

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

+ + + + +

THURSDAY
NOVEMBER 20, 2008

+ + + + +

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

2 6:33 p.m.

3 CHAIRMAN HOOD: This is a public
4 hearing of the Zoning Commission of the
5 District of Columbia for Thursday, November
6 20th, 2008.

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

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

16 MR. GOLDSTEIN: Paul Goldstein.

17 CHAIRMAN HOOD: Mr. Goldstein.
18 Okay. Thank you, Mr. Goldstein. Sorry about
19 that.

20 This proceeding is being recorded
21 by a court reporter and it's also webcast
22 live. Accordingly, we must ask you to refrain

1 from any disruptive noises or actions in the
2 hearing room.

3 The subject of tonight's hearing
4 is Zoning Commission Case Number 08-06-6.
5 This is a request by the Office of Planning
6 for the Commission review and comment on
7 proposed concepts for the text amendments to
8 the Zoning Regulations. This is one in a
9 series of hearings on various subjects
10 currently under review as part of the broader
11 review and rewrite of the Zoning Regulations.
12 Tonight's hearing will consider general rules
13 applicable to industrial zones.

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

18 The hearing will conducted in
19 accordance with the provisions of 11 DCMR 3021
20 as follows: Preliminary matters,
21 presentations by the Office of Planning,
22 reports of other government agencies, report

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1 of the ANCs, organizations and persons in
2 support, organizations and persons in support,
3 organizations and persons in opposition.

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

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

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

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

21 Okay. Ms. Schellin, do we have
22 any preliminary matters?

1 MRS. SCHELLIN: No, sir.

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

5 MR. PARKER: Good evening.

6 CHAIRMAN HOOD: Good evening.

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

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

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

17 We had three general goals in
18 laying out these recommendations. First, the
19 preservation of PDR land for PDR use. Second,
20 the improved buffering standard and protection
21 of residential zones surrounding industrial
22 land and third, just basically updating and

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1 simplifying the PDR chapter. You know, part
2 of our overall simplification and ease of use
3 goals in the zoning rewrite.

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

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

22 So, our first recommendation is

1 that we just rename the districts to PDR
2 rather than industrial.

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

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

15 I know DDOE has some more modern
16 standards that they use and it remains to be
17 seen whether the best way as Holland & Knight
18 pointed out in their comments is to repeat the
19 standards in the Zoning text or just reference
20 them, but either way, we'd recommend dropping
21 what we have now and using DDOE as our guide
22 for what those standards should be today.

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1 And the third recommendation I
2 don't think we'll have to discuss tonight. It
3 has to do with simplifying the uses into use
4 category. We had a rather lengthy discussion
5 on that general concept at the retail hearing
6 in the context of all of our different zones
7 and classifications of uses. This is a common
8 recommendation between this, between arts and
9 culture, between retail and between
10 residential.

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

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

20 The Comp Plan gives us a lot of
21 direction. The Comp Plan talks about
22 protecting a limited supply of industrial

1 land. In the land-use section, it talks about
2 accommodating new PDR activities and
3 protecting active ones. It goes so far as to
4 talk about limiting non-industrial uses in the
5 M zone and on and on and on about protecting
6 the viability and the developability of land
7 that would otherwise go to the -- fall to the
8 development pressures of commercial and
9 residential uses that can afford to pay more
10 and put up larger buildings.

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

16 So, we had a little bit of
17 conflicting guidance, but two very clear
18 directions that we needed to try and
19 accommodate and our way for doing that was to
20 follow the example of our commercial
21 districts. Our commercial districts have an
22 overall allowable FAR, but they have a lower

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1 FAR limit for commercial uses. So, if you
2 want to build to the full, you have to build
3 a mixed-use project. Have to include
4 residential uses.

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

16 Particularly, most of our -- the
17 vast majority of our existing M land is built
18 now at less than one FAR. So, that's sort of
19 how we came up with a standard of one FAR for
20 non-PDR uses to retain the right for all of
21 the existing buildings to continue to be used
22 and leased for any PDR or non-PDR use with the

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1 exception of residential. But, new
2 construction, new buildings that go above that
3 level, new office buildings for example, would
4 only be able in the M zone to develop that one
5 FAR of non-PDR and above that for just solely
6 PDR uses.

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

19 For the smaller zone, the C-M-1
20 and C-M-2, we tried to offset that a little
21 bit by adding another half FAR of total
22 availability if you're doing PDR uses, but we

1 didn't feel comfortable raising that overall
2 cap and leaving the non-PDR uses up at the
3 level and raising the cap because that would
4 have an impact on the surrounding
5 neighborhoods. Would add new development and
6 new height in areas that are often near
7 residential and other types of uses. So, we
8 tried to keep the overall cap at or close to
9 where it was and instead find space in that
10 existing total cap to reserve for PDR uses.

