendation between this, between arts and culture, between retail and between residential.

So, I'm happy to talk further about that concept of simplifying the use list into categories of use, but that is a carryover from the broader discussion we had at retail.

So, that brings us to our fourth recommendation which has to do with retaining the development potential of PDR uses in the District.

The Comp Plan gives us a lot of direction. The Comp Plan talks about protecting a limited supply of industrial
land. In the land-use section, it talks about accommodating new PDR activities and protecting active ones. It goes so far as to talk about limiting non-industrial uses in the M zone and on and on and on about protecting the viability and the developability of land that would otherwise go to the -- fall to the development pressures of commercial and residential uses that can afford to pay more and put up larger buildings.

But, then we also have guidance in particular areas that deals with retaining the right to build retail and commercial, existing retail and commercial uses and new retail and commercial uses in these areas.

So, we had a little bit of conflicting guidance, but two very clear directions that we needed to try and accommodate and our way for doing that was to follow the example of our commercial districts. Our commercial districts have an overall allowable FAR, but they have a lower
FAR limit for commercial uses. So, if you want to build to the full, you have to build a mixed-use project. Have to include residential uses.

We use that sort of as our guide for a way to protect some development potential for PDR uses by having a lower limit on non-PDR uses than the overall limit. So, that no matter what was built, we'd have some development potential for PDR uses throughout these lands and because the Comp Plan was the strongest on the M, we felt that this was the most important area to reserve for not exclusively PDR uses, but mostly PDR uses for the M.

Particularly, most of our -- the vast majority of our existing M land is built now at less than one FAR. So, that's sort of how we came up with a standard of one FAR for non-PDR uses to retain the right for all of the existing buildings to continue to be used and leased for any PDR or non-PDR use with the
exception of residential. But, new construction, new buildings that go above that level, new office buildings for example, would only be able in the M zone to develop that one FAR of non-PDR and above that for just solely PDR uses.

Now, that certainly isn't nearly as strict in the current M-1, 2 and 3 zones that would PDR-1, 2 and 3. At that, we tried to set a level similarly that would protect existing structures and allow them to be used and we came to a ratio of about two-thirds that worked pretty well. So, two FAR in the PDR 1 which is now C-M-1. Three FAR in PDR 2 and four FAR in PDR-3 that would be available for any uses and then the high -- the full FAR potential could only be realized by including these PDR-type uses.

For the smaller zone, the C-M-1 and C-M-2, we tried to offset that a little bit by adding another half FAR of total availability if you're doing PDR uses, but we
didn't feel comfortable raising that overall cap and leaving the non-PDR uses up at the level and raising the cap because that would have an impact on the surrounding neighborhoods. Would add new development and new height in areas that are often near residential and other types of uses. So, we tried to keep the overall cap at or close to where it was and instead find space in that existing total cap to reserve for PDR uses.

We have had a lot of conversations with industrial land-use owners. Especially the ones that are either called out specifically in the Comp Plan or have unique situations. We've talked with owners along V Street, N.E. and along New York Avenue, N.E. about over the next couple of years working with them to find appropriate zoning classification for their land that might be adversely affected by this suggestion or by this recommendation, but for the most part, we feel that this represents a good mix of the
two uses that will allow for continued commercial and office development in these, but still retain some other development potential.

I've also see one outside set of recommendations from the Building Industry Association that suggests raising the PDR allowance in a couple of the zones in the C-M-1 and the C-M-2.

We feel that that doesn't necessarily accomplish our goals. That we've gone as high as we can with the non-PDR uses to allow for some reservation of land for those uses. So, that is our fourth recommendation.

And our fifth recommendation has to do with standardizing the buffering in the industrial land. One thing that we saw as we examined this was that buffering and setback standards in the industrial zones were all over the board and there is some guidance in the Comprehensive Plan about -- and I won't be
able to find it now that I'm looking for it, but about -- here it is. Improving screening and buffering standards in industrial land.

So, what we've done is basically taken the Langdon Overlay provisions of 25 feet buffering from residential -- from the line between the industrial zoning and the residential zoning and 15 feet where there's a street there that would have to be left as a vegetative or solid buffer between the industrial uses and the residential uses and making that applicable throughout the city wherever those two zones coincide and this would remove a lot of the need for various other types of setbacks.

We'd removed the special exceptions that largely set different setbacks and accomplish it through that.

The biggest uses have -- waste transfer stations and recycling stations how separate setbacks that are required by Council. So, we can either reference those or
just leave them out and they'll still be enforced by Council and the 25 will apply for everything else.

So, that's the quick and dirty version of our five recommendations. I'm happy to answer any questions.

CHAIRMAN HOOD: Thank you, Mr. Parker.

Let's start off with your last comments about the Langdon Overlay. One of the reasons I'm probably on the Zoning Commission is because of the Langdon Overlay.

I will tell you that it's good to see some of these recommendations, but I'm not sure where you have existing practice and let's talk about what exists and I know what you have recommended.

The current regulations provide separate buffering standards for different areas and uses. Both the special exception standards and the Langdon Overlay are largely concerned with buffering PDR uses from
residential zones.

Is it the Office of Planning's -- are you trying to -- I'm trying to use my words correctly here. Are you mentioning that there's a buffer now pertaining to the Langdon Overlay?

MR. PARKER: The Langdon Overlay is where this 25-foot yard requirement comes from. The Langdon Overlay -- wherever industrial and residential touch in the Langdon Overlay, there's a 25-foot buffer requirement and --

CHAIRMAN HOOD: You're just saying that's what's suppose to happen. You're not saying that's actually what's going on.

MR. PARKER: Correct.

CHAIRMAN HOOD: Okay. Okay.

MR. PARKER: Yes, that's the requirement. Yes.

CHAIRMAN HOOD: We won't argue then --

MR. PARKER: Fair enough.
There's a lot of existing situations where that doesn't exist. You're right.

CHAIRMAN HOOD: Tell us about --

MR. PARKER: No, that's the existing requirement.

CHAIRMAN HOOD: Okay. I got it.

MR. PARKER: My apologies.

CHAIRMAN HOOD: Yes. Okay. Now, let me ask about this PDR. One of the things -- and I have not had a chance to read anything about C-M-1 and C-M-2 that was presented to us tonight, but one of the things I noticed, and we talked about uses, in the C-M-1 not the way it stands and once we start talking about uses we really probably need to -- I would suggest that as this evolves that we really make our words carefully. Case in point, one of them says I think it's manufacturing.

MR. PARKER: Um-hum.

CHAIRMAN HOOD: And I think that's what opened it and I know it's ways that we
have to probably put more controls in these
type of uses in these areas, but when you say
manufacturing that just left it open for any
-- manufacturing what?

    MR. PARKER: Yes, we really don't
do any manufacturing in this city anymore.
It's --

    CHAIRMAN HOOD: But, the --

    MR. PARKER: Go ahead.

    CHAIRMAN HOOD: We don't, but
people use that as manufacture. Trash
transfer stations were looked at at the time
as manufacturing.

    MR. PARKER: Right.

    CHAIRMAN HOOD: Yes. Yes. You
knew I was going to -- but, anyway, what I
want to do -- I will tell you though, Mr.
Parker, I think this -- for someone who has
lived it and witnessed it, this is a start.
I don't know where I'll be when this starts
coming to conclusion, but I can tell you that
this is a start at least for those of us who
live in areas like that.

