



OFFICE OF ZONING STAFF PRESENT:

JAMISON WEINBAUM, Director of the Office  
of Zoning

SHARON S. SCHELLIN, Secretary

DONNA HANOUSEK, Zoning Specialist

ESTHER BUSHMAN, General Counsel

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER

TRAVIS PARKER

STEVEN COCHRAN

The transcript constitutes the  
minutes from the Public Hearing held on  
November 2, 2009.

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P R O C E E D I N G S

(6:31 p.m.)

CHAIRMAN HOOD: Good evening, ladies and gentlemen. This is the public hearing of the Zoning Commission of the District of Columbia for Monday, November 2nd, 2009.

My name is Anthony Hood. Joining me are Commissioners Peter May, Konrad Schlater and Michael Turnbull. We are also joined by the Office of Zoning staff under Director Weinbaum, Ms. Schellin, Ms. Hanousek and Ms. Bushman.; also the Office of Planning staff, Mr. Parker and Mr. Cochran, possibly.

This proceeding is being recorded by a court reporter. It is also Webcast live.

Accordingly, we must ask you to refrain from any disruptive noises in the hearing room.

The subject of tonight's hearing is Zoning Commission Case No. 08-06-10. This is a request by the Office of Planning for the Commission to review and comment on proposed

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1 concepts for text amendments to the zoning  
2 regulations. This is one in a series of  
3 hearings on various subjects currently under  
4 review -- as this is the one in a series of  
5 hearings on various subjects currently under  
6 review as part of a broader review and rewrite  
7 of the zoning regulations. Tonight's hearing  
8 will consider regulations applicable to the  
9 downtown.

10 Notice of that hearing was  
11 published in D.C. Register on September 4th,  
12 2009, and copies of that announcement are  
13 available to my left on the wall near the  
14 door.

15 The hearing will be conducted in  
16 accordance with provisions of 11 DCMR 3021, as  
17 follows: preliminary matters, presentation by  
18 the Office of Planning, reports of other  
19 government agencies, reports of the ANCs,  
20 organizations and persons in support,  
21 organizations and persons in opposition.

22 The following time constraints will

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1 be maintained in these hearings: ANCs,  
2 government agencies and organizations, five  
3 minutes; individuals, three minutes.

4 The Commission intends to adhere to  
5 the time limits as strictly as possible in  
6 order to hear the case in a reasonable period  
7 of time.

8 The Commission reserves the right  
9 to change the time limits for presentations if  
10 necessary and notes that no time shall be  
11 ceded.

12 All persons appearing before the  
13 Commission are to fill out two witness cards.

14 These cards are located to my left on the  
15 table near the door. Upon coming forward to  
16 speak to the Commission, please give both  
17 cards to the reporter sitting to my right  
18 before taking a seat at the table.

19 The decision of the Commission in  
20 this case must be based exclusively on the  
21 public record. To avoid any appearance to the  
22 contrary, the Commission rests that persons

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1 not engage the members of the Commission in  
2 conversation during any recess or at any time.

3 The staff will be available throughout the  
4 hearing to discuss procedural questions.

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

8 At this time the Commission will  
9 consider any preliminary matters.

10 I would just note that we've been  
11 joined by Ms. Jennifer Steingasser from the  
12 Office of Planning.

13 Does the staff have any preliminary  
14 matters?

15 MS. SCHELLIN: No, sir.

16 CHAIRMAN HOOD: Okay. With that,  
17 we will go right to the Office of Planning for  
18 the presentation. Mr. Parker, in any way that  
19 you see fit, it's your presentation.

20 MR. PARKER: Good evening, Mr.  
21 Chair.

22 CHAIRMAN HOOD: If you want to

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1 break it up like we normally or however you  
2 see fit.

3 MR. PARKER: I've got a couple of  
4 logical stopping points in the middle.

5 They are working to get our  
6 PowerPoint presentation up and running, but  
7 for the interim I'll just get started and  
8 we'll rely on my sparkling oratory to walk you  
9 through it.

10 Oh, here we are.

11 CHAIRMAN HOOD: If you want to, we  
12 can hold off. It's up to you.

13 MR. PARKER: Give it a second.

14 JUDGE WESLEY: Okay.

15 (Pause in proceedings.)

16 MR. PARKER: If the members of the  
17 Commission have their written report, I can  
18 get started. Most of the graphics are  
19 available in the written report, and we'll  
20 bring things up when it's available.

21 I want to start talking about the  
22 process to this point. The working group, as

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1 with all of our subject areas, we started out  
2 by working a public working group. The  
3 working group started meeting in October of  
4 2008.

5 We met through that winter, so  
6 nearly a year ago, and met through April of  
7 2009. That working group consisted of a lot  
8 of members, not just downtown residents, but  
9 lawyers, businessmen and developers, and  
10 people interested in downtown issues.

11 We then sent some preliminary  
12 recommendations to the task force in June of  
13 this year, and from that point, from April and  
14 May until this month actually we have been  
15 steadily meeting with stakeholders, property  
16 owners downtown, other people with an interest  
17 in downtown zoning. So all of this should be  
18 incorporated in the recommendations in front  
19 of you and in my talk tonight.

20 On page 3 of the recommendations,  
21 actually let's go with page 9 of the  
22 recommendations, there's a map of existing

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1 zoning, and you can see on that map where the  
2 existing downtown development district is.  
3 It's a little complicated, which we'll see is  
4 one of our problems.

5 The existing downtown development  
6 district covers property from Pennsylvania  
7 Avenue in the south to M Street in the north,  
8 from 14th Street in the west over to New  
9 Jersey Avenue in the east, and is divided up  
10 into several different sub-areas. There are  
11 multiple housing priority areas where housing  
12 is required. There's a retail sub-area, an  
13 arts sub-area, and the Chinatown sub-area.

14 Tools within our existing DD  
15 include density increases, and clearly the use  
16 requirements, include combined lot development  
17 that allows developers to move use  
18 requirements around between properties,  
19 transfer of development rights which allows  
20 bonus density to be generated for the  
21 production of certain uses, and does have  
22 design standards on certain streets and in

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1 certain parts, sub-areas of the DD.

2 We'll try one more time. No.

3 The DD was created in the early  
4 1990s based on a 1982 development plan, living  
5 plan for downtown, and the primary objective  
6 of the living plan was a livable, workable,  
7 downtown area, and there were several issues  
8 that helped, objectives of that plan that  
9 helped us get there, including housing, arts,  
10 historic preservation, and retail.

11 And I want to talk a little bit  
12 today about some of the ways that the DD has  
13 been successful in helping us move toward  
14 achieving a livable downtown. We've been very  
15 successful in the production of housing. We  
16 started out with some visions in that 1982  
17 plan, and we've gotten subsequent visions in  
18 the 2006 comprehensive plan, in the downtown  
19 action agenda, the Mount Vernon plans, and  
20 even a 2006 Alice Rivlen report that led us to  
21 our goal of 100,000 new residents in D.C.

22 All of this encourages us to

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1 produce as much housing and encouraging  
2 housing in the downtown, and the downtown  
3 development district has been very successful  
4 through a combination of requirements and TDRs  
5 in producing some of that housing downtown.  
6 We have to date got well over 9,000 units  
7 produced in downtown, another two to 3,000 on  
8 the way, and hopefully a lot more in the  
9 future.

10 Other successes of downtown include  
11 arts. The original downtown plan envisioned  
12 900,000 square feet of arts use in the  
13 downtown. We've been successful in achieving  
14 over 1.2 million square feet of arts uses  
15 through that combination of requirement CLDs.

16 Historic preservation, we generate  
17 bonus density for the renovation, complete  
18 building renovation of historic properties in  
19 the downtown. To date every historic property  
20 that is large enough to take advantage of it  
21 and make a profit of it has done that. So  
22 every major historic building in the DD has

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1 taken advantage of the TDR system and done  
2 full building renovation.

3 We also had goals for retail in  
4 the original plan. The original plan  
5 envisioned about five and a half million  
6 square feet of retail in the larger downtown  
7 area. This was based on an assumption of  
8 every property in the downtown having half an  
9 FAR of retail. So basically there's about 11  
10 million square feet of land area in the plan  
11 area, and the plan envisioned about five and a  
12 half million of that being retail.

13 We didn't zone for that at the  
14 time. The zoning put in place, zoned certain  
15 sub-areas and certain streets for retail, and  
16 we'll get into that later, especially if our  
17 graphics are up, and we got what we zoned for.

18 So where we zoned for retail, we were  
19 successful in achieving it, and today we have  
20 over two million square feet of retail either  
21 on the ground or on the way in our DD area.

22 So all of this to say we have had

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1 some great successes in our DD. We hope for  
2 continued success, but we want to look at how  
3 to apply these successes more broadly and to  
4 look at expanding those successes to a larger  
5 area of central Washington.

6 And for that, in our working group  
7 we looked at all of the areas in Washington  
8 that are designated on our comprehensive land  
9 use map as high density commercial or high  
10 density mixed use. So all of these properties  
11 that call for eight stories and up and  
12 commercial uses or a mix of commercial uses,  
13 and this includes most of the central  
14 employment area, includes the existing DD. It  
15 includes other overlays like capital gateway  
16 and hotel-residential. It includes all of our  
17 or most of the city's C-3 to C-5 zones.

18 In looking at this larger area, we  
19 also looked at the goals both in the zoning  
20 code and in our comprehensive plan for this  
21 larger area. This included the DD, the CG,  
22 the HR and the C zones, which all called for a

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1 balanced mixture of retail, hotel,  
2 residential, entertainment arts, and cultural  
3 uses.

4 In addition, the comp plan guidance  
5 for central Washington calls for this same mix  
6 of uses throughout central Washington. So  
7 what we found is we have a broader area than  
8 the existing DD that has a uniformed set of  
9 goals for height, for bulk and for use.

10 And when we looked at our existing  
11 zoning pattern on the ground, we saw that we  
12 had an incredible patchwork of different  
13 zoning classifications and categories.

14 So in our broader study area, and  
15 you can see that study area, again, on page 9  
16 of the recommendations, there is a patch --  
17 and this is the graphic that we're using as  
18 well -- a patchwork of ten different  
19 underlying zones, everything from a C-2-A zone  
20 all the way through the higher Cs and CMs and  
21 CRs, and even high density residential  
22 zonings.

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1                   And layered on top of that layer,  
2 those ten zones, are a patchwork of another  
3 set of overlays, including the Dupont Circle  
4 overlay, the downtown development overlay with  
5 all of its sub-areas and housing priority  
6 areas, the HR residential overlay, the capital  
7 gateway overlay, and five different TDR  
8 receiving zones, which we'll get into in a  
9 little bit.

10                   The equivalent of this for those  
11 that are trying to use the code or interpret  
12 the code is basically 27 different zone  
13 equivalents or 27 different types of zoning  
14 when you account for the overlays in the  
15 underlying zones.

16                   We looked then individually at  
17 these 27 zones and how they worked, and one  
18 thing that I want to call your attention to  
19 that we'll come back to is that each zone in  
20 our downtown development area has a commercial  
21 allowance. For the residential that's zero,  
22 but each one has a commercial allowance of FAR

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1 and has a maximum FAR that's higher than that  
2 commercial allowance.

3 And there are a series of different  
4 ways that that maximum FAR can be achieved.  
5 In some instances it's through PUD. In some  
6 instances it's through purchases of DTRs.  
7 Some it's by buying housing, et cetera. So  
8 we've certainly got extra density that is  
9 achievable in matter-of-right ways. Currently  
10 it's done in a series of different ways, and  
11 that's something that we looked at in our  
12 residential group.

13 We also noticed not just complexity  
14 across the max, but complexity on individual  
15 properties. For example, there are several  
16 properties in this area that have up to three  
17 zoning classifications on them. If you, say,  
18 for example, are in the C-3-C CG overlay, you  
19 have to start by looking in Chapter 7 for your  
20 FAR under C-3-C, then go to Chapter 17 of the  
21 DD, and then go to Chapter 16 for the CG and  
22 compare and contrast them to determine, you

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1 know, what your FAR, with your height is.

2 Unlike a lot of things, the most  
3 restrictive does not apply in these cases. So  
4 we've got a lot of complexity in our existing  
5 zones, and if you'll look on page 11, you'll  
6 see our proposal for what we'd like to do.  
7 Our Recommendation 1 is to combine this series  
8 of 27 zones into about six. We've tentatively  
9 laid them out as DD-1 through 6, not to be  
10 confused with our existing DD overlay, and of  
11 course, names are not the important matter,  
12 but we've laid out six DDs, and the subsequent  
13 pages sort of show what those are intended to  
14 do, what they replace, and what FAR and  
15 heights they have.

16 (Pause in proceedings.)

17 MR. PARKER: While Steve is doing  
18 this, I'll run through the six proposed zones.

19 DD-1 is basically a replacement of the  
20 various R-5-E zones. It's a residential zone  
21 that would allow six FAR maximum with zero  
22 commercial and 90 feet in height.

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1                   The DD-2 zone would be a  
2 replacement for most of the DD C-2-C, for the  
3 SB-2 and CR zones. It would have a maximum  
4 FAR of seven, three and a half commercial, 110  
5 feet of height.

6                   The DD-3 would replace the C-2-C  
7 zones in the housing priority areas. This  
8 would have no maximum FAR, have a three and a  
9 half commercial FAR, 130 feet.

10                  DD-4 would replace other variations  
11 of or -- excuse me -- all variations of the C-  
12 3-C zones. This would have no maximum FAR,  
13 130 feet.

14                  One thing that was pointed out in  
15 the comments that I'd like to chat about today  
16 with you is that the CDC zones in the housing  
17 priority area currently have a housing  
18 requirement. The others do not. So our  
19 proposal would be that the C-3-C and housing  
20 priority area would retain that housing  
21 requirement, and the others would likely not  
22 have a housing requirement, although I did

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1 point out in the report the others are getting  
2 a bonus FAR from what they can build as a  
3 matter of right now.

4 So base C-3-C has an eight maximum  
5 FAR. C-3-Cs with TDRs have a ten. We're  
6 proposing no limit on the total FAR of these  
7 buildings. So there is some extra density  
8 that's being granted in some of these zones,  
9 and so there is some leeway perhaps for some  
10 residential requirement or design review or  
11 whatever the Zoning Commission would like in  
12 exchange for that extra density, and we can  
13 talk about that.

14 But, again, our goal is not to take  
15 away rights of existing property owners and  
16 what they can do now, but only where extra  
17 density is being granted to take advantage of  
18 that.

19 The DD-5 zone replaces the C-4  
20 zones, the various variations thereof. Excuse  
21 me. Just the C-4 zones in the housing  
22 priority area, have no maximum FAR, and 130

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1 feet.

2 And finally, the DD-6 replaces the  
3 other C-4 zones and the C-5 zones and would  
4 allow no limit on FAR and 130 or 160 feet,  
5 depending on the height act.

6 I want to stop there. I know we  
7 don't have the graphics up for you to look at  
8 or for others to look at, but I'd like to go  
9 ahead and take your questions on this general  
10 basic requirement that the others sort of  
11 build on.

12 CHAIRMAN HOOD: Okay. Who would  
13 like to start us off with any questions or  
14 comments? Commissioner May.

15 COMMISSIONER MAY: First of all, I  
16 appreciate your attempt to try to explain this  
17 all in a way that makes some sense. It's  
18 terrifically complicated, I think, and the  
19 different combinations of zones and what we're  
20 trying to achieve in different places, when  
21 you try to take all of that and convert it to  
22 something simpler, I think, is a very complex

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1 task and I appreciate what you've done.

2 I can't say that I've got it at  
3 this point. So it's going to take a little  
4 while to think about this. I'm hoping we will  
5 get the graphics up because maybe that will  
6 help me some more.

7 The basics of how these new zones  
8 will work, and I know you're trying to address  
9 the housing component and also TDRs, and you  
10 know, that adds into the calculation, which  
11 also makes things very complicated, and then  
12 allowing the height or some of the  
13 limitations, like the FAR limitations, and  
14 some of the DD zones, the new DD zones to be  
15 determined, in effect, by what height you  
16 could build to, right?

