

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

IN THE MATTER OF: :

:
Comprehensive Zoning : Case No.
Regulations Rewrite: : 08-06-10
Downtown :

Monday,
November 2, 2009

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

The public hearing of the above-entitled matter was convened at 6:31 p.m.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson
KONRAD SCHLATER, Commissioner
PETER MAY, Commissioner (NPS)
MICHAEL G. TURNBULL, FAIA, Commissioner
(AOC)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

TABLE OF CONTENTS

	<u>PAGE</u>
Preliminary Matters	7
Presentation of Office of Planning, Travis Parker	8
Witnesses:	
Norman M. Glasgow, Jr.	98
Steven E. Sher	103
Dennis R. Hughes	109
John Epting	114
Jeffrey Utz	116
Allison Prince	121
Charles "Sandy" Wilkes	123
Dean Cinkala	130
Ellen McCarthy	131
Erwin Andres	152

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

PROCEDINGS

(6:31 p.m.)

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

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

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

1 Mr. Chair.

2 I guess I'd 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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

22 MR. PARKER: It remains to be seen.
I mean, we might have to identify within

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

out how they work together.

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

The concept here would be that we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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 guild 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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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 to 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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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 Nyygard, 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.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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 as 811 Fourth

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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 expense. So developers only

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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,"

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

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?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

1 MS. SCHELLIN: Yes, sir.

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

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

10 (Laughter.)

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

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

16

17

18

19

20

21

22

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

(202) 234-4433

1
2
3
4
5
6
7
8

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

(202) 234-4433