But, you mentioned about the M zone. I think you said to lessen the M zone. I forgot. The uses within the M zone.

MR. PARKER: The fourth recommendation is generally that we need to reserve development potential in the form of FAR for PDR uses. The Comp Plan is very clear that we're not doing a good job of -- for example, right now in any -- on any lot in the M or C-M zones, you could come in and put an office building. You know, four story/six story depending on the allowance for FAR. If you do that, that lot is an office building for the next 40/50/60 years and is out of -- it's no longer available for PDR use.

So, our general suggestion is we need to reserve some development potential in these areas for PDR uses and we can do that by limiting the development potential of non-PDR uses.

Now, our intent has been to leave
the current C-M zones as more mixed. Sort of like our current commercial zones and leave about -- you know, two-thirds of it would still be open for all non-PDR uses and only the top one to two FAR would be reserved for these PDR uses in those mixed C-M zones and then for the M zone, that's really the heavy industry and that's where we have, you know, the strongest Comp Plan guidance that we need to limit non-PDR uses and in that zone, we'd allow only the one FAR that exists in most of our M zones, the one-story building, to continue to be used for whatever uses are available, whatever commercial or retail uses. But, when new buildings go up to higher heights when these sites are developed, they need to include a significant PDR component.

CHAIRMAN HOOD: Okay.

Recommendation two when it talks about existing ordinance regulate sound, smoke, odor, fumes, dust, glare and vibration and then the issue from which you have outlined in
your report, currently many of the performance measures are either based on outdated standards or vague to the point of providing no standard at all.

Coordinate performance standard with the current District Department of the Environment standards. Now, and I'm not sure, it wasn't DDOE at the time, but there is an external effect and this was already in place.

MR. PARKER: Um-hum.

CHAIRMAN HOOD: And that never worked.

MR. PARKER: Um-hum.

CHAIRMAN HOOD: So, what are we going to do differently and I thought that was a coordinated effort then and this goes back to enforcement. How do you envision seeing that operating differently now than what's -- I know we have DDOE now.

MR. PARKER: Right.

CHAIRMAN HOOD: Whereas we didn't. How do you see that operating differently?
MR. PARKER: I think you've hit on it. Now, we have DDOE and they have standards for these things. Back then we didn't, but the problem is in most instances now, the Zoning Administrator doesn't have anything to enforce. It'll say should be no objectionable smell. Well, what does that mean and how do you enforce that and the issue is DDOE for a lot of these things now has -- especially smoke and vibrations and things has measurable standards that they can use and that they do use and they can do enforcement.

So, the idea would be that DDOE would take over more enforcement which they're doing now and that their standards would be the applicable ones rather than the existing vague and/or outdated ones that we have.

CHAIRMAN HOOD: My last question, Mr. Parker. When the former Planning Director Mr. Altman asked me to give him a tour of Ward 5, guess where was the first place I took him.

Okay. Colleagues, any other
questions?

VICE CHAIRMAN JEFFRIES: Yes, I have a couple of questions.

CHAIRMAN HOOD: Vice Chair.

VICE CHAIRMAN JEFFRIES: You know I remember the 2005 District's Industrial Land-Use Report and it was, you know, fascinating in that, you know, it said you have here -- like 5 percent of the total land could even be developed into an industrial use.

I'm wondering in terms of just sheer percentages what did you see when you did best practices and you looked at other cities? Did you see -- I mean obviously a lot of cities have a shrinking base, but were any as small as this one?

MR. PARKER: No, most of the other cities were -- have industrial histories that we looked at. D.C. is -- has one of the smallest percentages that we ran across.

VICE CHAIRMAN JEFFRIES: So, did
that at all inform some of the decisions you
made in terms of, you know, how you looked at
this since we have such a shrinking and small
-- I mean because, you know, being from
Chicago, I mean, it's such a huge base and,
you know, so, you know, making a comparison
between Chicago and D.C., I'm just trying to
understand.

MR. PARKER: I don't think we made
a judgment call in this process that we need
to save industrial land. We relied on the
judgment call that had been made in the
Industrial Land-Use Study in the Comp Plan.

I mean we already had that
guidance saying that we're running out of this
land. It needs to be preserved for these
uses.

So, we just took the work that had
already been done and said this is how we can
see to do that.

VICE CHAIRMAN JEFFRIES: Okay.

And exactly, where are the areas? Where are
the protected industrial areas? I mean just off the top of your head in D.C.?

    MR. PARKER: Ward 5.

    VICE CHAIRMAN JEFFRIES: Ward 5.

That abut against residential zones and it's pretty much Ward 5. That's it?

    MR. PARKER: That's not it, but that's --


    MR. PARKER: Um-hum.

    VICE CHAIRMAN JEFFRIES: Okay.

And I mean in terms of households I mean do you have a sense of just how many households are impacted?

    MR. PARKER: None whatsoever.

    VICE CHAIRMAN JEFFRIES: Okay.

Okay. You know, I never get overly excited about the industrial because it's such a small percentage, but, you know, our Chair here has gotten me to become a lot more sensitive. So, I just figure that I would and I'm just trying
to get a sense of, you know, just how many people are being impacted and so forth.

And then the last thing was this business the buffering, landscape buffering. That's currently not in the text?

MR. PARKER: No, there's a lot.

Most of the chapter is about different setbacks and buffering standards and our suggestion is to standardize that.

VICE CHAIRMAN JEFFRIES: To standardize it. Okay. Okay. Great. That's all I have. Thank you.

CHAIRMAN HOOD: Commissioner May.

COMMISSIONER MAY: Yes, I just had a couple of questions. The PDR uses themselves, are we going to have the sort of broad categories that we had in the early discussions?

MR. PARKER: That's the recommendation. Yes. Yes.

COMMISSIONER MAY: And I guess I'm a little -- I mean we'll have to see what
happens when it happens, but I'm -- I guess
I'm a little bit concerned that it's going to
-- that you're going to be able to capture
everything appropriately. Because there's --
there are just -- we don't have a lot of
manufacturing, but we have quite a range of,
you know, I think industrial-type uses. You
know, warehousing or, you know, even the city
zone industrial-type uses for their, you know,
their functions. You know, DDOT and salt
domes and, you know, all -- I mean there's a
whole --

MR. PARKER: Right.

COMMISSIONER MAY: -- an

assortment of these things and I'm just
wondering -- I'm a little curious about how
that's all going to pan out in the -- when you
try to categorize it.

MR. PARKER: Well, all of that
would -- industrial uses would be a category
and the way to get at those --

COMMISSIONER MAY: PDR's going to
be a single use?

MR. PARKER: Exactly and the way
to get at that is external effects. So,
you're fine, but in the PDR-1 through 3, you
have to meet these noise standards and these
vibration standards and these odor standards
and those are slightly relaxed in the PDR-4
which is the M. So, you can be slightly
heavier and more tactful.

COMMISSIONER MAY: Okay. All
right. I have to think about that and how
it's going to --

MR. PARKER: All right.

COMMISSIONER MAY: -- how that's
going to work out. Was there any thought to
trying to customize these zones the way you
were suggesting with commercial zones in lieu
of overlays?