17 So I guess my question is there's a  
18 lot of things that are, in essence, going to  
19 be in play, and I guess what I'm concerned  
20 about is whether this is going to wind up with  
21 -- well, if we're going to wind up with zoning  
22 cases or BZA cases where there are going to be

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1 variances to other parts of the zoning  
2 regulations because of a perceived entitlement  
3 to this absolute maximum FAR; whether there's  
4 going to be conflicts with some of the other  
5 restrictions on like a lot occupancy or court  
6 sizes and things like that where relief will  
7 be sought because you can't maximize the FAR  
8 because there is no maximum FAR.

9 MR. PARKER: One thing that we --  
10 and I worked a lot with Art Rogers on this,  
11 who worked on some past updates to the DD --  
12 one thing that's difficult with these areas  
13 are when you get to this high level, there's a  
14 lot of variation in what you can accomplish on  
15 a particular lot based on the layout of that  
16 lot. So if you have got a perfectly  
17 rectangular lot with three street frontages,  
18 you can get 11 FAR sometimes at the very  
19 maximum, but if you've got a triangular lot or  
20 funny shaped lot, you may not be able to get  
21 nine.

22 So one of the things behind, you

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1 know, a system where FAR is not the  
2 determining factor, but these other things, is  
3 that it's hard to determine what the right FAR  
4 is in these areas because of the configuration  
5 of lots, et cetera, are so varied. It seems  
6 to have worked in areas where we have it now.

7 The housing priority areas, we've got a lot  
8 of experience with these areas where there is  
9 no limit on overall FAR, and so far we haven't  
10 seen a glut of cases where there's an  
11 entitlement that leads to other things being  
12 knocked off the table.

13 COMMISSIONER MAY: I assume that  
14 that's something that we could make explicit  
15 in the actual language, but the fact that it's  
16 not limited does not create rationale.

17 MR. PARKER: All other standards  
18 are still enforced and guiding.

19 COMMISSIONER MAY: The way some of  
20 these things are now structured, is it the  
21 ultimate intent that we're going to wind up  
22 with a lot fewer PUDs?

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1 MR. PARKER: Certainly --

2 COMMISSIONER MAY: Or no PUDs in  
3 these zones?

4 MR. PARKER: I mean, yeah, we had  
5 that question about whether PUDs would  
6 certainly be allowed. I think that would be  
7 the case, but the idea would be that you  
8 wouldn't need to do a PUD. These areas, the  
9 way that we're proposing to get through the  
10 extra FAR, and I'm going to talk about that in  
11 Recommendation 2, is through housing, and if  
12 you build housing or purchase your housing  
13 credits from someone else, you can get to that  
14 maximum FAR.

15 So the only reason to do a PUD  
16 would be to get around that requirement  
17 really, in which case we'd be looking for  
18 something else probably.

19 COMMISSIONER MAY: Okay. So there  
20 are other benefits that come with PUDs, and  
21 I'm wondering if there are going to be other  
22 incentives or other aspects of the process

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1 that are going to enable us to take advantage  
2 of that so that we get, you know, superior  
3 urban design and superior architecture and so  
4 on.

5 MR. PARKER: That's one thing that  
6 we've looked at, and that's a very good point,  
7 and we've talked about design review where it  
8 exists now. So the CG, we have design review  
9 of projects, PUDs that -- areas of this plan  
10 that require PUDs now to go above a certain  
11 size, and a few other areas in this there is  
12 existing design review, and I think our goal  
13 would be where it exists now, you know, above  
14 matter-of-right height in some cases and in  
15 the CG to retain that design review, and we  
16 can certainly write that in. That's the  
17 thought.

18 COMMISSIONER MAY: To retain it,  
19 but not necessarily to expand it.

20 MR. PARKER: Not necessarily.  
21 There's some places, like I said, like in the  
22 DDR where extra density is being granted.

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1 That may be a leeway to require, you know,  
2 above the old density to have design review.

3 COMMISSIONER MAY: All right. I  
4 have questions about housing credits, but we  
5 haven't really started to talk about that. So  
6 will we defer to that or should we --

7 MR. PARKER: I'll talk about that  
8 in a moment.

9 COMMISSIONER MAY: Okay.

10 MR. PARKER: Yeah.

11 CHAIRMAN HOOD: Any other  
12 questions?

13 COMMISSIONER SCHLATER: Oh,  
14 pictures. That will help a lot.

15 MR. PARKER: If we can get them  
16 working.

17 COMMISSIONER SCHLATER: I think  
18 some of my questions, concerns mirror what  
19 Commissioner May was referencing.

20 MR. PARKER: Okay.

21 COMMISSIONER SCHLATER: In some of  
22 these areas where you're creating unlimited

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1 FAR, which I think in many of those areas  
2 where you've outlined that it makes perfect  
3 sense to encourage density, and assuming this  
4 housing credits concept works out, it will be  
5 mixed use neighborhoods at high density, and  
6 clearly that's what we're seeking to achieve.

7 I think D.C. definitely suffers  
8 from developers trying to max out their FAR  
9 though on any given site, and what you end up  
10 with is certain projects, particularly  
11 commercial projects, where you've maxed out  
12 your FAR, and you've got a large box that goes  
13 13 stories tall with no articulation because  
14 they don't have any ability to create  
15 variation of facade or do setbacks or do  
16 anything interesting with their building.

17 And what happens is as soon you  
18 approve this unlimited FAR, it gets priced  
19 into the land, and so once you do it, people  
20 are going to be building these large boxes.  
21 So I guess that's a strong concern I have  
22 about these recommendations, is in the areas

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1 where you've created unlimited density, I  
2 think there needs to be a way to -- there  
3 needs to be a check on that because ultimately  
4 what we're trying to do is create good  
5 architecture, good urban design.

6 MR. PARKER: So would the check be  
7 on the density limit or would the check be on  
8 having a crack at the design?

9 COMMISSIONER SCHLATER: Well, how  
10 do you get the extra density I guess is the  
11 question, and maybe the way you get that last  
12 bit of density is either to go through design  
13 review process, go through the PUD process.

14 I think, you know, we'd actually  
15 benefit from having, you know, some of our  
16 most important, largest projects happen in the  
17 downtown areas, in core, and the Commission  
18 doesn't get a lot of PUDs downtown because  
19 people figure out a way around it.

20 I think it's a way to make sure if  
21 you want that extra density which is  
22 extraordinarily valuable in the downtown area,

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1 maybe you have to go above and beyond in terms  
2 of design amenities, retail, arts, you know,  
3 all of the things that we're trying to achieve  
4 here. I just don't -- i think we should be  
5 careful in just making recommendations that  
6 unlimit the FAR without getting some benefit  
7 in return because if it were to pass as it  
8 stands now, it would be extra -- I am a member  
9 of the development community so I know this --  
10 it would be an extraordinary gift to the  
11 development community.

12 MR. PARKER: One thing to keep in  
13 mind, the only place that this really comes  
14 into play is in the proposed DD-4. The three,  
15 the five, and the six already basically have  
16 unlimited FAR through housing priority areas.

17 COMMISSIONER SCHLATER: Yes, but  
18 the DD-4 is the largest zone you're creating  
19 here.

20 MR. PARKER: Correct, correct, and  
21 there are a lot of areas where one to two  
22 extra FAR would be possible, and I very much

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1 take your point.

2 MS. STEINGASSER: One of the things  
3 I want to point out is in the current DD  
4 downtown, we have very few PUDs because the  
5 incentives are built into the overlay through  
6 the retail, through the arts, through the  
7 housing. So we have seen very few.

8 Where we do have the PUDs, they're  
9 usually there for matters of relief rather  
10 than the creation of additional density. What  
11 we see in this new, expanded area is in lieu  
12 of PUDs there would be design review. So  
13 there would still be a swath of design review,  
14 but it would be a more efficient design review  
15 like we have in the CG overlay where the  
16 applicant files. They go straight to a  
17 hearing date, and it's just design review.  
18 It's not the full weight of a PUD with the  
19 benefits, the amenities, the cost, the whole  
20 bulk of the PUD that often a lot of developers  
21 will avoid going forward because they need  
22 only a marginal amount, but the lift of the

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1 PUD is just too great.

2 So what we've floated through the  
3 business community through this proposal is  
4 not this proposal in its state, but these  
5 ideas, and part of that density would come  
6 with an in lieu of PUD design review, and  
7 we've gotten good feedback on that.

8 COMMISSIONER SCHLATER: And I am  
9 certainly supportive of streamlining the  
10 process. You know, design review is an  
11 imperfect tool though. I mean, as you know  
12 very well, you do a lot of it, but I don't  
13 know. Sometimes it's just kind of delivered  
14 and you say, "Well, can you put a window there  
15 or" --

16 MS. STEINGASSER: Not design review  
17 by OP. Design review by the Zoning  
18 Commission.

19 COMMISSIONER SCHLATER: I  
20 understand, but even by the Zoning Commission,  
21 I mean, I haven't sat on a case where we've  
22 had the design review, but outside of the

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1 PUD --

2 MS. STEINGASSER: I guess I'm  
3 hearing you say you want design review.

4 COMMISSIONER SCHLATER: I don't  
5 know.

6 MS. STEINGASSER: Okay.

7 COMMISSIONER SCHLATER: What I'm  
8 telling you is I don't know the answer to the  
9 question.

10 MS. STEINGASSER: Okay.

11 COMMISSIONER SCHLATER: But it is a  
12 concern.

13 MS. STEINGASSER: It is a concern,  
14 and OP is very concerned about this. As much  
15 as we'd love to be home on Thursday nights, we  
16 don't intend to just give away all of the  
17 density with no strings attached. WE're  
18 looking for housing. We're looking for the  
19 active ground floor retail, and we are looking  
20 for superior design.

21 Our original thinking was that  
22 there would be a design review built into

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1 those areas where now you would have to get  
2 that extra density or height through a PUD.

3 COMMISSIONER SCHLATER: Okay. The  
4 other question I had is in the DD-2 zone. You  
5 made note of the fact that the Union Station  
6 air rights parcel is not going to be included  
7 in that. When I was flipping the maps back  
8 and forth the only thing that was included in  
9 one and wasn't included in another was the  
10 Union Station's air rights parcel.

11 MR. PARKER: Yeah, that is going  
12 through a whole separate planning process as  
13 far as I'm aware, and we are aware that  
14 there's also a lot of CM-3. We had a  
15 discussion with the owners of the CM-3.

16 One of the difficulties with  
17 bringing that in is that right now it allows  
18 six FAR commercial and six FAR max. It  
19 doesn't have this extra density play that all  
20 the other zones do. So putting it into one of  
21 our zone categories would have involved, you  
22 know, maybe extra density as a maximum, but

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1 would have involved lowering the matter-of-  
2 right commercial density.

3 And in discussing it with property  
4 owners, the thought would be we could bring  
5 that in at a later date, but we didn't want  
6 that to muddy the waters of proposing  
7 simplification of all the non-industrial  
8 zones.

9 MS. STEINGASSER: Also, the Union  
10 Station air rights, we are writing a zoned  
11 district specific for that site because the  
12 site is so unique and will be built on a  
13 platform. That will be coming to you at your  
14 second meeting in November.

15 COMMISSIONER SCHLATER: Okay, and  
16 in terms of the purpose of the DD overall,  
17 which was to create a living downtown, you've  
18 made the point throughout this report that  
19 you're trying -- that our definition of  
20 downtown is now expanding, and we're trying to  
21 encourage housing elsewhere.

22 If you were to recommend areas

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1 where you might add a housing requirement in  
2 these other areas, which ones would you be  
3 looking at?

4 MR. PARKER: I'm not prepared to  
5 make a recommendation about that. Right now  
6 we're interested in keeping where there is. I  
7 think we'd need a lot more planning guidance  
8 to make an answer to that question.

9 COMMISSIONER SCHLATER: But you did  
10 make reference to it in your report, the  
11 possibility of creating housing requirements  
12 in other districts, particularly in that DD-4.

13 MR. PARKER: The only place we made  
14 that reference was, as you said, there are  
15 areas that are getting extra density like the  
16 DD-4s is the one, and if we wanted to discuss  
17 either design review for that extra density or  
18 making that extra density a housing  
19 requirement, we could do that.

20 COMMISSIONER SCHLATER: I think  
21 given the locations of them I'm not saying --  
22 I would have to look at it more, but NoMa and

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1 the area down by the ballpark, you know, seem  
2 to be areas where you'd like to encourage  
3 residential development.

4 Although the other point I have, I  
5 guess, outside of all of this is you point to  
6 the DD in the housing priority areas  
7 themselves as the reason why the residential,  
8 you know, boom has occurred in the District,  
9 and I'm not sure you can draw that clear line,  
10 you know.

11 MR. PARKER: I don't think I ever  
12 went that far.

13 COMMISSIONER SCHLATER: You know?

14 MR. PARKER: Agreed, agreed.

15 COMMISSIONER SCHLATER: And so that  
16 would be another concern I would have, and  
17 we'll get to this, and I'll save that for my  
18 comments on the housing credits.

19 MR. PARKER: Okay.

20 COMMISSIONER SCHLATER: Thanks.

21 CHAIRMAN HOOD: Mr. Turnbull.

22 COMMISSIONER TURNBULL: Thank you,

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1 Mr. Chair.

2 I guess Id' like to just continue  
3 on with part of the conversation that  
4 Commissioner Schlater started about the design  
5 review, and I guess I wasn't quite clear on  
6 Ms. Steingasser's comment about there would be  
7 a design review.

8 MS. STEINGASSER: What we've talked  
9 about with the property owners in the business  
10 community in the downtown community is a  
11 process for design review that's in lieu of a  
12 PUD. So where projects need a little bit of  
13 extra or they're getting extra density that  
14 they wouldn't otherwise be entitled to,  
15 instead of having to go through the PUD  
16 process, they;d go through a streamlined  
17 design review process.

18 COMMISSIONER TURNBULL: With this  
19 body?

20 MS. STEINGASSER: Yes.

21 COMMISSIONER TURNBULL: Okay.

22 MS. STEINGASSER: And it wouldn't

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1 be for all properties, and I say that to the  
2 audience as well as to the Commission. It  
3 wouldn't be for all properties in the  
4 downtown, but those areas that are identified  
5 as having special or unique characteristics  
6 the way we've looked at the near Southeast  
7 around the stadium as being an area of special  
8 public investment and special purpose along  
9 the waterfront where we've wanted to have that  
10 kind of design review to make sure that the  
11 buildings interact to each other in a very  
12 unique way. So that we would look to those  
13 kind of areas.

14

15 COMMISSIONER TURNBULL: How would  
16 that be defined? Would that be on a zoning  
17 map in these DD areas? Would it be  
18 highlighted? Or how do you see giving an  
19 applicant or letting an applicant know that  
20 he's in that kind of an area?

21 MR. PARKER: It remains to be seen.

22 I mean, we might have to identify within

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1 districts certain districts or within certain  
2 districts certain properties. That's a level  
3 of detail that we haven't quite reached yet.

4 COMMISSIONER TURNBULL: I guess my  
5 other question on hearing some of these  
6 comments, we talk about the overlays, and  
7 we're looking at in the overall zoning  
8 regulations how they get changed. How do you  
9 see the overlays being carried over into this  
10 concept?

11 MR. PARKER: I mean, this is a  
12 theme throughout. You're right. Throughout  
13 is finding a way to incorporate overlays  
14 within underlying zones. That's one of our  
15 overarching themes throughout this process and  
16 certainly here. We're proposing zones that  
17 would subsume the existing overlays. So we've  
18 taken into account the FAR, the height, and  
19 the uses within the different overlays in  
20 creating these zones, and these are  
21 compilations that subsume the existing  
22 underlying and overlays.

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1                   COMMISSIONER TURNBULL:       So the  
2 overlays as we currently know them go away,  
3 correct?

4                   MR. PARKER:    Correct.

5                   COMMISSIONER TURNBULL:    I just see  
6 Mr. Schlater is shaking his head no.

7                   MS. STEINGASSER:   The principle --

8                   COMMISSIONER TURNBULL:       I think  
9 there's confusion.

10                  MR. PARKER:    Okay.

11                  MS. STEINGASSER:    The principles,  
12 the elements, the objectives, the requirements  
13 of the overlays would all be there.    They  
14 would just have a new name.    So rather than  
15 being C-3-C/DD, it would be C-4 or -- I'm  
16 sorry -- it would be DD-4.

17                  COMMISSIONER TURNBULL:    Right.

18                  MS. STEINGASSER:    You know, we're  
19 just giving a new name and centralizing the  
20 information into one location so that you  
21 wouldn't have this repetitive back and forth  
22 in the code between all the sections, but they

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1 would be condensed and distilled into their  
2 own zone with their own name.