11 We have had a lot of conversations
12 with industrial land-use owners. Especially
13 the ones that are either called out
14 specifically in the Comp Plan or have unique
15 situations. We've talked with owners along V
16 Street, N.E. and along New York Avenue, N.E.
17 about over the next couple of years working
18 with them to find appropriate zoning
19 classification for their land that might be
20 adversely affected by this suggestion or by
21 this recommendation, but for the most part, we
22 feel that this represents a good mix of the

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1 two uses that will allow for continued
2 commercial and office development in these,
3 but still retain some other development
4 potential.

5 I've also see one outside set of
6 recommendations from the Building Industry
7 Association that suggests raising the PDR
8 allowance in a couple of the zones in the C-M-
9 1 and the C-M-2.

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

16 And our fifth recommendation has
17 to do with standardizing the buffering in the
18 industrial land. One thing that we saw as we
19 examined this was that buffering and setback
20 standards in the industrial zones were all
21 over the board and there is some guidance in
22 the Comprehensive Plan about -- and I won't be

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1 able to find it now that I'm looking for it,
2 but about -- here it is. Improving screening
3 and buffering standards in industrial land.

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

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

19 The biggest uses have -- waste
20 transfer stations and recycling stations how
21 separate setbacks that are required by
22 Council. So, we can either reference those or

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1 just leave them out and they'll still be
2 enforced by Council and the 25 will apply for
3 everything else.

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

7 CHAIRMAN HOOD: Thank you, Mr.
8 Parker.

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

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

18 The current regulations provide
19 separate buffering standards for different
20 areas and uses. Both the special exception
21 standards and the Langdon Overlay are largely
22 concerned with buffering PDR uses from

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1 residential zones.

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

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

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

16 MR. PARKER: Correct.

17 CHAIRMAN HOOD: Okay. Okay.

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

20 CHAIRMAN HOOD: We won't argue
21 then --

22 MR. PARKER: Fair enough.

1 There's a lot of existing situations where
2 that doesn't exist. You're right.

3 CHAIRMAN HOOD: Tell us about --

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

6 CHAIRMAN HOOD: Okay. I got it.

7 MR. PARKER: My apologies.

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

20 MR. PARKER: Um-hum.

21 CHAIRMAN HOOD: And I think that's
22 what opened it and I know it's ways that we

1 have to probably put more controls in these
2 type of uses in these areas, but when you say
3 manufacturing that just left it open for any
4 -- manufacturing what?

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

8 CHAIRMAN HOOD: But, the --

9 MR. PARKER: Go ahead.

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

14 MR. PARKER: Right.

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

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1 live in areas like that.

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

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

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

22 Now, our intent has been to leave

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

18 CHAIRMAN HOOD: Okay.
19 Recommendation two when it talks about
20 existing ordinance regulate sound, smoke,
21 odor, fumes, dust, glare and vibration and
22 then the issue from which you have outlined in

1 your report, currently many of the performance
2 measures are either based on outdated
3 standards or vague to the point of providing
4 no standard at all.

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

10 MR. PARKER: Um-hum.

11 CHAIRMAN HOOD: And that never
12 worked.

13 MR. PARKER: Um-hum.

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

20 MR. PARKER: Right.

21 CHAIRMAN HOOD: Whereas we didn't.
22 How do you see that operating differently?

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1 MR. PARKER: I think you've hit on
2 it. Now, we have DDOE and they have standards
3 for these things. Back then we didn't, but
4 the problem is in most instances now, the
5 Zoning Administrator doesn't have anything to
6 enforce. It'll say should be no objectionable
7 smell. Well, what does that mean and how do
8 you enforce that and the issue is DDOE for a
9 lot of these things now has -- especially
10 smoke and vibrations and things has measurable
11 standards that they can use and that they do
12 use and they can do enforcement.

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

18 CHAIRMAN HOOD: My last question,
19 Mr. Parker. When the former Planning Director
20 Mr. Altman asked me to give him a tour of Ward
21 5, guess where was the first place I took him.

22 Okay. Colleagues, any other

1 questions?

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

4 CHAIRMAN HOOD: Vice Chair.

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

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

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

22 VICE CHAIRMAN JEFFRIES: So, did

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1 that at all inform some of the decisions you
2 made in terms of, you know, how you looked at
3 this since we have such a shrinking and small
4 -- I mean because, you know, being from
5 Chicago, I mean, it's such a huge base and,
6 you know, so, you know, making a comparison
7 between Chicago and D.C., I'm just trying to
8 understand.

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

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

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

21 VICE CHAIRMAN JEFFRIES: Okay.
22 And exactly, where are the areas? Where are

1 the protected industrial areas? I mean juts
2 off the top of your head in D.C.?