MR. PARKER: We haven't -- I mean
there's just not a lot. There's not a lot of
need for it here. I mean we could certainly
allow it because that's where we're headed for
residential and commercial. We could
certainly allow that here, but there's not
much industrial land.

COMMISSIONER MAY: Not that much
reason to do it.

MR. PARKER: Yes.

COMMISSIONER MAY: Yes, I mean I
guess maybe I can think of, you know, there
might be a couple of isolated islands that
aren't quite the same as that major block, but
it's not a big issue.

All right. That's it for me.

Thanks.

CHAIRMAN HOOD: Okay.

Commissioner Turnbull?

COMMISSIONER TURNBULL: Mr. Chair,
at this time, I think I'd be repeating a lot
of the comments of the other commissioners.
I think I'd -- I think we ought to get right
into the testimony of Ms. Dwyer, Mr. Collins,
Mr. Sher and maybe Mr. Glasgow. I'm not sure
who's all going to testify. But, I'd rather
hear their comments because they've got specific cases and cites. So, I'd rather go right into that.

VICE CHAIRMAN JEFFRIES: And they're all such shrinking violets, you know. We have to really draw them in.

COMMISSIONER TURNBULL: Yes. Yes.

Yes.

COMMISSIONER MAY: How many years of experience do they have combined again?

CHAIRMAN HOOD: I'm not sure.

But, I think what I would like to do is bring them all up at one time, but I have one question.

Mr. Parker, you mentioned about Council's distant. What the Council and what the Zoning Commission now ask as far as transfer stations. I've been informed by Council over the ten years I've been here talking about the same thing is that, and I get in trouble with this even by some of the Council Members, some of the previous ones,
that you cannot -- the Council cannot
legislate zoning. So, when you said it was
covered by Council, did you mean the City
Council?

MR. PARKER: Yes, they can't

legislate zoning, but they can legislate trash
transfer stations and they've -- there's
existing. Ms. Bushman may be able to inform
you more what the exact legislation says, but
there's a --

CHAIRMAN HOOD: I know they
legislate it, but I'll -- I can tell you this
and I know Ms. Bushman has -- and I don't have
a law degree. I can just tell you from actual
experience what stood up in court was what the
Zoning Commission did.

MR. PARKER: Sure.

CHAIRMAN HOOD: Am I correct, Ms.
Bushman?

MS. BUSHMAN: I believe you are,
sir. But --

CHAIRMAN HOOD: I'm just wondering
now. Now, we're saying that they can legislate it and I will tell you that former Council Member Orange and myself, we -- in a public meeting, he and I went back and forth on this because I was going by what I was informed. So, I think that that's one thing that we need to make sure that we clarify.

MR. PARKER: Okay. We'll look into that.

CHAIRMAN HOOD: If you ever get the answer, let me know because I'd like to know what it really is.

MR. PARKER: Okay.

CHAIRMAN HOOD: Okay. Let me do this. We have two people who are proponents. I'm going to bring everybody up at the same time. I'm going to ask Mr. Collins to come forward and Ms. Dwyer. They are the two who are listed here as proponents and we're going to ask -- maybe if you all can sit to the left or to the right. Sit together. Okay. You're going to put those opponents on the ends.
Okay. Good. Okay. And then I'm going to ask Mr. Sher and Mr. Glasgow and Mr. Milsten to come up.

It's Mr. Milsten? Oh, okay.

Okay. I thought that was Mr. Milsten.

Sir, are you going to testify?

Oh, okay. All right.

Okay. Let's begin with Ms. Dwyer and then we'll go -- Mr. Collins, you don't mind do you? Okay. Because your name is first, I just -- do you have your mike on?

MS. DWYER: Yes.

CHAIRMAN HOOD: Okay.

MS. DWYER: Good evening, Mr. Chair and Members of the Commission. For the record, my name is Maureen Dwyer with Pillsbury, Winthrop, Shaw, Pittman.

I come before you this evening on behalf of News World Communications, Incorporated owner of The Washington Times which is the owner of properties along New York Avenue between Bladensburg Road and South
Dakota Avenue and attached to my statement is a plat that shows The Washington Times properties. Their properties are highlighted in green and you see that they abut New York Avenue and then behind the property is the railroad tracks.

The Washington Times participated in the working group process and is pleased to be here this evening to support most of what the Office of Planning is recommending and let me start by saying that we also appreciate OP oral testimony that it will work with The Washington Times in looking at re-mapping its properties to insure allowances for office and retail development and we have had preliminary meetings with both the Office of Planning and the D.C. Department of Transportation.

The high visibility of these properties along New York Avenue, the Gateway to the District of Columbia, along with their location across from the Arboretum suggests that mixed-use development might be more
suitable for these properties than industrial
development and could further enhance the
Gateway with landscaping and even bike trails
that connect to the Arboretum.

Zoning changes to accommodate this
would also be in keeping with the industrial
land-use study which recognized these parcels
as appropriate for mixed-use development.

Turning now to what is before you,
we support OP's recommendation that the
industrial and manufacturing names for the C-M
and M zones should be changed to production,
distribution and repair. Given the current
real-world uses of these zones, the proposed
PDR classification is more fitting.

We also agree with the proposed
coordination of performance standards with
current DDOE standards since many of the
current standards as OP has pointed out are
outdated or provide no standard at all.

Given the proliferation of
possible uses that could exist within these
zones, we also believe that broadening the definition of allowable uses would be beneficial. A comprehensive definition would allow for greater certainty as to what could be allowed and the definition would not need to be constantly updated.

And finally, we agree with the proposed concept to create uniformity and buffering standards to apply when PDR zones abut residential zones. The specific standards proposed would allow for an understandable and definitive buffering screen.

The one area where we differ with OP's recommendations has to do with the proposed capping of development potential for non-PDR uses. We suggest that the Commission consider allowing more density for non-PDR uses. Current technology has advanced to the point that many PDR uses do not require the same amount of space that they did in the past.
Further, reserving too much FAR on individual properties might have a negative affect and might even present PDR uses from being located there.

Without the ability to include substantial additional office or retail space, the desired PDR uses might not be allowed to be developed since developers would not be able to create or finance a viable mixed-use project.

Accordingly, what we are proposing is to see the cap on non-PDR uses in the C-M-3 zone at 4.5 and the cap in the M zone raised to 2.5. Such raising of the caps to allow for greater mixed-use development particularly along New York Avenue is supported by both the Comprehensive Plan and the District's Industrial Land-Use Study.

Thank you.

CHAIRMAN HOOD: Okay. Mr. Collins.

MR. COLLINS: Good evening. I'm
Christopher Collins with the law firm of Holland & Knight here on behalf of Stanley Morton Commercial what I'll refer to as SMC and its related entities in qualified support of the Office of Planning's recommendations.

SMC manages and controls approximately 1.85 million square feet of land that is zoned either C-M-1 or M along V Street, N.E. between South Dakota Avenue and Bladensburg Road.

I've submitted both my testimony and a letter. The letter has a plat attached to it on the second page which identifies the properties in more detail so you can get an idea where they are.

The use of industrial land in the District particularly for warehouse and related uses has significantly changed over time. Woody's, Hecht's and Sears all had significant warehouse operations in the District, but they moved out of the District in the past.
Supermarkets, other food retailers and wholesalers also had active operations in the District, but they've also left the District.