3 But all of the requirements, all of  
4 the objectives, all of the limitations of  
5 those overlays would still be reflected in  
6 those areas.

7 COMMISSIONER TURNBULL: Okay.  
8 Thank you.

9 CHAIRMAN HOOD: Okay. Mr. Parker,  
10 I was looking here on the first page of your  
11 report, and you said expand in the area  
12 considered that was downtown for zoning  
13 regulations purposes. Can we elaborate on  
14 that a little more?

15 MR. PARKER: Well, as I point out,  
16 right now what we call downtown, what our DD  
17 overlay covers is just some area, you know,  
18 between M Street and Pennsylvania in  
19 Northwest. What we're looking at through our  
20 planning guidance, the comprehensive plan and  
21 other planning guidance is that we've got a  
22 much larger area that has similar goals for

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1 housing, for retail, for a mix of uses, for  
2 heightened bulk, and we have an expanding  
3 assumption of what downtown means based on  
4 that planning guide.

5 So there's no longer a need to, you  
6 know, focus our downtown regulations on one  
7 little piece, but we can start looking broader  
8 at all of the areas that are zoned or that are  
9 designated for high density land use and the  
10 map on the board.

11 CHAIRMAN HOOD: And I wasn't sure,  
12 and I think this alludes to what Commissioner  
13 May speaking of in terms of the new proposed  
14 zones, like the DD-1, DD-2, DD-3, and I didn't  
15 catch that. He mentioned about PUDs in those  
16 zones, and I think you said you were still in  
17 the planning process to see if that would be  
18 an allowable -- if PUDs would be allowable  
19 since the flexibility is pretty much going to  
20 be there within these set new zones; is  
21 that --

22 MR. PARKER: Right. The concept

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1 here is that the density is achievable, and  
2 we'll get into this in the next  
3 recommendation, through housing. The density  
4 is achievable through matter-of-right  
5 processes. So while PUDs might technically be  
6 allowed, they generally wouldn't be needed or  
7 used.

8 CHAIRMAN HOOD: And you mentioned  
9 the work group. In your opening comments you  
10 were telling us some of the players in the  
11 work group. You mentioned lawyers and, I  
12 guess, developers.

13 MR. PARKER: Right, right.

14 CHAIRMAN HOOD: What I didn't hear,  
15 and I may have missed it, we do have residents  
16 who live downtown. I'm just curious were they  
17 involved in those discussions.

18 MR. PARKER: Absolutely, and I met  
19 just last week with the head of the Downtown  
20 Neighborhood Association about this stuff. So  
21 that association anyway is staying on top of  
22 our recommendations and following along.

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1                   CHAIRMAN HOOD:     Okay, good.     All  
2     right.     Any other questions on this portion?  
3     I see we now have -- I want to thank everybody  
4     who put a little time in to get a PowerPoint  
5     presentation up.     So I appreciate that.     The  
6     Office of Zoning and Office of Planning, see  
7     what we can do when we work as a team.

8                   (Laughter.)

9                   CHAIRMAN HOOD:             Any further  
10    questions on this first part, first phase?

11                   (No response.)

12                   MR. PARKER:     All right.

13                   CHAIRMAN HOOD:     Okay.

14                   MR. PARKER:     So Recommendation 2  
15    gets into the transfer and development right  
16    in CLD programs, and this gets kind of  
17    complicated.     I'm going to do my best to walk  
18    us through TDRs, CLDs, and where we're going  
19    with them.

20                   So our working group talked about  
21    TDR issues, and I'm going to actually start  
22    with this slide.

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1                   Our working group talked about  
2 TDRs, and TDRs are basically a program where  
3 within our downtown development area we offer  
4 extra -- we offer bonus density in exchange  
5 for building particular uses. So residential  
6 arts, retail and historic preservation  
7 generate TDRs. If you do one of those things  
8 in a property in downtown, you generate  
9 density that you can sell to a user in one of  
10 five receiving areas outside of the DD  
11 overlay.

12                   The chart up here is the historic  
13 generation of TDRs since they were first  
14 created, and you'll notice a couple of  
15 patterns. First, since they started in 1990  
16 until about 2003, most of the TDR generation  
17 projects were historic. You'll see it in  
18 orange there. In that time period, as I said,  
19 all of the historic properties that were  
20 available for TDRs took advantage of it, and  
21 that was sort of the lower hanging fruit of  
22 TDR generation.

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1           Since that time, especially since  
2 2003, nearly all of the TDR generation has  
3 been accomplished by residential projects. In  
4 fact, 90 percent of all the TDRs ever  
5 generated were generated by residential. It  
6 has been the primary driver of TDRs, the  
7 primary creator of TDRs, and especially in the  
8 last six years has been just about the only.

9           Two things that you won't see up  
10 there are a lot of yellow or green, and those  
11 represent retail and arts, TDRs. There has  
12 just been a few key projects in the history of  
13 the program where TDRs were generated through  
14 retail or arts, and we're going to come back  
15 and talk to you about that. But one thing  
16 that the working group talked about is that  
17 for the most part those were all projects that  
18 were subsidized in other way and didn't happen  
19 because of the TDRs, but were driven either  
20 by city funds or other things.

21           Another thing to note about TDRs is  
22 we did some research on the TDR supply, the

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1 potential supply. To date we've generated a  
2 half million square feet of TDRs in the DD.  
3 Our sort of preliminary calculations into what  
4 would potentially be possible show us that the  
5 general supply, potential supply is around  
6 12.7 million, which means that there is only  
7 about another three million that can be  
8 generated, three million square feet of TDRs  
9 that can be generated in the DD, based on a  
10 few assumptions. We looked at new development  
11 and not necessarily redevelopment of existing  
12 buildings.

13 So what that means on the next  
14 slide, the next slide being back one, we've  
15 got some limited remaining viability of our  
16 existing TDR program. First, you saw that  
17 there's only about three million remaining of  
18 TDR potential generation. We've got another  
19 21 million of potential demand in receiving  
20 zones.

21 So there's 30 million square feet  
22 of developmental possibilities in the

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1 receiving zones. We've developed nine or  
2 we've generated nine million square feet of  
3 TDRs. That leaves 21 million. So once that  
4 last three million is generated, we've got a  
5 large swath of potential development projects  
6 in our receiving zones that don't have a way  
7 to get to their maximum FAR. They're allowed  
8 to, but we will quickly run out of TDRs.

9 Some other things to note, as I  
10 said, HP TDRs have been generated. There's no  
11 possibility to generate more under the current  
12 system. Arts and retail TDRs really haven't  
13 played a role. A couple of projects, all  
14 relied on other sources of funding.

15 And then one of the major points  
16 that the working group talked about is that  
17 the current TDR system only benefits the DD.  
18 We accrue housing, arts, retail, and historic  
19 preservation within our DD overlay. In the  
20 receiving zones we give away a lot of extra  
21 density, but we don't get those benefits. We  
22 don't get the housing or the other things. So

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1 that's something we're trying to tackle with  
2 this recommendation.

3 The other thing I want to talk  
4 about is, back to this site, is CLDs. We  
5 talked a lot with CLDs with the group. The  
6 CLD program basically allows developers to  
7 transfer use requirements. So this is used  
8 for housing. If I have a housing requirement,  
9 I can build a commercial building and pay  
10 someone else to building my housing, or if I  
11 build housing and build extra, someone can pay  
12 me to take on their housing requirement.

13 Some lessons that we took away from  
14 our current program, and I'll walk through a  
15 little bit of this, is it's overly complex.  
16 Unlike TDRs, CLDs are not bankable. I have to  
17 go out and find a partner and contractually  
18 tie two or more properties together in order  
19 to do a CLD rather than just generating a  
20 commodity and selling it.

21 And supply and demand don't always  
22 match. We have got three small trading areas

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1 for CLDs, the housing priority areas, and  
2 there has been a wide range over the years of  
3 supply and demand issues in those three CLD  
4 trading areas. So these are problems that we  
5 try to tackle with the CLD.

6 This is an example of when I say  
7 complex, a worksheet that a company and an  
8 existing CLD -- this is page 1 actually.  
9 Here's page 2 -- every line in this document  
10 is a property, and all of these properties are  
11 tied together now in CLDs.

12 What we found is that while in  
13 concept two properties tie together, they  
14 don't match exactly. One of them will have  
15 some extra residential left over to sell. So  
16 we have to bring in a third property, and we  
17 can't quite meet all of that third property's  
18 requirements. So we have to bring in a fourth  
19 property, and eventually you get this.

20 So every CLD that we see now brings  
21 in something like this that we have to compare  
22 all of these properties together and figure

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1 out how they work together.

2 So our second recommendation is to  
3 promote housing throughout the area using that  
4 extra density right now that TDR satisfies.  
5 So if you'll recall back to our conversation  
6 at the beginning, every zone that we're  
7 looking at has a commercial FAR maximum and a  
8 total FAR maximum, and there is some  
9 distinction between them. For example, in the  
10 C-4 housing priority area, it is allowed eight  
11 commercial and ten overall. So we've got two  
12 FAR of leeway in which we can focus that bonus  
13 density on housing, and the way that would be  
14 done is that any housing bill, if you build  
15 that as housing, you can build up to your  
16 maximum FAR just for building housing. If you  
17 want to build a commercial, you can build to  
18 that maximum FAR by purchasing housing credits  
19 to go above your commercial FAR. So that  
20 bonus density is achievable in either of those  
21 two ways.

22 The concept here would be that we

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1 would create, and this is just illustrative,  
2 not a proposal of boundaries, but we'd create  
3 six to eight trading areas that are much  
4 larger than our current housing production or  
5 housing priority area trade areas. Within  
6 each of these areas, again, if I build a  
7 residential project I generate housing credits  
8 for anything that I build that could otherwise  
9 have been commercial.

10 I can then sell those housing  
11 credits to any commercial developer in my  
12 trading area. So every trading area is a  
13 closed system. Overall we end up with a set  
14 proportion of housing based on the zoning and  
15 whatever that delta is between our commercial  
16 and our total FARs. That housing can be  
17 traded around so that one person can build all  
18 commercial and another person can build all  
19 residential, but overall we end up with the  
20 same portion of residential uses throughout  
21 the trading area.

22 So the value of housing credits

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1 would vary by trade area. Where housing is  
2 happening quite often those housing credits  
3 would be worth less. Where commercial  
4 development is a priority and there isn't as  
5 much housing, that would drive up the value of  
6 housing credits and provide more incentive for  
7 someone to build a housing project.

8 We have had a lot of discussion  
9 since we first suggested this program about  
10 what happens with the quite vibrant market out  
11 there now of existing TDRs and CLDs. There  
12 is, you know, several hundred. There's a few  
13 hundred thousand CLDs on the market. There's  
14 a few million TDRs out there on the market  
15 that have been generated and are a valuable  
16 commodity as we speak now.

17 The first benefit that would accrue  
18 to those is that unlike future housing credits  
19 that are generated and stay within a housing  
20 priority area, we're suggesting that existing  
21 TDRs and CLDs could be traded anywhere in this  
22 expanded DD and could cross boundaries and be

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1 sold in any trade area.

2 At the beginning until housing  
3 credits are developed, they would be the only  
4 option for housing credits because there is no  
5 housing that has been developed. We've talked  
6 recently about maybe putting a time line for  
7 when housing credits could first be used, and  
8 so until we reach that time, existing TDRs and  
9 CLDs would be the housing credits or would  
10 serve as the only housing credits, and we'll  
11 get more into the details of how we would  
12 treat existing TDRs and CLDs in future months,  
13 assuming your feedback is positive today.

14 This chart shows just sort of the  
15 simplification of this system. Right now, you  
16 know, here are five examples of different  
17 categories of zoning within this area, and  
18 each one of them has a different option for  
19 achieving your maximum density, building  
20 housing going through a PUD, purchasing TDRs.

21 Under the proposed system, building  
22 housing or purchasing housing credits from

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1 another owner are the universal way that you  
2 can get as a matter of right up to your  
3 maximum density.

4 So the ultimate goal is to combine  
5 and simplify. This would be a replacement of  
6 our existing TDR and CLD systems. It's going  
7 to take the best of both and solve a lot of  
8 those problems that we identified in the  
9 working group.

10 Housing credits would be  
11 transferable as a commodity. If I generate  
12 them, I have a commodity that I can sell to  
13 another property owner or to housing credit  
14 banks, an investor, whomever. Existing TDR  
15 and CLD credits would serve as housing  
16 credits, and, again, we'll talk about a time  
17 line. We'll talk about other advantages to  
18 older TDRs and CLDs so that they retain their  
19 value, and that is a priority of ours, that  
20 existing TDRs and CLDs, you know, retain  
21 value.

22 Ultimately, we end up with more

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1 options and no loss of existing rights on any  
2 property in this larger area. The benefits  
3 can be broken down just as simply. We  
4 supporting housing not just in the DD overlay,  
5 but in the entire new, you know, expanded  
6 downtown. We're allowing greater flexibility.

7 We're preserving all existing rights. We're  
8 adding a bankability component that doesn't  
9 exist in the current CLD market, and we're  
10 hopefully -- and this will be up to OP in the  
11 end -- increasing transparency by keeping  
12 track of and making public what housing  
13 credits have been generated and how many are  
14 available and where.

15 I'll stop again here because  
16 obviously this is a big recommendation, and I  
17 want to get your questions and feedback.

18 CHAIRMAN HOOD: Okay. Thank you,  
19 Mr. Parker.

20 Any questions? Commissioner May.

21 COMMISSIONER MAY: Maybe you made  
22 this clear in the presentation and I missed

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1 it, but have you done calculations of what the  
2 potential amount of housing credits might be  
3 that are out there similar to what you  
4 calculated for the TDRs?

5 MR. PARKER: Well, there are no  
6 housing -- I mean, right now --

7 COMMISSIONER MAY: No, I know, but  
8 if you implemented this.

9 MR. PARKER: It's entirely  
10 dependent on the market.

11 COMMISSIONER MAY: I mean in terms  
12 of square foot.

13 MR. PARKER: We've calculated based  
14 on the proportion of residential to commercial  
15 in each zone and the land area of each trade  
16 area how much housing we can expect in each  
17 trade area. I don't have those. I can  
18 certainly get those numbers to you, yeah.

19 COMMISSIONER MAY: I'd just be  
20 curious because, you know, you give us these  
21 interesting statistics about what there was  
22 and how much was generated and so it would be

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1 helpful to understand how much more of a  
2 market this is going to open up and how much  
3 trading there might actually be.

4 MR. PARKER: Right, right. The  
5 amount of trading and the amount of housing  
6 credits will vary in the market, but we can  
7 certainly predict how much housing can be  
8 expected once everything is built out.

9 COMMISSIONER MAY: Okay. I think  
10 that's actually it.

11 MR. PARKER: Really?

12 CHAIRMAN HOOD: Anyone else? Mr.  
13 Schlater.

14 COMMISSIONER SCHLATER: Well, I can  
15 attest to the fact that it's a very  
16 complicated subject and topic, and I'm sure  
17 discussions on it have been difficult to date.

18 I don't know how to give you feedback or ask  
19 questions on this except to say that it's  
20 extraordinarily complicated, and it's going to  
21 be a tough one to work through.

22 One question I have just as the

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1 basics of your information. You showed a  
2 chart up there about how many TDRs were out  
3 there. Where did you get the information for  
4 that chart?

5 MR. PARKER: We have --

6 COMMISSIONER SCHLATER: Do you  
7 track how many TDRs there are out there?

8 MR. PARKER: Not very well, but  
9 every TDR certificate when they're generated  
10 comes through the Office of Planning. So we  
11 have all the records of every TDR that has  
12 been generated. There is not a universal  
13 database that's easily searchable of where all  
14 those are and how all of those work, although  
15 we have been working on that, and we've made  
16 great strides in that.

17 So this is painstaking work of  
18 looking back through generations, you know,  
19 the last generation of TDR production.

20 COMMISSIONER SCHLATER: So there's  
21 1.1 million square feet of banked TDRs out  
22 there on the market right now. Is that what

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1 you're estimating?

2 MR. PARKER: Correct, and the  
3 transferred ones aren't all built either.  
4 That eight million square feet of transferred  
5 ones are sitting on a property somewhere, but  
6 may still be available for sale.

7 COMMISSIONER SCHLATER: So if you  
8 bought TDRs and you put them on your property.  
9 Say you're in NoMa or you're down by the  
10 ballpark.

