

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF: :  
: :  
Valor Development, LLC :  
Voluntary Design Review : Case No.  
: 16-23  
: :  
-----:

Monday,  
January 7, 2019

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

The Public Hearing of Case No. 16-23 by the  
District of Columbia Zoning Commission convened at 6:30  
p.m. in the Jerrily R. Kress Memorial Hearing Room at 441  
4th Street, N.W., Washington, D.C., 20001, Anthony J.  
Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson  
ROBERT MILLER, Vice Chairperson  
MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)  
PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director, Development  
Review & Historic Preservation  
ELISA VITALE

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MAXIMILIAN TONDRO

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF PRESENT:

AARON ZIMMERMAN

The transcript constitutes the minutes from  
the Public Hearing held on January 7, 2019.

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

6:36 p.m.

CHAIRMAN HOOD: Okay, I think we're ready to get started. Are we ready, court reporter? Thank you. Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission for the District of Columbia.

This is a continuation of a public hearing, Zoning Commission Case No. 16-23. Today's date is January 7, 2019. Joining me today are Vice Chair Miller, Commissioner Turnbull, and Commissioner Shapiro, as well as attorney general, Mr. Tondro, as well as Office of Planning, Ms. Steingasser, Ms. Vitale, and the District Department of Transportation, Mr. Zimmerman.

This proceeding is being recorded by a court reporter. It's also webcast live. Accordingly, we must ask you to refrain from any disruptive noise or actions in the hearing room, including display of any signs or objects. Notice of today's hearing was published in the D.C. Register and copies of that announcement are over to my left, on the wall near the door. The hearing will be conducted in accordance with provisions of 11z DCMR, Chapter 4, as follows: preliminary matters, applicant's case, report of the Office of Planning, report of other government agencies, report of the ANC -- in this case, I believe we have two -- organizations and persons in support, organizations and

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1 persons in opposition, rebuttal, and closing by the  
2 applicant.

3           The following time constraints will be maintained  
4 in this meeting. The applicant has up to 60 minutes,  
5 organizations five minutes, individuals three minutes. The  
6 Commission intends to adhere to the time limits as strictly  
7 as possible, in order to hear the case in a reasonable period  
8 of time.

9           All persons wishing to testify before the  
10 Commission in this evening hearing are asked to register at  
11 the kiosk. That's to my left. I believe the kiosk is up and  
12 working.

13           MS. SCHELLIN: I'm going to play with it and try  
14 to get it working.

15           CHAIRMAN HOOD: If it's not, we'll work it out.  
16 Then we would ask you to make sure that you fill out two  
17 witness cards. These cards are located to my left, on the  
18 table near the door. Upon coming forward to speak to the  
19 Commission, please give both cards to the reporter sitting  
20 to my right before taking a seat at the table. When  
21 presenting information to the Commission, please turn on and  
22 speak into the microphone, first stating your name and home  
23 address.

24           When you are finished speaking, please turn your  
25 microphone off, so that your microphone is no longer picking

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1 up sound or background noise. The decision of this case is  
2 based exclusively on the public record to avoid any contrary  
3 -- we ask that you not engage the Commission during any  
4 recess or at any time.

5           The staff will be available throughout the hearing  
6 to discuss procedural questions. Please turn off all  
7 electronic devices at this time, so not to disrupt these  
8 proceedings. Before I do that, did I acknowledge that the  
9 Office of Planning -- did I acknowledge you all, Ms.  
10 Steingasser? Okay. Sometimes I think I've done something.  
11 I guess it's routine. I can't remember whether I really done  
12 what I was supposed to, but it's routine. Anyway, thank you.  
13 Would all individuals wishing to testify please rise to take  
14 the oath? Ms. Schellin, would you please administer the  
15 oath?

16           MS. SCHELLIN: Yes. Please raise your right hand.  
17 Do you solemnly swear or affirm the testimony you'll give  
18 this evening will be the truth, the whole truth, and nothing  
19 but the truth?

20           (Chorus of yes.)

21           MS. SCHELLIN: Thank you.

22           CHAIRMAN HOOD: Ms. Schellin, do we have any  
23 preliminary matters?

24           MS. SCHELLIN: Yes, sir, there were, I believe --  
25 I'm trying to find my sheet, here -- some motions.

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1 CHAIRMAN HOOD: Let me do this. Before we get to  
2 the motions, I would like for us to take a moment of silence.  
3 We, on the Commission, when one of us hurt, we all hurt. We  
4 want to have a moment of silence. Vice Chair Miller shows  
5 his commitment to this city -- just lost his daughter. It  
6 shows his commitment to this city to be here to serve this  
7 city tonight in this capacity. I would like for you all to  
8 indulge me and take a moment of silence because we bleed,  
9 too, and we hurt, too. When our colleagues are hurting, we  
10 hurt. If you could join me and take a moment of silence, I  
11 would appreciate it.

12 (Moment of silence.)

13 CHAIRMAN HOOD: Thank you. Our thoughts and  
14 prayers will go out to you, Vice Chair Miller, in the  
15 remembrance of your daughter, Michaela Miller.

16 VICE CHAIR MILLER: Thank you, Mr. Chairman.  
17 Thank you, everybody, for all the love that's been shown to  
18 our family.

19 CHAIRMAN HOOD: All right, thank you. Ms.  
20 Schellin, if we can go to whatever that is -- to the -- what  
21 is it?

22 MS. SCHELLIN: Preliminary matters.

23 CHAIRMAN HOOD: Preliminary matters.

24 MS. SCHELLIN: Yes. Let's see. We had some  
25 responses to the Applicant's submission. There was, I

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1 believe, a motion. I'm trying to find it here. I don't see  
2 that she listed it, but I believe it was a motion by the  
3 Applicant to strike the submission, it was a late submission.  
4 The Commission had given dates by which submissions were to  
5 be made and by which the parties were to respond. So the  
6 Applicant made a motion to strike Spring Valley's response  
7 to the revised plans because it was late, so would ask the  
8 Commission to rule on that motion.

9 CHAIRMAN HOOD: I'm trying to remember it in my  
10 mind. Applicant has asked us to file a motion to strike the  
11 Spring Valley opponent's untimely response to the Applicant's  
12 revised submissions and plans. I think we set out a line --  
13 I think everybody pretty much dealt with that deadline.

14 I think that was pretty across the board. I am  
15 not inclined to -- I am inclined to agree with striking the  
16 request, the motion, and I'll tell you why. Because we try  
17 to play -- level the playing field and level everybody -- put  
18 everybody on the same page.

19 I understand there was some new renderings that  
20 came in, and some new stuff, in this new submissions to this  
21 case, but I believe that everybody had opportune time --  
22 everybody's been served notice. They will have a time,  
23 through their testimony, however they fix it up, but I would  
24 move that we -- I would suggest that we not accept the late  
25 filing and rule it's untimely. Because everybody's playing

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1 on the same rules and procedures, and we need to hold fast  
2 to that.

3 COMMISSIONER SHAPIRO: I would concur. To your  
4 point, I think we're going to hear a lot of the information  
5 tonight, in any case.

6 CHAIRMAN HOOD: Okay, any objections?  
7 I would move that we find that Spring Valley, opponent's,  
8 untimely response to what we asked for. They did not meet  
9 the deadline. I think it was straightforward and set forward  
10 with everyone. I move that be ruled untimely and ask for a  
11 second.

12 COMMISSIONER SHAPIRO: Second.

13 CHAIRMAN HOOD: It's been properly moved and  
14 seconded. Any further discussion?

15 (No audible response.)

16 CHAIRMAN HOOD: All in favor?

17 (Chorus of ayes.)

18 CHAIRMAN HOOD: Any opposition? Ms. Schellin,  
19 would you please record the vote?

20 MS. SCHELLIN: Staff records the vote 4-0-1 to  
21 strike Spring Valley's response to the Applicant's  
22 submission, Commissioner Hood moving, Commissioner Shapiro  
23 seconding, Commissioner Turnbull and Miller in support,  
24 Commissioner May not present and not voting.

25 CHAIRMAN HOOD: Ms. Schellin, Commissioner May

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1 will be -- he didn't vote on that, but he will be  
2 participating in this case. We will not be making a decision  
3 on this case tonight. I probably should have said this  
4 earlier. We will not be making a decision on this case  
5 tonight, and we will hold the FAR issue in abeyance for when  
6 we do our deliberations and make our decision. We'll rule  
7 on that at that time. Anything else, Ms. Schellin?

8 MS. SCHELLIN: Staff has nothing further.

9 CHAIRMAN HOOD: Any of my colleagues have  
10 anything? Okay, Mr. Glasgow, you may begin.

11 MR. GLASGOW: Yes, sir. I think that there was  
12 a preliminary matter with respect to expert witnesses of the  
13 opposition.

14 MS. SCHELLIN: The Commission will --

15 CHAIRMAN HOOD: We usually take care of that when  
16 we get to the opposition.

17 MR. GLASGOW: Okay, fine, thank you.

18 MS. SCHELLIN: Mr. Glasgow, how much time did you  
19 guys need?

20 MR. GLASGOW: Forty minutes.

21 MS. SCHELLIN: Forty?

22 MR. GLASGOW: Thank you.

23 CHAIRMAN HOOD: Yes, 40's fine. Let me just say  
24 -- I'm sure your presentation -- hit the highlights, some of  
25 the changes, and let's go from there.

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1 MR. GLASGOW: If we can do it in less than 40  
2 minutes, we will.

3 CHAIRMAN HOOD: I'm not talking about the time.  
4 I'm just saying in your presentation, as we go along, that  
5 would help us and everyone else to understand what's going  
6 on. Thank you.

7 MS. SCHELLIN: Chairman Hood? I'm sorry. That  
8 means that the two parties in support will have 20 minutes  
9 to share.

10 CHAIRMAN HOOD: All right, thank you. You may  
11 begin. Two parties in support? Let's get that clear. What  
12 about the parties in opposition? We have four in opposition,  
13 right?

14 MS. SCHELLIN: They'll have 60 to split, depending  
15 on --

16 MR. GLASGOW: I think, Mr. Chairman, we were  
17 talking about 40 minutes for our presentation and that of the  
18 two other parties -- the two parties in support.

19 CHAIRMAN HOOD: So 40 minutes total?

20 MR. GLASGOW: Correct.

21 CHAIRMAN HOOD: So the four parties, we need the  
22 40 minutes.

23 MS. SCHELLIN: They'll have 40 minutes to split,  
24 then.

25 CHAIRMAN HOOD: They have ten minutes apiece.

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1 MS. SCHELLIN: There are --

2 CHAIRMAN HOOD: Four parties, right, in  
3 opposition?

4 MS. SCHELLIN: There's only two parties in  
5 opposition.

6 CHAIRMAN HOOD: Let me look at my list.

7 MS. SCHELLIN: Two parties in support.

8 CHAIRMAN HOOD: Okay.

9 MS. SCHELLIN: Then the two ANCs.

10 CHAIRMAN HOOD: That's right, we're not including  
11 -- I was including the ANCs. I'm sorry.

12 MS. SCHELLIN: So the two parties in opposition  
13 will have 40 minutes to split.

14 CHAIRMAN HOOD: Okay.

15 MR. GLASGOW: Are you going to clock us at 40?

16 MS. SCHELLIN: Yes, I'm going to fix that. You  
17 guys interrupted me.

18 CHAIRMAN HOOD: All right, you may begin.

19 MR. GLASGOW: Thank you. Good evening, members  
20 of the Commission. For the record, my name is Norman M.  
21 Glasgow, Jr., the law firm of Holland & Knight, here on  
22 behalf of the Applicant for design review for case in Square  
23 1499.

24 I'd like to give a brief opening statement. As  
25 we're here for design review for the existing MU-4 zoning,

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1 and the height of this zone is 50 feet, max, we're going to  
2 have a proposed building that is a little bit over 43 feet  
3 from the point of measurement. We believe that through the  
4 testimony of the witnesses, we will establish that we've met  
5 the burden of proof, under Subtitle X, Chapter 6. Here with  
6 me is Mr. Will Lansing, to my immediate left, then Mr. Erwin  
7 Andres and Sarah Alexander and Shane Dettman.

8           That will be the order of our witnesses. We're  
9 pleased to have, in support of the application, the Office  
10 of Planning, DDOT, ANC 3E, which is the project is located,  
11 ANC 3D, located across Mass Avenue, Ward 3 Vision, and then  
12 there are other letters in support in the record. With  
13 respect to the Office of Planning report, we have submitted  
14 responses to the office and have discussed with the Office  
15 of Planning those six items.

16           When you look at those six items, for the first  
17 bullet point, we are continuing the previous commitment that  
18 the Applicant made to achieve LEED Gold Version 4, and will  
19 achieve LEED Gold as a part of this project. In doing so,  
20 as is the case for many projects, we want to maintain our  
21 flexibility as to how it is that we achieve LEED Gold, so we  
22 do not want to commit to any specific item in meeting that  
23 standard. There are a number of cases where the Commission  
24 has given the Applicant flexibility in that regard. Next,  
25 with respect to the electric charging stations, there will

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1 be eight electric charging stations, given the size of the  
2 building, so we're meeting the number of charging stations  
3 for the size of the project.

4           The screening of transformers, we will be  
5 screening the sides of the transformers, other than the side  
6 that directly abuts the alley, because the alley side has the  
7 access gates to the transformers. The Applicant agrees there  
8 will be no IZ units in the cellar of the project. The  
9 refined flexibility language that was contained in the OP  
10 report, we agree with that, and that's at Pages 6, 7, and 8.

11           There are certain TDM measures that do not extend  
12 to the townhouses, such as the townhouses have their own  
13 dedicated parking spaces so, therefore, they would be  
14 unbundled. They would not be unbundled from the sale and  
15 lease of the townhouse would go directly to that unit. If  
16 there are no preliminary questions, I'd like to proceed with  
17 the testimony of the first witness, Mr. Will Lansing. Mr.  
18 Lansing, please identify yourself for the record and proceed  
19 with your testimony.

20           MR. LANSING: Mr. Chair, members of the Zoning  
21 Commission, good evening. My name is William Lansing. I am  
22 a principal with Valor Development, a Washington, D.C. Ward  
23 3 and ANC 3E based development company. This will be our  
24 third hearing with you related to this project for the past  
25 12 months.

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1           With each visit, the project team has made  
2 significant strides to enhance the project and respond to the  
3 interests and concerns of the neighbors. From the beginning,  
4 it has been Valor's goal to design and plan a project that  
5 would include both market rate and affordable housing and a  
6 long-desired replacement of a full-service grocery store.