For SMC -- oh, I'm sorry. Storage of bank and other records is now digitized. They don't need to have large warehouse facilities. Distribution businesses generally located in much larger facilities on much larger pieces of property than can be accommodated in the District. Generally, adjacent to interstate highways on large lots.

SMC's warehouse properties are generally occupied by a mix of uses including storage for the U.S. Government and the D.C. Government with office facilities included in those buildings as well. Other uses that -- where warehouse sees a big demand for is charter schools and churches.

Notwithstanding OP's position that industrial land in the District should be retained, there is much vacant warehouse space
in the District including space that leases at a lower rate than in the surrounding jurisdictions. The size of property is generally -- and accessibility is a problem except for certain uses and as a result, SMC needs flexibility both now in the future to respond to market demand by tenants whether they are PDR uses or non-PDR uses.

Recommendation number 4 in the OP report in this case which proposes lower matter of right FAR limits for non-PDR uses than for PDR uses also recognizes the need for special treatment for the industrially-zoned land along V Street, N.E. that is called for in the Comprehensive Plan.

As reflected in recommendation number 4, OP has indicated to SMC that OP would support a map amendment to retain SMC's ability to redevelop its property for non-PDR uses at the same density as the current FAR limitations. On that basis, SMC supports the proposal.
Thank you. I'd be happy to answer any questions.

CHAIRMAN HOOD: Okay. Let me just as the Commission. I would actually like to hear from both the opponent and proponent before we ask questions unless somebody wants to just go now. Okay.

We'll go with Mr. Sher. Okay.

MR. SHER: Good evening, Mr. Chairman, Members of the Commission. For the record, my name is Steven E. Sher the Director of Zoning and Land-Use Services with the law firm of Holland & Knight.

I'd like to focus on the items that Mr. Parker identified as recommendations 4 and 5. In particular, the notion that decreasing the FAR for non-PDR uses in the zones that are designated for PDR and sometimes I'll call them industrial. Sometimes I'll call them PDR. We're all talking about the same thing.

Decreasing the FAR in that way may
be counterproductive to the way that the existing industrial areas in the city have been developed. As everyone recognizes, we don't have any really sort of long-term heavy industry. We don't have steel mills, automobile manufacturing plants and so forth.

Our industrial areas have had various cycles of uses with various kinds of industries being here and then no longer being here. We had a lot of printing at one point. Printing's mostly gone. We had a lot of food distribution. That's mostly up in Jessup at this point. We've had other cycles.

Fred Farschi of SMC will tell you the history of his warehouses up there on V Street. At one point, it was the only -- it was the place you went to go to buy appliances in the metropolitan area. Everybody went to V Street because that's where the distributors were. They're gone now and you buy appliances at Best Buy or over the Internet I guess.

So, the various cycles of uses of
these things need to be taken account when you think about both existing buildings that need to be occupied as well as land that needs to be developed.

Another factor that you ought to keep in mind is that non-PDR uses have sought out PDR land because you've made it more difficult to go into zones that they might otherwise be looking at. If a user has the choice between taking a piece of property zoned C-M and going in as a matter of right or taking a piece of property zoned commercial and having to go get a special exception, it often drives people in the direction of I'll take the matter of right and not have to go through the time and expense and difficulty of going through the special exception process. So, that's another factor that has contributed to how the PDR land is used.

A couple of comments with respect to this reduction in FAR. There are a fair number of PDR designated properties in
proximity to Metro, Metrorail Stations. Union Station's got a lot of M and C-M behind it. Up along Rhode Island Avenue, you've got a fair amount of industrial land.

Do you really want to depress the level of non-PDR uses on those sites that are in very close proximity to Metro? I ask it as a question. I don't have an answer necessarily. If I had to answer it, I'd say I'm not sure that's a good idea.

The second thing to keep in mind is that there are properties that are zoned industrial now, C-M and M, that when you look at the future land-use map are not shown as PDR. They're shown as commercial or mixed-use or something and that to some extent suggests some mapping exercise that needs to be done as well here.

But, if we're going to keep those lands zoned industrial but the Comp Plan is calling for something other than PDR on the future land-use map, that needs to be
addressed and I try and put it this way. If the levels that Office of Planning has suggested are appropriate for PDR, i.e., you're up here for all uses and down here for non-PDR uses, where your property's shown on the Comp Plan for something else or where your property is shown on the Comp Plan for a mix of PDR and something else, to me that suggests the non-PDR uses need to be treated more favorably in that scenario and there are a whole lot of those scenarios around and those -- again, it's partly a mapping exercise, but it's also partly how this text reflects what the reality of the real life is.

Two other quick points. Given that Office of Planning has recommended that the PDR-1 now C-M-1 go from 3 to 3½ FAR, we would suggest that the height limit needs to go higher than 40 feet. Because to get more than 3 FAR even if you covered 100 percent of the lot, you're at four stories. You can't get four commercial/industrial stories in 40
feet. So, we think 50 feet is a more appropriate height for the PDR-1 zone where your FAR is up to 3.5. You're just not going to get a 10 foot floor to floor for a commercial or industrial use. You're going to need a little bit more height than that in order to get that FAR in there.

Second comment had to do with the buffer and I just -- it just made me scratch my head a little bit. I'll take 20 more seconds.

If you got a 25-foot buffer, but then if you have a street or alley, you need a -- you have a 15-foot additional buffer. I just don't think I quite understand that. The street's always going to be wider than 25 feet. So, why do you need to add 15 feet on top of the width of the street and if you have an alley, why do you need to add 15 feet to the 25 feet. So --

VICE CHAIRMAN JEFFRIES: Fifteen feet be the yard?
MR. SHER: Yes.

VICE CHAIRMAN JEFFRIES: The yard.

Yes.

MR. SHER: For these buffers. You know, if you're separated by a street, I don't understand why you need to be separated by an additional 15 feet if when there's no street you only need to be separated by 25 feet. The street's always going to be wider than 25 feet. So, you -- if residential's on the other side of the street, why do you need to push the PDR use back 15 feet from the lot line?

Am I making that clear?

COMMISSIONER TURNBULL: I don't think that's what OP has though.

MR. SHER: Well, that's what it seems to say.

MR. PARKER: No, the recommendation is 25 feet without a street and 15 feet with a street. Not 15 plus 25. Just 15.
MR. SHER: Right. But, if there's a street, the street's going to be more than 25 feet. So, then you're going to have a 15-foot setback plus the width of the street which is going to be way more than the 25 feet you would have to do if you didn't have a street. That's what just doesn't make any sense to me.

MR. PARKER: But, if you build up to the street, there's no visual buffer.

MR. SHER: Okay. That's just a thought.

COMMISSIONER MAY: I mean you're equating the street space with a buffer. You're saying that it's the same as a buffer.

MR. SHER: If there's an intent to separate.

COMMISSIONER MAY: It's more than just a separation because it's not just a yard. It's being referred to as a buffer.

MR. SHER: Well --

COMMISSIONER MAY: Which has stuff
in it.

    MR. SHER: Okay. There could be stuff in it that wouldn't necessarily have to add the other 15 feet. That's all. That's all I'm thinking. Okay.