3 MR. PARKER: Ward 5.

4 VICE CHAIRMAN JEFFRIES: Ward 5.
5 That abut against residential zones and it's
6 pretty much Ward 5. That's it?

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

9 VICE CHAIRMAN JEFFRIES: I mean
10 New York Avenue. Along New York Avenue.

11 MR. PARKER: Um-hum.

12 VICE CHAIRMAN JEFFRIES: Okay.
13 And I mean in terms of households I mean do
14 you have a sense of just how many households
15 are impacted?

16 MR. PARKER: None whatsoever.

17 VICE CHAIRMAN JEFFRIES: Okay.
18 Okay. You know, I never get overly excited
19 about the industrial because it's such a small
20 percentage, but, you know, our Chair here has
21 gotten me to become a lot more sensitive. So,
22 I just figure that I would and I'm just trying

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1 to get a sense of, you know, just how many
2 people are being impacted and so forth.

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

6 MR. PARKER: No, there's a lot.
7 Most of the chapter is about different
8 setbacks and buffering standards and our
9 suggestion is to standardize that.

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

13 CHAIRMAN HOOD: Commissioner May.

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

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

21 COMMISSIONER MAY: And I guess I'm
22 a little -- I mean we'll have to see what

1 happens when it happens, but I'm -- I guess
2 I'm a little bit concerned that it's going to
3 -- that you're going to be able to capture
4 everything appropriately. Because there's --
5 there are just -- we don't have a lot of
6 manufacturing, but we have quite a range of,
7 you know, I think industrial-type uses. You
8 know, warehousing or, you know, even the city
9 zone industrial-type uses for their, you know,
10 their functions. You know, DDOT and salt
11 domes and, you know, all -- I mean there's a
12 whole --

13 MR. PARKER: Right.

14 COMMISSIONER MAY: -- an
15 assortment of these things and I'm just
16 wondering -- I'm a little curious about how
17 that's all going to pan out in the -- when you
18 try to categorize it.

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

22 COMMISSIONER MAY: PDR's going to

1 be a single use?

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

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

13 MR. PARKER: All right.

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

19 MR. PARKER: We haven't -- I mean
20 there's just not a lot. There's not a lot of
21 need for it here. I mean we could certainly
22 allow it because that's where we're headed for

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1 residential and commercial. We could
2 certainly allow that here, but there's not
3 much industrial land.

4 COMMISSIONER MAY: Not that much
5 reason to do it.

6 MR. PARKER: Yes.

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

12 All right. That's it for me.
13 Thanks.

14 CHAIRMAN HOOD: Okay.
15 Commissioner Turnbull?

16 COMMISSIONER TURNBULL: Mr. Chair,
17 at this time, I think I'd be repeating a lot
18 of the comments of the other commissioners.
19 I think I'd -- I think we ought to get right
20 into the testimony of Ms. Dwyer, Mr. Collins,
21 Mr. Sher and maybe Mr. Glasgow. I'm not sure
22 who's all going to testify. But, I'd rather

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1 hear their comments because they've got
2 specific cases and cites. So, I'd rather go
3 right into that.

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

7 COMMISSIONER TURNBULL: Yes. Yes.
8 Yes.

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

11 CHAIRMAN HOOD: I'm not sure.
12 But, I think what I would like to do is bring
13 them all up at one time, but I have one
14 question.

15 Mr. Parker, you mentioned about
16 Council's distant. What the Council and what
17 the Zoning Commission now ask as far as
18 transfer stations. I've been informed by
19 Council over the ten years I've been here
20 talking about the same thing is that, and I
21 get in trouble with this even by some of the
22 Council Members, some of the previous ones,

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1 that you cannot -- the Council cannot
2 legislate zoning. So, when you said it was
3 covered by Council, did you mean the City
4 Council?

5 MR. PARKER: Yes, they can't
6 legislate zoning, but they can legislate trash
7 transfer stations and they've -- there's
8 existing. Ms. Bushman may be able to inform
9 you more what the exact legislation says, but
10 there's a --

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

17 MR. PARKER: Sure.

18 CHAIRMAN HOOD: Am I correct, Ms.
19 Bushman?

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

22 CHAIRMAN HOOD: I'm just wondering

1 now. Now, we're saying that they can
2 legislate it and I will tell you that former
3 Council Member Orange and myself, we -- in a
4 public meeting, he and I went back and forth
5 on this because I was going by what I was
6 informed. So, I think that that's one thing
7 that we need to make sure that we clarify.

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

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

13 MR. PARKER: Okay.

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

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1 Okay. Good. Okay. And then I'm going to ask
2 Mr. Sher and Mr. Glasgow and Mr. Milsten to
3 come up.