7           We are only able to accomplish this goal through  
8 the voluntary design review process, which will allow us to  
9 capture some of the unused density on the historic Spring  
10 Valley Shopping Center site to re-establish the grocery store  
11 use, while requiring an elevated design that is superior to  
12 a matter-of-right project. We believe the revised plans that  
13 are currently before you accomplishes these goals and  
14 satisfies all applicable review standards with a design that  
15 is thoughtful, context sensitive, within matter-of-right  
16 height and density, and far superior to a matter-of-right  
17 project in many respects, including creating a home for a new  
18 full-service, neighborhood-serving grocery store the  
19 neighborhood has lacked for many years, providing a quality  
20 of design and building elements that are far above what would  
21 be delivered as a matter-of-right project, providing  
22 significant setbacks and stepping of the building that  
23 substantially reduces the project's scale and pulls the  
24 massing away from the residential streets of Yuma and 48th,  
25 delivering larger housing units in both market rate and

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1 affordable categories and in different product types,  
2 committing to LEED Gold certification, and providing  
3 significant pedestrian improvements to public space along  
4 streets and alleys, including the elimination of 80 feet of  
5 curb cuts, widening of the alley system onto our own  
6 property, creating sidewalks within the alley that do not  
7 currently exist, and committing to significant mitigation  
8 measures, to include curb extensions, a robust TDM plan, and  
9 the installation of a HAWK signal on Massachusetts Avenue.  
10 We believe these significant aspects of the project are the  
11 upshot of our commitment to the community engagement process  
12 that began back in September of 2015 with a project that was  
13 substantially different than what you see before you today  
14 and which we believe represents an equitable solution that  
15 balances the interests of concerns expressed by the  
16 community.

17           On that topic of community engagement, while some  
18 continue to assert that the project team has not engaged or  
19 negotiated far enough, as our list of community and agency  
20 meetings contain, as Exhibit 268 in the record show, the team  
21 has conducted over 40 public meetings since late 2015.

22           Based on the feedback received at these meetings,  
23 the team has successfully achieved a balanced design that  
24 addresses concerns regarding height, density, traffic, and  
25 pedestrian circulation. It is the result of this past and

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1 recent history of collaborations that we have submitted the  
2 revised plans that are before you this evening. Most  
3 notably, you will find that we have reduced the overall  
4 building gross floor area by 42,000 square feet, with half  
5 of that being completely eliminated, and the other half being  
6 created in a basement cellar space.

7           Additionally, we've eliminated the smaller  
8 building of the south and replaced it with lower-scale  
9 townhouses, all while maintaining the superior aspects of the  
10 project that I have previously described.

11           We are appreciative to have the continued support  
12 of both ANC 3E and 3D, which were in support of our proposal  
13 last January and have both reconfirmed their support for the  
14 revised plans. With that, I'd like to thank you for your  
15 time this evening. We appreciate the opportunity to sit  
16 before you and your consideration of this application.

17           CHAIRMAN HOOD: Okay, thank you. Let's stop the  
18 clock for a moment. Ms. Schellin, are you going to make the  
19 announcement?

20           MS. SCHELLIN: Yes. Anyone who plans to testify  
21 this evening, the kiosk is now working, so if you would  
22 please register. Having your name on there from January last  
23 year doesn't count. You need to put it on for this evening.  
24 Thank you.

25           CHAIRMAN HOOD: And we don't all have to go up

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1 there at the same time. When you see two or three people,  
2 then you can wait for a few minutes. I'm sure by the time  
3 we get there, everybody will have signed in.

4 MS. SCHELLIN: Yes, it will be a while.

5 CHAIRMAN HOOD: Thank you. We can start the clock  
6 back up.

7 MS. ALEXANDER: Good evening, Commissioners. My  
8 name is Sarah Alexander, and I am an architect at Torti  
9 Gallas Urban. There's been a lot of discussion regarding the  
10 size of our project and its appropriateness in this unique  
11 context.

12 In response to years of community involvement, we  
13 have made many architectural moves in both the building's  
14 massing and the overall design, which I will review during  
15 my presentation. One way that we can evaluate the scale and  
16 massing of our project and its appropriateness is to evaluate  
17 it relative to the matter-of-right envelope, its height, FAR  
18 and lot occupancy of what is permitted on our site. I like  
19 to think of our project a bit like the Goldilocks tale. The  
20 AU building to our south is a bit too large, with an FAR of  
21 4.3, as you can see on the screen. The Spring Valley  
22 Shopping Center is a bit too small, with an FAR of .42.

23 Our site is just right, with an FAR of 2.95, which  
24 should be noted falls below the matter-of-right allowable FAR  
25 of 3.0. I thought it might be helpful to do a brief overview

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1 of the history of the project, given that it has been a  
2 rather long one.

3           The project started over three years ago, with the  
4 initial design shown on the screen tonight presented to the  
5 community in January 2016. Torti Gallas was engaged shortly  
6 thereafter and, since then, have been working alongside  
7 Valor, with the community, to craft a project that we will  
8 share with you tonight.

9           Since the project's inception, the height has  
10 always been a concern of the community. Our initial response  
11 was to pull back as much of the height away from the streets,  
12 and thus the adjacent homes, through the use of courtyards  
13 and setbacks, while still maintaining the maximum allowable  
14 height of 50 feet. Over the last year, we have further  
15 reduced the scale of our building by essentially removing one  
16 story of residential and lowering the building height to 43  
17 and a half feet tall. Here, you can see, in red, the outline  
18 of the previous -- last year's submission for both 48th  
19 Street, shown here on the screen, and Yuma Street, again, the  
20 red outline being what we showed previously.

21           On 48th Street, again on the screen, in addition  
22 to lowering our building height, we also replaced last year's  
23 submission for Building 2 with 5 three-story townhouses. We  
24 had heard numerous concerns regarding Building 2's previously  
25 proposed Beaux-Arts-style architecture, so we chose the

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1 Federal style for these townhomes to be responsive and more  
2 directly relate to the character of the neighborhood.

3           The ground floor plan is essentially the same as  
4 the previous submission. We are still proposing to provide  
5 the grocery store and the public plaza in the northwest  
6 corner of the site, and loading and garage access is still  
7 proposed in the south of the alley. Additionally, we are  
8 still proposing to consolidate the trash, and clean it up,  
9 from the Spring Valley Shopping Center, and widen the  
10 north/south portion of the alley. This is the previous  
11 ground floor plan and the new ground floor plan to compare.  
12 Another revision from our submission last year was in the  
13 southern portion of the site.

14           We learned that there was a large heritage tree,  
15 shown here -- I'm circling it with the little hand. We had  
16 previously thought that was exempt, due to its species, which  
17 is not the case, so in order to preserve this tree, we needed  
18 to set back our building footprint adjacent to the tree,  
19 which made our previously proposed multi-family building in  
20 that location not feasible.

21           We replaced it with the five townhomes you see  
22 today. Additionally, in response to some concerns from the  
23 community encouraging pedestrian connection via the  
24 previously proposed Windom Walk, we in-filled a portion of  
25 Windom Walk, as you can see here, this portion right here,

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1 to keep a small pocket park as the terminus of Windom Place.  
2 As Chip has highlighted, and Will, our project has reduced  
3 its GFA by about 42,000 square feet, yet kept the same number  
4 of units, at approximately the same size and mix, while also  
5 reducing the project by 21,000 gross square feet. So how did  
6 we accomplish this wonderful feat? First, we were able to  
7 capture about half of the lost GFA by replacing a level of  
8 parking with residential.

9           Here, you can see the previous design. This level  
10 of parking here that I'm highlighting with the little hand,  
11 we replaced that with residential and the dropped courtyards  
12 to allow light and air. That was about 21 gross square feet  
13 of additional space, roughly half of our delta.

14           And then additionally, through some increased  
15 efficiency, we were able to maintain the same number of units  
16 at the same amount of mix, same unit mix, as what we had last  
17 time, still including a large proportion of two and  
18 three-bedroom units.

19           I'm going walk you quickly around the project,  
20 starting at Windom Place, looking west, to the townhouses to  
21 the left. Here, you can see the five townhomes and the  
22 multi-family to the right. This is a good place to point out  
23 that the AU building that you can see over our building here,  
24 the surveyed parapet height, per the survey, is roughly 12  
25 feet taller than our building overall parapet height, just

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1 for context.

2           Here, standing at the corner of 40th and Yuma, we  
3 still have the courtyards, the pavilions, the bays, and all  
4 the elements to break down the scale of the building. Here,  
5 standing on Yuma, looking west, again, the setback here for  
6 the northwest plaza and additional setback above.

7           Here is the view from Massachusetts Avenue,  
8 looking east. This was the view previously -- or the only  
9 place, previously, where the building's height extended all  
10 the way up, without a setback, so this was the greatest view  
11 benefitted from reducing the height and removing the story.

12           This is the previous design and the new design,  
13 old and new. I wanted to share this view, looking over the  
14 Spring Valley Shopping Center. I think you may remember the  
15 blue building that was shared by the opposition using this  
16 view. We wanted to clear the record and share our view, both  
17 previous and proposed, using the specified 50-millimeter  
18 lens, and to note all of our renderings are now using the  
19 50-millimeter lens. I can go through the process in which  
20 that was done in more detail, if you want to know.

21           But, just looking back and forth between the two,  
22 as you can see, the reduction in height and elimination of  
23 one story has greatly improved our relationship with the  
24 Spring Valley Shopping Center. There have been several  
25 comments made throughout the process that our project was

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1 going to cause massive shadows on the surrounding  
2 neighborhood.

3 As previously shared, and only improved with our  
4 height reduction, our project will cast no shadows on any  
5 adjacent home for nine months out of the year between 9:00  
6 a.m. and 4:00 p.m., as you can see here, depicted on the  
7 screen.

8 And even in December, on the shortest day of the  
9 year, only a handful of homes are affected by shadows, and  
10 only for small portions of the day. The last view to note  
11 is at 4:00 p.m., which the sun sets at 4:30 at that time of  
12 day. Then lastly, a very positive, our project is still  
13 promising to achieve LEED Gold Version 4, which is the newest  
14 and most stringent version. Thank you.

15 MR. ANDRES: Good evening, Chairman Hood, members  
16 of the Commission. For the record, Erwin Andres with Gorove  
17 Slade Associates. As Ms. Alexander fires up our PowerPoint  
18 presentation, I do want to say that we will keep this short.  
19 We've offered some extensive testimony and response to  
20 cross-examination questions at the previous hearings.

21 So this is relative to the current design and  
22 plan, just some highlights relative to the plan, itself. The  
23 program, we are meeting the zoning requirements for parking  
24 and loading. The site is well served by transit. We are  
25 committed to implementing a comprehensive transportation

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1 demand management plan, and there are, on site, facilities  
2 for all pedestrians, bicycles, and loading.

3           With respect to the program, itself, the program  
4 hasn't changed -- it's changed relatively minimally. The  
5 number of total dwelling units relatively stays the same, in  
6 that there's 219 dwelling units total. The only difference  
7 is a new plan subtracts five apartments and replaces those  
8 with five townhomes. In addition to that, there's close to  
9 2,000 square feet of additional retail space.

10           The resulting trips and the difference in the  
11 programs is approximately seven in the morning and 17 in the  
12 afternoon. Given that it is below DDOT's threshold, we were  
13 not required to update our traffic analysis.

14           That's been confirmed in their letter. With  
15 respect to the elements -- I'm going to go through these  
16 quickly, since Ms. Alexander has already gone through them.  
17 With respect to the G1 level, we've identified where the  
18 access and loading is, in addition to the closure of the  
19 surrounding curb cuts that are existing.

20           With respect to the lower level, we've identified  
21 where the access to the garage is relative to the other  
22 elements. Then finally, on the first floor, there is no  
23 access to the alley system. However, there are residential  
24 entrances off of the surrounding residential streets. In  
25 addition to that, we're summarizing what we're providing in

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1 our plan, in that we are providing 370 spaces. Eighty-six  
2 are allocated to retail, 228 allocated to residential, and  
3 56 allocated to American University. We are looking for  
4 flexibility to be able to address the ebbs and flows of the  
5 development program. In addition to that, we are committing  
6 to restricting the apartment residents from obtaining RPP,  
7 which has been vetted with DDOT, as well as the ANCs.

8 We are committed to implementing the  
9 transportation demand management elements for the project.  
10 As DDOT has identified in their review letter, dated January  
11 2, these elements are what we've committed to. And we've  
12 confirmed that with one of our own memoranda, dated January  
13 10th of this year -- excuse me, of January 7th of this year.

14 In addition to that, we've agreed to all of DDOT's  
15 conditions, as identified on these following slides, which  
16 are consistent with the DDOT conditions from their January  
17 2nd letter. So with that, I'm available for questions.

18 MR. DETTMAN: Good evening, Mr. Chairman, and  
19 members of the Commission. For the record, my name is Shane  
20 Dettman, director of land use planning at the law firm  
21 Holland & Knight. My testimony this evening will just focus  
22 on some of the main points that were raised in responses  
23 received by Citizens for Responsible Development, Spring  
24 Valley opponents, as well as recent testimony submitted just  
25 this afternoon or this morning regarding the Applicant's

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1 calculation of the IZ set-aside requirement.

2           With respect to CRD's response stating that the  
3 project fails to meet the design review requirements of  
4 Subtitle X, Chapter 6 because the project calls for an  
5 increase of density, which is expressly prohibited under the  
6 design review regulations, we briefed this thoroughly in our  
7 response to their submission.

8           In fact, the total amount of density that could  
9 be achieved through the voluntary design review process,  
10 across the voluntary design review boundary, which includes  
11 the record lot, Record Lot 9, with the AU building and the  
12 Superfresh site, as well as the Spring Valley Shopping  
13 Center, which are separated by an alley, which the voluntary  
14 design review provisions expressly allow, you could achieve  
15 a maximum permitted density of 482,364 square feet, 482,000.  
16 The proposed new gross floor area that will be constructed  
17 -- that's proposed to be constructed on Lot 807, is 234,629.  
18 If you combine that with the existing almost 200,000 square  
19 feet of commercial density that's already within the boundary  
20 of the AU building and the Spring Valley Shopping Center,  
21 that brings you to 430,853 square feet, so significantly less  
22 than the 482,000 that could be achieved as a matter of right  
23 under the existing zoning.

24           There was also a statement about how the project  
25 proposes more density that could be achieved even through a

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1 planned-unit development. Again, our project boundary is  
2 160,700 square feet, consisting of the Spring Valley Shopping  
3 Center and Record Lot 9. If this were a PUD, taking into  
4 account the 20 percent under IZ and the 20 percent under PUD,  
5 you could take that up to 578,000 square feet under a PUD.

6 Again, our total square footage across the  
7 boundary, including the existing buildings that are there,  
8 430,000 square feet, and we're accomplishing the project  
9 through the flexibility and building bulk control that's  
10 afforded through the design review process, which has been  
11 confirmed by the Office of Planning, in consultation with the  
12 ZA and OAG, in its February 12, 2018 supplemental report to  
13 the Commission. We also briefed the issue, as well. In  
14 terms of the question of whether or not the Zoning Commission  
15 can approve transfers of density outside of areas of the  
16 city, where you could use old TDRs or combined lot  
17 development credits under ZR-16, we submitted the Heurich  
18 Mansion case as a precedent that the Commission does have the  
19 authority to aggregate -- to approve transfers of density  
20 outside of the downtown area.