11 MR. PARKER: Right.

12 COMMISSIONER SCHLATER: And you've  
13 actually purchased TDRs.

14 MR. PARKER: Right.

15 COMMISSIONER SCHLATER: How does  
16 that work? You've got this new DD-4  
17 designation. You might not even need those  
18 TDRs anymore.

19 MR. PARKER: Then you could sell  
20 them as housing credits under the future  
21 system. That's a big deal. A lot of property  
22 owners in NoMa have purchased their TDRs, and

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1 they're, you know, going to use them to build  
2 their building, and they would still be able  
3 to do that. If they're building a commercial  
4 building, they'll still use those same TDRs  
5 and build a building.

6 If they don't build a building  
7 between now and whenever this got implemented  
8 and they were building a residential building,  
9 they'd not only have some to sell. They'd be  
10 generating some more.

11 COMMISSIONER SCHLATER: So it seems  
12 like -- I don't know how to say it -- when the  
13 original idea for the TDRs was created, was it  
14 envisioned that eventually some day you'd run  
15 out of these TDRs and you're going to have to  
16 figure out a way around that?

17 Because it is a problem that you  
18 only have a potential supply of another three  
19 million TDRs. Trying to build out your  
20 downtown fully, you need more than that.

21 MR. PARKER: Right. I don't know  
22 if they did an analysis of potential

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1 generation with supply. When the TDR system  
2 was created, there were only two receiving  
3 areas, and they later added three for the  
4 existing five. So I don't know if that  
5 analysis was ever done, but we've done it now.

6 COMMISSIONER SCHLATER: I remember  
7 a few years back there was a company going  
8 around trying to corner the market on TDRs  
9 because theoretically once those TDRs run out,  
10 the value of the TDRs is going to go up, and I  
11 think your charge is already showing that. I  
12 mean, I think there's a lot of people out  
13 there who predicted that TDR prices were going  
14 to go closer to the value of land itself  
15 because that's what they are. They're  
16 basically giving you the ability to put  
17 additional FAR on your buildings.

18 MR. PARKER: Right.

19 COMMISSIONER SCHLATER: So when you  
20 say -- you know, I'm sure it's a very  
21 sensitive issue that you've been working  
22 through in terms of compensating, making sure

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1 these people's -- there's no diminution of  
2 value.

3 Are you targeting? Are you saying  
4 the prices today, \$20 a TDR and therefore or  
5 it's not even that; it's 12 or 15, but that's  
6 what you're trying to target, or are you  
7 trying to not interrupt that market and let it  
8 play out until the TDRs are gone?

9 MR. PARKER: Ultimately it's going  
10 to come down to the market. I don't think  
11 there's a way through Zoning that we can  
12 guarantee a value because if housing credits  
13 are worth less, you know, TDRs can't be much  
14 more. But we have been working with the  
15 owners of existing TDRs, and we want to do  
16 everything we can to insure that their  
17 investment is protected.

18 So we've already talked about, you  
19 know, complete geographic distribution of  
20 those TDRs. We've talked about, you know,  
21 there's going to be -- even if we don't put a  
22 time limit on it, there's going to be a time

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1 period from the enactment of this until the  
2 first housing is developed when there are no  
3 housing credits, and TDRs are still the only  
4 thing to sell.

5 We've talked about extending that  
6 and, you know, having a five-year time period  
7 or something where, you know, we would have to  
8 wait five years before you can sell the first  
9 housing credit.

10 So we've talked about some  
11 different strategies to insure that the value  
12 of TDRs is protected, and we'll keep working  
13 with people to insure that that takes place.

14 COMMISSIONER SCHLATER: Although by  
15 doing that you're delaying the impact of  
16 actually creating more housing down in the  
17 ballpark districts.

18 MR. PARKER: Potentially.

19 COMMISSIONER SCHLATER: So how do  
20 you propose to resolve? I mean, when you're  
21 talking about coming back to the Commission,  
22 you're just going to come back a couple of

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1 months from now with some text and some maps  
2 and say, "What do you guys think?"

3 MR. PARKER: Basically, I mean, as  
4 with all of these subjects, we're looking for  
5 your input on the concepts here. We want, you  
6 know, you to tell us if we're going in the  
7 right direction or point us in different  
8 directions, and absolutely. I mean, with all  
9 of these subjects we're going to be coming  
10 back next year with text, and we'll work with  
11 the developers, and we're going to go through  
12 the whole process. We're going to go through  
13 our task force. We're going to go out for  
14 public comment. So, you know, we're not going  
15 to bring you an entire zoning book in one day,  
16 but we're going to bring you back chapters,  
17 and this will be one of them.

18 COMMISSIONER SCHLATER: I think  
19 there's going to be a lag in the time. These  
20 housing credits are only produced at 50  
21 percent completion of construction of that's  
22 the way it's envisioned, correct?

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1 MR. PARKER: Un-huh.

2 COMMISSIONER SCHLATER: Which I  
3 understand why that's the way it is, but that  
4 would mean in areas where you need that  
5 housing to move forward and achieve your  
6 density, I don't know. What we don't want to  
7 do is end up with a situation where this new  
8 system is holding back development.

9 MR. PARKER: Absolutely.

10 COMMISSIONER SCHLATER: And there's  
11 such a limited supply of these credits out  
12 there because, you know, we could have a  
13 market -- who knows how long this market that  
14 we have today where doing residential  
15 development is almost impossible will last?

16 MR. PARKER: Right, right. Well,  
17 and I think you've hit on the reason that I'm  
18 convinced that the value of existing TDRs will  
19 be higher because, you're right. There's  
20 going to be a lag for the creation of new  
21 housing credits, and I think there's going to  
22 be a time where, you know, that three to five

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1 million of TDRs and CLDs that we've got now  
2 will be very valuable and will be in high  
3 demand.

4 COMMISSIONER SCHLATER: But you  
5 also don't want to create an incentive for  
6 people to delay development.

7 MR. PARKER: I do understand that.  
8 I do understand that.

9 COMMISSIONER SCHLATER: I don't  
10 have an answer for you right now, but it seems  
11 like a problem. I don't know what to tell  
12 you.

13 MR. PARKER: It's a tightrope.

14 COMMISSIONER SCHLATER: You've got  
15 t work through those issues.

16 MR. PARKER: Yeah, yeah.

17 COMMISSIONER TURNBULL: I've got  
18 just one or two questions on density versus  
19 diversity, and you talk about if a commercial  
20 building wanted to have an FAR of ten and it  
21 wants to be commercial, the 6.5 commercial  
22 that he has by right that he could do, then he

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1 can buy 3.5 housing credits to offset that.

2 I guess I'm just trying to see how  
3 the line at some point. Do you get into a  
4 situation where you have people buying credits  
5 to solve their problem, but you're losing from  
6 the planning standpoint the diversity that you  
7 wanted, where you wanted a mix of housing and  
8 commercial?

9 I'm sort of looking at these carbon  
10 offsets where people can go out and spend \$2  
11 million from somebody in Chicago and say, you  
12 know, "I've solved my problem."

13 It solves their problem on paper,  
14 but it doesn't necessarily solve the real  
15 problem that you've got. I'm just wondering  
16 do we get to a point here where we've got to  
17 -- I think it's a great tool.

18 MR. PARKER: Right.

19 COMMISSIONER TURNBULL: And I'm  
20 just wondering do we run the risk at some  
21 point where the housing credits get to be the  
22 point where the development that you want

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1 isn't really coming because it's being  
2 substituted by these credits?

3 MR. PARKER: Well, a couple of  
4 things to keep in mind. First of all, with a  
5 system like this, housing credits aren't  
6 generated until the housing is built. So the  
7 housing comes first. We'll get the housing  
8 that you want.

9 You raise an interesting problem  
10 though, and that's why the housing priority  
11 areas were created originally, is that we  
12 don't want to create a huge neighborhood of  
13 just office buildings and all of the housing  
14 was built in another neighborhood, and hence,  
15 the idea of the trading areas.

16 And you see on the screen if we  
17 create neighborhood size trading areas, your  
18 housing can be -- if you want to build a  
19 commercial building, you have to buy housing  
20 credits from that area. So ultimately, you  
21 know, once we've burned off the existing TDRs  
22 and once this is the closed system it was

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1 designed to be, all the housing meant to be in  
2 Area X stays in Area A, and so while you might  
3 have three commercial buildings next to each  
4 other, you're going to have some residential  
5 in the area, and you will have an overall mix.

6 COMMISSIONER TURNBULL: Okay.  
7 Thank you.

8 MR. PARKER: Yes.

9 CHAIRMAN HOOD: Anything else? I  
10 don't have any questions.

11 Okay. We can proceed.

12 MR. PARKER: Okay. All right. So  
13 I'll just go through the other four  
14 recommendations. They are all much shorter,  
15 and then we'll break at the end for questions  
16 on these next four.

17 Right now in the DD overlay, the  
18 way that retail recommendations work is  
19 somewhat duplicative. At the beginning of the  
20 DD chapter, it identifies a long list of  
21 streets, and you'll see those streets in blue  
22 on the screen. It says these streets have

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1 retain requirements.

2 Then later in the chapter we have  
3 sub-areas. We have the arts and the shop and  
4 the Chinatown and the Mount Vernon Triangle,  
5 and each one of those says that within this  
6 area you have retail requirements.

7 So basically, if you're on one of  
8 these blue streets and in one of these things,  
9 you have the same retail requirement twice  
10 within the DD. The idea here is not to change  
11 anything. This is not a policy change but  
12 just a regulation simplification, and the  
13 proposal is just, you know, we no longer have  
14 these sub-areas because all they do is  
15 duplicate what we've already done at the  
16 beginning of the chapter, and we just require  
17 retail by street.

18 So all of the blue streets are the  
19 streets that require retail now. They would  
20 continue to require retail. We don't need to  
21 restate that later as a sub-area.

22 The one policy change here is the

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1 two purple streets, Connecticut Avenue, N.W.,  
2 and First Street, N.E. Based on planning  
3 guidance for these areas, we would propose  
4 that we add these two to the list of streets  
5 that would require retail use on the ground  
6 floor, and again, this requirement is a half  
7 FAR for any building fronting on these  
8 streets.

9 So for the most part, this  
10 recommendation is just a simplification of the  
11 regs. with those two streets being added or  
12 proposed to be added.

13 For historic preservation, right  
14 now historic preservation is one of the things  
15 that generates TDRs, along with retail and  
16 arts. Our original recommendation was that  
17 all -- since we're replacing TDRs and CLDs  
18 with housing credits and the housing credits  
19 are designed to be a closed system so that  
20 within each trading area we get the housing at  
21 the proportion that is determined by zoning;  
22 that we would no longer generate TDRs for

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1 retail arts or historic preservation because  
2 then we'd get less housing in that particular  
3 sub-area.

4 We have second thoughts about the  
5 historic preservation for a couple of reasons.

6 The original reason it was off the table is  
7 that it has all been used. All of the  
8 historic preservation, historic buildings in  
9 the DD have taken advantage of it.

10 But re-meeting with HP staff, they  
11 pointed out a couple of things. First, we're  
12 expanding it to a much larger area, and there  
13 are historic buildings in the larger area.

14 And, second, there are always the  
15 potential for the creation of future  
16 landmarks. So what we're now proposing is  
17 that we continue the current rules for  
18 historic buildings under six FAR. They are  
19 allowed to sell unused or to create bonus  
20 density for unused FAR. I think the limit is  
21 four FAR. So you can create up to four FAR of  
22 now housing credits for the renovation of a

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1 historic building. So this is maintaining the  
2 existing policy, just transferring it to the  
3 new system.

4           What this means is that, you know,  
5 we are putting historic preservation on a par  
6 with housing and putting them in the same  
7 system, which we do now, but it will have some  
8 impact on the amount of housing developed  
9 within these. So that will have some impact  
10 on the numbers that I send you of housing  
11 developed by trade area.

12           Recommendation 5 has to do with  
13 arts. This is, again, no policy change here.

14       this is saying let's keep the existing arts  
15 requirements in the areas where they exist now  
16 in the DD, and I've just identified here  
17 recommendations that you have previously seen  
18 and given us positive guidance on for arts  
19 districts city-wide. We're looking at a  
20 standard half FAR requirement for arts and a  
21 CLD type transfer system that allows you to  
22 transfer that requirement to and from

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1 different properties; removal of arts related  
2 uses, which includes a revised list of RC  
3 uses; a limitation on lobby space counting as  
4 arts requirement; and a standardization of  
5 design and ceiling height requirements, and  
6 we'll get more into that when we write the  
7 text.

8 But, again, no change of where arts  
9 is required here, and within those  
10 requirements just changing based on what  
11 you've already seen.

12 We also talked a lot about parking.

13 The previous guidance from the Zoning  
14 Commission has been to remove parking  
15 minimums, especially for this area. This is  
16 one of the densest, most metro heavy, you  
17 know, most diverse areas of the city. So  
18 we've already gotten positive guidance from  
19 you to remove parking minimums.

20 We also had a couple goals. We had  
21 guidance at the time to look at parking  
22 maximums with the idea of, you know, promoting

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1 improved transit use and insuring unbundling  
2 of residential uses from parking spaces. We  
3 did a lot of looking at maximums for  
4 commercial buildings, for residential  
5 buildings, and for various reasons, you know,  
6 we determined that in a lot of cases the  
7 market will take the high, expensive costs;  
8 the market will take care of especially the  
9 parking and commercial units, but for  
10 residential especially we wanted to hit on  
11 this third point of insuring the unbundling of  
12 residential units from parking spaces with the  
13 goal that we'd have less than one space per  
14 unit.

15 And what this gets at is this gets  
16 at making sure we don't subsidize ownership of  
17 or the cost of parking in residential uses.  
18 If I'm given a parking space with my condo,  
19 I'm more likely to have a car. The same way,  
20 if I'm given one with my job, I'm more likely  
21 to drive to work.

22 So we want people that need or want

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1 parking in the residential units to have it,  
2 but we want them to buy it separately and, you  
3 know, to pay market value for it. So all of  
4 this to say we're recommending a .9 parking  
5 spaces per unit maximum on residential with  
6 this idea of getting at less than a space per  
7 unit and unbundling of those spaces.

8 And finally, Recommendation 7 has  
9 to do with surface parking. Our comprehensive  
10 plan and land use goals for the downtown area  
11 discourage surface parking as a use. We have  
12 worked with property owners in the downtown to  
13 find other temporary uses of land. We've had  
14 discussions with -- we've heard a lot of  
15 comments that, you know, in a lot of cases  
16 this is a use of last resort. We're in down  
17 economic times or, you know, in temporary  
18 situations. Surface parking is the only way  
19 to, you know, make some money while a building  
20 is being, you know, designed, et cetera.

21 We understand that. Our  
22 recommendation is though that we prefer to see

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1 other temporary uses of land based on the comp  
2 plan and other guidance, and where parking is  
3 necessary or really is the only option, we'd  
4 like that to go through a special exception  
5 procedure with time limits on the surface  
6 parking.

7 That warps up the recommendations  
8 for tonight, and I'm happy to answer questions  
9 on these last five.

10 CHAIRMAN HOOD: Okay. Thank you  
11 very much for the presentation and especially  
12 the way that we've done it.

13 So I guess what we can do is ask  
14 questions on the last part or on any part of  
15 the presentation that we've heard tonight. So  
16 who would like to? Commissioner May.

17 COMMISSIONER MAY: Sure, I'll go  
18 first.

19 I just wanted to note a couple of  
20 things. The previous guidance that we  
21 provided on parking maximums for residential,  
22 there were some qualifications, were there

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1 not?

2 MR. PARKER: In removing parking  
3 minimums, the qualifications that you gave us  
4 were in looking at commercial corridors near  
5 low density residential. Nothing in what  
6 we're looking at here is commercial near any  
7 low density residential.

8 COMMISSIONER MAY: Maybe I didn't  
9 have it in my head that it was exclusively low  
10 density, but in proximity to principally  
11 residential areas, I think there is a concern,  
12 and I think that will come out as we move  
13 further along in the process because there's  
14 always the spillover issue that occurs in  
15 many, many areas. It's not just driven by  
16 commercial development. It's driven by, you  
17 know, restaurants and things like that and  
18 other neighborhoods.