4 It's Mr. Milsten? Oh, okay.

5 Okay. I thought that was Mr. Milsten.

6 Sir, are you going to testify?

7 Oh, okay. All right.

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

12 MS. DWYER: Yes.

13 CHAIRMAN HOOD: Okay.

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

18 I come before you this evening on
19 behalf of News World Communications,
20 Incorporated owner of The Washington Times
21 which is the owner of properties along New
22 York Avenue between Bladensburg Road and South

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1 Dakota Avenue and attached to my statement is
2 a plat that shows The Washington Times
3 properties. Their properties are highlighted
4 in green and you see that they abut New York
5 Avenue and then behind the property is the
6 railroad tracks.

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

18 The high visibility of these
19 properties along New York Avenue, the Gateway
20 to the District of Columbia, along with their
21 location across from the Arboretum suggests
22 that mixed-use development might be more

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1 suitable for these properties than industrial
2 development and could further enhance the
3 Gateway with landscaping and even bike trails
4 that connect to the Arboretum.

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

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

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

21 Given the proliferation of
22 possible uses that could exist within these

1 zones, we also believe that broadening the
2 definition of allowable uses would be
3 beneficial. A comprehensive definition would
4 allow for greater certainty as to what could
5 be allowed and the definition would not need
6 to be constantly updated.

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

14 The one area where we differ with
15 OP's recommendations has to do with the
16 proposed capping of development potential for
17 non-PDR uses. We suggest that the Commission
18 consider allowing more density for non-PDR
19 uses. Current technology has advanced to the
20 point that many PDR uses do not require the
21 same amount of space that they did in the
22 past.

1 Further, reserving too much FAR on
2 individual properties might have a negative
3 affect and might even present PDR uses from
4 being located there.

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

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

19 Thank you.

20 CHAIRMAN HOOD: Okay. Mr.
21 Collins.

22 MR. COLLINS: Good evening. I'm

1 Christopher Collins with the law firm of
2 Holland & Knight here on behalf of Stanley
3 Morton Commercial what I'll refer to as SMC
4 and its related entities in qualified support
5 of the Office of Planning's recommendations.

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

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

16 The use of industrial land in the
17 District particularly for warehouse and
18 related uses has significantly changed over
19 time. Woody's, Hecht's and Sears all had
20 significant warehouse operations in the
21 District, but they moved out of the District
22 in the past.

1 Supermarkets, other food retailers
2 and wholesalers also had active operations in
3 the District, but they've also left the
4 District.

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

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

20 Notwithstanding OP's position that
21 industrial land in the District should be
22 retained, there is much vacant warehouse space

1 in the District including space that leases at
2 a lower rate than in the surrounding
3 jurisdictions. The size of property is
4 generally -- and accessibility is a problem
5 except for certain uses and as a result, SMC
6 needs flexibility both now in the future to
7 respond to market demand by tenants whether
8 they are PDR uses or non-PDR uses.

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

16 As reflected in recommendation
17 number 4, OP has indicated to SMC that OP
18 would support a map amendment to retain SMC's
19 ability to redevelop its property for non-PDR
20 uses at the same density as the current FAR
21 limitations. On that basis, SMC supports the
22 proposal.

1 Thank you. I'd be happy to answer
2 any questions.

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

8 We'll go with Mr. Sher. Okay.

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

14 I'd like to focus on the items
15 that Mr. Parker identified as recommendations
16 4 and 5. In particular, the notion that
17 decreasing the FAR for non-PDR uses in the
18 zones that are designated for PDR and
19 sometimes I'll call them industrial.
20 Sometimes I'll call them PDR. We're all
21 talking about the same thing.

22 Decreasing the FAR in that way may

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

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

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

22 So, the various cycles of uses of

1 these things need to be taken account when you
2 think about both existing buildings that need
3 to be occupied as well as land that needs to
4 be developed.

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

20 A couple of comments with respect
21 to this reduction in FAR. There are a fair
22 number of PDR designated properties in

1 proximity to Metro, Metrorail Stations. Union
2 Station's got a lot of M and C-M behind it.
3 Up along Rhode Island Avenue, you've got a
4 fair amount of industrial land.

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

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

19 But, if we're going to keep those
20 lands zoned industrial but the Comp Plan is
21 calling for something other than PDR on the
22 future land-use map, that needs to be

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1 addressed and I try and put it this way. If
2 the levels that Office of Planning has
3 suggested are appropriate for PDR, i.e.,
4 you're up here for all uses and down here for
5 non-PDR uses, where your property's shown on
6 the Comp Plan for something else or where your
7 property is shown on the Comp Plan for a mix
8 of PDR and something else, to me that suggests
9 the non-PDR uses need to be treated more
10 favorably in that scenario and there are a
11 whole lot of those scenarios around and those
12 -- again, it's partly a mapping exercise, but
13 it's also partly how this text reflects what
14 the reality of the real life is.