21 We don't -- it's been argued that case is no  
22 longer good precedent because that case predated the  
23 formation of the HPRB. We did not submit that case as  
24 precedent on the basis of historic preservation.

25 We submitted it on the basis that the Zoning

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1 Commission, as upheld by the D.C. Court of Appeals, does have  
2 the Commission, under its broad authority under the Zoning  
3 Act and the zoning regulations, to approve aggregations or  
4 transfers of density like it does under PUD all the time.  
5 There was a suggestion that what's being proposed requires  
6 review by the HPRB and the mayor's agent because we  
7 effectively are consolidating the lots of the Spring Valley  
8 Shopping Center with Record Lot 9, where the new construction  
9 is. Just a note that the Office of Planning, their most  
10 recent supplemental report confirmed with Historic  
11 Preservation Office that what's being proposed is not in any  
12 way consolidating the lots.

13           The existing lot configuration, which is Record  
14 Lot 9 on one side of the alley and A&T Lots 802 and 803 on  
15 the other side of the alley, the existing lot configuration  
16 will remain exactly the same after the project is  
17 constructed.

18           We did a little bit of research and looked up all  
19 of the mayor's agent cases that were cited in CRD's report.  
20 All of those were garden variety subdivisions, in that they  
21 included either taking land away from an existing historic  
22 resource, that is certainly something that is a subdivision  
23 subject to HPRB review.

24           It also included consolidation of several lots,  
25 one or more including a historic resource, into a single lot.

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1 That requires HPRB review or a mayor's agent review. And  
2 then the one case that was provided as an example that an  
3 intervening alley doesn't necessarily preclude or avoid  
4 having to get reviewed by HPRB, that was the Gurmuiller case,  
5 the Mass court case on Massachusetts Avenue and Third. We  
6 looked up that case and, actually, there was an alley  
7 involved, but it was several lots.

8 It included a closure of the alley, and then all  
9 of that area, along with a historic resource, got combined  
10 into one single record lot. That's an example where the  
11 alley was actually being closed and gotten rid of.

12 In this case, the public alley separating Spring  
13 Valley Shopping Center and the development site will remain  
14 exactly as is. There was a point that the Spring Valley  
15 Shopping Center does not have any density that's unallocated.

16 I think, again, we briefed this in our response,  
17 but you can look across the street and look at Spring Valley  
18 Village and know that the existing historic resources do have  
19 unused density that's available for development. Across the  
20 street, they're just finishing the development with the  
21 pizzeria and the Compass Coffee. That was an HPRB case  
22 because it took place on that site. We're simply, through  
23 the voluntary design review process, moving some of the  
24 unused density from the Spring Valley Shopping Center over  
25 the alley, through aggregation, onto Lot 807.

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1           Finally, on the topic of calculating inclusionary  
2 zoning, I know this has received a lot of attention in this  
3 case. I just wanted to point out that there's been an  
4 argument that Valor, in some way, was trying to short change  
5 or circumvent the inclusionary zoning requirements. That is  
6 not at all the case.

7           The issue that was raised in January of 2018 was  
8 actually an interpretation issue that, then, after the  
9 January 2018 hearing, we worked closely with the Office of  
10 Planning and we resolved the issue.

11           It had to do with how do you account for all of  
12 that existing commercial gross floor area that's within the  
13 site, how do you account for that in the IZ set-aside  
14 requirement? The result was that in calculating IZ set-aside  
15 requirement for the new construction, you had to take that  
16 into account of your calculation. In fact, that  
17 conversation, I think, informed some of the new provisions  
18 that were recently taken proposed action on by the Zoning  
19 Commission, where when you have existing and new gross floor  
20 area, when do you trigger -- when does it apply to the new  
21 gross floor area only? When does it apply to the existing  
22 and the new?

23           Nonetheless, we're not trying to short change IZ  
24 at all. Our currently IZ calculation that was submitted with  
25 our most recent filing, on October 16th, is accurate and is

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1 calculated exactly how it's required to be carried out under  
2 the current regulations and the recent clarifications that  
3 are still under review by the Commission and they're out for  
4 public comment.

5           We're relying upon the current regulations, as  
6 they exist, and in terms of the question of achievable versus  
7 utilized. In 0433I, there was testimony that regardless of  
8 how much of the 20 percent bonus density you use in  
9 calculating the set-aside requirement, you have to account  
10 for all of 20 percent.

11           I believe that in taking a proposed action on the  
12 proposed clarifications, the Commission confirmed, through  
13 its vote, with the language from Office of Planning, that the  
14 calculation is based on the bonus density that you use and  
15 not the full 20 percent. In this case, overall, across the  
16 design review site, we are a 2.68 FAR project. That's .18  
17 FAR of bonus, which ended up being -- when compared to the  
18 10 percent calculation, that ended up being the larger  
19 number.

20           We provided that base calculation as an exhibit  
21 to our filing, and we specifically noted that the base  
22 calculation did not reflect the residential area in the  
23 cellar, in the penthouse, and the projections.

24           However, if you look at our cover letter and our  
25 actual plans, it very clearly shows that the base building,

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1 the dwelling units in the cellar, the dwelling units in the  
2 penthouse, and the area in the projections is added into our  
3 IZ set-aside calculation, for a total set aside of 24, 440  
4 square feet.

5           The last point I wanted to note was the testimony  
6 provided by Ms. Marilyn Simon just this morning on whether  
7 or not the residential dwelling units, the area that is  
8 devoted to them in the cellar and the projections, actually  
9 should get added into the bonus density calculation. I would  
10 just read from Ms. Simon's testimony. She cites to a  
11 provision that states an IZ development's entire residential  
12 floor area, including dwelling units located in the cellar  
13 space or enclosed building projections, shall be included for  
14 purposes of calculating the minimum set-aside requirements  
15 of Sub C, 1003.1.2.

16           For purposes of calculating the minimum set-aside  
17 requirements in -- that provision was specifically addressed  
18 in the Office of Planning's report in 0433I. It was the last  
19 report that they submitted to the Commission specifically  
20 briefing this issue. I'll just read from the report.

21           In citing to the same exact provision that I just  
22 read, DCRA interprets use of the phrase calculating the  
23 minimum set aside as meaning the 8 to 10 percent requirement  
24 and not bonus density.

25           So when you're comparing and looking for which is

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1 the larger calculation, the 10 percent or the 75 percent of  
2 the bonus density used, you take the area from the cellar and  
3 the projections and you incorporate it into the 10 percent  
4 calculation. But because that area is not considered to be  
5 gross floor area, as it's defined by the zoning regulations,  
6 it does not get counted into the bonus density calculation,  
7 but that is not to say that it's not subject to IZ. It is.

8           When you do the bonus density calculation, if  
9 that's the greater number, then you actually add in the  
10 cellar and the projections and combine those numbers together  
11 to get your full set-aside requirement. With that, Mr.  
12 Chairman, I'll conclude my presentation.

13           MR. GLASGOW: That concludes the Applicant's  
14 direct.

15           CHAIRMAN HOOD: Thank you for the presentation.  
16 Let's see if we have any questions or comments up here. Mr.  
17 Turnbull.

18           COMMISSIONER TURNBULL: Thank you, Mr. Chair. I  
19 just had one question. When you were going through, talking  
20 about the points from the OP report that you've addressed,  
21 you talked about removal of the IZ units from the lower  
22 level. What about the IZ on Floors 1 through 4? Did you do  
23 any changes to the -- rearrange the IZ units, redistribute  
24 them?

25           MR. LANSING: Commissioner Turnbull, can you point

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1 me to the OP report?

2 COMMISSIONER TURNBULL: It's Page --

3 MR. LANSING: There it is, yes.

4 COMMISSIONER TURNBULL: -- 1. It's Bullet Point  
5 5 or 4.

6 MR. LANSING: I think, and the Office of Planning  
7 can confirm, that bullet is to remove the IZ units in cellar  
8 area and redistribute them to Floors 1 through 4.

9 COMMISSIONER TURNBULL: Because there was a little  
10 bit of stacking that I saw on the floor, so I was just  
11 curious. I think it was two-bedroom units that were all two,  
12 three, four. They were all in a row. I was just wondering  
13 how much thought you gave to the stacking of some of those  
14 units.

15 MR. LANSING: The IZ plan that was submitted is  
16 the IZ plan as modified by our commitment to not have any IZ  
17 units in cellar area. In terms of stacking, I would defer  
18 to Ms. Alexander on that.

19 COMMISSIONER TURNBULL: I'm not going to make a  
20 big deal. I was just looking on G-09, which is your IZ  
21 layouts. On 48th Street, there's a couple of two bedrooms.  
22 They're all stacked in a row. Actually, I don't think it  
23 would be an unattractive setting. I'm just curious as to how  
24 you decided to do that.

25 MS. ALEXANDER: I'm trying to find the units that

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1 you're referring to.

2 COMMISSIONER TURNBULL: It's the two-bedroom units  
3 going toward the townhouse, next to the townhouse.

4 MS. ALEXANDER: Oh, I see. There's three of  
5 those, yes.

6 COMMISSIONER TURNBULL: I think there's a whole  
7 row stacked as two bedrooms. They're all IZ, which I'm not  
8 --

9 MS. ALEXANDER: We could look at redistributing  
10 those.

11 COMMISSIONER TURNBULL: I'm not totally opposed.  
12 It isn't in a bad location, in one sense, because you've got  
13 that little park-like setting in front. The only other  
14 question is the mechanical unit for the grocery store, up by  
15 the alley. How noisy is that going to be? Are you  
16 addressing the sound? I'm looking at some of the units right  
17 above.

18 MS. ALEXANDER: Right. This is a -- it's not like  
19 a --

20 COMMISSIONER TURNBULL: Air handler.

21 MS. ALEXANDER: -- 65,000 square foot grocery  
22 store, so it has a smaller amount of overall air handle in  
23 the units. We will do acoustical measures to make sure  
24 they're not too loud. We have units right adjacent to them,  
25 so we have the same concern.

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1 COMMISSIONER TURNBULL: Okay. I was just  
2 concerned that there was some IZ units, too, in that area,  
3 also. I'm just concerned about the quality of life and what  
4 people are going to be experiencing there. Those are  
5 basically my concerns right now.

6 I guess the only other -- the solar. I think you  
7 had an engineering report said that you didn't think you  
8 could do the solar because of the stick frame construction  
9 with the green roof and the solar. Are you still on that  
10 position?

11 MR. GLASGOW: I think we're continuing to evaluate  
12 that. That's why we want flexibility. As long as we get our  
13 LEED Gold Version 4 --

14 COMMISSIONER TURNBULL: Okay. It's not totally  
15 out, but you need to think about it and --

16 MR. GLASGOW: Yes, we see that there's a challenge  
17 there, but we --

18 COMMISSIONER TURNBULL: There is, yes.

19 MR. GLASGOW: -- but we want our flexibility to  
20 meet our Gold. It's customary for the Commission to give the  
21 Applicant the ability to do it by various means.

22 COMMISSIONER TURNBULL: I'm pleased you're going  
23 with LEED Gold. I'm sure the vice chair is also very pleased  
24 with that. Thank you.

25 CHAIRMAN HOOD: Any other questions up here? I

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1 noticed that, Mr. Dettman, you talked about the IZ. I  
2 noticed in the report that I read it said some case that the  
3 Commission didn't discuss the IZ. A lot of times -- I'm  
4 answering to that because a lot of times, we don't discuss  
5 the IZ if we agree with what's being presented for us. We  
6 don't need to discuss anything. The record's complete. But  
7 you mentioned again about not -- I don't know if this was the  
8 case. I know there's been a number of cases you mentioned  
9 a particular person, Ms. Marilyn Simon's analysis and how she  
10 interprets it. I think you said the density -- the bonus  
11 density, as opposed to the 8 to 10 percent. Could you  
12 explain that again for us, so we can -- so I can understand  
13 exactly what your explanation is? Because I'll probably ask  
14 her something similar.

15 MR. DETTMAN: Sure. When you go about setting --  
16 calculating your set-aside requirement, we fall under the  
17 category of the 10 percent or the 75 percent of bonus density  
18 used because we are MU-4. It's a maximum height of 50 feet,  
19 and we're a stick-built product.

20 The IZ regulations are stated in terms of gross  
21 floor area, which is defined, in the zoning regulations, as  
22 essentially space that's above grade. So if you're in a  
23 cellar, that's not considered gross floor area.

24 If you're in projection above the property line,  
25 that's not considered gross floor area. But there is a

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1 provision that says when you're calculating your minimum  
2 set-aside requirement, you take those -- even though they're  
3 not considered gross floor area, as defined by zoning, you  
4 incorporate those into your calculation. If you look at the  
5 -- this was thoroughly discussed by the Commission in 0433I.  
6 If you look at the Office of Planning's report to the  
7 Commission addressing this issue, they talked to the DCRA.

8           Essentially, when you're doing those two  
9 calculations to figure out what's the greater number, you  
10 take your cellar and your projection space and you add it to  
11 your gross floor area and you take 10 percent of that.

12           But when you're doing your bonus density, because  
13 those are not considered gross floor area, they're not  
14 included in the calculation of how much bonus density you're  
15 using because they're not gross floor area. But again, it's  
16 not that you're -- it's not that that space is not subject  
17 to IZ. It is.

18           If you have residential dwelling units in the  
19 cellar or projections, it's subject to the appropriate  
20 percentage. It might be 8 percent; it might be 10 percent.  
21 Again, we're 10 percent. It's just that it's added in after  
22 you do the bonus density calculation, as opposed to when  
23 you're doing the first calculation.

24           CHAIRMAN HOOD: All right.

25           MR. DETTMAN: It's accounted for.

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1 CHAIRMAN HOOD: Right. Got you. Okay, thank you.  
2 Commissioner Shapiro.

3 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. Just  
4 a quick question. I'm looking at A-02. The question's  
5 around any other retail use besides the grocery. I just may  
6 have missed that. Is there a plan for that?

7 MR. LANSING: At this point, no. Grocer will be  
8 the retail.

9 COMMISSIONER SHAPIRO: I'm just looking at this  
10 one schematic. It pulls out retail amenities separate from  
11 grocery.

12 MR. LANSING: Yes, Commissioner, it could be  
13 amenity to the building as we finalize planning.

14 COMMISSIONER SHAPIRO: But it could be retail use,  
15 as well.

16 MR. LANSING: It could be flexible, correct.

17 COMMISSIONER SHAPIRO: What's the square footage  
18 of the grocery piece, as opposed to the retail? Is that what  
19 bumped up the additional 1,700 square feet?

20 MS. ALEXANDER: The grocery square foot did  
21 increase a little bit. It is now at 16,000. Then the  
22 residential amenity space, I think it's pretty consistent  
23 with what it was before.

24 COMMISSIONER SHAPIRO: So that's as before, and  
25 that's about 1,700 square feet.

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1 MS. ALEXANDER: The smaller space, 1,700.