19 I know in the city there's been a  
20 very significant change in the management of  
21 parking, residential parking in particular and  
22 the pay-to-park meters and all that whole

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1 scale, and I think that's all been very  
2 positive, but it needs to be -- I think the  
3 totality of the parking situation needs to be  
4 clear. We can't simply say we're going to put  
5 a maximum on the residential and not address  
6 things like, you know, the residential parking  
7 permit availability as a rule and, you know,  
8 other attempts to try to address spillover  
9 parking.

10 COMMISSIONER MAY: And then one  
11 question. You haven't said much about parking  
12 for commercial use and retail as part of this.

13 MR. PARKER: Coming out of the  
14 working group we looked at maximums for retail  
15 and office use, and we did a lot of research  
16 to determine what rates they're being built at  
17 now and what the trends are, how many people  
18 are driving downtown. We did a lot of  
19 background on this, and it's a shame that  
20 there's nothing necessarily -- no changes are  
21 coming out of it necessarily.

22 I guess what we ended up

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1 determining is that, you know, we could set a  
2 maximum for commercial units, but really the  
3 cost of building parking is pushing as hard as  
4 we could push in zoning regulations. People  
5 don't want to build. They aren't making their  
6 money back on parking. They don't want to  
7 build more parking than they can. So unless  
8 we set a number that's more restrictive than  
9 what people are building, which we don't  
10 necessarily want to do, it doesn't do us any  
11 good to set a parking maximum number.

12 COMMISSIONER MAY: Did you look  
13 again more carefully at the minimums or at the  
14 requirements now?

15 MR. PARKER: No. I mean, again, I  
16 can see we will reopen that debate on parking  
17 minimums, but we were moving forward on the  
18 assumption that especially in TOD areas, which  
19 this entirely is, we're moving away from  
20 parking minimums and examining maximums.

21 COMMISSIONER MAY: Right, and so  
22 pretty much in this and all of the DD area

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1 there would be no minimums.

2 MR. PARKER: Correct, correct.

3 CHAIRMAN HOOD: Commissioner  
4 Schlater.

5 COMMISSIONER SCHLATER: I'll pick  
6 up on the parking discussion.

7 MR. PARKER: Okay.

8 COMMISSIONER SCHLATER: I guess  
9 what I'm concerned about is ultimately you  
10 don't want to put residential in the District  
11 at a disadvantage to residential in Rosslyn or  
12 in Bethesda, and by creating these parking  
13 maximums, there is the potential that some  
14 residential buildings will become less  
15 competitive compared to these other, which  
16 would defeat the overall goal of what we're  
17 trying to go for here.

18 I'm definitely supportive of what  
19 OP is trying to achieve here in terms of  
20 reducing parking downtown and reducing  
21 people's use of cars in the city, but the  
22 reality is that people do like cars.

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1 I know that the other thing that  
2 just needs to be kept in mind is not all of  
3 these downtown areas are created equally. I  
4 think if you live in Penn Quarter, you have a  
5 different expectation of what your car usage is  
6 going to be versus if you buy a car in the  
7 first new residential building on Buzzard's  
8 Point. You know, it has to do with safety.  
9 It has to do with how far away you are from a  
10 Metro, and it's different.

11 So I don't think we should  
12 necessarily treat all areas the same with  
13 respect to if a parking maximum were to be put  
14 in place, which I actually don't support. I  
15 think the market should decide how much  
16 parking is provided. You're right that  
17 there's already an extraordinary disincentive  
18 to provide too much parking, and that's a cost  
19 of \$40,000 a space to put it in there. So  
20 developers aren't putting it in there for  
21 their health, you know, or because they love  
22 cars. They're doing it because they're trying

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1 to rent units or sell condo units, and that's  
2 something we're trying to achieve here.

3 So from my perspective, I think  
4 eliminating the parking minimums is something  
5 that I would definitely support, but the  
6 parking maximums, I'm not sure that I'm there.

7 MR. PARKER: Okay.

8 COMMISSIONER SCHLATER: The other  
9 question I would have is with respect to this  
10 I think it's along the lines of Commissioner  
11 May's point. You've got a lot of surface  
12 parking lots downtown right now that are  
13 holding -- I don't know if there's a census  
14 that's been taken -- how many thousands of  
15 spaces there are, but some day those surface  
16 parking lots are going to be gone. And where  
17 are all those cars going to go? Are they  
18 going to get pushed into the residential  
19 neighborhoods?

20 Maybe some of the people will  
21 decide not to take their car anymore. I don't  
22 know, but it's something of -- I personally

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1 would support at least disincentivizing  
2 surface parking lots.

3 As a question, what's the status of  
4 above grade parking lots in most of these  
5 areas, the zoning status? Is that something  
6 that's not allowed as a matter of right?

7 MS. STEINGASSER: In the DD overlay  
8 it's not allowed as a matter of right. It's  
9 the most hybrid of hybrids. It's allowed by a  
10 special exception subject to variance  
11 standards. So we're going to watch the BZA  
12 tie themselves in a knot with that one.

13 They're allowed in the CG overlay  
14 only by special exception, and in NoMa they're  
15 allowed as a matter of right.

16 MR. PARKER: You're talking garage.

17 COMMISSIONER SCHLATER: Yes, above  
18 grade structured parking garage.

19 MS. STEINGASSER: Oh, I'm sorry. I  
20 thought you were talking surface parking lot.

21 COMMISSIONER SCHLATER: No, I'm  
22 sorry.

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1 MS. STEINGASSER: A paid for  
2 parking garage, a commercial operation, yes,  
3 is allowed as a matter of right in everything  
4 but the DD.

5 COMMISSIONER SCHLATER: Has there  
6 been any examination of that in looking at  
7 your --

8 MS. STEINGASSER: Yes. We did an  
9 entire parking analysis about a year ago that  
10 we had to go over that has an analysis of the  
11 surface and the parking ratios as well as the  
12 structured parking. I think DDOT is also  
13 looking at some of the on-site circulation  
14 impacts from those structure.

15 COMMISSIONER SCHLATER: Okay. Just  
16 quickly, with respect to the retail  
17 recommendation, there's two things. There's  
18 first the issue of the 14 foot required  
19 heights. Has that been resolved? That's  
20 something that OP is further considering and  
21 debating amongst the working group?

22 MR. PARKER: That's something we're

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1 going to consider. What we've heard is  
2 several comments, and comments we understand  
3 and agree with that, that while 14 foot clear  
4 is a good goal, there are certain instances  
5 where that may cost us a floor in valuable  
6 downtown.

7 That's not the intent. So what we  
8 want to look at is a way to, you know, get 14  
9 foot clear where we can while leaving a safety  
10 valve so that we're not costing anybody a  
11 floor off their building.

12 COMMISSIONER SCHLATER: But you  
13 would have some minimum floor rights because  
14 I've seen some bad retail where they push it  
15 underground.

16 MR. PARKER: Certainly. We have to  
17 figure out what the absolute minimum is,  
18 whether it's 12 or 13 or something, but, yeah,  
19 the goal is 14 where we can and something as  
20 close as possible to that where necessary.

21 COMMISSIONER SCHLATER: And I saw  
22 you are attempting through the rewrite process

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1 to add First Street, N.E. and a portion of  
2 Connecticut Ave. to the retail requirement  
3 streets. What's the thinking there? Why  
4 those two streets out of all the streets in  
5 the District?

6 MR. PARKER: Well, both of those  
7 streets have planning guidance that determine  
8 them to be important retail corridors.  
9 Connecticut Avenue, obviously already is an  
10 important retail corridor, and we would want  
11 to continue that. First Street, N.E., there's  
12 been a lot of planning done in NoMa, but  
13 there's not a lot of requirements there now.  
14 It's pretty much a free for all. We see that  
15 as an important future retail avenue.

16 COMMISSIONER SCHLATER: Absolutely,  
17 I agree. I support that.

18 On the historic preservation  
19 recommendation, is there a list of properties  
20 that you think that would be -- you made  
21 reference in the report to, you know, you've  
22 identified some property within the expanded

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1 downtown that would be subject to this new  
2 bonus density. Can you provide us that list?

3 MR. PARKER: Yeah, yeah, a list of  
4 all the existing historic landmarks in the  
5 larger area?

6 COMMISSIONER SCHLATER: Yeah.

7 MR. PARKER: Absolutely.

8 COMMISSIONER SCHLATER: Because  
9 ultimately you are, and you said it plainly,  
10 you know, you're putting historic preservation  
11 on par with the creation of housing within  
12 those areas. So I think it would be good to  
13 get a sense of what the potential scope of  
14 that bonus density is.

15 MR. PARKER: Yes.

16 COMMISSIONER SCHLATER: Because it  
17 seemed to be -- I don't know -- in the past to  
18 create a fair amount of TDRs.

19 MR. PARKER: Right. I mean, it  
20 didn't even come close to comparing with the  
21 amount created by residential, but it was a  
22 decent amount, yeah.

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1 COMMISSIONER SCHLATER: Okay.  
2 Great. That's all I have. Thank you.

3 COMMISSIONER TURNBULL: I just had  
4 one question. On the historic buildings, we  
5 talk about creating new buildings that  
6 qualify. We're obviously looking at post  
7 modern construction. So how far do we go up?  
8 What's the cutoff point now that we're  
9 looking at for historic?

10 MR. PARKER: Cut off by date or by  
11 size? What do you mean?

12 COMMISSIONER TURNBULL: Date.

13 MR. PARKER: We don't have a  
14 cutoff. I mean, as we get into the future,  
15 the historic will get younger and younger.

16 COMMISSIONER TURNBULL: So right  
17 now even whether something is deemed  
18 significant or not --

19 MS. STEINGASSER: The interior  
20 standards are 50 years. However, any property  
21 can be deemed significant for any reason at  
22 any time, but it's most common 50 years is the

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1 minimum. There has been very few examples  
2 less than that.

3 COMMISSIONER TURNBULL: That's what  
4 I thought. Okay. So you're following. Okay.  
5 Thank you.

6 CHAIRMAN HOOD: I wanted to ask a  
7 question about Recommendation 6. It basically  
8 goes to the unbundling parking. I believe  
9 previously the Zoning Commission -- I think we  
10 had a case where we did deal with unbundling  
11 of parking some years back. Do you recall?

12 MS. STEINGASSER: We've done --  
13 through several PUDs, the developers have  
14 committed to unbundling the parking,  
15 especially if there's a significant affordable  
16 component to the project.

17 We also talked about it when we had  
18 our similar public hearing on the parking  
19 proposals about a year and a half ago, and we  
20 discussed it then as well.

21 CHAIRMAN HOOD: And the reason I'm  
22 asking is because at that time I had some

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1 reservations because, you know, you talk about  
2 spillover. A lot of it has to do with where  
3 the location is, which goes to what we're  
4 talking about this evening.

5 But one of the issues that I had  
6 was spillover, and I'm just curious. Do we  
7 have any data that shows actually some of  
8 those cases that we already deal with  
9 unbundling what the track record is, how it  
10 actually worked?

11 MS. STEINGASSER: We do have some  
12 data. Some of the developers have been very  
13 generous with us and shared their levels of  
14 car occupancy, for lack of a better phrase, of  
15 how much of their garage is actually occupied  
16 by cars or leased and actually used.

17 CHAIRMAN HOOD: Can you share that  
18 with us?

19 MR. PARKER: A lot of it is  
20 proprietary, but we can share the results.  
21 Basically what we found is that in our  
22 downtown area, especially for condos, around

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1 .8 spaces per unit resulted in an efficient  
2 use of that. I think it was like an 85  
3 percent occupancy load, which was, you know,  
4 determined to be an efficient occupancy load  
5 for parking.

6 So that's sort of what we used as  
7 the basis of our numbers. It doesn't get to  
8 -- I know you're sort of getting to what  
9 happens outside the building, and we don't  
10 have a lot of information necessarily on how  
11 spillover relates because it's impossible to  
12 tie those things together in any meaningful  
13 way.

14 CHAIRMAN HOOD: Well, let me ask it  
15 this way. Did it work? Is it working thus  
16 far?

17 MR. PARKER: It's working for the  
18 buildings, yeah. Hard to say.

19 CHAIRMAN HOOD: Okay, all right.  
20 As we move along, I would be interested, and I  
21 know we can't necessarily talk about specific  
22 developers, but I would be curious what some

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1 of the results outside, because that was one  
2 of the issues I had with spillover, and as you  
3 mentioned, if we don't build it, if we don't  
4 provide it, they won't buy a car.

5 I was just curious about that  
6 philosophy. Does it really work? Is it  
7 really true?

8 MS. STEINGASSER: We'll be happy to  
9 get what data we do have and the  
10 transportation studies that we have on the  
11 issue. We also had the consultant Nelson  
12 Nygaard, which is a national consultant, and  
13 they've provided us with a lot of data.

14 But the thing to remember is  
15 parking is not free for anybody. So even if  
16 they build it, they're selling it or leasing  
17 it to the people and the tenant, and what we  
18 don't have is the data point at which a tenant  
19 decides it's too much. I'll circle the street  
20 rather than pay the management company to park  
21 in the basement.

22 That's the threshold we don't have.

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1       So we can get you some data on occupancy, but  
2       whether that tells us usability I don't want  
3       to venture a guess.

4                   CHAIRMAN HOOD:     And I guess I'm  
5       more or less into the tune of are we creating  
6       a problem, and that's what I said some years  
7       ago. I don't know how long ago it was, of the  
8       unbundling of parking, but anyway, whatever we  
9       can provide, I'd greatly appreciate it.

10                   Okay. Anything else, colleagues?

11                   (No response.)

12                   CHAIRMAN HOOD:     All right. Well, I  
13       want to thank you very much. We will now go  
14       through our witness list. I haven't seen this  
15       in a while. It looks like everybody is a  
16       proponent. So maybe I can call everybody all  
17       up at the same time. We have seven people,  
18       but I was looking. We only have six seats.  
19       So what I'll do, I'll take the first panel.  
20       I'll take Mr. Norman Glasgow and Mr. Steven  
21       Sher together, and then I'll call everybody  
22       else up at once. I think we have an

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1 additional -- let me do this. Let me do this  
2 because there may be someone here who wants to  
3 testify and their name is not on the list.

4 Dennis Hughes, John Epting, you can  
5 come forward, and Allison Prince.

6 Is Mr. Wilkes here? That's all  
7 right. You can come by yourself unless  
8 there's someone else. You can have the whole  
9 table to -- okay. Ms. McCarthy is going to  
10 come with you.

11 Ms. Prince, if you wanted to come  
12 now you can come with this group. Oh, you  
13 have a group. Oh, okay. I've got you.

14 All right. Mr. Glasgow, I hear  
15 that you have three minutes. Mr. Sher, you  
16 have five minutes. Mr. Hughes, you have three  
17 minutes. Mr. Epting, you have five minutes.  
18 Mr. Utz, you have three minutes.

19 Is Mr. Utz at the table? Okay.  
20 Then we'll go from there.

21 Okay, Mr. Glasgow.

22 MR. GLASGOW: All right. Thank

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1 you, Mr. Chairman.

2 Good evening, members of the  
3 Commission. For the record, my name is Norman  
4 M. Glasgow, Jr. of the law firm of Holland &  
5 Knight, appearing here in support of the  
6 zoning concepts for downtown as set forth by  
7 the Office of Planning. We do have some  
8 questions and comments on some of the  
9 particular matters, but overall, we are in  
10 support of the proposal.

11 By way of background, I think it is  
12 instructive to compare the process and  
13 direction that has been taken by the Office of  
14 Planning here, and that when we first had the  
15 downtown development district, when it was  
16 first proposed in 1989, at that time, there  
17 were many public hearings on this issue.  
18 Representatives of the development community,  
19 the debate was more than contentious at that  
20 time.

21 And I think now through working  
22 with the Office of Planning, there are many

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1 developers who have looked at this and have  
2 seen that this is something that we can work  
3 through together in a positive way.

4 The Office of Planning, Jennifer  
5 Steingasser and Travis Parker, are to be  
6 commended for their outreach to the  
7 development community and other communities  
8 early on in the process to explain the  
9 proposal and seek input.

10 In fact, we had a meeting at our  
11 offices on June 1st at which they attended,  
12 and we had approximately 70 representatives of  
13 the development community at that meeting,  
14 including representatives of almost all the  
15 major developers of the city. That session  
16 lasted about two hours to go over the  
17 proposals.