15 Two other quick points. Given
16 that Office of Planning has recommended that
17 the PDR-1 now C-M-1 go from 3 to 3½ FAR, we
18 would suggest that the height limit needs to
19 go higher than 40 feet. Because to get more
20 than 3 FAR even if you covered 100 percent of
21 the lot, you're at four stories. You can't
22 get four commercial/industrial stories in 40

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1 feet. So, we think 50 feet is a more
2 appropriate height for the PDR-1 zone where
3 your FAR is up to 3.5. You're just not going
4 to get a 10 foot floor to floor for a
5 commercial or industrial use. You're going to
6 need a little bit more height than that in
7 order to get that FAR in there.

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

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

21 VICE CHAIRMAN JEFFRIES: Fifteen
22 feet be the yard?

1 MR. SHER: Yes.

2 VICE CHAIRMAN JEFFRIES: The yard.
3 Yes.

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

14 Am I making that clear?

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

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

19 MR. PARKER: No, the
20 recommendation is 25 feet without a street and
21 15 feet with a street. Not 15 plus 25. Just
22 15.

1 MR. SHER: Right. But, if there's
2 a street, the street's going to be more than
3 25 feet. So, then you're going to have a 15-
4 foot setback plus the width of the street
5 which is going to be way more than the 25 feet
6 you would have to do if you didn't have a
7 street. That's what just doesn't make any
8 sense to me.

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

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

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

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

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

21 MR. SHER: Well --

22 COMMISSIONER MAY: Which has stuff

1 in it.

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

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

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

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

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

17 MR. GLASGOW: Just very briefly a
18 couple points here because Mr. Sher covered
19 most of that and basically, when we signed up
20 in opposition -- I've discussed this with Mr.
21 Parker. It's just that when we signed up in
22 support and then have some things in

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1 opposition, we get chided sometimes. So, we
2 played it safe tonight and said we're in
3 opposition. But, most of this is -- mostly,
4 we're in support of the concepts that Office
5 of Planning has. I think everybody is here,
6 but we have some comments.

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

18 Our major clients on this are
19 Douglas Development and the Wilkes Company and
20 they have major ownerships in the areas that
21 are zoned C-M at this point in time pretty
22 much throughout the city.

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1 We had the area here where the
2 Blue Church is on Rhode Island Avenue. I
3 don't know how else to describe it. I can't
4 remember the name of the church, but most
5 people know the blue --

6 VICE CHAIRMAN JEFFRIES: Mount
7 Calvary.

8 MR. GLASGOW: Yes, I think so.

9 CHAIRMAN HOOD: Yes, it's Mount
10 Calvary.

11 MR. GLASGOW: Yes, and --

12 CHAIRMAN HOOD: Greater Mount
13 Calvary. Forgive me.

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

18 We have mixed use there. We got
19 that part straightened out in the
20 Comprehensive Plan and some of the other areas
21 like where Uline Arena is and so of the others
22 are this mix of PDR and other designations now

1 under the Comprehensive Plan, but we didn't
2 catch all of them right on top of the Metro
3 Stations and so, we think that you all -- and
4 we'll continue to work with the Office of
5 Planning on that.

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

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

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

17 COMMISSIONER TURNBULL: Yes, I --
18 well, let me just -- I just got one question.
19 I think, Mr. Sher and Ms. Dwyer, you were
20 talking a raising the FAR limit on non-PDR.

21 MS. DWYER: That's correct.

22 COMMISSIONER TURNBULL: Are you

1 proposing a limit or wait, are you proposing
2 an FAR?

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

6 COMMISSIONER TURNBULL: Right.

7 MS. DWYER: And we've suggested
8 4.5.

9 COMMISSIONER TURNBULL: Four point
10 five.

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

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

15 MR. SHER: I don't have a specific
16 thought there. In some cases, I think that it
17 would make sense to allow non-PDR uses to
18 occupy the whole density, but I think it
19 depends on what the Comp Plan designation is
20 and what the specific facts and circumstances
21 are. I don't have any reason to disagree with
22 Ms. Dwyer in what she's recommended, but we

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1 have gone on a sort of site-by-site basis and
2 said you can do this here or you can do that
3 there.

4 COMMISSIONER TURNBULL: Okay.
5 Thank you.

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

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

13 VICE CHAIRMAN JEFFRIES: Where
14 that has occurred?

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

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

20 For SMC's properties along V
21 Street, they currently now have one where they
22 have a U.S. Government agency that has storage

1 and they have an office component in there,
2 Secret Service.

3 VICE CHAIRMAN JEFFRIES: Um-hum.

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

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

11 VICE CHAIRMAN JEFFRIES: Right.

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

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

15 MR. COLLINS: Or back office
16 space.

17 VICE CHAIRMAN JEFFRIES: Somebody
18 might need back office space.

19 MR. COLLINS: Or -- yes, or
20 something of that nature where you might want
21 the next tenant to be able to occupy the
22 building, but if the building is only limited

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1 to a certain FAR and not the full FAR, then
2 you have a problem.