2 COMMISSIONER SHAPIRO: Ish, okay.

3 MS. ALEXANDER: Yes, it is. On Page G-07, we have  
4 the square footages broken out for you.

5 COMMISSIONER SHAPIRO: If it's not amenity space,  
6 do you have any sense of how that would be programmed?

7 MR. LANSING: At this point, no, we don't know.

8 COMMISSIONER SHAPIRO: All right, thank you.  
9 Thank you, Mr. Chair.

10 CHAIRMAN HOOD: Thank you. Vice Chair Miller.

11 VICE CHAIR MILLER: Thank you, Mr. Chairman. This  
12 may be in the record. I don't know. At this point, have you  
13 reached a letter of intent with a particular grocery store?

14 MR. LANSING: We have, yes, Commissioner. We're  
15 in the process of pursuing that further to a full lease.

16 VICE CHAIR MILLER: Can you --

17 MR. LANSING: Sorry, yes, MOM's Organic Market.

18 VICE CHAIR MILLER: Okay, thank you.

19 CHAIRMAN HOOD: Any other questions up here?  
20 Let's go through the parties. Any cross-examination?  
21 Commissioner Kravitz, you have any cross?

22 ANC COMMISSIONER KRAVITZ: No, sir.

23 CHAIRMAN HOOD: ANC 3E has two people, Jonathan  
24 McHugh and Amy Hall. You have any cross? Okay. And both ANCs  
25 are in support. Ward 3 Vision in support. Mr. Wheeler, you

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1 have any cross? Okay. And the Spring Valley Neighborhood  
2 Association is in support. William Clarkson --  
3 No cross. Citizens for -- these are opposition -- Citizens  
4 for Reasonable Development in opposition. Mr. Donohue and  
5 he's been here since last January. I forgot the gentleman's  
6 name that came.

7 MR. DONOHUE: This is Mr. Sheldon Repp, president  
8 of CRD, joining me at the table. My name is Ed Donohue,  
9 counsel for CRD. We just have a couple of questions.

10 CHAIRMAN HOOD: Okay.

11 MR. DONOHUE: Mr. Lansing, I'm glad to hear you  
12 tell us that you're moving forward toward -- from a letter  
13 of intent to a lease. What's the commitment for Valor for  
14 the grocery space?

15 MR. LANSING: Can you clarify the question for me?

16 MR. DONOHUE: Yes. We've heard suggestions that  
17 ought to be for the life of the project. I'm lifting that  
18 from the Office of Planning report or earlier comments from  
19 OP. The suggestion from ANC 3D is it ought to be at least  
20 ten years. I guess what I'm asking you is what's Valor's  
21 commitment on the grocery store?

22 MR. GLASGOW: There is a draft order in the record  
23 that I believe reflects that.

24 MR. DETTMAN: I can get the answer if you want to  
25 wait a second.

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1 MR. GLASGOW: If you want to proceed to your next  
2 question while he pulls that up, unless it's directed to Mr.  
3 Dettman.

4 MR. DONOHUE: No, I'd like to see the draft order,  
5 if that's what your answer's going to be. That's great.  
6 Similarly, we've had discussion -- last January, we had a lot  
7 of discussion about the HAWK signal.

8 I know that there was a DDOT meeting on site --  
9 I think you were there -- and some discussions about HAWK and  
10 whether that was going to be moving forward or whether Valor  
11 was committed to that. Do you have an answer on that?

12 MR. ANDRES: We are committed to that, subject to  
13 DDOT approval.

14 MR. DONOHUE: Have there been discussions with  
15 DDOT about that?

16 MR. ANDRES: DDOT?

17 MR. DONOHUE: With DDOT, yes.

18 MR. ANDRES: Yes, throughout the process, we've  
19 identified that the potential for a HAWK signal is  
20 appropriate here. We'd have to go through all of the design  
21 and engineering studies to make sure that DDOT is still on  
22 board.

23 MR. DONOHUE: Well correct me if I'm wrong, but I  
24 think that was your answer in January of '18, right?

25 MR. ANDRES: Yes, that's right. Typically, you

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1 don't go through full design of transportation elements while  
2 you're getting the project and title.

3 MR. DONOHUE: Alright. And earlier, you mentioned  
4 the traffic studies. You've seen some of the criticisms of  
5 some of the aging traffic studies and the back and forth  
6 about that. You mentioned the AU building at 4801  
7 Massachusetts Avenue. Do you know what the use of that  
8 building was when the traffic counts were done?

9 MR. ANDRES: I don't believe I brought up the 4801  
10 AU building in my testimony.

11 MR. DONOHUE: Perhaps it was Ms. Alexander. I'm  
12 sorry. I thought you were discussing it.

13 MR. ANDRES: No, all I highlighted was the  
14 difference between the previous program and the current  
15 program.

16 MR. DONOHUE: Great, thank you. Shelly.

17 MR. REPP: Yes, thank you. By the way, our name  
18 is Citizens for Responsible Development. I think there is  
19 another organization with Citizens for Reasonable  
20 Development.

21 CHAIRMAN HOOD: That may be the one that's  
22 ingrained in my mind for some reason. Forgive me if I got  
23 that wrong.

24 MR. REPP: With respect to the retail space, you  
25 say -- you have a non-binding letter of intent. Is that what

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1 you have, Will?

2 MR. LANSING: At this moment in time, yes. That's  
3 how letters of intent -- they're generally non-binding,  
4 correct.

5 MR. REPP: Do you have a second non-binding letter  
6 of intent, also, with a different grocer?

7 MR. LANSING: We do, yes, correct.

8 MR. REPP: So you have two non-binding letters of  
9 intent.

10 MR. GLASGOW: Mr. Chairman, I'd like to object  
11 because I don't recall him testifying as to that during his  
12 direct.

13 CHAIRMAN HOOD: I'm sorry. I actually was trying  
14 to make sure I didn't call them the other name, Citizens for  
15 -- they're Citizens for Responsible Development. I was  
16 getting that clarified with my colleagues. Could you all  
17 repeat the question? Mr. Vice Chair, you -- yes, if you call  
18 could repeat the question, what the question was, so I can  
19 --

20 MR. REPP: Do you want me to repeat the question?

21 CHAIRMAN HOOD: Yes, please.

22 MR. REPP: The question I asked was whether or not  
23 they had -- isn't their letter of intent with MOM's a  
24 non-binding letter of intent. I think the answer was yes.

25 MR. LANSING: That's correct, yes.

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1 MR. REPP: Then I asked isn't there a second  
2 non-binding letter of intent with a different grocer?

3 MR. GLASGOW: I interposed an objection because  
4 there was no testimony as to that, no direct.

5 CHAIRMAN HOOD: I'm going to overrule that. Is  
6 it? Because I want to know the answer myself.

7 MR. LANSING: There is, Commissioner, yes.

8 CHAIRMAN HOOD: Okay. So you got your answer.

9 MR. REPP: With respect to the other retail  
10 amenity that came up before here, didn't you tell me last  
11 week, during the walk around, as a matter fact, that retail  
12 amenity was going to be used up by the grocery store?

13 MR. LANSING: Possibly. That's still to be  
14 determined.

15 MR. REPP: With respect to -- a question came up  
16 for Mr. Glasgow about flexibilities. You're asking, in your  
17 application, for the flexibility to build an extra 10 percent  
18 residential units, so taking it up from 219 to 240  
19 residential units, is that correct, as flexibility?

20 MR. DETTMAN: The flexibility language, as  
21 currently in the draft order that was submitted, yes, we are  
22 requesting the standard 10 percent in the number of dwelling  
23 units within the approved amount of GFA, so we're not growing  
24 the GFA.

25 MR. REPP: I understand. It's just that the

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1 number -- the density of this, as far as number of people go,  
2 is part of the issue with respect to the neighbors here.  
3 Erwin, your slide showed that there would be 220 parking  
4 spaces for residents, right?

5 MR. ANDRES: Yes, that's the plan.

6 MR. REPP: To be able to provide 228 parking  
7 spaces, you need to have an agreement, or Valor needs to have  
8 an agreement with American University to give up some of the  
9 spaces that they're entitled to. Do you know what the status  
10 of that agreement is?

11 MR. ANDRES: I believe Will can answer that  
12 question.

13 MR. LANSING: We are in the process of finalizing  
14 a written agreement with American University at this time.

15 MR. REPP: Which is the same thing you said a year  
16 ago, right?

17 MR. LANSING: That is correct.

18 MR. REPP: That hasn't changed. The grocery store  
19 hasn't changed. With respect to IZ, Mr. Dettman, you  
20 mentioned the history here about a year ago, and you said  
21 there was an interpretive question as to whether or not the  
22 previous plan complied with the IZ. Is that right?

23 MR. DETTMAN: I said, back in January of 2018, an  
24 interpretation issue was raised, which we, following the  
25 January hearings, met with the Office of Planning and

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1 resolved the issue.

2 MR. REPP: You also mentioned Ms. Simon's filing  
3 of today. Doesn't that raise a different interpretive  
4 question?

5 MR. DETTMAN: No, I would disagree with that  
6 statement. The issue raised in Ms. Simon's testimony  
7 submitted today has already been addressed by the Commission  
8 in the IZ case.

9 MR. REPP: About whether or not the cellar space  
10 is considered to be bonus density or not.

11 MR. DETTMAN: That's right. The Office of  
12 Planning's report specifically addresses it.

13 MR. REPP: As a matter of fact, if you look at the  
14 plain meaning of the statute, I mean the reg, 1003.9, it says  
15 the inclusionary zoning development's entire residential  
16 floor area, including dwelling units located in the cellar  
17 or enclosed building projections that extend into the public  
18 space shall be included for purposes of calculating the  
19 minimum set-aside, basically, and refers back to the bonus  
20 density requirement. It doesn't say that it's only  
21 considered to be on part of that 1003.1.

22 MR. DETTMAN: As I stated, in referring to that  
23 very same provision, the Office of Planning's report in  
24 0433I, dated November 9, 2018, says DCRA interprets the  
25 phrase calculating the minimum set-aside to mean the 8 to 10

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1 percent requirement, and not the bonus density.

2 I would further state that just below that, Figure  
3 1 -- sorry, Figure 2, on Page 6 of the report, they go  
4 through a sample IZ requirement, which very clearly includes  
5 cellar and projection areas being 2,797 square feet, being  
6 incorporated into the 10 percent requirement, but not the  
7 bonus density calculation.

8 MR. REPP: We'll let Ms. Simon talk about this.  
9 With respect to shadows, Ms. Alexander, you talked about  
10 shadows. You also showed a slide that showed that the shadow  
11 study cuts off at 4:00 p.m. The sun, as I know, during the  
12 summer, lasts until 8:30 or later, and the houses along 48th  
13 Street are going to be impacted at a time after 4:00, right?

14 MS. ALEXANDER: After 4:00 p.m., yes.

15 MR. REPP: Once again, this brings up the impact  
16 on the neighborhood of what I believe to be an oversized  
17 project. Will, going back to what you said, you talked about  
18 that the project team had engaged with the neighbors, or with  
19 the community. I know you have a bunch of meetings listed.

20 Actually, with respect to us, there was only one  
21 that I really consider to be a negotiation meeting. Moving  
22 on, you say that the revised plans are a result of the  
23 collaboration. Isn't it true that the real reason why you  
24 had to come up with revised plans is that this interpretive  
25 question with respect to IZ came out against you?

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1 MR. LANSING: No. We revised plans for a number  
2 of reasons; part of it being, again, the community  
3 engagement. This project dates back three years of meetings  
4 that I've had with many folks. I think at every revision and  
5 every change of the project, it's come on the heels of  
6 feedback from the community. So respectfully, I disagree  
7 with that comment.

8 MR. REPP: I disagree with the answer, but that's  
9 different. Isn't it true that with respect to IZ, actually,  
10 the gross floor area of the IZ that's in the current plans  
11 is less than the gross floor area of the IZ that was in your  
12 plans from back in January?

13 MR. DETTMAN: That's true because it has 20-some  
14 thousand square feet less of gross floor area. We removed  
15 40,000 square feet of gross floor area and recouped about  
16 half of that in the cellar area, which, again, is accounted  
17 for in our IZ set aside calculations at the 10 percent  
18 requirement.

19 MR. REPP: One last question for Ms. Alexander.  
20 You talked about how the building has been lowered, and I  
21 agree that it has been in part. But isn't it true that out  
22 in the wings, sort of the corner of 48th and Yuma and above  
23 the grocery store, that actually the building is taller than  
24 it was in your previous plans?

25 MS. ALEXANDER: There are portions of the building

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1 that have increased modestly in height, yes.

2 MR. REPP: Four feet higher, I believe, on that  
3 corner on the --

4 MS. ALEXANDER: I believe it's about 3, but yes.

5 MR. REPP: Okay. Enough.

6 CHAIRMAN HOOD: All right. I will say this, Mr.  
7 Shelly Repp --

8 MR. REPP: Yes.

9 CHAIRMAN HOOD: Okay. I will say this. We're  
10 going to put 1,000, 3.9, in the parking lot because I was  
11 sitting here trying to -- let's you and I make sure we bring  
12 that back up when you do your testimony.

13 Let me see. Any other questions?

14 COMMISSIONER SHAPIRO: Could I get a final answer  
15 on the grocery store? Is there an answer on Valor's  
16 commitment?

17 CHAIRMAN HOOD: I thought we had that. Or was it  
18 something I missed? What was it? Oh, the number of years.

19 MR. DETTMAN: The Draft Order that was submitted  
20 in February says for a minimum of 10 years. I think that's  
21 a result of the -- is it the ANC resolution that made that  
22 request? Yes.

23 COMMISSIONER SHAPIRO: Thank you, Mr. Chairman.

24 CHAIRMAN HOOD: All right. Thank you.

25 Let's go to Spring Valley Wesley Heights Citizens

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1 Association.

2 MR. SMITH: Good evening. My name is Tom Smith,  
3 and I'm joined by Dr. Jeffrey Kraskin, for Spring Valley  
4 opponents.

5 I wanted to first follow up on the -- well, I'll  
6 come back to that. I was going to follow up on a question  
7 that Shelly asked.

8 But I wanted to talk about the OP report dealing  
9 with public spaces. On page 13 of the OP report, it talks  
10 about public spaces. And I just want to be sure I understand  
11 what public spaces you're providing as part of the new,  
12 revised plan. Am I right that there's an interior courtyard  
13 with a -- well, at least this is what OP makes reference to.  
14 They make reference to an interior courtyard with a swimming  
15 pool and a seating area and, also, a roof terrace. Is that  
16 correct?

17 MS. ALEXANDER: As building amenity spaces, that  
18 is correct.

19 MR. SMITH: Well, are these spaces open to the  
20 public to gather or are they private amenities for the  
21 residents?

22 MS. ALEXANDER: Those two spaces you identified  
23 are private amenities for the residents.

24 MR. SMITH: Okay. And there's also space outside  
25 the grocery store, correct?

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1 MS. ALEXANDER: Correct. There's a northwest  
2 plaza outside of the grocery store.