    COMMISSIONER MAY: Well, as soon as we can start planting trees in the street which might not be a bad idea.

    MR. SHER: But, you actually do have trees in the street's right-of-way. All right. Never mind.

    COMMISSIONER MAY: One -- one tree every 20 feet is not -- doesn't make a buffer.

    CHAIRMAN HOOD: I want to go back to that point, Mr. Sher, but I want to give Mr. Glasgow a chance to give his comments.

    MR. GLASGOW: Just very briefly a couple points here because Mr. Sher covered most of that and basically, when we signed up in opposition -- I've discussed this with Mr. Parker. It's just that when we signed up in support and then have some things in
opposition, we get chided sometimes. So, we
played it safe tonight and said we're in
opposition. But, most of this is -- mostly,
we're in support of the concepts that Office
of Planning has. I think everybody is here,
but we have some comments.

Steve hit on the one with the
Metro Stations. Just by way of example, where
you have the Rhode Island Avenue Metro Station
cutting up in Rhode Island. So, you have the
tracks going more in a northerly direction and
Rhode Island Avenue is traveling mostly
east/west. This whole area right is
designated PDR on the Comprehensive Land-Use
Map and it's right on top of the Metro
Station. That's an example of what we're
talking about. We got some of these changed.

Our major clients on this are
Douglas Development and the Wilkes Company and
they have major ownerships in the areas that
are zoned C-M at this point in time pretty
much throughout the city.
We had the area here where the Blue Church is on Rhode Island Avenue. I don't know how else to describe it. I can't remember the name of the church, but most people know the blue --

VICE CHAIRMAN JEFFRIES: Mount Calvary.

MR. GLASGOW: Yes, I think so.

CHAIRMAN HOOD: Yes, it's Mount Calvary.

MR. GLASGOW: Yes, and --

CHAIRMAN HOOD: Greater Mount Calvary. Forgive me.

MR. GLASGOW: Oh, right. Right. That's right. I wouldn't want the pastor to hear that. It's Greater Mount Calvary.

We have mixed use there. We got that part straightened out in the Comprehensive Plan and some of the other areas like where Uline Arena is and so of the others are this mix of PDR and other designations now.
under the Comprehensive Plan, but we didn't
catch all of them right on top of the Metro
Stations and so, we think that you all -- and
we'll continue to work with the Office of
Planning on that.

May want to think about when
you're within a quarter of a mile of a Metro
Station, do you want to be depressing
densities rather than encouraging densities.

And I think those are really the
main points that I wanted to add to this and
we look forward to working with the Office of
Planning and the Commission as this moves
forward.

CHAIRMAN HOOD: Okay. Mr.
Turnbull, you want to start off?

COMMISSIONER TURNBULL: Yes, I --
well, let me just -- I just got one question.

I think, Mr. Sher and Ms. Dwyer, you were
talking a raising the FAR limit on non-PDR.

MS. DWYER: That's correct.

COMMISSIONER TURNBULL: Are you
proposing a limit or wait, are you proposing an FAR?

MS. DWYER: The Office of Planning for the C-M-3 proposes that the non-PDR be limited to 4.0.

COMMISSIONER TURNBULL: Right.

MS. DWYER: And we've suggested 4.5.

COMMISSIONER TURNBULL: Four point five.

MS. DWYER: And for the M, OP recommends 1 and we suggest 2.5.

COMMISSIONER TURNBULL: Mr. Sher, is that consistent with your --

MR. SHER: I don't have a specific thought there. In some cases, I think that it would make sense to allow non-PDR uses to occupy the whole density, but I think it depends on what the Comp Plan designation is and what the specific facts and circumstances are. I don't have any reason to disagree with Ms. Dwyer in what she's recommended, but we
have gone on a sort of site-by-site basis and
said you can do this here or you can do that
there.

COMMISSIONER TURNBULL: Okay.

Thank you.

VICE CHAIRMAN JEFFRIES: So, could
anybody here in the panel just give me some
examples of sort of mixed use, industrial,
retail in the city. I'm just trying to get my
arms around examples. We see mixed use --

MR. GLASGOW: You mean the
designation or where that has occurred?

VICE CHAIRMAN JEFFRIES: Where
that has occurred?

MR. GLASGOW: I think Mr. Farschi
has most of that given the office use and some
other things he's had.

MR. COLLINS: No, it's -- Chris
Collins again, Holland & Knight.

For SMC's properties along V
Street, they currently now have one where they
have a U.S. Government agency that has storage
and they have an office component in there, Secret Service.

VICE CHAIRMAN JEFFRIES: Um-hum.

MR. COLLINS: But, generally, what they're looking for is if there is a -- it's not so much the mix of use as it's the flexibility to have a tenant.

Your warehouse tenant might move out and your next tenant might be, I don't know, let's pick it, Phoenix University.

VICE CHAIRMAN JEFFRIES: Right.

MR. COLLINS: You know, it's --

VICE CHAIRMAN JEFFRIES: Or you could have like back office space.

MR. COLLINS: Or back office space.

VICE CHAIRMAN JEFFRIES: Somebody might need back office space.

MR. COLLINS: Or -- yes, or something of that nature where you might want the next tenant to be able to occupy the building, but if the building is only limited
to a certain FAR and not the full FAR, then
you have a problem.

So, that's what -- for SMC, what
they're trying to do is preserve the
flexibility to respond to tenant demand.
Right now, tenant demand for warehouse space
in the District is very low.

VICE CHAIRMAN JEFFRIES: Um-hum.

MR. COLLINS: It may pick up. It
may not pick up.

VICE CHAIRMAN JEFFRIES: Okay.
And, Ms. Dwyer, what forms your 4.0 to 4.5 and
1 to 2.5? What --

MS. DWYER: Just to give greater
opportunity for the development to be more
financially viable. Because as Office of
Planning recognizes, many of these uses
command very low rents and the more you can
provide the non-PDR uses, the greater the
chance that you'll have a viable project.

VICE CHAIRMAN JEFFRIES: Okay.
Okay. Thank you.
MS. DWYER: And I would also point out that The Washington Times had a mix of uses on its properties on New York Avenue. It had its printing plant there which has since been outsourced. So, it's The Baltimore Sun now that does their printing operations and it also has space for offices including the D.C. Department of Transportation.

VICE CHAIRMAN JEFFRIES: Okay.

So, mainly, you're seeing more -- you know, back office, processing kind of office space with some --

MS. DWYER: What we're really seeing for The Times' properties is given their visibility on New York Avenue, given the fact that they abut the train tracks which is a natural buffer, given the fact that they face the Arboretum which is a beautiful green resource in that neighborhood, there's a real opportunity to a mixed-use development with office and ground-floor retail, additional landscaping, bike trails and really connect
one side of New York Avenue to the other.

VICE CHAIRMAN JEFFRIES: Would the retail that would be part of that -- that wouldn't be -- that would be with neighborhood -- what kind of retail would that be?

MS. DWYER: The thinking is neighborhood serving retail.

VICE CHAIRMAN JEFFRIES: Okay.

MS. DWYER: Yes. There are a lot of new neighborhoods that are being developed in that community and the idea of having shops and restaurants and the opportunity to serve the neighborhood is one of the goals.

VICE CHAIRMAN JEFFRIES: Okay.

Thank you.