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

8 VICE CHAIRMAN JEFFRIES: Um-hum.

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

11 VICE CHAIRMAN JEFFRIES: Okay.
12 And, Ms. Dwyer, what forms your 4.0 to 4.5 and
13 1 to 2.5? What --

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

21 VICE CHAIRMAN JEFFRIES: Okay.

22 Okay. Thank you.

1 MS. DWYER: And I would also point
2 out that The Washington Times had a mix of
3 uses on its properties on New York Avenue. It
4 had it's printing plant there which has since
5 been outsourced. So, it's The Baltimore Sun
6 now that does their printing operations and it
7 also has space for offices including the D.C.
8 Department of Transportation.

9 VICE CHAIRMAN JEFFRIES: Okay.
10 So, mainly, you're seeing more -- you know,
11 back office, processing kind of office space
12 with some --

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

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1 one side of New York Avenue to the other.

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

6 MS. DWYER: The thinking is
7 neighborhood serving retail.

8 VICE CHAIRMAN JEFFRIES: Okay.

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

14 VICE CHAIRMAN JEFFRIES: Okay.
15 Thank you.

16 COMMISSIONER MAY: Several of you
17 have sort of made references to aspects of,
18 you know, the relative affordability of space
19 -- of leasing space within these areas and
20 what I'm wondering is the -- I'm sorry. In
21 going back to what Mr. Sher said, I think it
22 was Mr. Sher. No, I'm sorry. Who said it?

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1 Reference to the charter schools being a
2 regular -- actually, it was Mr. Collins.
3 Charter schools being one of the folks who are
4 knocking on the door.

5 MR. COLLINS: Yes.

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

17 I mean isn't part of what we're
18 trying to accomplish here by reserving the PDR
19 zone and not simply allowing these greater
20 commercial uses within the zones. Isn't that
21 -- I mean isn't that what we're trying to
22 accomplish with the zone? In order -- so,

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1 that we can maintain some. Maybe not all.
2 Maybe in certain circumstances it makes sense
3 that it should be rezone and that's what we've
4 tried to reflect in the Comp Plan. I mean I
5 don't know.

6 MS. DWYER: I agree in certain
7 circumstances you need to look at the zoning
8 and maybe change it, but here what we're
9 proposing or recommending is not to use the
10 full 6.0 FAR for non-PDR. But, just to allow
11 2.5. So, the balance would still be PDR uses
12 and we think that gives enough encouragement
13 for low-cost space for the PDR uses and at the
14 same time, a project that works as a mixed-use
15 development.

16 COMMISSIONER MAY: You know, I
17 really do wonder whether though by opening the
18 -- I mean I don't know what the right balance
19 is between these. Obviously, you've got to
20 have some balance that allows for the non-PDR
21 uses and maybe it's -- is there any attempt
22 within what you're thinking to tie the non-PDR

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1 uses to the PDR uses? In other words, that if
2 you've got, you know, back office space in
3 association with the industrial use that you
4 might have a greater ability or greater
5 density of that use?

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

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

19 MR. PARKER: I think we're open to
20 that. I mean our main intent is to avoid the
21 construction of new buildings that would be
22 single use and would not be -- that would take

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1 the land out of availability for PDR uses.

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

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

12 MR. PARKER: Okay.

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

21 MR. COLLINS: Mr. May, if I may,
22 Chairman, on that issue, the -- what we have

1 here is the Industrial Land-Use Study and we
2 have the Comprehensive Plan. The Industrial
3 Land-Use Study was not adopted by the Council.
4 It was the Comprehensive Plan that was adopted
5 by the Council and there are several places in
6 the Comprehensive Plan where it talks about
7 the mix of uses for PDR zones and not simply
8 just PDR uses.

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

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

20 COMMISSIONER MAY: And I'm not
21 suggesting that it would only be tied to it,
22 but that there could be a certain amount of

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1 unrelated non-PDR use. But, that there will
2 also be a greater allowance for non-PDR use
3 that is associated with the PDR use. Just as
4 a way of, you know, taking the limits that the
5 Office of Planning has suggested rather than
6 doing sort of a blanket expansion of the non-
7 PDR use for every conceivable unrelated non-
8 PDR use. That there be the opportunity to
9 have, you know, an extra 1.0 FAR or something
10 like that if that non-PDR use is associated
11 with the PDR use on the same site.

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

16 VICE CHAIRMAN JEFFRIES: Well, I
17 just -- if I could step in here. I mean I do
18 like the notion of flexibility and broadness
19 in terms of how we look at this and it seems
20 based on what Mr. Collins has said about the
21 2006 Comprehensive Plan that seems to be
22 pushed, you know, the intent and I just want

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1 to be clear with the Office of Planning.

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

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

17 MR. PARKER: Well, no, putting
18 aside the Industrial Land-Use Study which was
19 very strong about protecting this, I mean the
20 Comprehensive Plan does provide a lot of
21 guidance for allowing a continued mix in these
22 zones, but it also provides maybe conflicting

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1 guidance that says things like protect a
2 limited supply of industrial land or protect
3 active and viable PDR uses and limit non-
4 industrial uses in these zones.