3 MR. SMITH: And will that be available to the  
4 public or is that only available to patrons of the grocery  
5 store?

6 MS. ALEXANDER: No, that is intended as a public  
7 space for the community.

8 MR. SMITH: Okay. And then, you have Windom Park  
9 --

10 MS. ALEXANDER: Correct.

11 MR. SMITH: -- as a public space.

12 MS. ALEXANDER: Correct.

13 MR. SMITH: And OP has been critical of Windom  
14 Park as a public space in their report. And I just wanted  
15 to give you an opportunity to respond to that criticism about  
16 Windom Park. They said it basically would not be used.

17 MS. ALEXANDER: I think that is possible, but I  
18 do also think that, if you give residents an opportunity to  
19 use a beautiful space, then they will use it. And we intend  
20 to make it a beautiful space.

21 MR. SMITH: So, are there any other public  
22 gathering spaces in the new development?

23 MS. ALEXANDER: Besides the northwest plaza and  
24 the Windom Park --

25 MR. SMITH: Yes.

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1 MS. ALEXANDER: -- there is the enhancement of the  
2 alleyway which is for the public. Other than that, no.

3 MR. SMITH: Okay. All right. All right. So, I  
4 want to come back to the alleyway, since you mentioned it.  
5 But, before we do that, I want to follow up with the historic  
6 designation piece, the 802-803 lots. And I wonder, with the  
7 exchange of density that you have, the agreement with Regency  
8 Centers for the exchange of density for 802 and 803, we have  
9 not seen that agreement yet, is that correct? You have not  
10 provided a copy of that agreement, correct?

11 MR. LANSING: Correct, we have not.

12 MR. SMITH: Are there any plans at this point in  
13 time to provide that agreement?

14 MR. LANSING: No. That's a private agreement,  
15 two-party agreement. However, we have submitted to the  
16 record details of that agreement in the form of a sworn  
17 affidavit.

18 MR. SMITH: Okay. Are there any, without  
19 violating the proprietary issues involved with that  
20 agreement, are there any provisions in that agreement that  
21 would affect future development at lots 802 and 803?

22 MR. LANSING: Yes, I don't off the top of my head  
23 -- I'm certainly happy to look in the record and see what we  
24 did say, I guess, in the --

25 MR. SMITH: You didn't really address that.

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1 That's why I'm asking the question to you. You really didn't  
2 say much of anything.

3 MR. LANSING: I think to the extent that it's  
4 proprietary -- and what we've put in the record is what we  
5 are comfortable and willing to, I think, put publicly.

6 MR. SMITH: Okay. Are there any provisions, can  
7 you tell us whether there are any provisions in the  
8 agreement, in the secret agreement, that could lead to any  
9 --

10 MR. GLASGOW: Objection.

11 CHAIRMAN HOOD: The secret agreement is the  
12 objection?

13 MR. GLASGOW: Yes.

14 MR. SMITH: I'll take out the word "secret" just  
15 for convenience.

16 CHAIRMAN HOOD: Let's strike that from the record,  
17 even though we'll see it.

18 MR. SMITH: Okay. Are there any provisions in the  
19 agreement that could lead to any changes or alterations of  
20 the buildings on lots 802 and 803?

21 MR. GLASGOW: That's a legal question, and that  
22 site is a Historic Site. And anything that is done to the  
23 exterior of those buildings or to that site needs to go to  
24 the Historic Preservation Review Board, whether there's an  
25 agreement or not, or whatever it says on that.

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1 CHAIRMAN HOOD: Just a minute. Let me ask, where  
2 are you trying to go with the --

3 MR. SMITH: Actually, the question I'm trying to  
4 find out -- well, first of all, I was trying to find out what  
5 was in the secret -- I'm sorry -- in the agreement.

6 CHAIRMAN HOOD: The agreement, right. Okay.

7 MR. SMITH: In the agreement. If we get any more  
8 additional information about that agreement that might affect  
9 the future of that property at 802, at lots 802 or 803,  
10 especially since the Applicant has testified, and also OP has  
11 confirmed, that the sale -- the density of that site actually  
12 preserves the historic character, the historic designation  
13 of the building.

14 So, if the argument is that this is going to  
15 preserve the character of the historic, going to preserve the  
16 historic designation, if there's something in these  
17 agreements that might affect that, then that's not quite  
18 accurate. And so, that's what I'm pursuing.

19 I have one other question about the historic  
20 designation, and that's it.

21 CHAIRMAN HOOD: Okay.

22 MR. SMITH: And that just has to do with, based  
23 on what you're doing with the transfer of density, will that  
24 qualify you for federal tax credits under the historic  
25 designation laws, to your knowledge?

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1 MR. LANSING: No.

2 MR. SMITH: Okay. All right.

3 So, let me go back now to the -- you mentioned the  
4 alleyways and the sidewalks. The alleyways will all be  
5 two-way, is that correct?

6 MR. ANDRES: Yes.

7 MR. SMITH: Okay. And does that include the  
8 portion of the alleyway off Mass Avenue between Massachusetts  
9 Avenue and where the other two alleys join --

10 MR. ANDRES: Yes.

11 MR. SMITH: -- into a "V"?

12 MR. ANDRES: The entire internal alley network has  
13 been proposed as two-way.

14 MR. SMITH: Okay. On A-21, you show a rendering  
15 which has it as "Do not enter". And that's why I'm asking  
16 that question. Is that not correct?

17 MR. ANDRES: So, there's an existing "Do not  
18 enter" sign that will be removed as part of the development  
19 of this project.

20 MR. SMITH: Right. That's on A-20. You have the  
21 current, the existing, and then, you have the proposed, but  
22 you have the "Do not enter" sign in the proposed. That's  
23 incorrect, is that --

24 MS. ALEXANDER: So, we actually corrected that for  
25 this --

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1 MR. SMITH: Oh, you corrected it on here? Okay.

2 MS. ALEXANDER: -- this testimony.

3 MR. SMITH: All right. All right. Great. I  
4 wanted to make sure of that.

5 Now the alleyways that you -- I'm sorry -- the  
6 sidewalks that you mentioned, how wide are those sidewalks?

7 MS. ALEXANDER: Three foot on the north-south  
8 alley and 6 foot on the remaining --

9 MR. SMITH: Now the 3 foot on the north side  
10 alley, the north side alley would run -- can you show the  
11 picture where it runs from? It would run from Yuma to Mass  
12 Avenue, is that correct?

13 MS. ALEXANDER: One moment. The 3-foot sidewalk  
14 would start on Yuma, be adjacent to the building face all the  
15 way to the corner. Then, there's an additional sidewalk  
16 proposed for the portion of the site that is available on  
17 Massachusetts Avenue. There's --

18 MR. SMITH: That's behind the Spring Valley shops,  
19 on the side of the Spring Valley Shopping Center.

20 MS. ALEXANDER: On the side of the Spring Valley  
21 Shopping Center, correct.

22 MR. SMITH: And are you paying for that or are  
23 they paying for that?

24 MS. ALEXANDER: That would be part of our  
25 enhancements.

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1 MR. SMITH: Okay. So, does that mean that you're  
2 widening the portion of the road between the bank and the  
3 shopping center there off Mass Avenue?

4 MS. ALEXANDER: No.

5 MR. SMITH: So, how -- I mean, currently --

6 MS. ALEXANDER: Currently, it is landscaping. We  
7 would replace the landscaping with sidewalk.

8 MR. SMITH: Okay. I see what you're saying. So,  
9 the portion that is by the automatic teller machine, that  
10 will have a sidewalk there now? By Wells Fargo? Is that  
11 correct?

12 MS. ALEXANDER: On the northern, northwest side  
13 of the alley, correct.

14 MR. SMITH: Okay. But the width of the roadway  
15 itself will not change?

16 MS. ALEXANDER: Correct.

17 MR. SMITH: And what about the apron there? What  
18 about the curb cut there? Will that change?

19 MS. ALEXANDER: No.

20 MR. SMITH: Okay. Is there a sidewalk on the  
21 opposite side of that portion by the PNC Bank?

22 MS. ALEXANDER: There is, but only -- there is  
23 only a sidewalk up into the bank itself, and then, it becomes  
24 landscaping for this zone right here.

25 MR. SMITH: Okay. So, from Mass Avenue to the

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1 bank --

2 MS. ALEXANDER: This portion --

3 MR. SMITH: -- is sidewalk?

4 MS. ALEXANDER: -- is the sidewalk, correct.

5 MR. SMITH: And then, there's no sidewalk?

6 MS. ALEXANDER: Correct. And then, there's a  
7 sidewalk again behind the bank.

8 MR. SMITH: Going where?

9 MS. ALEXANDER: To their parking lot.

10 MR. SMITH: To their parking lot?

11 CHAIRMAN HOOD: Can I interrupt something?  
12 Because Mr. Smith is bringing up a good point. At least I  
13 didn't remember. Coming from Mass Avenue, walking, if I'm  
14 walking on the sidewalk, the other side of PNC Bank, when I  
15 get to that point of an alley, it's a point right there where  
16 you --

17 MS. ALEXANDER: Uh-hum.

18 CHAIRMAN HOOD: How do I get over to, if I wanted  
19 to cross, how do I get over to the other sidewalk?

20 MS. ALEXANDER: You would have to negotiate the  
21 alley.

22 CHAIRMAN HOOD: So, I'd have to take a --

23 MS. ALEXANDER: Similar to like crossing --

24 CHAIRMAN HOOD: Okay.

25 MS. ALEXANDER: Similar to like crossing the alley

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1 if you were to cross, say, at this location here.

2 CHAIRMAN HOOD: So, from a design perspective, we  
3 need to look at that. Okay? Because I see that being a --  
4 well, I'm hoping nobody gets hurt, but I see that being a  
5 potential problem. And I know whatever we need to do,  
6 mirrors, or whatever, but that's -- we need to look at that  
7 because I don't see a sidewalk. And I know I go through --  
8 well, I shouldn't say "I cross streets sometimes," but I just  
9 see -- we don't want to put anything in place that may be a  
10 hazard. So, let's see if we can look at that.

11 Thank you. Excuse me for interrupting the  
12 process.

13 MR. SMITH: Okay. So now, let's -- can you show  
14 us again where the 3-foot sidewalk, 3-foot-wide sidewalk is?  
15 And that curb, am I correct in saying that's a 2-inch curb?

16 MS. ALEXANDER: Yes.

17 MR. SMITH: A 2-inch curb --

18 MS. ALEXANDER: Correct.

19 MR. SMITH: -- and 3-foot sidewalk? And where  
20 will that stretch from?

21 MS. ALEXANDER: So, a more detailed drawing is  
22 found on CL-04, which I can open up, if the Commission would  
23 like. CL-04 shows the entire -- should I open it? Okay.

24 MR. SMITH: Can you also, though, tell me how --  
25 you talked about widening the alley. But when you widen the

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1 alley --

2 MS. ALEXANDER: Yes.

3 MR. SMITH: -- what will be the width of the  
4 roadway in the alley? It's 20 feet, correct?

5 MR. ANDRES: It would remain as 20 feet.

6 MR. SMITH: It's 20 feet?

7 MR. ANDRES: Yes.

8 MR. SMITH: Okay. So, you may be widening it to  
9 30-some feet, but we're talking about 20 feet --

10 MR. ANDRES: For the vehicles.

11 MR. SMITH: -- for the vehicles, and then, another  
12 3-foot-wide sidewalk?

13 MR. ANDRES: That's correct.

14 MR. SMITH: Okay. Can you help me understand a  
15 little bit? You made reference to this being a valuable  
16 public space, this 3-foot sidewalk. Everything that I've  
17 read from FHWA, from the Federal Highway Administration, to  
18 the Access Board, to the Institute of Traffic Engineers, all  
19 say that a minimum width of any sidewalk, minimum width would  
20 be 4 feet plus far more than a 2-inch curb for safety  
21 purposes. And in fact, it talks about, most of these reports  
22 talk about how walking is a social experience.

23 MR. ANDRES: Uh-hum.

24 MR. SMITH: And so, people want to walk next to  
25 one another, and when you don't have a wide enough sidewalk,

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1 you force somebody into the roadway. So, can you help me  
2 understand a little bit about why only a 3-foot-wide  
3 sidewalk? How is that an amenity if it presents a safety  
4 issue and it's not accessible for people with disabilities?  
5 And what would it take for you to make it wider?

6 MR. ANDRES: So, with respect to the design of the  
7 alley itself, essentially, the Design and Engineering Manual  
8 identifies that an alley is used primarily for access for a  
9 garage and loading. And that's why we're essentially  
10 eliminating all of the existing curb cuts that are on the  
11 private -- excuse me -- on the public streets.

12 So, in focusing all of the traffic in the alleys  
13 for access for garage and loading, the condition of mixed  
14 traffic in an alley is not uncommon in the District. There  
15 are many alleys where there are vehicles traveling at slow  
16 speeds that serve uses that are generating mixed traffic,  
17 both vehicular and pedestrians, and bicyclists.

18 So, in this condition, we're creating an  
19 opportunity like that. But, in addition to that, we are  
20 separating, we are creating a separate path that's exclusive  
21 of the 20-foot travel width.

22 Just to give you a sense of scale, your travelings  
23 within the District, where you're traveling upwards of 35-40  
24 miles an hour, are 10-feet wide. So, if you go out to New  
25 York Avenue, the lane widths on some of the lanes, you know,

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1 going 35, 40, potentially even faster than that, are 10-foot  
2 lanes.

3 In this case, we are trying to promote a zone  
4 where this will be pedestrian populated, but still provide  
5 access for garage and loading. And this is the concept that  
6 we have coordinated with DDOT. And DDOT -- and obviously,  
7 they could speak for themselves -- but this is a condition  
8 that we've incorporated on several other of the projects  
9 where you do have this mix of uses.

10 MR. SMITH: Are you doing any garage or loading  
11 on the north-south alley?

12 MR. ANDRES: No, but it provides you access to the  
13 east-west alley.

14 MR. SMITH: Yes, but so all the garage and the  
15 loading is going on on the east-west alley, which has a  
16 6-foot sidewalk. Okay? So, I'm talking about the  
17 north-south sidewalk. So, you have a sidewalk that doesn't  
18 even meet the standards for people with disabilities. So,  
19 I'm asking you, how is that an amenity?

20 And then, let me also ask, as part of that  
21 question, are you having a separate bicycle lane there? Or  
22 where will bicycles travel in the north-south alley? Will  
23 they be in the roadway or on the sidewalk or a separate  
24 bicycle lane?

25 MR. ANDRES: Well, given the fact that there are

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1 limited speeds in the alley, there's no need for a bicycle  
2 lane. You know, case in point, there are no bike lanes on  
3 Yuma or 48th. So, in order for the vehicles to -- excuse me  
4 -- in order for the bicyclists to share the alley, it is,  
5 essentially, they will be riding in the travel lane.