18 One of the principal concepts that  
19 was put forth and which put many developers at  
20 ease as to this process is that there would  
21 not be loss of existing development rights  
22 either by diminution of commercial FAR, the

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1 loss of rights for TDRs or CLDs. So what we  
2 would have is a situation where there would be  
3 some increased flexibility where you were  
4 asking for something. You needed to get  
5 something. Part of that is coming out in the  
6 discussion tonight, you know, like either  
7 design review. You buy housing credits, but  
8 you wouldn't lose any baseline rights that you  
9 presently had, but there would be a process to  
10 go through in some fashion if you wanted  
11 additional development rights.

12 Now, with respect to some specific  
13 properties, I have submitted for the record  
14 the combined lot development covenants for  
15 properties in Square 701, which due to  
16 grandfather rights do exceed the eight and  
17 half FAR maximum now present in the CG overlay  
18 under Section 1602.1(a) for combined lot  
19 development. These properties are permitted  
20 FARs of 8.84 and 10.42, respectively, by  
21 virtue of covenants that were entered into  
22 with the District of Columbia. The blended

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1 FAR of the sites which are continuous is about  
2 9.19. That was before that FAR limitation was  
3 put on.

4 By way of background, those  
5 property owners happen to own sites both  
6 within and outside of the baseball stadium  
7 site. Square 701 is just north of the  
8 baseball stadium, and so what we did is  
9 instead of going through a condemnation  
10 process or other adversarial process with the  
11 District, we worked out we would take our FAR  
12 from that site and go to Square 701.

13 I've got one or two other points if  
14 I can make them.

15 CHAIRMAN HOOD: Go ahead and  
16 finish.

17 MR. GLASGOW: So that's why those  
18 sites have that additional FAR, and we just  
19 wanted to make sure that was on the record.

20 Secondly, before turning over the  
21 mic to the next witness, I wanted to briefly  
22 comment on the text at page 15, and I think,

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1 Commissioner Schlater, you had mentioned that.

2           What we had understood in the  
3 concept of that, there would be no existing  
4 development rights lost; that if you were, for  
5 instance, in the C-3-C district, which is  
6 going to be the DD-4, is that if you had a six  
7 and a half FAR base, you wanted to build to  
8 eight, you would purchase housing credits for  
9 1.5. You wouldn't be required to purchase  
10 credits to 3.5. There would be a ratio. If  
11 you wanted something extra, you'd purchase  
12 something extra, but what it was that you  
13 could use and not just an arbitrary number.

14           Because some of the sites are very  
15 large sites. They're very deep, and it's hard  
16 to get 10 FAR on those sites, and so I just  
17 wanted to bring that to the Commission's  
18 attention.

19           And we look forward to continuing  
20 the work with the Office of Planning and the  
21 Commission as this process proceeds.

22           Thank you.

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1 CHAIRMAN HOOD: Mr. Sher.

2 MR. SHER: Mr. Chairman, members of  
3 the Commission, for the record my name is  
4 Steven E. Sher, Director of Zoning and Land  
5 Use Services with the law firm of Holland &  
6 Knight.

7 I'd like to just briefly echo Mr.  
8 Glasgow's comments about agreeing with the  
9 general thrust of preserving existing rights  
10 and interpretations and commend the Office of  
11 Planning for its approach and its outreach.

12 A few specific points that I'd like  
13 to discuss. In the DD-4, as I think Mr.  
14 Parker pointed out earlier, there's a  
15 distinction between sites that are now DD C-3-  
16 C, which are in the housing priority area and  
17 DD C-3-C which are not. It is our  
18 understanding from discussions that those  
19 sites which have a housing requirement now  
20 will continue to have a housing requirement.  
21 Those sites which do not have a housing  
22 requirement now would not have a housing

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1 requirement, and that maybe suggests there  
2 needs to be a DD-4(a) or just another DD added  
3 and the numbers changed, but somehow a way to  
4 distinguish between those sites which are  
5 required to have housing and those which do  
6 not.

7 The C-4 district, which has a  
8 similar situation, has already been addressed  
9 because you have the DD-5 where housing is  
10 required and the DD-6 where housing is not  
11 required. So it i's a similar type situation.

12 As Mr. Glasgow just mentioned, the  
13 discussion about having to go through design  
14 review if you used bonus density and our  
15 concern that the number of housing credits  
16 required should be no more than the amount you  
17 can actually use. If you can't get up to 10  
18 FAR, then you don't have to buy 10 FAR, up to  
19 10 FAR to build what you want to build.

20 We note that the requirement to go  
21 through a design review is a greater  
22 imposition than currently exists in the

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1 receiving zones, and we just need to figure  
2 out how that's going to work and whether that  
3 actually results in some lessening of rights  
4 that are otherwise there today.

5 The question of PUDs came up  
6 earlier, and I wanted to talk about PUDs in a  
7 couple of different ways. Number one, how do  
8 these new regulations affect existing approved  
9 PUDs?

10 And I counted just quickly that  
11 there are at least 20 PUDs that have been  
12 approved and almost all of them built within  
13 that area that's shown in the larger expanded  
14 DD. So how do you treat those?

15 I think our thought is that they  
16 shouldn't lose any specific rights that have  
17 already been granted by the Zoning Commission.

18 They should continue to be subject to any  
19 requirements that the Commission has approved,  
20 but how do you relate those existing approvals  
21 to PUDs that they're putting a new overlay  
22 over them?

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1                   The second part of that is I really  
2 do believe you need to preserve the right to  
3 apply for PUDs in the future. There are  
4 places where housing credits are not going to  
5 be required, and there are places where people  
6 are going to want to come in and say, "We've  
7 got a project and it is appropriately a PUD  
8 and should be considered under those  
9 standards. We're not saying it needs to be,  
10 but we're just saying preserve the option."

11                   With respect to the retail on  
12 Connecticut Avenue north of K Street and First  
13 Street, N.E. and NoMa, I don't think our issue  
14 so much is having a retail on the first floor.

15                   It's back to that 14 foot ceiling again, and  
16 what does that do fitting within the overall  
17 height limit maximum of what you can do on  
18 that site, and we think it needs to be  
19 something less than 14 feet if you're going to  
20 be able to get the number of stories above  
21 that you want to get.

22                   The Commission just went through

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1 some discussion on the residential parking  
2 maximum. We believe that the regulations  
3 should not mandate an upper limit on the  
4 number of parking spaces for residential, but  
5 if there is one, it should not be less than  
6 one space per unit. That's just based on the  
7 unpredictability of where you're going to wind  
8 up down the road in terms of who wants to  
9 provide how many parking spaces, and we don't  
10 think that the District should lock that  
11 number in in a way that could be  
12 disadvantageous to people who want to build  
13 housing with more parking than whatever the  
14 number we come up with today.

15 And the last point is on the  
16 special exception for surface parking lots.  
17 We oppose the requirement to have to go to  
18 BZA, as Mr. Glasgow or somebody mentioned  
19 earlier, the idea that people want to do  
20 parking lots. This is really a default  
21 condition because of the market and the  
22 inability of people to proceed.

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1                   You need to have some income on the  
2 property to pay the property taxes, if nothing  
3 else, and operating is not where these  
4 property owners want to be, but it is where  
5 they are today, and so we just don't think  
6 that putting that requirement in is something  
7 that makes a lot of sense.

8                   I could go into the history of the  
9 SP district and phaseout of parking lots many  
10 years ago, but I think my time is up and I'll  
11 stop.

12                   CHAIRMAN HOOD: We are very fair  
13 here. So if you want to give us a closing  
14 remark.

15                   MR. SHER: I'm at the bottom.

16                   CHAIRMAN HOOD: Okay.

17                   MR. SHER: Thank you.

18                   CHAIRMAN HOOD: Mr. Hughes.

19                   MR. HUGHES: Good evening, Mr.  
20 Chair and members of the Commission. For the  
21 record, I'm Dennis Hughes, also with Holland  
22 and Knight.

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1                   Thanks for allowing me a few  
2 moments to offer comments upon the conceptual  
3 changes to downtown zoning proposed by the  
4 Office of Planning.

5                   At the outset I'd like to offer my  
6 appreciation to the OP staff that organized  
7 and led the numerous downtown working group  
8 sessions I had the opportunity to attend. I  
9 believe these sessions were quite helpful for  
10 OP to hear from property owners and other  
11 interested District residents in terms of  
12 larger concepts at issue ranging from housing,  
13 retail, and art schools to parking and street  
14 vitality issues.

15                  I also hope that the comments  
16 raised by those of us zoning and land use  
17 practitioners regarding certain peculiar  
18 mechanisms and complexities of the DD  
19 regulations help to further the conversation  
20 and inform OPs conceptual proposal before you  
21 tonight.

22                  Like my colleagues before me, I

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1 wish to offer my support for the concepts  
2 presented for the proposed amendments to  
3 downtown zoning, and I certainly look forward  
4 to working with OP as the process continues to  
5 clarify how certain of these mechanisms will  
6 function.

7 In particular, to night I'd like to  
8 use my remaining time to discuss OP's proposal  
9 to replace the current system of TDRs and  
10 combined lot development with the system of  
11 housing credits. I believe the concept  
12 generally is a good one and certainly does  
13 address the potential shortfall of TDRs that  
14 threatens to strand development in the TDR  
15 receiving zones under the current regulations.

16 That said, I'm eager to learn more  
17 of the details of the proposed program which I  
18 understand OP is still studying and these  
19 include, number one, what are the proposed  
20 boundaries of the housing credit trading areas  
21 and how does OP contemplate that the market  
22 for housing credits will operate. We suggest

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1 that all of the current DD housing priority  
2 are, which is mapped as three contiguous sub-  
3 areas A, B and C be included as a single  
4 trading area.

5 We further suggest that each of the  
6 TDR receiving zones which are not contiguous  
7 with each other be included as a separate  
8 trading area.

9 Number two, how will these housing  
10 credit transfers be documented? As mentioned  
11 in the OP report, for both TDR and CLD  
12 transfers, a document including multiple  
13 approvals by the District government that is  
14 ultimately recorded in the land records has  
15 been required. What process, if any, will  
16 replace this and what might be the impacts on  
17 purchasers and particularly their lenders when  
18 supporting documentation is required that a  
19 residential requirement has been satisfied or  
20 bonus density has been transferred.

21 Number three, when will housing  
22 credits be able to be transferred, invest?

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1 I'm not sure from what I heard tonight and  
2 from the OP report. It sounds like it's going  
3 to be at 50 percent completion of  
4 construction. If that's the case, that's  
5 certainly something that we would suggest that  
6 the Commission follow.

7 Number four, how will the  
8 conversion of what was being called -- I'm not  
9 sure if you're still using the term -- "legacy  
10 TDRs and CLDs," be valued with respect to one  
11 another as we switch from the current program  
12 to the new one? If at the time of transition  
13 a CLD right is valued at two to three times  
14 what a TDR is valued, then we suggest that  
15 each vested TDR become one housing credit and  
16 each CLD right become two to three housing  
17 credits depending upon the valuation at  
18 transition.

19 Can I have just a few more seconds?

20 CHAIRMAN HOOD: You can have some  
21 more time.

22 MR. HUGHES: As I conclude, I want

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1 to turn quickly to the Office of Planning's  
2 recommendation with respect to art uses in the  
3 downtown area, and this is something in  
4 reading it again I'm not sure I fully  
5 understand, but I want to raise the  
6 Commission's attention to a project, the  
7 Shakespeare Theater's Harmon Center on F  
8 Street. That project generated arts use TDRs.

9 I think that might be what was shown in green  
10 on the slide that OP showed you.

11 But under the current regulation,  
12 Shakespeare is providing approximately 48,000  
13 square feet more arts uses than is required,  
14 and again, under the current regulations is  
15 eligible to transfer those or allocate those  
16 through combined lot development.

17 We've worked with OP on a form  
18 covenant which does the required four  
19 signatures and all the rest. It's a very  
20 complex document, but we want to make sure as  
21 we transition to the new system that those  
22 rights are not lost, that we sort of follow

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1 what OP was saying, that existing rights will  
2 be maintained.

3 And in closing I want to again  
4 commend OP for its efforts and continue to  
5 make myself available to answer some of these  
6 rather complex details as we transition to the  
7 new program.

8 Thank you.

9 CHAIRMAN HOOD: Thank you.

10 Mr. Epting.

11 MR. EPTING: Yes. I'm John Epting  
12 with Pillsbury, Winthrop, Shaw, Pittman, and I  
13 apologize. I'm horse. So I'll get through  
14 this, and what I can't say Jeff will say.

15 We also commend OP for working with  
16 us not only on existing CLDs and TDR  
17 transactions, which we've worked on the last  
18 15 years, but on this process particularly,  
19 and Jeff has been involved with the working  
20 group and has really been useful.

21 We support the intent of the new  
22 housing credit regime. We believe the

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1 expansion of areas that can utilize housing  
2 credits is a good direction for the city. WE  
3 support the production of housing in  
4 additional areas beyond the DD.

5 Our major concern in the  
6 marketplace is how this is going to be all  
7 implemented. So I mean kind of what you all  
8 are getting at tonight.

9 Picking up on Recommendation No. 2,  
10 which Travis talked about, our main concern is  
11 insuring the value of existing TDRs and CLDs  
12 stays in place. These property owners have  
13 built residential or have residential in place  
14 based upon the existing system, and we need  
15 some mechanism for keeping those values in  
16 place.

17 The first one to start is to  
18 continue to allow them to invest at 50 percent  
19 completion.

20 The second, and Dennis hit on it a  
21 bit, too, is some market mechanism, whether  
22 it's a time line or phasing or give three to

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1 one for CLDs or two and a half or two to one  
2 for TDRs, just to basically give some premium  
3 on those existing legacy TDRs and CLDs.

4 With that I'll turn it over to  
5 Jeff, but we look forward to working with you  
6 more in the future, and I again apologize for  
7 my voice.

8 MR. UTZ: Good evening. My name is  
9 Jeff Utz. I'm also at Pillsbury, Winthrop,  
10 Shaw, Pittman. Thank you very much for  
11 letting me come before you and testify this  
12 evening.

13 I'd also like to join everybody  
14 else, thanking OP with the kind of long  
15 process that they have engaged really  
16 everybody in with the working groups and being  
17 open to coming in and this kind of hashing out  
18 ideas and kind of braining storming through  
19 this kind of new process. We really  
20 appreciate it, and we think it has been very  
21 productive.

22 I just wanted to piggyback on some

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1 of John Epting's comments just now and talk a  
2 little bit about some other ways that we think  
3 that value of these TDRs and CLDs can be  
4 maintained. We do think there's a risk that  
5 housing credits add a lot of supply that kind  
6 of undercut the value of TDRs and CLDs. So  
7 there are some other items that we think  
8 should be considered as this mechanism is  
9 phased out.

10 The first one, and I think Travis  
11 might have discussed this a little bit, is we  
12 really support this idea of a burn-off period,  
13 basically a time whether it's five to seven  
14 years where CLDs can be sold, TDRs can be  
15 sold, and then it kind of allows housing  
16 credits to kind of wait their turn until these  
17 other rights are burned off.

18 That might overcome some of these  
19 kind of trickier conversion mechanisms that we  
20 would otherwise need.

21 We do think there is some value as  
22 well in kind of giving legacy TDR and CLDs

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1 some enhanced rights. The purchasers of these  
2 credits could maybe, for instance, satisfy  
3 retail or arts requirements at a higher  
4 conversion rate or if there is design review  
5 possibly not have to go to design review, and  
6 basically just enhance the way this can be  
7 done.

8 Another specific mechanism could be  
9 to allow legacy TDRs to satisfy the  
10 residential requirements in the current  
11 housing priority areas if the CLDs do burn off  
12 before the end of this burn-off period.

13 Also, one of the other ideas that  
14 we had is creating kind of a pilot area that  
15 would function basically as the new receiving  
16 zone. This wouldn't necessarily create bonus  
17 rights, but it could possibly use legacy TDRs  
18 and CLDs, and then after the burnoff period  
19 the housing credits. It might just offer kind  
20 of a way to sop up some of the supply if there  
21 is kind of this overload. So we were thinking  
22 about ideas or areas near Poplar Point or in

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1 Anacostia or some possibly just target pilot  
2 are.

3 That pretty much sums it up. I  
4 won't ramble on any longer, but I appreciate  
5 the opportunity to speak before you.

6 Thanks.

7 CHAIRMAN HOOD: All right. I want  
8 to thank this panel. Let me see if we have  
9 any questions or comments. Commissioners?