COMMISSIONER MAY: Several of you have sort of made references to aspects of, you know, the relative affordability of space -- of leasing space within these areas and what I'm wondering is the -- I'm sorry. In going back to what Mr. Sher said, I think it was Mr. Sher. No, I'm sorry. Who said it?
Reference to the charter schools being a regular -- actually, it was Mr. Collins. Charter schools being one of the folks who are knocking on the door.

MR. COLLINS: Yes.

COMMISSIONER MAY: Right. You know, charter schools generally speaking are going to be looking for inexpensive space and what I wonder is that, you know, if you wind up boosting the ability to have these non-PDR uses within the space it becomes so much more attractive for those non-PDR uses that you wind up, you know, making that the only viable way for the owner to make money on that space and so, in fact, you wind up pushing the PDR uses -- continuing to push the PDR uses out.

I mean isn't part of what we're trying to accomplish here by reserving the PDR zone and not simply allowing these greater commercial uses within the zones. Isn't that -- I mean isn't that what we're trying to accomplish with the zone? In order -- so,
that we can maintain some. Maybe not all. Maybe in certain circumstances it makes sense that it should be rezone and that's what we've tried to reflect in the Comp Plan. I mean I don't know.

MS. DWYER: I agree in certain circumstances you need to look at the zoning and maybe change it, but here what we're proposing or recommending is not to use the full 6.0 FAR for non-PDR. But, just to allow 2.5. So, the balance would still be PDR uses and we think that gives enough encouragement for low-cost space for the PDR uses and at the same time, a project that works as a mixed-use development.

COMMISSIONER MAY: You know, I really do wonder whether though by opening the -- I mean I don't know what the right balance is between these. Obviously, you've got to have some balance that allows for the non-PDR uses and maybe it's -- is there any attempt within what you're thinking to tie the non-PDR
uses to the PDR uses? In other words, that if you've got, you know, back office space in association with the industrial use that you might have a greater ability or greater density of that use?

MR. PARKER: You're saying maybe provide a one to one. For every square foot of PDR use you provide you can have an equivalent amount of non-PDR?

COMMISSIONER MAY: Assuming that they're actually related in some way. That it's back office related. It's like the example of the Secret Service warehouse which they have a certain need of warehouse stuff, but then they also have to have office spaces to go with it. But, you certainly don't want to create a PDR zone that makes that impossible.

MR. PARKER: I think we're open to that. I mean our main intent is to avoid the construction of new buildings that would be single use and would not be -- that would take
the land out of availability for PDR uses.

So, at 2.5 could be a four-story office building and now, that site's out of potential for PDR uses. So, the thought is to preserve that and how that's accomplished we're entirely open. I've met -- the five of us have met a lot over the past month or two and --

COMMISSIONER MAY: I guess what I would suggest then as a result is look at the possibility of somehow tying the --

MR. PARKER: Okay.

COMMISSIONER MAY: You know, if there's a direct connection between the PDR and the non-PDR use so that it's not just, you know, four stories of office on top of an unrelated warehouse. Because, you know, there may be uses that really need that density of office space associated with the PDR use. I don't know.

MR. COLLINS: Mr. May, if I may, Chairman, on that issue, the -- what we have
here is the Industrial Land-Use Study and we have the Comprehensive Plan. The Industrial Land-Use Study was not adopted by the Council. It was the Comprehensive Plan that was adopted by the Council and there are several places in the Comprehensive Plan where it talks about the mix of uses for PDR zones and not simply just PDR uses.

For instance, in the Section 2.4.1 of the framework element and it's also on the legend on the generalized policy map, it says that "Neighborhood conservation areas that are designed for PDR uses on the future land-use map are expected to be retained with a mix of industrial, office and retail uses they have historically provided."

So, to have only a retail use or an office use tied in with an industrial use is not what the comprehensive plan says.

COMMISSIONER MAY: And I'm not suggesting that it would only be tied to it, but that there could be a certain amount of
unrelated non-PDR use. But, that there will also be a greater allowance for non-PDR use that is associated with the PDR use. Just as a way of, you know, taking the limits that the Office of Planning has suggested rather than doing sort of a blanket expansion of the non-PDR use for every conceivable unrelated non-PDR use. That there be the opportunity to have, you know, an extra 1.0 FAR or something like that if that non-PDR use is associated with the PDR use on the same site.

It's just a thought as a way of sort of exempting if you will the back office space that's associated with the warehouse. You know, something like that.

VICE CHAIRMAN JEFFRIES: Well, I just -- if I could step in here. I mean I do like the notion of flexibility and broadness in terms of how we look at this and it seems based on what Mr. Collins has said about the 2006 Comprehensive Plan that seems to be pushed, you know, the intent and I just want
to be clear with the Office of Planning.

When we talk about the 5 percent of lands that are industrial, I mean is -- are we desperately trying to hold on to this 5 percent or I mean how do we feel about the 5 percent? I mean I just -- you know, I mean some of what I'm hearing here I mean sounds somewhat compelling. Particularly, you know, being careful about some of these FAR caps around some of the industrial and some of the Metro Stations and so forth.

So, I'm just -- I mean if market forces move in such a direction that we're seeing, you know, more mixed use and so forth, I mean I -- and we might see that 5 percent slip. I mean is that like critical?

MR. PARKER: Well, no, putting aside the Industrial Land-Use Study which was very strong about protecting this, I mean the Comprehensive Plan does provide a lot of guidance for allowing a continued mix in these zones, but it also provides maybe conflicting
guidance that says things like protect a limited supply of industrial land or protect active and viable PDR uses and limit non-industrial uses in these zones.

I mean so, there seems to be some conflicting guidance a lot of which comes from the fact that we have very limited land resources and while we don't have a lot of the historic PDR uses that we do, we have continuing need for city owned PDR uses and various things like that that are getting harder and harder to place.

So, there are conflicting needs here and I certainly understand and respect the need to be able to lease and use these spaces and we tried to accommodate that with setting the caps at or above where existing land uses were so that we were just impacting new development.

VICE CHAIRMAN JEFFRIES: How do you push flexibility though or, you know, in terms -- in these zones? I mean how are you
sort of providing for that?

MR. PARKER: Well, the flexibility comes in the fact that there is the option for, you know, a certain percentage of non-PDR uses especially in the C-M-1 through C-M-3 which are more mixed zones about two-thirds non-PDR and one-third PDR. That's where the flexibility comes in.

I mean right now, we have complete flexibility. All the zones are completely open to either PDR or non-PDR and we have the problem that we're having. We don't have anyway to reserve land for PDR uses and I mean one other suggestion that we had batted around back and forth is to not limit the use in the buildings, but to require that the buildings be built so that they're flexible. So that they can't be built just as 10-foot office, but they could be built to be flexible. But, we ran into some difficulties with how would you design those buildings and what would the constraints around those buildings be.
So, there are different ways to look at it, but this has been the best compromise that we've been able to reach so far in how to sort of meet the conflicting guidance we're getting from the Comp Plan.

VICE CHAIRMAN JEFFRIES: I mean clearly the District, any municipality, I mean needs to hold on to a certain percentage I mean for all types of uses, but there certainly will be places for various reasons and for structural reasons that, you know, it might call for much more of a broader mixed-use development. I mean as what Mr. Collins is saying.