6 MR. SMITH: Okay. I'm a little confused, then,  
7 by the circulation patterns that you showed in the  
8 Supplemental Report. Can you help me understand the  
9 circulation patterns for this project? Does a car come in,  
10 in terms of the east-west alley off of 48th Street, is that  
11 where the trucks will come?

12 MR. ANDRES: So --

13 MR. SMITH: That's where the trucks will come?

14 MR. ANDRES: Just to make it simple for you, all  
15 of the alley connections to the public streets, whether it's  
16 Mass, Yuma, or 48th, vehicles, and including smaller delivery  
17 vehicles, can use all three entrances.

18 MR. SMITH: Okay.

19 MR. ANDRES: And bicyclists can use all three  
20 entrances.

21 MR. SMITH: Okay. Now, then, what about the  
22 sidewalk on the east-west alley? That's a 6-foot sidewalk?

23 MR. ANDRES: It's a 6-foot --

24 MR. SMITH: But it's a partial sidewalk, is that  
25 correct?

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1 MR. ANDRES: Well, it's a continuous path that  
2 runs along the side of the building across the entrances to  
3 both the loading and the garage.

4 MR. SMITH: So, there is a sidewalk that crosses  
5 in front of the loading areas and, also, the garage entrance  
6 or --

7 MR. ANDRES: It's a designated path that runs,  
8 essentially, across the frontage of this.

9 MR. SMITH: Because I thought in your report, in  
10 your filing on the transportation supplement, it talks and  
11 it shows a green line of the sidewalk ending right around the  
12 townhomes, right after the townhomes. And then, there's no  
13 sidewalk again? But you're saying it's a path? Can you help  
14 me understand the difference? And is that path going to be  
15 6-feet wide as well or --

16 MS. ALEXANDER: As shown on Sheet 11 of our  
17 package, the pathway is continuous and is interrupted. It  
18 becomes a flush condition, which is where we delineate the  
19 path on a flush condition of surface, but still alerting both  
20 pedestrians and those in vehicles that there is a cross of  
21 traffic to occur there. Continues, continues, again flush  
22 condition, and continues.

23 MR. SMITH: Does that mean you paint a line or  
24 something that --

25 MS. ALEXANDER: You can do it through texture.

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1 You can do it through color.

2 MR. SMITH: Okay.

3 MS. ALEXANDER: There's different methods.

4 MR. SMITH: And then, where would the sidewalk  
5 pick up again?

6 MS. ALEXANDER: It, again, following the cursor,  
7 continues alongside along our building, then becomes flush  
8 by the loading and garage entry, and then, until the corner,  
9 where again it becomes a 2-inch raised curb.

10 MR. SMITH: Okay. So, where do you think the  
11 heaviest pedestrian traffic will be on this site?

12 MS. ALEXANDER: The streets.

13 MR. SMITH: The streets? Meaning what?

14 MS. ALEXANDER: Yuma --

15 MR. SMITH: 48th, Yuma?

16 MS. ALEXANDER: Yuma and 48th.

17 MR. SMITH: Yuma and 48th? Okay. If you expect  
18 the most pedestrian traffic to be on Yuma and 48th, 48th  
19 stretching from Yuma to Mass Avenue, correct?

20 MS. ALEXANDER: Correct.

21 MR. SMITH: Okay. And you're planning on putting  
22 a HAWK signal near the alley entrance of Mass Avenue, is that  
23 correct?

24 MR. ANDRES: Yes, that's correct.

25 MR. SMITH: So, if most of your pedestrian traffic

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1 is down 48th Street from Yuma to Massachusetts Avenue --

2 MR. ANDRES: Well, actually --

3 MR. SMITH: Let me finish my question, please.

4 You already have an existing pedestrian signal at  
5 48th and Mass and Fordham there. Why do you need this HAWK  
6 signal?

7 MR. ANDRES: So, as you can go out -- as you are  
8 probably well aware, you can go out there today and there are  
9 pedestrians crossing at that location. So, given that this  
10 is potentially a destination, we've, obviously, coordinated  
11 with the ANCs and with DDOT, and in that coordination it's  
12 been brought up that there is the potential to help  
13 facilitate what currently goes on there today as well as what  
14 potentially could be increased with the proposed development.

15 Now, if you look at the site plan, you know, the  
16 way that people would come -- essentially, if you are north  
17 and east of the site, and you are walking to the site,  
18 chances on you would stay on Yuma to the front entrance of  
19 the shopping center. There is no need for you to actually  
20 go into the alley if you are coming from those destinations.  
21 So, that means approximately a third of the population that  
22 would potentially come to the grocery store would, could  
23 potentially come from the south and/or from the alley to the  
24 south.

25 So, if you were looking at a map and see how

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1 people would walk here, they would eventually need to get to  
2 Yuma because the alley doesn't connect further north. The  
3 alley dead-ends at Yuma. So, in order for people to access  
4 the front of the grocery store, they would either be coming  
5 from points north, coming down and, then, turning right or  
6 left onto Yuma to access the site.

7 MR. SMITH: Do you know the distance between the  
8 proposed site of the HAWK signal and the intersection at 48th  
9 and Mass Avenue?

10 MR. ANDRES: Well, again, since the HAWK signal  
11 hasn't been designed, we haven't identified where the  
12 location would be. Just eyeballing it, it looks roughly  
13 midway. You know, I don't have the scale with me right now.  
14 So, I wouldn't be able to tell you what that distance is.

15 MR. SMITH: I thought that you all had told us  
16 previously that the HAWK signal would be where the alley  
17 entrance is off Mass Avenue between the PNC Bank and the  
18 Spring Valley Shopping Center.

19 MR. ANDRES: Yes, that's right.

20 MR. SMITH: Okay. So --

21 MR. ANDRES: We did. So, the question is, on  
22 which side of the alley? We haven't determined. We haven't  
23 --

24 MR. SMITH: Okay. So, roughly, what distance is  
25 that from that point to the intersection of 48th and Mass?

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1 I think I asked you this question at the last hearing, and  
2 you said you would tell us.

3 MR. ANDRES: You know what? I have, I have --

4 MR. SMITH: And you never did.

5 MR. ANDRES: With the beauty of Google --

6 MR. SMITH: But my memory may be failing me.

7 MR. ANDRES: My colleague will help me with the  
8 answer.

9 MR. SMITH: Okay. All right. Let me move on.  
10 Did you make any -- I'm also a little confused because I  
11 thought that there were changes that you made in the loading  
12 docks. Have you made any changes in the loading docks, in  
13 the loading dock design at the site?

14 MS. ALEXANDER: Yes.

15 MR. SMITH: Can you clarify what those are?

16 MS. ALEXANDER: Yes. We reduced the loading from  
17 two 55-foot trucks to one 55-foot truck, and we are still  
18 providing the 20-foot service space and the 30-foot truck for  
19 the residential.

20 MR. SMITH: Okay. Do you know what the apron is  
21 for the -- the apron length?

22 MS. ALEXANDER: The alley apron or?

23 MR. SMITH: No, I'm talking about for the loading  
24 dock.

25 MR. ANDRES: So, the width of the opening?

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1 MR. SMITH: No, I'm talking about the length of  
2 the apron for the loading dock.

3 MS. ALEXANDER: We have 10 feet from the property  
4 line to the building face, and then, we had recessed an  
5 additional 10 feet from the building face to the loading dock  
6 door. So, there's 20 feet --

7 MR. SMITH: No, I'm not talking about that. I'm  
8 talking about the apron is the area where that takes in the  
9 parking and the maneuvering space to get out of the loading  
10 dock. What would that length be?

11 MS. ALEXANDER: Do you mean width or depth?

12 MR. SMITH: I mean this --

13 MS. ALEXANDER: The width?

14 MR. SMITH: No, I mean the length, the depth. The  
15 depth from the building, but the apron is both the depth of  
16 the building plus the maneuvering space.

17 So, I guess my question is, did you all look, when  
18 you designed this, did you look at any of the specifications  
19 from loading dock design companies, and the like, that get  
20 into this sort of thing, to ensure that it is safe and --

21 MR. ANDRES: Yes.

22 MR. SMITH: -- that there's adequate space?

23 MR. ANDRES: So, we have run AutoTURN diagrams to  
24 confirm the loading, and the maneuverability of those  
25 vehicles using that loading dock has been confirmed. So,

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1 yes, the short answer is, yes, we've used AutoTURN to ensure  
2 that the loading dock has been designed adequately.

3 MR. SMITH: Okay. So, the companies that do this  
4 for a living, that design these things for a living, say that  
5 you need an apron space of about twice the size of a truck  
6 in order to get out of a loading dock space. So, if you have  
7 a 55-foot -- I'm sorry, what is it? -- a 55-foot truck, that  
8 would be roughly about 110. It could change based on what  
9 the center distance is in each of the loading docks.

10 MR. ANDRES: Uh-hum.

11 MR. SMITH: Do you know what that center line  
12 space is?

13 MR. ANDRES: So, the way that the loading for the  
14 larger trucks, which seems to be what you're concerned about,  
15 is that when they come up 48th, they would come west,  
16 northwest along the east-west alley -- and Ms. Alexander is  
17 showing the path of trucks -- pull forward and, then, back  
18 up.

19 MR. SMITH: Actually, that's not my question at  
20 all. My question, what I'm trying to find out is whether  
21 what you have meets standards, best practice standards, for  
22 design of loading docks. And what I'm hearing is that it  
23 doesn't, but I just want to kind of confirm in my mind --

24 MR. ANDRES: I don't understand where, why you  
25 think it doesn't.

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1 MR. SMITH: Okay. Because it's --

2 MR. ANDRES: We have confirmed, then, with  
3 truck-turning diagrams, which is consistent with industry  
4 practice.

5 MR. SMITH: Well, industry practice says you need  
6 about twice the size of a truck. Okay. But I'll just move  
7 on.

8 CHAIRMAN HOOD: What we're going to do is, yes,  
9 let's do this. Let's do this. If he asks the question, and  
10 when you get ready to do your presentation, you want to  
11 refute it, you can do it.

12 MR. SMITH: Yes, sir.

13 CHAIRMAN HOOD: Let me just say this. We have a  
14 screen down there that's in front of you. If you want to  
15 show a design, because I don't see many people from the  
16 Zoning Commission here -- I think the BZ, I don't know what  
17 they might do. But you can draw on that, and then, you can  
18 go on and erase it, if you want to show something, so we all  
19 can see it and it will show everywhere. I think that works.

20 MR. SMITH: I'm pretty much beyond that point now,  
21 but thanks.

22 CHAIRMAN HOOD: But you can take your finger and  
23 just do it, and, you know --

24 MR. ANDRES: And to answer your previous question,  
25 the potential or possible location for a HAWK signal is

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1 roughly 300 from Yuma, 300 feet from -- excuse me -- from  
2 49th and 340ish from 48th.

3 CHAIRMAN HOOD: Let me interrupt one second.

4 Mr. Turnbull?

5 COMMISSIONER TURNBULL: Yes, thanks, Mr. Chairman.

6 Maybe, Mr. Andres, to help put this to bed, maybe  
7 you can do what you've done before, is provide a proof of  
8 scheme, turning radiuses that show actually how these trucks  
9 move in and out. I think if you do that, I mean, I think  
10 that's based upon -- you base it upon industry standards and  
11 the length of trucks. So, if you could provide a proof of  
12 scheme that shows how trucks enter, I think that might help.

13 MR. ANDRES: Okay. Thank you, Mr. Turnbull.

14 MR. SMITH: I just want to go over my notes one  
15 more time and just be sure here.

16 CHAIRMAN HOOD: We all know you want to go over  
17 your notes to make sure here. Okay.

18 MR. SMITH: One last question here. And it has  
19 to do with the townhomes. You're suggesting that the  
20 townhomes represent -- and maybe we could show the townhomes  
21 here? Can you just circle the townhomes? Okay. Okay.

22 And the AU Building, the AU Building, that's not  
23 on that page, is it? Okay. You've been talking about -- I  
24 thought the alley was a street there. I'm sorry. You've  
25 been talking about the townhomes as being a transition, that

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1 they provide a transition to the neighborhood, their  
2 location.

3           The question I have is, why did you, beyond the  
4 issue of the tree, okay, and I get the issue of the tree.  
5 But if you're looking at doing a transition, using the  
6 townhomes as a transition to the neighborhood, most of the  
7 single-family homes are on the Yuma side. Can you show where  
8 the Yuma side -- yes, up in that area and across on 48th.  
9 Why did you choose to put the townhomes at this end instead  
10 of on the opposite end closer to Yuma, if you wanted to do  
11 a transition to the neighborhood?

12           MS. ALEXANDER: This area on the south was not  
13 feasible for the multifamily, given the heritage tree.

14           MR. SMITH: Right.

15           MS. ALEXANDER: On the other side, if you put the  
16 townhomes on Yuma, that would make there be even more density  
17 pushed towards 48th in order to maintain the same size.

18           MR. SMITH: Well, that's exactly my question. On  
19 48th, you have the highest density in all of the  
20 neighborhood, that being the AU Building. That's the  
21 highest, that's the most density that we have right now.  
22 Everything else is one-, two-story buildings here. That's  
23 sort of the anomaly.

24           So, why, then, do you have the highest density,  
25 then something lower density, and then, you go back to higher

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1 density, and then, you go back to the lower density of the  
2 single-family homes along Yuma and on 48th and stretching  
3 back?

4 How is that a transition? Isn't that kind of we're playing  
5 like a rollercoaster here?

6 MS. ALEXANDER: I don't recall using the word  
7 "transition," but --

8 MR. SMITH: It's actually in all your documents  
9 that you filed.

10 MS. ALEXANDER: That said, the grocery store was  
11 also a pivotal point in our discussion, and the grocery store  
12 could not be located in the area that we have the townhomes,  
13 one, because of the heritage tree and, two, because of the  
14 odd shape of the site in that location. So, the grocery  
15 store was the more appropriate use, as located adjacent to  
16 the Spring Valley Shopping Center, and with the multifamily  
17 building above --

18 MR. SMITH: Can you show where the grocery store  
19 -- the grocery store is way down, way down there?

20 MS. ALEXANDER: Correct.

21 MR. SMITH: So, I'm talking about moving them to  
22 the corner there at Yuma and 48th. I'm just trying to  
23 understand if there is a rationale other -- you mentioned  
24 about this idea of a transition, that that was the value of  
25 the townhomes, that they would be a transition to the

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1 neighborhood.

2 MS. ALEXANDER: The building, our use of  
3 courtyards and setbacks and terracing is a use of transition  
4 to the neighborhood.

5 MR. SMITH: Okay.

6 MS. ALEXANDER: I don't recall the townhouses  
7 being used as transition.

8 MR. SMITH: All right. And then, I do have one  
9 last question. In total -- in total -- how much retail space  
10 are we losing at this site as a result of this project? You  
11 already said, you already testified you had about  
12 40-some-thousand, there's 40-some-thousand square feet of  
13 retail currently at the site. If the grocery store was  
14 operational, we'd have 40-some-thousand square foot of retail  
15 at the site. So, are we losing -- are my calculations  
16 correct that we're losing about 20-some-thousand square feet  
17 of retail services in the neighborhood? I think it's a  
18 simple subtraction.