10 (No response.)

11 CHAIRMAN HOOD: Okay. Thank you  
12 all for your comments. We appreciate it.

13 Okay. Ms. Prince, Mr. Wilkes and  
14 Ms. McCarthy.

15 Is there anyone else here who would  
16 like to testify? Come forward. Wait a  
17 minute. How many people do you have, Ms.  
18 Prince, that are going to join you? Hold on a  
19 second. Mr. Wilkes is joining you?

20 MS. PRINCE: Just two speakers.

21 CHAIRMAN HOOD: Oh, just two  
22 speakers?

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1 MS. PRINCE: However, I just wanted  
2 the other TDR holders to sit up here with me.

3 CHAIRMAN HOOD: Okay. Who are your  
4 other T -- I just want to make sure I have six  
5 seats. I only have six. Okay, okay. It  
6 looks like we're okay.

7 Ms. McCarthy, I think there's one  
8 seat for you. I think we have one last seat  
9 for you.

10 Anyone else wishing to testify?  
11 Okay. So we'll have another panel after this.

12 So what we'll do, Ms. Prince, we'll start  
13 with you and whoever is going to testify with  
14 you, and then we'll go to Mr. Wilkes or are  
15 you with Ms. Prince? Oh, you're in with Ms.  
16 Prince.

17 Well, let me just turn it over to  
18 you, Ms. Prince.

19 MS. PRINCE: Good evening, members  
20 of the Commission. I'll speak very briefly,  
21 and then Sandy will speak for the whole group  
22 in total. We'll take no more than six or

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1 seven minutes. Then we'll be done.

2 I'll continue the OP love fest.  
3 Travis, in preparing for this hearing,  
4 certainly didn't have a lot of free time, and  
5 he has met with us and Leslie. He has the  
6 patience of a saint, I have to say.  
7 Throughout this process he has been completely  
8 open to all discussions all times from the TDR  
9 holders, what we call the legacy group.

10 I'm here tonight with the folks  
11 that really own the majority of the remaining  
12 TDRs in the city. They each have their own  
13 story. I won't go into them in great detail,  
14 but Sandy will be speaking. He's from the  
15 Wilkes Company and he has produced two large  
16 residential projects that have generated TDRs:  
17 Dean Cinkala, JBG, again, a large residential  
18 project that threw off substantial TDRs.

19 Ashley Gerstenfeld, her company did  
20 the very notable transformation of the  
21 Woodward Building from commercial to  
22 residential thereby generating significant

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1 TDRs.

2 And Chris McGrew also here has  
3 purchased several TDRs and has pursued many  
4 projects in the District.

5 We have a diverse panel, but we all  
6 have one thing in common: the ownership of  
7 these very significant rights, rights that  
8 were created by projects that did exactly what  
9 they were supposed to do and we're very keen  
10 on protecting those rights.

11 Our primary concern is the unknowns  
12 of the production of housing credits that will  
13 result in connection with this new regime. It  
14 hasn't been quantified. It will be very hard  
15 to quantify, just as it was hard way back when  
16 DD was created to begin to project how many  
17 TDRs would be produced and what the market  
18 would be like, and you could see from the  
19 slide the valuation has been all over the  
20 place as it has fluctuated with supply and  
21 demand.

22 Without any further delay I'll let

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1 Sandy speak, and he can talk about some of the  
2 thoughts we've had, but with the collaborative  
3 dialogue that we've had with OP, we're very  
4 comfortable that we're going to work something  
5 out that makes sense and that protects the  
6 people that really created the success in DD.

7 CHAIRMAN HOOD: If you want to turn  
8 your microphone on, just hit the light.

9 MR. WILKES: Here we go.

10 Good evening, Mr. Chairman and  
11 members of the Commission. I'm Sandy Wilkes.  
12 I'm Chairman of the Wilkes Company, a  
13 Washington, D.C.-based real estate development  
14 company founded in 1980.

15 I also have had the pleasure of  
16 serving as a member of the working group.

17 Recently in association with our  
18 partner, Quadrangle Development Corporation,  
19 we have generated a substantial number of  
20 transferable development rights from our  
21 development of the Sonata at 301 Massachusetts  
22 Avenue, N.W., and Madrigal Lofts at 811 Fourth

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1 Street, N.W., both located in housing priority  
2 area A in the DD overlay district.

3 This evening I appear before you on  
4 behalf of my company, but also as well on  
5 behalf of my colleagues, and as Allison  
6 pointed out, collectively we own a significant  
7 number of the TDRs that are in the market.

8 I would also like to voice our  
9 strong support of and appreciation for the  
10 manner in which the Office of Planning has  
11 approached the rewrite of the regulations, and  
12 its openness to ideas from all interested  
13 parties. OP has communicated effectively with  
14 the development community and has been more  
15 than willing to meet to discuss its  
16 recommendations and to reflect on our  
17 responses.

18 Nevertheless, as current owners of  
19 TDRs, we have some concerns with respect to  
20 the recommendations being reviewed this  
21 evening with the Commission. First, we  
22 believe that the proposal as currently

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1 envisioned will in all likelihood flood the  
2 market with housing credits, and that the  
3 value of the vested TDRs and CLDs generated in  
4 reliance on the current regulations will be  
5 driven down as a result.

6 We believe that the residential  
7 sector will be the first to recover in many  
8 areas of our city. Such residential  
9 development will generate large numbers of the  
10 new housing credits in the to be expanded  
11 downtown development district. We also  
12 believe that the demand for these housing  
13 credits will fall far short of supply because  
14 there's a great deal of office space that is  
15 currently vacant and absorption of this space  
16 is likely to delay meaningful new commercial  
17 development well into the future.

18 Accordingly, a significant loss in  
19 the value of legacy TDRs and CLDs can and  
20 should be avoided, especially since developers  
21 relied on the current system when they built  
22 the residential projects that generated these

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1 TDRs and CLDs. In fact, most, if not all, of  
2 these projects were underwritten with dollar  
3 values specifically attributed to their TDRs  
4 and CLDs.

5 Hence, we believe that real care  
6 should be taken to protect the value of legacy  
7 TDRs and CLDs as a matter of fundamental  
8 fairness and sound economic policy.

9 As a result, we have formulated an  
10 approach that we respectfully urge the Zoning  
11 Commission to consider in order to maintain  
12 the value and marketability of the legacy TDRs  
13 and CLDs. We believe a five to seven-year  
14 burnoff period should be included in the  
15 regulations during which time only legacy TDRs  
16 and CLDs can be utilized, and what will be the  
17 expanded training and receiving areas.

18 This will have many important  
19 benefits. First, it is likely that all of the  
20 cumbersome CLDs will be sold or otherwise  
21 utilized during such a burnoff period.

22 In addition, most, if not all, of

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1 the legacy TDRs will be sold or otherwise  
2 deployed. Then by a set date owners of legacy  
3 TDRs and CLDs will have them converted into  
4 housing credits at a conversion rate of two  
5 housing credits for each TDR or CLD with  
6 portability to any of the trading areas. This  
7 will protect the value of the legacy TDRs and  
8 CLDs that were created in good faith and which  
9 helped create the living downtown.

10 In addition, a mechanism can be  
11 included that will allow some amount of the  
12 new housing credit to be utilized during the  
13 burnoff period if the number of remaining  
14 legacy TDRs and CLDs is below a certain  
15 threshold, in order to assure that there is  
16 sufficient supply or liquidity of such rights  
17 in the marketplace.

18 We also believe the TDRs and CLDs  
19 should be given certain additional rights to  
20 insure their value and usage. For instance,  
21 we believe that legacy TDRs and CLDs might be  
22 used to reduce or offset affordable housing

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1 requirements in the DD zones through the  
2 purchase of legacy TDRs and CLDs -- just one  
3 more moment, Mr. Chairman.

4 CHAIRMAN HOOD: Take your time.

5 MR. WILKES: -- through the  
6 purchase of legacy TDRs and CLDS residential  
7 developers could either move up the AMI scale  
8 or reduce a certain percentage of their  
9 affordable housing requirements.

10 Alternatively, legacy TDRs and CLDs  
11 could be donated to the housing production  
12 trust fund to offset affordable housing  
13 requirements. The fund could then sell them  
14 to provide an in-flow of cash to the fund.

15 Finally, one matter not related to  
16 TDRs and CLDs, but also of great concern to  
17 many of our developers and the subject of  
18 considerable discussion this evening is the  
19 possible adoption of parking maximums for  
20 residential projects in the DD district. The  
21 reality is the construction of parking is  
22 prohibitively expensive. So developers only

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1 include parking where it is absolutely  
2 demanded by the market.

3 The creation of parking maximums  
4 could have the effect of making residential  
5 projects in the DD zones less competitive with  
6 residential projects elsewhere, including the  
7 suburban jurisdictions.

8 The use of automobiles by downtown  
9 residents is not largely determined by the  
10 availability or lack of availability of  
11 parking spaces, but many other factors,  
12 including personal choice and the adequacy and  
13 quality of public transit are weighed in that  
14 decision.

15 So, in conclusion, we want to thank  
16 you for your consideration of our views this  
17 evening, and we'd be happy to answer any  
18 questions. Thank you very much.

19 CHAIRMAN HOOD: Okay. Thank you.

20 Before I go to Ms. McCarthy, did  
21 anyone of the other owners want to say a brief  
22 statement? I don't know if you have anything

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1 prepared, but if you wanted to comment you can  
2 do that at this time.

3 MR. CINKALA: I would only  
4 reiterate -- Dean Cinkala of the JBG  
5 Companies. Thank you, Chairman.

6 I would reiterate what Sandy said.

7 You know, JBG has developed several  
8 residential projects over the years, and we  
9 have generated TDRs which we valued as an  
10 asset. As we undertook those developments, we  
11 value those as an asset today, and we have  
12 serious concerns about devaluation of that  
13 asset over time.

14 And I will reiterate Travis has  
15 been very open about our concerns and has  
16 agreed to work with us over the coming months  
17 to try to protect those interests.

18 So we thank you.

19 CHAIRMAN HOOD: Good. Anybody  
20 else?

21 (No response.)

22 CHAIRMAN HOOD: All right. Ms.

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1 McCarthy.

2 MS. McCARTHY: Thank you, Mr.  
3 Chair.

4 I speak to you tonight as, I know,  
5 the only person in this room that actually was  
6 a supporter of the DD that we are now talking  
7 about modifying when it went through its 30  
8 public hearings and two years and whatever.  
9 And I just wanted to make some general  
10 observations.

11 Number one, complexity as it's  
12 described in this report is both overstated  
13 and underrated. Overlays have a coherent  
14 purpose. When you go to an overlay, it tells  
15 you what it's trying to achieve. It tells you  
16 what tools and incentives it's using to  
17 achieve that, and it tells you what section of  
18 the city it applies to.

19 If you then have to go under the  
20 existing regs, you have to go one place to see  
21 what the underlying zoning is and one place to  
22 see the overlay. Nothing, of course, that

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1 could not be taken care of by finally bringing  
2 the zoning regs into modern technology, like  
3 hyperlinks. So when you go to that section of  
4 the city where your piece of property is, you  
5 know what you're entitled to build on that  
6 piece of property.

7 The only people that look at a  
8 chart like this and say, "Oh, wow, it's really  
9 complicated," are the people that are doing  
10 zoning revision projects and, therefore, are  
11 doing matrices like these. So I don't think  
12 that the DD is as complicated as the report  
13 makes it out to be, and the complexity that it  
14 has is complexity that could be taken care of  
15 by technology and much clearer language.

16 As the OP report in its earlier  
17 versions when we were in the working group on  
18 up made even more clear than this report does  
19 that DD has actually been phenomenally  
20 successful at accomplishing what it was  
21 supposed to accomplish.

22 So we're looking at it and saying,

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1 "Wow, it was incredibly successful. Let's get  
2 rid of that," as opposed to saying, as the  
3 report observes correctly, all of the benefits  
4 at this point in time of these preferred uses  
5 now flow only to the DD.

6 Well, we know that our centralized  
7 area is expanding into the Southwest, into the  
8 ballpark district. Let's look instead at  
9 whether we need to tie the same kinds of  
10 regulations and incentives to making mixed  
11 use, 24-hour kinds of neighborhoods happen  
12 there as we were successful in doing in the  
13 DD.

14 Secondly, zoning needs to be long  
15 term and predictable. When the DD was being  
16 promulgated, there were any number of land use  
17 and appraisal experts who trooped before the  
18 Commission and said housing not only had no  
19 value, but any land that had a housing  
20 requirement would have a negative value.

21 Then in around the end of the '90s  
22 housing became equal to commercial. Then it

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1 was more valuable than commercial. Then it  
2 was less valuable than commercial. Now  
3 housing is about the only thing that can get  
4 financing, although it tends to be more on the  
5 affordable housing side than some with  
6 Freddie, Fannie, and FHA.

7 So what we have to do is articulate  
8 a policy to achieve what we want to achieve  
9 not based on what the market is at this  
10 moment, and we have to come up with incentives  
11 and tools that will be flexible enough to last  
12 through variations of the market.

13 But we also know that zoning, much  
14 as us zoning people would love it, zoning  
15 doesn't make anything happen in and of itself.

16 It tells you what not to happen. It says  
17 what they would like to have happen, but you  
18 need the market, and sometimes you need  
19 incentives. Our success story in the downtown  
20 includes TIFs for Gallery Place. It includes  
21 outright grants for Shakespeare. There's a  
22 whole long list of additional tools that went

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1 along with the zoning framework to make happen  
2 the great downtown that we've been successful  
3 in achieving.

4 I think about that in particular  
5 when I'm looking at retail because the City  
6 Center D.C. project, the old Convention  
7 Center, will make a really big difference in  
8 terms of the market and the possibilities for  
9 retail in the downtown.

10 So I think we have to be very  
11 careful when we eliminate the ability of  
12 special retail to generate its own TDRs,  
13 housing credits or whatever we are going to  
14 call them.

15 I think getting more flexibility  
16 with CLDs is good. God knows the regs are  
17 about as poorly written as they possibly could  
18 be, and I would love to make sure that  
19 everybody understands that TDRs or that CLDs  
20 are talking about the maximum uses and that it  
21 doesn't apply to how those uses and FARs go on  
22 a particular individual site, but that's too

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1 complicated to go into the details of  
2 explaining other than saying more flexibility  
3 would be a good thing.

4 Can I have a few more minutes to  
5 finish?

6 CHAIRMAN HOOD: Go ahead.

7 MS. MCCARTHY: And I was really  
8 glad that OP recognized, in terms of CLDs and  
9 some of the other requirements and incentives,  
10 that the opportunity to get out of some of  
11 your on-site housing requirements were  
12 contributing to off-site affordable housing is  
13 an important tool.

14 The report recognized that we  
15 needed to keep it. It didn't really explain  
16 how that was going to be done, but I'm sure  
17 that's Phase 2, Travis. So go at it, but I  
18 did want to be sure to recognize on the record  
19 that I think it's important to retain that.

20 I would agree with any number of  
21 other people, parking maximums, bad idea and  
22 unnecessary because underground parking just

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1 costs too much. I don't think we need to muck  
2 around with trying to figure out how to get it  
3 right, and I also wonder if we get to electric  
4 cars or fuel cell cars or whatever, where it's  
5 not as much of a big deal, I think we don't  
6 want to have built a whole bunch of buildings  
7 that only have tiny amounts of parking because  
8 the Zoning Commission in 2009 thought that was  
9 a good idea.

10 Retail street designations, great  
11 idea, and now that I'm not in the cool part of  
12 downtown anymore and I'm over in downtown West  
13 and Connecticut and K, why are you only doing  
14 Connecticut? Let's have L; let's have M;  
15 let's have K Street. We need some better and  
16 some more significant amounts of on-street  
17 retail.

18 Retail and arts, lastly. We still  
19 need incentives, I believe, for retail and  
20 arts in the downtown and in the Capitol  
21 Gateway and Southwest. (a) We certainly want  
22 to be sure that we eliminate as counting for

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1 arts use the lobbies with the pictures that  
2 change every three months and, therefore,  
3 count as a gallery. That's really lame, and  
4 it doesn't really do anything to enliven the  
5 actual art scene.

6 But the retail or the arts that  
7 we've got now tends to be the more profitable  
8 arts. It's the restaurants. It's the  
9 galleries, but we don't have a blues club or  
10 much, for that matter, in terms of live  
11 entertainment or some of the decidedly less  
12 profitable uses other than fortunately some  
13 theaters, which the city put in substantial  
14 amounts of incentives to have.