So, I'm sensitive to Commissioner May's concern about, you know, trying to protect, but it also seems that we need to make certain that these things are breathing. These are breathing text changes and not overly restrictive such that, you know, we are, you know, shutting down other opportunities. So.
COMMISSIONER MAY: I would just want to comment on one other thing which is that, you know, I understand conditions may have changed in the market, but my recollection when I worked for the city is that we found that there was a real difficulty in getting appropriate warehouse space within the city or industrial land for city purposes.

MR. PARKER: And there was great demand for it.

COMMISSIONER MAY: And there was great demand for it. In fact, my agency I think paid for the study that was done or at least paid part of the money for the study because we were so concerned about it. So, I mean, you know, that was not part of what I did. I just knew anecdotally from what was discussed in the office that there was a real issue with finding appropriate industrial space for various District uses.

VICE CHAIRMAN JEFFRIES: And then I would imagine that, you know, you could
align that or parallel that with other uses,
you know, making the same case. You know, at
some point, you know, I mean a decision has to
be made. So, I --

COMMISSIONER MAY: Yes, I mean --

VICE CHAIRMAN JEFFRIES: Anyway, I
just put that out there. I mean, you know,
because I don't know. But, I do like the
notion of flexibility and a larger tent as it
relates to this.

COMMISSIONER MAY: Yes.

VICE CHAIRMAN JEFFRIES: I like
that notion, but I, you know, see how that can
roll out.

CHAIRMAN HOOD: Okay. Mr.

Turnbull.

COMMISSIONER TURNBULL: Thank you,

Mr. Chair.

Mr. Parker, Mr. Sher brought up at
one point the comment about PDR land around
Metro Stations. Is that a mapping issue or is
that a special case for PDR/non-PDR? How do
you view that?

    MR. PARKER: Good question. We're certainly getting into the issue of TOD right now in our sustainability in talking about minimum densities near stations and different things.

    I certainly think that they're right that we don't want to limit density around Metro Stations. I think it's just a question of mapping. I think the concept of reserving property for -- or reserving development potential for PDR is still sound. I think we need to take a special look at those Metro areas and either put them in that C-M-3 category so they have, you know, 4 or 4½ FAR for non-PDR and then still retain some for PDR or maybe just take them out of PDR altogether and put them into a commercial category that would allow for straight commercial. I think that is more of a mapping issue than a problem with the soundness of the recommendation.
CHAIRMAN HOOD: Okay. Mr. Parker and Mr. Sher, let's go back to this buffer. I wanted to make sure I understand. Let's go back to this buffer and I will tell you why because, you know, as -- talking about whether it's a street or a property line, you know, and protecting the residential districts. It's been so long since we talked about that. So, let me go back.

Mr. Sher, could you just make your point again about the buffer issue? Whether it's a street and you don't think there should be additional, I guess, footage if a street is already -- well, anyway, I don't want to speak for you.

VICE CHAIRMAN JEFFRIES: Or say an alley.

CHAIRMAN HOOD: No, let's go with street.

MR. SHER: All right. On the end the street, if the determination is that a 25-foot separation -- and I'm not sure I know
what occurs within that separation because this text doesn't define that. It calls it a buffer, but I don't know what goes in there. Okay. If a 25-foot -- where there's no street and I have a property line that separates a commercial, I'm sorry, a PDR district from a residential district, there has to be a 25-foot setback of the PDR use on the property line and something happens within that 25-feet but I'm not sure what it is.

If there's a street there, if there's a boundary line between a PDR zone and a residential zone and it runs down the middle of the street, then on one side of the street I have residential. On the other side, I have PDR and as I understand it, on the PDR side of the street, I have to setback an additional 15 feet from the property line. So, the width of the street is going to be -- always going to be wider than 25 feet. It's going to be at a minimum 50 feet sometimes 60/70/80/90 feet.

So, I have that much distance and
then I have an additional requirement to provide a further setback. Now, if something's going to happen in that setback or if there's some screening requirement, if I have to build a wall on my property line so you can't see into an open yard or something like that, then I could see where that could be a requirement.

I'm just not sure I see why you need an additional 15 feet beyond the width of the street.

CHAIRMAN HOOD: I think though -- I think it has a lot to do with the use. I can specifically give you in the Langdon Overlay where there's a residential house and I don't even -- it's a low-maintenance street. Now, you have me to the point I want to go home and measure how wide the street is. It's a low-maintenance street and right there maybe another -- maybe it's 15 feet. It's the use. But, I think it's the use because this is basically a -- it operates as a trash transfer
station basically. They will argue that use. But, I think this is in context where in that case, Mr. Parker, as we look into this, in that scenario, I would like to see more feet in a situation like that and this is only one example. I don't want to punish the whole -- because these industrial uses, we need to a point, but I don't want to punish the whole city. But, in that particular case, that needs to be dealt with.

MR. PARKER: The intent of this standard -- I hear what you're saying, but the intent of this standard is not distance. The intent is a visual buffer and that is -- on page 9 of the report, it says a 25-foot yard or a 15-foot yard if you've got an alley and under that, it says "The yard must contain a solid vegetative buffer, fence or wall to visually screen the use." So, that's the intent. Is to provide space for that screening.

CHAIRMAN HOOD: Screening.
MR. PARKER: Screening.

COMMISSIONER MAY: I would tend to think that you may be right. I mean that when you're on a public way that you want to have more of a buffer than you do with your, you know, the next-door neighbor. So, thanks for bringing that to our attention.

I mean I was just thinking, you know, they're all -- you know, everybody in the neighborhood gets to see and appreciate that PDR use and you want to have as good or better a buffer between that PDR use and the public way as you would between them and the single neighbor.

VICE CHAIRMAN JEFFRIES: Are you still dealing with distance or buffering?

COMMISSIONER MAY: Well, it has to do -- I mean you can do a better buffer in 25 feet than you can in 15 feet.

VICE CHAIRMAN JEFFRIES: I thought the Office of Planning was proposing --

COMMISSIONER MAY: I'm not -- you
know, I'm just arguing it for the sake of
arguing at the moment, but I mean it's -- it
has to do with the public space and the
appearance of this from the public space.

CHAIRMAN HOOD: Maybe I shouldn't
be specific in one particular area, but, you
know, it just wears on me.

Let me also ask Mr. Parker. We
had Ms. Dwyer and Mr. Collins and others
mention some issues. First of all, was
everyone on the working group?

MS. DWYER: Yes.

CHAIRMAN HOOD: Everyone was on
the working group. Okay.

So, some of the issues that you
heard, Mr. Parker, about the clients and I
guess again the city being predictable as we
go back to comments we heard tonight and
taking into consideration -- I'm hoping that
some of that will be taken into consideration
as we look into it and I know it's on down the
line with some of the stuff. Maybe the case
in point.

I think it was Mr. Sher who brought this up awhile back and I'm not sure what setting, but about the concrete plants. You know, if we get rid of all the industrial -- and I'm just using use now, of concrete plants when we start building downtown, it's going to cost more money to bring, you know.

So, those are some of the things I guess that we -- did you say that one time, Mr. Sher, about --

MR. SHER: Not tonight, but perhaps in the past.

CHAIRMAN HOOD: Okay. It sounded like something you -- and I --

VICE CHAIRMAN JEFFRIES: He's said so much in his illustrious career.