19 MR. LANSING: Chair, we'll submit the specifics  
20 of that --

21 MR. SMITH: Okay.

22 MR. LANSING: -- with the answer.

23 MR. SMITH: Okay. Then, instead of answering that  
24 question right now, can you answer this question? What  
25 retail services are going to go out or are going to have to

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1 close, currently operating retail services at the site are  
2 going to have to close as a result of this development?

3 MR. LANSING: There are a couple of different  
4 answers to that question because some of the current retail  
5 users of the site, their leases expire within the next 24  
6 months. So, to pin, I guess, the blame, if you will, on the  
7 development of the site for those businesses to go out, I  
8 don't think I can answer that specifically because, again,  
9 lease terms end before we will break ground.

10 MR. SMITH: Okay. If this site were operational  
11 now, what businesses would not exist anymore at the site?  
12 Do you want me to ask it this way? Will DeCarlo's exist at  
13 the site, DeCarlo's restaurant?

14 MR. LANSING: Will they exist how?

15 (Laughter.)

16 MR. SMITH: Will they have a space at this site?

17 MR. LANSING: Our future on the site, they will  
18 not, no.

19 MR. SMITH: Okay. Will John Paul Salon have a  
20 site?

21 MR. LANSING: They will not have a space on the  
22 site, no.

23 MR. SMITH: Will Spring Valley Catering have a  
24 site?

25 MR. LANSING: No.

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1 MR. SMITH: I don't know if I'm missing anything.  
2 Oh, the barbeque place. I'm sorry, I forgot the barbeque  
3 place. Would the barbeque place have a site, a place --

4 MR. LANSING: No. No.

5 MR. SMITH: Okay. All right. Thank you, sir.

6 CHAIRMAN HOOD: Okay. All right. I think that  
7 is all of our parties. So, what we'll do now, unless my  
8 colleagues have other comments or questions, we'll go to the  
9 Office of Planning, and then, we'll go to the District  
10 Department of Transportation.

11 Ms. Vitale?

12 MS. VITALE: Good evening, Mr. Chair and Members  
13 of the Commission. Elisa Vitale with the Office of Planning.

14 The Office of Planning continues to recommend  
15 approval of this subject design review application, and we  
16 would like to reiterate that this is a voluntary design  
17 review application which conforms to the development  
18 standards of the MU-4 zone, with the exception of two items,  
19 the Applicant's requested flexibility for rear yard and a  
20 special exception for the penthouse stair enclosures on four  
21 of the five townhouses. OP is recommending approval of those  
22 two areas of relief.

23 The project would otherwise comply with the zoning  
24 regulations, including the Inclusionary Zoning requirements.  
25 OP recognizes the importance of the provision of affordable

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1 housing. The Applicant hasn't requested relief from the  
2 Inclusionary Zoning provisions, and the project would,  
3 therefore, have to comply with the regulations that are in  
4 place at the time that the Applicant secures building  
5 permits, should this project be approved.

6 OP appreciates the Applicant's responses to the  
7 six items that were requested. We will continue to work with  
8 the Applicant and OAG to refine condition language as  
9 appropriate in the order to address those items.

10 I'll keep things short. This concludes the OP  
11 report. I'm happy to answer any questions that you might  
12 have. Thank you.

13 CHAIRMAN HOOD: Okay. Thank you.

14 Let's go right to Mr. Zimmerman.

15 MR. ZIMMERMAN: Good evening, Chairman Hood and  
16 Commissioners. For the record, my name is Aaron Zimmerman  
17 with the District Department of Transportation.

18 We have reviewed the revised plan set, which shows  
19 only relatively minor revisions from the development proposal  
20 we evaluated and testified in great depth about a year ago.  
21 DDOT has no objection to the proposed revisions and continues  
22 to support this voluntary design review application, subject  
23 to the conditions previously agreed to by the Applicant.

24 Thank you.

25 CHAIRMAN HOOD: Okay. Ms. Vitale, let me ask you,

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1 you put a lot of emphasis, when you said you were reminding  
2 us that this is a voluntary design review, I can't remember  
3 -- and I think I've asked this question before; it shows how  
4 bad my memory. I can't remember why we even called this  
5 voluntary design review. When we were doing the ZR and all  
6 of that, why did we do that?

7           Maybe Ms. Steingasser can help me.

8           Because you put a lot of emphasis on it.

9           MS. STEINGASSER: Well, there are areas in the  
10 city where design review is required prior to a building  
11 permit. The Capitol Gateway area down by the stadiums,  
12 they're required to go through this.

13           When we had originally started through the zoning  
14 rewrite, we were looking at different types of plan unit  
15 development, one of which we were calling a PUD light or --

16           CHAIRMAN HOOD: Right. Yes, okay.

17           MS. STEINGASSER: -- a PUD 1.

18           CHAIRMAN HOOD: Right.

19           MS. STEINGASSER: That got removed and got brought  
20 into this concept of design review. So, then, we had to  
21 distinguish between those properties that wanted to go  
22 through the process and those that were required.

23           CHAIRMAN HOOD: Okay. Thank you for refreshing.  
24 I remembered, as soon as you said "PUD light," I remembered.  
25 Okay.

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1 All right. Any other questions of the Office of  
2 Planning or DDOT?

3 Commissioner Shapiro?

4 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. Just  
5 a quick question for Mr. Zimmerman.

6 If you could talk a little bit from your  
7 perspective about this issue in the alley, the intersection  
8 of pedestrian and bicyclists and through traffic and the  
9 trucks? Where is your comfort level with this? Give me a  
10 sense of the flavor of the conservation with the Applicant  
11 because you're approving this, or you're recommending  
12 approval rather.

13 MR. ZIMMERMAN: Yes. So, in our discussions with  
14 the Applicant over the last year or two, we have talked about  
15 having like the lead sidewalk coming in from Massachusetts  
16 and, then, providing something up against the building face  
17 on the eastern side of the north-south alley, which is what  
18 they're showing as the 3-foot footpath. And with that being  
19 on private property, I think that's partially why they  
20 described it as like an additional amenity, because DDOT  
21 typically would not require sidewalks along an alley. They  
22 are typically intended for trucks, vehicle parking,  
23 back-of-the-house operations.

24 But, just given that there is a direct route from  
25 Massachusetts Avenue, we thought that having the sidewalk on

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1 the western side, which my understanding is that they have  
2 more control over the ability to put the sidewalk on the  
3 western side of the alley near Massachusetts, and then, on  
4 their property on the eastern side. So, understanding that  
5 there are going to -- you know, whether we would like there  
6 to be pedestrians or not, this does provide some separation  
7 from moving vehicles.

8 COMMISSIONER SHAPIRO: Pardon me for even  
9 suggesting that this is anywhere near the Wharf in terms of  
10 its intensification of development, but did you consider  
11 anything that would put pedestrians a little bit more forward  
12 in the process, where rather than focus on the separation,  
13 focus more on the merging of the modes?

14 MR. ZIMMERMAN: Well, I think, you know --

15 COMMISSIONER SHAPIRO: There's not enough traffic  
16 for the --

17 MR. ZIMMERMAN: Well, I think from our  
18 perspective, we understood that there were going to be  
19 trucks, that there were going to be trash pickup trucks,  
20 recycling trucks, you know, vehicles accessing the parking  
21 garage back there. So, our preference would be that people  
22 use the ADA accessible public sidewalk network, but  
23 understanding that there are going to be some people that  
24 that would be a direct route for.

25 COMMISSIONER SHAPIRO: So, in short, what I'm

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1 hearing is you actually don't want to encourage a lot of  
2 pedestrian use there, but you expect there will be some?

3 MR. ZIMMERMAN: Correct.

4 COMMISSIONER SHAPIRO: Okay. All right. Thank  
5 you. It's helpful.

6 Thank you, Mr. Chair.

7 CHAIRMAN HOOD: Mr. Turnbull?

8 COMMISSIONER TURNBULL: Thank you, Mr. Chair.

9 Mr. Zimmerman, I'm sure you addressed it. We've  
10 talked about it previously. Maybe if you could just go back  
11 and give your viewpoint again on the HAWK signal and talk  
12 about spacing, or whatever?

13 MR. ZIMMERMAN: Yes. So, my understanding is that  
14 this was an amenity that the Applicant and the ANC had  
15 developed kind of organically from the community. And it was  
16 pitched to us at DDOT. And so, we took it back to our  
17 experts, our traffic signal experts, our pedestrian planners,  
18 to kind of get their take on it.

19 And I guess over the years there had been  
20 complaints about a lot of jaywalking in this area, like on  
21 this block. And so, kind of based on that, and then, the  
22 anticipation of additional development on the southern side  
23 of Massachusetts, and then, additional development here, it  
24 seemed to the experts back at DDOT that this would be a  
25 logical location. And then, it being kind of halfway in the

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1 block sort of at the alley opening, as Mr. Andres said, you  
2 know, we're still finalizing and discussing which side it  
3 would go on, but there would be that pedestrian connection  
4 coming in, up the alley.

5 COMMISSIONER TURNBULL: Thank you. Thank you very  
6 much for explaining that.

7 CHAIRMAN HOOD: Any other questions up here?  
8 Other comments?

9 (No response.)

10 Okay. Let's go to the parties. I'm sorry, does  
11 the Applicant have any cross of either --

12 MR. GLASGOW: No cross.

13 CHAIRMAN HOOD: Okay. Does ANC 3D, Mr. Kravitz?

14 (No response.)

15 Okay. I'll come back. I think he must have just  
16 stepped out.

17 ANC 3E, any cross?

18 (No response.)

19 Okay. Ward 3 Vision, any cross?

20 PARTICIPANT FROM WARD 3 VISION: No, sir.

21 CHAIRMAN HOOD: Any Spring Valley Neighborhood  
22 Association, any cross? Okay. Spring Valley Neighborhood  
23 Association?

24 (Off-microphone comment.)

25 I'm sorry, I forgot you last time? I thought

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1 Neighborhood for Livable Communities and Spring Valley were  
2 together. But I'm being told -- I want to make sure just in  
3 case. You know, the courts like to come behind me.

4 MS. SCHELLIN: They were joined together last  
5 time.

6 CHAIRMAN HOOD: Yes. So, I thought they were  
7 doing that this time.

8 MS. SCHELLIN: Yes. They were all joined  
9 together.

10 CHAIRMAN HOOD: Hold on. What I'm trying to do  
11 is get that clarified because I don't want to have any issues  
12 later on and have to come back and have another hearing. So,  
13 is it clear that Spring Valley -- and I'm asking you, Mr.  
14 Smith -- that Spring Valley and Neighbors for a Livable  
15 Community are together, right?

16 (Off-microphone comment.)

17 CHAIRMAN HOOD: Okay. All right. So, I didn't  
18 forget that. Okay. All right.

19 Is Mr. Kravitz back? Okay. He may not have any  
20 cross. Okay.

21 Let's go to -- let me see if I can get this right  
22 this time -- Citizens for Responsible Development. For some  
23 reason, I have another title in my mind and it doesn't go  
24 away.

25 So, Mr. Donohue and Mr. Shelly Repp.

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1 MR. DONAHUE: Thank you, Mr. Chairman.

2 A couple of questions for the Office of Planning,  
3 if I could. Over the many hearings and many discussions  
4 we've had about this project, I often ask about the grocery  
5 store. So, I'm going to ask about the grocery store again.

6 We've noticed that the Office of Planning has some  
7 proposed conditions. OP has got things that it really wants  
8 to see out of this project. We've also noticed that the  
9 grocery store is not one of those items. Is there a reason  
10 that that's not one of the conditions?

11 MS. VITALE: I don't believe OP has proposed  
12 conditions. There were six items that we were requesting  
13 some additional information and clarification on. So, I  
14 don't believe OP is recommending any conditions.

15 MR. DONAHUE: Is OP satisfied with the response  
16 from the Applicant about its commitment to the grocery store?

17 MS. VITALE: The Applicant has indicated that they  
18 would commit to a 10-year lease with a grocery tenant. That  
19 would be satisfactory. OP would note that we would  
20 anticipate that, should the grocery go away, that there would  
21 be some other retail or commercial use that would occupy that  
22 same space that's being designated now for the grocery.

23 MR. DONAHUE: You're assuming that that's going  
24 to happen?

25 MS. VITALE: I'm saying that is what would be

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1 anticipated, that the space that is designated for a  
2 commercial use on the plans now, what we're talking about  
3 tonight as a grocery use, should that grocery use go away  
4 after the 10-year period that's been identified, that that  
5 space would, then, be occupied by a commercial use.

6 MR. DONAHUE: And how do you suppose that's going  
7 to be enforced?

8 MS. VITALE: As discussed, there's a condition  
9 that would be included in the order. So, this is something  
10 that the Applicant, Office of Planning, and the Office of  
11 Attorney General would work to memorialize through the  
12 approved order. And then, that order would be something that  
13 DCRA would review and look at, should building permits be  
14 applied for for this property in the future.

15 MR. DONAHUE: All right. Let me ask you about the  
16 size of the grocery store. We're now talking about 16,000  
17 square feet, and we've gone up and down a little bit over the  
18 course of this application. But we're now at about 16,000  
19 square feet. And my question is, does the OP have an opinion  
20 as to whether that's viable for what's being described as a  
21 full-service grocery?

22 MS. VITALE: I do not.

23 MR. DONAHUE: Okay. Has OP been involved in any  
24 of those discussions about this, I'll call it an amenity?  
25 Has OP been involved in discussions with the Applicant about

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1 what this might look like?

2 MS. VITALE: The Applicant has certainly discussed  
3 with the Office of Planning the grocery tenant, and we have  
4 met with the Applicant over the course of the multiple  
5 iterations of this project, as the grocery has grown and  
6 shrunk over time. But I don't think we have any particular  
7 thoughts as to viability, no.

8 MR. DONAHUE: All right. Ms. Steingasser, I'm  
9 glad you're here because I want to ask you about a report  
10 from last year, from February of 2012. The Zoning Commission  
11 had asked, in the January hearings, the Zoning Commission had  
12 asked for some background as to how design review came to be.  
13 As the Chair says, you know, at one point it was PUD light  
14 and now it's no longer PUD light, et cetera. But you issued  
15 a report dated February 12th. It's Docket No. -- I'm not  
16 quite sure -- 245, I think.

17 And you were discussing and you appended some  
18 testimony from a Zoning Commission case and said, well,  
19 really, this was meant to be, what we were looking at is a  
20 Stage 1 PUD. And you suggested that we ought to look at that  
21 as sort of analogous. So, a design review would be analogous  
22 to PUD review. Does that ring a bell?