15 So I think we still need to think  
16 about how to require and incent less  
17 profitable arts uses and less profitable  
18 retail uses as well, both in the downtown and  
19 in the ballpark district and other places that  
20 we want them. And I would hope we can  
21 continue as we refine this or maybe if we go  
22 back to the original and just make it work

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1 better, but that those would be my  
2 observations as some of the things that do  
3 continue to need special attention.

4 Thanks.

5 CHAIRMAN HOOD: Let me thank this  
6 panel, and let me just see if my colleagues  
7 have any questions. Mr. Turnbull.

8 COMMISSIONER TURNBULL: Thank you,  
9 Mr. Chair.

10 Mr. Wilkes, why do you think that  
11 you've seen the legacy TDRs and CLDs to reduce  
12 or offset affordable housing in the DD zones  
13 as something worthwhile that this Commission  
14 should seriously look at?

15 What does that do for the District?

16 What does that do for diversity?

17 MR. WILKES: The current situation,  
18 Commissioner -- and that idea needs a lot more  
19 thought. It occurred to me in the testimony  
20 earlier today in preparing the testimony that  
21 it's an idea that deserved to be explored. It  
22 needs a lot more attention.

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1                   But I do know from my own  
2 experience that right now affordable housing  
3 at levels of 20 to 30 percent without massive  
4 government subsidy will not work. It is just  
5 a shame, but that's the way it is right now.

6                   So I guess I was struggling in my  
7 own mind for ways that there might be a way to  
8 have a win-win situation, where the Housing  
9 Production Trust Fund would receive a  
10 significant asset in terms of large blocks of  
11 TDRs in exchange for some relaxation, not  
12 elimination of the affordable housing, but  
13 maybe, as I said in my testimony, some  
14 adjustment in the AMI scale by way of example.

15                   COMMISSIONER TURNBULL: Yes, I  
16 guess I just get concerned. I think I  
17 mentioned earlier that I worry about the TDRs,  
18 the CLDs and the credits being used to create  
19 something that the comprehensive plan or the  
20 later plans that we've developed are now being  
21 shifted to accommodate another goal, and I  
22 worry about some of the good measures that we

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1 wanted to have with inclusionary zoning.

2 I see your point also, but I just  
3 worry that we lose sight of the inclusionary  
4 zoning as a key and integral part to what the  
5 District is trying to accomplish, and I just  
6 worry about that.

7 I don't know how my colleagues  
8 feel, but I think there probably has to be a  
9 lot more conversations on that with the Office  
10 of Planning.

11 But thank you for your guide.

12 MR. WILKES: Thank you, sir.

13 COMMISSIONER TURNBULL: I  
14 understand your concern.

15 MR. WILKES: Thank you.

16 COMMISSIONER SCHLATER: Mr. Wilkes,  
17 I also have a question. I think this is very  
18 hard to do. So I'm not saying you should have  
19 an answer for this, but you've proposed an  
20 approach for these legacy TDRs and CLDs,  
21 including this five to seven year burn-off  
22 period, and then at the end of that period you

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1 get two housing credits for every CLD/TDR. Is  
2 that based on some sort of analysis that would  
3 show that you are getting equal value, or is  
4 that a hunch as to what the value of these  
5 future credits are going to be?

6 Because while I think everybody up  
7 here is going to be supportive of the basic  
8 idea of fair play, that we shouldn't be  
9 lessening the value of TDRs that have been  
10 created or CLDs that have been created.

11 We also don't want to create a  
12 windfall for developers who possess these TDRs  
13 and CLDs. So how is the Zoning Commission  
14 going to be able to or how would you propose  
15 the Zoning Commission weigh and approach this  
16 problem?

17 MR. WILKES: Well, the answer to  
18 your first question is that that thought is at  
19 this point more intuitive than it is  
20 quantitative. It reflects a sense that the  
21 legacy TDRs, which were built into the pro  
22 formas and budgets that we all did and the

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1 financial strategies and the returns on  
2 investment we hope to achieve, that those  
3 values will be somewhat precarious with the  
4 housing credit plan.

5 So there's just a sense that once  
6 those housing credits start rolling in in  
7 large quantities, that it will be a struggle  
8 to sort of get back to even.

9 But I share your concern, and I  
10 don't think any of my colleagues have thought  
11 in terms of -- I'll speak for myself -- but  
12 have thought in terms of trying to create a  
13 windfall here. The struggle is how do you  
14 stay whole, and I think we'll be looking in  
15 the working groups with different perspectives  
16 on this, but different ideas will evolve.

17 COMMISSIONER SCHLATER: And, Ms.  
18 McCarthy, one of the comments you made is, you  
19 know, you value the complexity of the current  
20 DD system. I'm wondering if based on the  
21 proposals you have within the OP report you  
22 fear something is going to be lost in the

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1 transfer, you know, moving from this DD system  
2 to the new zoning classification.

3 So I understand that. I think I  
4 agree with you actually that, you know,  
5 sometimes it takes writing a lot of -- in  
6 order to get what you want, things get complex  
7 sometimes, but the question is are we losing  
8 something by taking these 30 different zoning  
9 classifications and trying to compile them  
10 into eight different classes.

11 MS. McCARTHY: The observation  
12 isn't so much that complexity in and of itself  
13 is good. It's that the complexity as  
14 described by the Office of Planning, I think,  
15 is overstated and underrated. It's a comment  
16 that applies to a lot of what's been proposed  
17 in the zoning revision in that there has been  
18 a general movement to get away from overlays  
19 entirely, and I think overlays have a  
20 coherence. They tell you in the preamble what  
21 they're designed to achieve.

22 First of all, they're based on a

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1 planning goal and objective. They tell you  
2 what they're trying to achieve. They tell you  
3 the measures to achieve that. And if you need  
4 relief from them, there's a clear explanation  
5 of the purpose of the restrictions that are in  
6 the overlay so that if you need to go get  
7 relief from the Board of Zoning Adjustment,  
8 it's clear to the Board. It's clear to the  
9 applicant. What was the purpose and if  
10 there's some reason why that's not applicable,  
11 it's easy for you to base your request for  
12 relief on the preamble and the whole of the  
13 overlay and what it is to accomplish.

14 I think the DD gives us some pretty  
15 good examples of interesting aspects of that.

16 Part of the complexity that we're all dealing  
17 with now in terms of the value of TDRs is due  
18 to the fact that the initial DD was much more  
19 limited in the TDRs, and it was designed so  
20 that the receiving zones were pretty much  
21 directly tailored to the number of TDRs that  
22 were expected to be generated since it was

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1 largely from historic preservation.

2 Later on some people, including a  
3 few in this room, proposed, hey, why don't we  
4 make housing more attractive. Let's generate  
5 two times as many TDRs per square foot of  
6 housing done south of Mass. Ave, and one for  
7 one north of Mass. Ave., and the recognition  
8 at that point in time was, oh, okay, wait a  
9 minute. That's going to be too many TDRs.

10 So then we need to have more  
11 receiving zones, and to a certain extent, that  
12 kind of complexity is not good. It's sort of  
13 the question you're asking Sandy. It gets to  
14 we really need to think through the potential  
15 to supply the potential demand, and are they  
16 equilibrated in terms of what we're trying to  
17 achieve and the bonuses that they are  
18 providing.

19 And with something like TDRs,  
20 that's really hard because the value of the  
21 TDR is not the value of what you forewent or  
22 what you instituted in the sending site. It's

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1 what's the value of the market that you're  
2 buying it for.

3 So when land in NoMa was going for  
4 next to nothing because there wasn't anything  
5 happening in NoMa, the value of TDRs was low  
6 because you could buy an additional, you know,  
7 foot of land next door for about what you  
8 could buy the TDR for.

9 So because TDR values therefore are  
10 going to fluctuate in a way that the  
11 Commission can't really control because  
12 they're related to the market of the land in  
13 the receiving zone, it makes it really hard to  
14 try to come up with a system that's going to  
15 adequately protect the investment that people  
16 have made now, and in fact, as Sandy said, put  
17 it in their pro formas, et cetera.

18 The other side of that that's  
19 interesting in terms of complexity is the CLD.

20 The way the CLD is written both as Travis was  
21 saying because it's not like a TDR where you  
22 can just buy and sell, you have to have these

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1 two pieces of property and they have to be  
2 linked.

3 It was brilliant, I think, and a  
4 fairly flexible solution that Edye Netter, our  
5 zoning consultant from Boston, had proposed  
6 that because we had existing commercial  
7 entitlements and we wanted to impose preferred  
8 uses on top of that, but we didn't want people  
9 to have to have vertical integration within  
10 their buildings of the housings up here and  
11 then the arts down here and the office spaces  
12 in between.

13 So we said why don't we come up  
14 with a system that allows the market to wheel  
15 and deal among the property owners and  
16 allocate those uses the way it makes sense.  
17 Now, as it turned out the way we effectuated  
18 that in terms of the language of the covenant  
19 and the signing off process and all of that is  
20 maybe more complicated than it needs to be,  
21 although we've probably all tried to find a  
22 way to simplify it and haven't been

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1 successful. So maybe it can't be simpler.

2 But the goal of allowing the market  
3 to trade and to be more flexible is a good one  
4 and isn't complicated in and of itself. So  
5 that is sort of what I was trying to get at.

6 Maybe the most important thing is  
7 to figure out the simplest and most direct way  
8 to achieve things and some of those things,  
9 some of those goals might actually be  
10 relatively complicated goals because making a  
11 part of the city work is not simple. You  
12 know, there are so many complicated uses and  
13 transportation and parking and land values and  
14 all of that that you've got to mix together to  
15 make it work.

16 So allowing a reasonable amount of  
17 freedom on the part of the market and coming  
18 up with incentives that are tied to what the  
19 goals are that you're trying to achieve are  
20 important, and if that means that you're more  
21 complicated than just looking at a matrix on a  
22 piece of paper and going, "Yep, that's me,"

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1 that's not necessarily bad.

2 But it's trying to do that in a way  
3 that it's easy within the technology of how  
4 the regs are written to find out what your  
5 requirements are, and it's easy in terms of  
6 the covenants or whatever else you're doing to  
7 effectuate those.

8 CHAIRMAN HOOD: Questions?

9 Ms. McCarthy, did we get something  
10 from you? did you submit something in writing  
11 to us?

12 MS. McCARTHY: I didn't.

13 CHAIRMAN HOOD: Okay. I think you  
14 bring up some very good points. I think  
15 everybody did, but I just don't have your --  
16 when it comes time to deliberate and talk, I  
17 don't have your points. Maybe if you could  
18 give us an outline.

19 MS. McCARTHY: I had an annotated  
20 outline. I could certainly --

21 CHAIRMAN HOOD: Okay. That would  
22 be very helpful. We would appreciate it.

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1 Any other questions?

2 (No response.)

3 CHAIRMAN HOOD: All right. I want  
4 to thank this panel, and I appreciate your  
5 coming down, especially the owners also for  
6 coming down. We appreciate that.

7 Do we have any other people who  
8 would like to testify? And I guess now I can  
9 say in opposition or in -- we've only had  
10 proponents tonight, but anyone here in  
11 opposition?

12 (No response.)

13 CHAIRMAN HOOD: Okay. I wanted to  
14 make sure I called for it.

15 Okay. You're our last person and  
16 you may begin.

17 MR. ANDRES: Yes, thank you.

18 Good evening, Commissioner Hood,  
19 members of the Commission. My name is Erwin  
20 Andres. I'm principal for Gorove Slade  
21 Associates. We're traffic, transportation,  
22 parking consultants.

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1 I will make this very brief. I do  
2 commend the job that OP did, but I wanted to  
3 echo that we do support the elimination of the  
4 parking minimums. We believe that is a good  
5 idea.

6 However, my concern is with the  
7 parking maximums, 0.9 spaces per unit. It  
8 seems I'm not sure if that's the right number  
9 or not, especially if there's new housing  
10 product that consists of larger households or  
11 families that might need that additional  
12 parking.

13 You've brought up before you  
14 weren't sure if limiting parking was a good  
15 idea or if it was effective, and my answer to  
16 that is, yes, it is effective.

17 However, there are several things  
18 that need to go hand in hand. Obviously, a  
19 major component of that is transit and good  
20 service, good transit service. I've read  
21 studies that have identified that additional  
22 density actually drives additional non-driver

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1 usage. So if that additional density drives  
2 more non-drivers, where are they going?

3 Unfortunately the only way that  
4 that non-driver usage can be supported is with  
5 good transit service, and the District has  
6 done wonderful steps to get us there.  
7 Unfortunately we're not there yet. So given  
8 that and given the emergence of some of the  
9 burgeoning neighborhoods, I strongly recommend  
10 that there be no parking maximums. Maybe  
11 that's something that could be revisited once  
12 more of these neighborhoods do get more  
13 developed.

14 And that's it. Thank you.

15 CHAIRMAN HOOD: Thank you, Mr.  
16 Andres.

17 Any questions?

18 (No response.)

19 CHAIRMAN HOOD: All right. Thank  
20 you very much. Appreciate that.

21 Okay. I guess what we'll do, I  
22 know I asked Ms. McCarthy for something. I'm

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1 not sure if we asked for anything else. I  
2 guess what we can do, we can get some dates  
3 and see how long we'll leave the record open,  
4 and we'll take this up at whatever the next  
5 meeting is. I think we have two every so  
6 often now.

7 So, Ms. Schellin, could you help us  
8 with some dates?

9 MS. SCHELLIN: How long did you  
10 want to leave the record open? I don't know  
11 that you really asked for anything other than  
12 Ms. McCarthy's testimony.

13 And I know that we did have a  
14 request from the Committee of 100 to leave the  
15 record open for their testimony. They  
16 couldn't be here this evening.

17 COMMISSIONER SCHLATER: A list of  
18 historic properties.

19 MS. SCHELLIN: Historic properties.

20 CHAIRMAN HOOD: Okay. Well, let's  
21 leave it open for those three things.

22 MS. SCHELLIN: Do you want to wait

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1 and bring this up in December or do you want  
2 to bring it up at the November 23rd meeting?  
3 I'm looking at the Office of Planning.

4 MR. PARKER: Yeah, we need --

5 MS. SCHELLIN: December 14th?

6 MR. PARKER: Yeah, December 14th at  
7 the earliest. We need at least two to three  
8 weeks to pull this information together.

9 MS. SCHELLIN: Okay. So rather  
10 than rush you guys, why don't we give you till  
11 November 30th, leave the record open until  
12 November 30th.

13 MR. PARKER: That works.

14 MS. SCHELLIN: That will also give  
15 you an opportunity to work with OAG on the  
16 worksheet. Will that work?

17 MR. PARKER: Absolutely.

18 MS. SCHELLIN: And then we'll take  
19 this up at our December 14th meeting.

20 CHAIRMAN HOOD: When is that next  
21 meeting? December?

22 MS. SCHELLIN: We'll take this up

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1 at our December 14th meeting. Our next  
2 meeting is Monday, and then we'll have one  
3 also on the 23rd.

4 CHAIRMAN HOOD: The 23rd?

5 MS. SCHELLIN: Yes, but we're not  
6 going to take this one up until the 14th of  
7 December.

8 CHAIRMAN HOOD: Okay, and we just  
9 leave the record open for those three things  
10 we asked for: Committee of 100, an outline  
11 from Ms. McCarthy, and historic properties.

12 MS. SCHELLIN: The list of the  
13 historic, that's right.

14 CHAIRMAN HOOD: Historic  
15 properties. Okay.

16 MS. SCHELLIN: So you're not  
17 leaving the record open for everyone then.

18 CHAIRMAN HOOD: No, just for those  
19 three things.

20 MS. SCHELLIN: Okay.

21 CHAIRMAN HOOD: Okay. Is  
22 everything in order, Ms. Schellin?

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MS. SCHELLIN: Yes, sir.

CHAIRMAN HOOD: We really appreciate everyone's testimony tonight and their participation in following this particular issue and we're looking forward to continuing work and those good comments that Mr. Parker is working very good with everyone.

It sounds great. Maybe you all can come down to the council oversight hearing.

(Laughter.)

CHAIRMAN HOOD: Okay. With that, this hearing is adjourned.

(Whereupon, at 8:58 p.m., the public hearing in the above-entitled matter was adjourned.)

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