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

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

20 VICE CHAIRMAN JEFFRIES: How do
21 you push flexibility though or, you know, in
22 terms -- in these zones? I mean how are you

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1 sort of providing for that?

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

9 I mean right now, we have complete
10 flexibility. All the zones are completely
11 open to either PDR or non-PDR and we have the
12 problem that we're having. We don't have
13 anyway to reserve land for PDR uses and I mean
14 one other suggestion that we had batted around
15 back and forth is to not limit the use in the
16 buildings, but to require that the buildings
17 be built so that they're flexible. So that
18 they can't be built just as 10-foot office,
19 but they could be built to be flexible. But,
20 we ran into some difficulties with how would
21 you design those buildings and what would the
22 constraints around those buildings be.

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1 So, there are different ways to
2 look at it, but this has been the best
3 compromise that we've been able to reach so
4 far in how to sort of meet the conflicting
5 guidance we're getting from the Comp Plan.

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

15 So, I'm sensitive to Commissioner
16 May's concern about, you know, trying to
17 protect, but it also seems that we need to
18 make certain that these things are breathing.
19 These are breathing text changes and not
20 overly restrictive such that, you know, we
21 are, you know, shutting down other
22 opportunities. So.

1 COMMISSIONER MAY: I would just
2 want to comment on one other thing which is
3 that, you know, I understand conditions may
4 have changed in the market, but my
5 recollection when I worked for the city is
6 that we found that there was a real difficulty
7 in getting appropriate warehouse space within
8 the city or industrial land for city purposes.

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

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

21 VICE CHAIRMAN JEFFRIES: And then
22 I would imagine that, you know, you could

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1 align that or parallel that with other uses,
2 you know, making the same case. You know, at
3 some point, you know, I mean a decision has to
4 be made. So, I --

5 COMMISSIONER MAY: Yes, I mean --

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

11 COMMISSIONER MAY: Yes.

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

15 CHAIRMAN HOOD: Okay. Mr.
16 Turnbull.

17 COMMISSIONER TURNBULL: Thank you,
18 Mr. Chair.

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

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1 you view that?

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

7 I certainly think that they're
8 right that we don't want to limit density
9 around Metro Stations. I think it's just a
10 question of mapping. I think the concept of
11 reserving property for -- or reserving
12 development potential for PDR is still sound.
13 I think we need to take a special look at
14 those Metro areas and either put them in that
15 C-M-3 category so they have, you know, 4 or 4½
16 FAR for non-PDR and then still retain some for
17 PDR or maybe just take them out of PDR
18 altogether and put them into a commercial
19 category that would allow for straight
20 commercial. I think that is more of a mapping
21 issue than a problem with the soundness of the
22 recommendation.

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1 CHAIRMAN HOOD: Okay. Mr. Parker
2 and Mr. Sher, let's go back to this buffer.
3 I wanted to make sure I understand. Let's go
4 back to this buffer and I will tell you way
5 because, you know, as -- talking about whether
6 it's a street or a property line, you know,
7 and protecting the residential districts.
8 It's been so long since we talked about that.
9 So, let me go back.

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

16 VICE CHAIRMAN JEFFRIES: Or say an
17 alley.

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

20 MR. SHER: All right. On the end
21 the street, if the determination is that a 25-
22 foot separation -- and I'm not sure I know

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1 what occurs within that separation because
2 this text doesn't define that. It calls it a
3 buffer, but I don't know what goes in there.
4 Okay. If a 25-foot -- where there's no street
5 and I have a property line that separates a
6 commercial, I'm sorry, a PDR district from a
7 residential district, there has to be a 25-
8 foot setback of the PDR use on the property
9 line and something happens within that 25-feet
10 but I'm not sure what it is.

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

22 So, I have that much distance and

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1 then I have an additional requirement to
2 provide a further setback. Now, if
3 something's going to happen in that setback or
4 if there's some screening requirement, if I
5 have to build a wall on my property line so
6 you can't see into an open yard or something
7 like that, then I could see where that could
8 be a requirement.

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

12 CHAIRMAN HOOD: I think though --
13 I think it has a lot to do with the use. I
14 can specifically give you in the Langdon
15 Overlay where there's a residential house and
16 I don't even -- it's a low-maintenance street.
17 Now, you have me to the point I want to go
18 home and measure how wide the street is. It's
19 a low-maintenance street and right there maybe
20 another -- maybe it's 15 feet. It's the use.
21 But, I think it's the use because this is
22 basically a -- it operates as a trash transfer

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1 station basically. They will argue that use.