CHAIRMAN HOOD: But, those are the kinds of things that we need to look into and I'm hearing about storage space and the Secret Service, you know, and then I know things are modern technology, but some of those things --
Mr. Parker, as we go back and start looking, if we can take some of what we heard tonight into consideration. See what we come back with.

I'm sure you're going to do that anyway. Right?

MR. PARKER: I guess --

CHAIRMAN HOOD: For the most part.

MR. PARKER: -- the question is are you asking for further research, further -- I mean we've --

CHAIRMAN HOOD: Case in point. Let me give an example. Highlight. In Ms. Dwyer's testimony, she talked about the high visibility of these properties at the Gateway to the District of Columbia along the location across from the Arboretum suggested mixed-use development might be more suitable than industrial development and could further enhance the Gateway with landscaping and even bike trails that connect to the Arboretum.

MR. PARKER: Well, and we have
called out a couple special cases and V Street is particularly mentioned in the Comp Plan and we've talked to Ms. Dwyer about The Times which is a very unique location in the city and we've talked with them about rezoning those properties in accordance with their special situations.

I guess the point being in terms of the recommendations I think this is where we're at as far as the Office of Planning's opinion as far as a compromise between our conflicting interests in terms of protecting PDR land availability in the city and still allowing some level of mixed use in these areas.

This is sort of the compromise that we reached through this process. I'm just wondering do you have a specific request for more research or more information or --

VICE CHAIRMAN JEFFRIES: Just wait. I'm sorry. But, this -- when you said compromise, your compromises to non-PDR caps.
Is that the compromise?

MR. PARKER: I guess that I'm -- yes, maybe compromise is the wrong word.

VICE CHAIRMAN JEFFRIES: Oh.

MR. PARKER: That's our analysis. That's the result of our analysis of these conflicting interests.

CHAIRMAN HOOD: I guess the points, Mr. Parker, that I've heard tonight -- I don't know if you -- you probably heard. I know you've heard from two previously, but this is my first time hearing them.

Case in point, Mr. Sher, I believe he brought up depressing. I think his question was do we really want to depress around Metro Stations? Has that been considered?

I guess that's what I'm trying to say. Has all this been fleshed out?

MR. PARKER: That is an issue that we didn't -- hadn't considered in the original work and as I mentioned, I think that's a
geographic specific issue and that is a mapping issue more than a question of the soundness of the recommendation.

CHAIRMAN HOOD: Okay. All right.

Well, in answer to your question to me, is that I just wanted to know if these things have not been looked at to make sure the Office of Planning further researches it.

MR. PARKER: Okay.

CHAIRMAN HOOD: I think there are a some very valid points and also, the flexibility in which I think -- was it -- oh, okay. Mr. Collins mentioned -- I had it underlined. Now, I can't even find the paper. But, anyway on the flexibility that he mentioned. Determined I think he said on market conditions.

MR. COLLINS: That's correct. It depends on what the tenant demand is. If there's tenant demand for warehouse.

CHAIRMAN HOOD: And those are the kind of comments that I want us to look at.
You may have already done it. Maybe I didn't get it. But, those are some of the things that I think we need to look at. Okay.

VICE CHAIRMAN JEFFRIES: Mr. Parker, what was your push back as it relates to Mr. Sher's comments about building height?

MR. PARKER: We can agree with Mr. Sher's comments on building height. I think 50 feet's reasonable in PDR-1.

VICE CHAIRMAN JEFFRIES: Thank you.

COMMISSIONER TURNBULL: Mr. Chair, I just have one more question.

Mr. Parker, on the setback issue on a next-door residential area --

MR. PARKER: Um-hum.

COMMISSIONER TURNBULL: -- if it's a non-PDR use going in, is it subject to the same setback?

MR. PARKER: I have to read the -- these come from the Langdon Overlay. That's a good question. I don't even know what our
-- I haven't even considered that question yet.

I think the intent is for PDR uses. I know that the language says that the buffer is not from the use, but at the line.

I'll get an answer back to you on that.

COMMISSIONER TURNBULL: Yes, because I'm just curious. Because if it wasn't and they could build up to the line, then that sort of eliminates it from ever being a PDR use.

MR. PARKER: Good point.

COMMISSIONER TURNBULL: So, I just curious how you deal with --

MR. PARKER: Especially, if you allow a non-PDR use to be built and then a PDR use goes in after.

COMMISSIONER TURNBULL: Yes.

MR. PARKER: Then you're missing the buffer that you would have otherwise had.

COMMISSIONER TURNBULL: Right.
Okay. Thanks.

MR. PARKER: Um-hum.


Ms. Schellin, do we have some dates?

MRS. SCHELLIN: I think --

CHAIRMAN HOOD: Let me ask this. Does anyone on the panel have anything else you want to say to us? Okay. We're trying to make it a little longer. About 10 more minutes.

VICE CHAIRMAN JEFFRIES: So, Mr. Chair, does Mr. Parker need to like tell us what his takeaway is from this hearing?

MR. PARKER: I'd love for you to tell me. Are there specific more questions that you'd like answered?

CHAIRMAN HOOD: Well, for me, no more than what I just asked.

MR. PARKER: Okay.
CHAIRMAN HOOD: No more than that and consider the comments that were given to us tonight. Let's look at that and see how that fits in the equation and make sure we take dually notice and consideration of our case in point the market situation with the PDR. The flexibility because of the market.

MR. PARKER: So, we'll talk to mapping around Metro. We'll talk to the difference between straight PDR on the land-use map and PDR/with something else on the land-use map. We'll offer written support for 50 feet in PDR-1 and then we'll talk about the need for flexibility of use of PDR buildings.

CHAIRMAN HOOD: And I think he talked about the depressed around Metro, but that was your first one. Okay. That's was the first one.

MR. PARKER: With mapping.

CHAIRMAN HOOD: I just like the word -- I like to hear the word depressed to make sure we hit it.
Anything else, colleagues? Did we leave anything out? Okay.

Ms. Schellin, do we have any dates?

MRS. SCHELLIN: I was looking at Mr. Parker to see how much time he might need before I can really pick anything.

CHAIRMAN HOOD: He works on the weekends and stuff. So, he won't need much time.

MRS. SCHELLIN: Yes. We have a second meeting scheduled for December 22nd. Would you want to shoot for that or do you want to shoot for January?

MR. PARKER: Let's go for January.

MRS. SCHELLIN: Okay. Our meeting in January is on the 12th. So, if you could have your report to us by the 5th. The week before.

MR. PARKER: That's --

MRS. SCHELLIN: And I'm assuming that's also going to come with the worksheet
that we've been doing for all the others, the RRs.

MR. PARKER: I'll work with OAG.

MRS. SCHELLIN: Okay. We can have that at the same time?

MR. PARKER: Okay.

CHAIRMAN HOOD: Okay. With that if everything is in order, Ms. Schellin, is everything in order?

MRS. SCHELLIN: Yes.

CHAIRMAN HOOD: I want to thank everyone for their participation tonight and we can check with staff to see exactly when we anticipate on trying to send the concept to the Office of Planning in which the Commission would like to move.

So, with that, this hearing is adjourned.

(Whereupon, the hearing was concluded at 7:50 p.m.)