2 But, I think this is in context
3 where in that case, Mr. Parker, as we look
4 into this, in that scenario, I would like to
5 see more feet in a situation like that and
6 this is only one example. I don't want to
7 punish the whole -- because these industrial
8 uses, we need to a point, but I don't want to
9 punish the whole city. But, in that
10 particular case, that needs to be dealt with.

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

22 CHAIRMAN HOOD: Screening.

1 MR. PARKER: Screening.

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

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

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

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

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

22 COMMISSIONER MAY: I'm not -- you

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1 know, I'm just arguing it for the sake of
2 arguing at the moment, but I mean it's -- it
3 has to do with the public space and the
4 appearance of this from the public space.

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

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

12 MS. DWYER: Yes.

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

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

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1 in point.

2 I think it was Mr. Sher who
3 brought this up awhile back and I'm not sure
4 what setting, but about the concrete plants.
5 You know, if we get rid of all the industrial
6 -- and I'm just using use now, of concrete
7 plants when we start building downtown, it's
8 going to cost more money to bring, you know.
9 So, those are some of the things I guess that
10 we -- did you say that one time, Mr. Sher,
11 about --

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

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

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

18 CHAIRMAN HOOD: But, those are the
19 kinds of things that we need to look into and
20 I'm hearing about storage space and the Secret
21 Service, you know, and then I know things are
22 modern technology, but some of those things --

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1 Mr. Parker, as we go back and start looking,
2 if we can take some of what we heard tonight
3 into consideration. See what we come back
4 with.

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

7 MR. PARKER: I guess --

8 CHAIRMAN HOOD: For the most part.

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

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

22 MR. PARKER: Well, and we have

1 called out a couple special cases and V Street
2 is particularly mentioned in the Comp Plan and
3 we've talked to Ms. Dwyer about The Times
4 which is a very unique location in the city
5 and we've talked with them about rezoning
6 those properties in accordance with their
7 special situations.

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

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

20 VICE CHAIRMAN JEFFRIES: Just
21 wait. I'm sorry. But, this -- when you said
22 compromise, your compromises to non-PDR caps.

1 Is that the compromise?

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

4 VICE CHAIRMAN JEFFRIES: Oh.

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

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

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

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

20 MR. PARKER: That is an issue that
21 we didn't -- hadn't considered in the original
22 work and as I mentioned, I think that's a

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1 geographic specific issue and that is a
2 mapping issue more than a question of the
3 soundness of the recommendation.

4 CHAIRMAN HOOD: Okay. All right.
5 Well, in answer to your question to me, is
6 that I just wanted to know if these things
7 have not been looked at to make sure the
8 Office of Planning further researches it.

9 MR. PARKER: Okay.

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

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

21 CHAIRMAN HOOD: And those are the
22 kind of comments that I want us to look at.

1 You may have already done it. Maybe I didn't
2 get it. But, those are some of the things
3 that I think we need to look at. Okay.

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

7 MR. PARKER: We can agree with Mr.
8 Sher's comments on building height. I think
9 50 feet's reasonable in PDR-1.

10 VICE CHAIRMAN JEFFRIES: Thank
11 you.

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

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

16 MR. PARKER: Um-hum.

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

20 MR. PARKER: I have to read the --
21 these come from the Langdon Overlay. That's
22 a good question. I don't even know what our

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1 -- I haven't even considered that question
2 yet.

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

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

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

13 MR. PARKER: Good point.

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

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

19 COMMISSIONER TURNBULL: Yes.

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

22 COMMISSIONER TURNBULL: Right.

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1 Okay. Thanks.

2 MR. PARKER: Um-hum.

3 CHAIRMAN HOOD: Anymore questions
4 of Office of Planning? Anymore question of
5 the panel? Okay.

6 Ms. Schellin, do we have some
7 dates?

8 MRS. SCHELLIN: I think --

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

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

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

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

22 MR. PARKER: Okay.

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

8 MR. PARKER: So, we'll talk to
9 mapping around Metro. We'll talk to the
10 difference between straight PDR on the land-
11 use map and PDR/with something else on the
12 land-use map. We'll offer written support for
13 50 feet in PDR-1 and then we'll talk about the
14 need for flexibility of use of PDR buildings.

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

19 MR. PARKER: With mapping.

20 CHAIRMAN HOOD: I just like the
21 word -- I like to hear the word depressed to
22 make sure we hit it.

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1 Anything else, colleagues? Did we
2 leave anything out? Okay.

3 Ms. Schellin, do we have any
4 dates?

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

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

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

15 MR. PARKER: Let's go for January.

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

20 MR. PARKER: That's --

21 MRS. SCHELLIN: And I'm assuming
22 that's also going to come with the worksheet

1 that we've been doing for all the others, the
2 RRs.

3 MR. PARKER: I'll work with OAG.

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

6 MR. PARKER: Okay.

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

10 MRS. SCHELLIN: Yes.

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

17 So, with that, this hearing is
18 adjourned.

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

21

22