23 MS. STEINGASSER: No, I'm sorry, it doesn't.

24 MR. DONAHUE: Are you able to get that report on  
25 your -- or, no, you're not?

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1 CHAIRMAN HOOD: Mr. Donahue, did you say 2012?

2 MR. DONAHUE: I'm sorry, February 12th, 2018.

3 CHAIRMAN HOOD: Oh.

4 MR. DONAHUE: Sorry about that.

5 CHAIRMAN HOOD: I thought you said 2012.

6 MR. DONAHUE: I may have. I'm sorry, Mr.  
7 Chairman. February 12th, 2018.

8 MS. STEINGASSER: Oh, are you talking about the  
9 memorandums on aggregation where we were briefing the  
10 Commission, and the other parties briefed to the Commission  
11 on aggregation?

12 MR. DONAHUE: It's styled as OP Supplemental  
13 Report for Zoning Commission 16-12, Voluntary Design Review  
14 for Valor.

15 MS. STEINGASSER: Okay. That was the memorandum  
16 on aggregation.

17 MR. DONAHUE: Okay. So, at page 4, we were  
18 discussing public benefits.

19 MS. STEINGASSER: Okay.

20 MR. DONAHUE: And the bullet No. 3, below the OP  
21 proposal, said, "Should last for the life of the project,  
22 unless specified." Do you recall that?

23 MS. STEINGASSER: That's correct. That's from the  
24 original discussion of 2012 to the Zoning Commission about  
25 PUDs.

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1 MR. DONAHUE: All right.

2 MS. STEINGASSER: Uh-hum.

3 MR. DONAHUE: So, is the OP satisfied that the  
4 10-year commitment is commensurate with the lifetime of the  
5 project or how do you reconcile those two?

6 MS. STEINGASSER: Well, this is relative to  
7 another case and to the PUD process, not to the design review  
8 process.

9 MR. DONAHUE: All right. Well, what I'm getting  
10 at is, since the inception of this project, the grocery store  
11 has been held out as an amenity.

12 MS. STEINGASSER: Uh-hum.

13 MR. DONAHUE: It's been suggested that it's  
14 important to the community. Superfresh has been going a long  
15 time, and to get a grocery store in there would be seen as  
16 a real benefit, a public benefit.

17 MS. STEINGASSER: Uh-hum.

18 MR. DONAHUE: So, what I'm asking the Office of  
19 Planning is, are you satisfied with the level of commitment  
20 from the Applicant to do the grocery store?

21 MS. STEINGASSER: Well, as you know, in the design  
22 review, there are no benefits and proffers, the way there are  
23 with the PUD. The Applicant has committed through the design  
24 that the space will be for commercial retail, and we are  
25 satisfied with their commitment to maintain that space

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1 commercial/retail and their commitment to focus the first 10  
2 years, the first decade, on the grocery store.

3 MR. DONAHUE: All right. In your more recent  
4 report, you give a very brief opinion about the historic  
5 preservation. You said there was a conversation with  
6 Historic Preservation staff and they were satisfied that no  
7 historic preservation review is necessary, is that correct?

8 MS. STEINGASSER: They confirmed that no  
9 additional preservation review would be required for this  
10 project.

11 MR. DONAHUE: And was that done in writing?

12 MS. STEINGASSER: No.

13 MR. DONAHUE: Okay.

14 MS. STEINGASSER: We went down the hall and we  
15 asked them, and we showed them the information that had been  
16 placed into the record, and got their oral confirmation.

17 MR. DONAHUE: Okay. Well, that makes sense. So,  
18 were they asked about this application or were they asked in  
19 general?

20 MS. STEINGASSER: They were asked, well, in  
21 particular, they were aware that it was relative to this case  
22 in particular.

23 MR. DONAHUE: Okay. Thank you.

24 MR. REPP: Okay. With respect to the Office of  
25 Planning says that you continue, your report says you

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1 continue to urge the Applicant to ensure that the north-south  
2 and east-west alley connections provide a safe and inviting  
3 pedestrian environment.

4 Can you put that slide up about the alley network  
5 on here?

6 But do you think that they are safe right now, Ms.  
7 Steingasser or Ms. Vitale?

8 MS. VITALE: I think that comment related more  
9 specifically to the treatment of the facades along those  
10 alleys. We would certainly defer to DDOT with respect to  
11 pedestrian and vehicular safety along the alley.

12 We wanted to ensure, and we've had ongoing  
13 discussions with the Applicant -- sometimes when there are  
14 grocery tenants or other retailers, windows that were  
15 originally proposed as clear glass windows end up covered up  
16 for back-of-house functions. I think we wanted to make sure  
17 that, if people were going to be walking through this alley  
18 network, that we had some certainty that there would be eyes  
19 on the street, that there would be clear glass in these  
20 windows, that it wouldn't be an entire facade that was blank  
21 and covered over with no sort of eyes on the street. And  
22 we've had ongoing discussions with the Applicant, and they've  
23 provided additional information that shows where there would  
24 be clear glass and visibility through the interior commercial  
25 spaces onto the alley network.

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1 MR. REPP: One more question for Office of  
2 Planning. Your report mentions that there will be 72 parking  
3 spots reserved for residents and 236 that will be shared with  
4 American University, a little bit different numbers than we  
5 heard from Mr. Andres. But, with respect to shared spots --  
6 and right now there's a requirement that Valor provide or the  
7 owner of the shopping center provide spaces for American  
8 University. There's also a requirement in your report that  
9 requires that tenants, that there be leases actually, that  
10 the tenants, the residents of the building lease their  
11 parking spaces. So, if you have a leased parking space in  
12 the garage of the Superfresh building, but, all of a sudden,  
13 the space that you've been leased to or some of the spaces  
14 are shared with AU and they're not available when you pull  
15 into the garage, what's going to happen?

16 MS. VITALE: Can you point to where we're saying  
17 that tenants must lease spaces? And to speak to the numbers  
18 issue, I believe that the Applicant has refined the parking  
19 number slightly. So, if there are certain inconsistencies,  
20 we can certainly make sure that the parking numbers are all  
21 up-to-date.

22 MR. REPP: Well, I'm not going to be able to find  
23 that this moment, but I know it's in there, that there is a  
24 requirement that both the employees of the retail and the  
25 residents pay for their parking spots. The only people that

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1 don't have to is the customers of the grocery.

2 But I do think there's a problem there. And  
3 frankly, if there's no spots available, they're going to park  
4 in the neighborhood. They're going to park in American  
5 University Park. They're going to park in Spring Valley --

6 CHAIRMAN HOOD: Let's do this. Let's find it  
7 first and make sure it's in there.

8 MR. REPP: Yes.

9 CHAIRMAN HOOD: And then, we can go into all of  
10 that. So, I will allow that one question to come back, once  
11 you find it.

12 MR. REPP: Okay. That's fair.

13 CHAIRMAN HOOD: Because if it's not there, that  
14 will save us some time.

15 MR. REPP: That's fair.

16 CHAIRMAN HOOD: We don't want to talk about  
17 anything that's not there. Let's find it first, because I'm  
18 actually looking for it as well.

19 MR. REPP: That's fair.

20 CHAIRMAN HOOD: Okay.

21 MR. REPP: Mr. Zimmerman, with respect to the  
22 alley network, what we were talking before, with respect to  
23 the alley between, at the end there as it moves on down to  
24 Massachusetts Avenue, there's a 3-foot sidewalk there,  
25 correct?

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1 MR. ZIMMERMAN: Yes, that's my understanding.

2 MR. REPP: And that sidewalk there is important  
3 to you, as far as pedestrian safety, right?

4 MR. ZIMMERMAN: That's correct.

5 MR. REPP: Yes. And that alley is on private  
6 property right now? The sidewalk is on private property now.  
7 It's not part of the alley?

8 MR. ZIMMERMAN: Correct.

9 MR. REPP: Okay. With respect to Citizens for  
10 Responsible Development, going back to the January hearing,  
11 you said at the time that you hadn't reviewed the materials  
12 that I had provided you with respect to parking issues and  
13 the consultant report that we had retained from Joe Mara of  
14 MCV Associates. Have you looked at that since then?

15 MR. ZIMMERMAN: Yes, I have, and I've also looked  
16 at the Applicant's response to comments for that, where they  
17 went point-by-point through each one of those.

18 MR. REPP: So, Joe Mara, using Institute of  
19 Transportation Engineers' numbers, showed that the traffic  
20 being generated by this project, both the residential and the  
21 grocery store, would create 3500 additional trips per day.  
22 Do you take issue with that or not?

23 MR. ZIMMERMAN: Yes, I would take issue with that.  
24 That seemed quite a bit high than what we would estimate.  
25 What it appeared to me that Mr. Merritt did -- and you could

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1 correct me if I'm wrong -- but in our industry we have a  
2 little bit of a rule of thumb when trying to estimate daily  
3 traffic, where you multiply the peak hour by 10, and that  
4 gives you a rough estimate of the daily trips. And it sounds  
5 to me like that's what he did.

6 I took a look at the trip generation estimates  
7 from Gorove/Slade, and it looks to me, based on the mode  
8 split that we had all agreed to, that the volumes -- we  
9 purposely overestimated traffic volumes to be conservative  
10 and to kind of prepare for a worst case traffic scenario.  
11 So, I mean, I would put it probably closer to the 2,000  
12 daily, maybe not even that.

13 MR. REPP: Well, I will provide to you the  
14 numbers. And actually, it's not his rule of thumb of 10  
15 times or anything like that. He says he has the number based  
16 on the use of the property.

17 By the way, here I have from the Office of  
18 Planning -- the Office of Transportation report, January 2nd,  
19 2018, there is a requirement that required in your TDM  
20 unbundled cost of parking will be based on the average market  
21 rate within a quarter mile. So, I believe that that is a  
22 requirement.

23 MR. ZIMMERMAN: Okay.

24 MR. REPP: With respect to the walkaround last  
25 week and this issue about truck access that came up before,

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1 I think with respect to 50-foot wheelbase trucks, which I  
2 understand can be 55, the truck itself can be 55 to 60 feet  
3 in length, and certainly one of the grocery stores that is  
4 being under contemplation here uses wheelbase 50-foot trucks.  
5 You indicated that if there was a problem with them getting  
6 into these loading docks -- and we certainly talked about  
7 that in the question-and-answer a few minutes ago -- that the  
8 trucks would just park in the alley to unload. And it might  
9 take, for a 50-foot truck like that, it might take -- how  
10 long would it take to unload maybe?

11 MR. ZIMMERMAN: I don't have any idea.

12 MR. REPP: And you suggested if that were the  
13 case, the truck would have to back up 300 feet to get back  
14 to 48th Street, is that correct?

15 MR. ZIMMERMAN: Thirty-three hundred feet or?

16 MR. REPP: Yes, 300 feet.

17 MR. ZIMMERMAN: I don't remember suggesting that,  
18 but I do remember on our tour, at the point that we were  
19 talking about the 55-foot loading bay, I had not seen at that  
20 point the turning diagrams for the 55-foot trucks from  
21 Gorove/Slade. As soon as I got back to the office from the  
22 walking tour, I reached out to them and they promptly sent  
23 them over.

24 But what I said during the tour was that I wasn't  
25 at that point in time sure that the AutoTURN had been done,

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1 but that we would prefer, if they ever had to stop, that it  
2 would be in the alley rather than on Yuma or 48th, but I  
3 wanted to confirm that first.

4 MR. REPP: With respect to the other alley, the  
5 north-south alley, there are trucks there unloading for the  
6 CVS in the shopping center. And CVS also uses 55-foot  
7 wheelbase, 50-foot trucks. How do you envision those trucks  
8 being unloaded?

9 MR. ZIMMERMAN: Well, there's a substantial  
10 portion of private property on the Spring Valley Shopping  
11 Center side. They could unload on their property or, if need  
12 be, they can unload in the alley. My understanding is that  
13 a lot of these larger trucks tend to come outside, way  
14 outside of the peak hours at night, at off-peak time. So,  
15 we would expect probably fewer conflicts with vehicles and  
16 pedestrians at those times.

17 MR. REPP: Those trucks would not, if they used  
18 the alley, they would not be able to exit via Massachusetts  
19 Avenue, correct?

20 MR. ZIMMERMAN: I don't know that that's correct.  
21 I haven't seen any, the diagrams, AutoTURN diagrams, showing  
22 that trucks could not make that turn.

23 MR. REPP: Well, Bill Fuchs from Wagshal's, maybe  
24 he can talk about it when he's -- maybe somebody can ask him  
25 that question later.

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1 I guess that's all I have for now.

2 MR. DONAHUE: Can I ask one question of DDOT? Mr.  
3 Zimmerman, the suggestion has been made that there would be  
4 coordination between the Valor Development, Spring Valley  
5 Shopping Center, CVS, and others, as to trash pickups and,  
6 also, cleanup of the trash collection area in the alley. And  
7 about a year ago, we were talking about how that might work.  
8 And I realize that a year has gone by and perhaps nothing has  
9 really gone further there. But is DDOT satisfied that this  
10 is something that can be done as a part of this project?

11 MR. ZIMMERMAN: Yes, we're satisfied. Our No. 1  
12 goal in that respect is to get loading off of Yuma and into  
13 the alley and cleaning up the public space, because there's  
14 a lot of dumpsters along the Yuma Street side of the shopping  
15 center. So, those are all being brought into the alley in  
16 a nice, cleaner, less chaotic and messy environment. So, we  
17 are satisfied with that.

18 MR. DONAHUE: Well, it was more than just a  
19 cleanup. There was a coordination of pickup, trash pickup,  
20 recycling, that kind of thing there.

21 MR. ZIMMERMAN: Yes. I mean, that was something  
22 that they've committed to in the loading management plan.  
23 With the Spring Valley Shopping Center being within the  
24 boundaries of this design review application, we wanted to  
25 make sure that there was the coordination, that Spring Valley

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1 moves their trash activities off of Yuma and into the alley,  
2 and that this Applicant who's pursuing this application  
3 facilitate that coordination.

4 MR. DONAHUE: So, when Mr. Repp was asking about  
5 the CVS deliveries, that's happening now because that's an  
6 ongoing operation. Has DDOT looked at that to see how CVS  
7 does its deliveries?

8 MR. ZIMMERMAN: No, we have not looked into that.

9 MR. DONAHUE: On the adjacent side, you have not?  
10 Okay.

11 Thank you.

12 MR. REPP: But isn't it one of your requirements  
13 that they work out that, this developer work that out with  
14 the Spring Valley Shopping Center?

15 MR. ZIMMERMAN: Yes, that's correct. And I think  
16 just by moving the dumpsters around to the alley side, that  
17 would probably go a long way, right then and there, of being  
18 able to have all that activity happen via the alley.

19 MR. DONAHUE: Thank you, Mr. Chairman.

20 CHAIRMAN HOOD: Thank you.

21 Let me go back to ANC 3D. Did you have any cross?

22 ANC COMMISSIONER KRAVITZ: No, sir.

23 CHAIRMAN HOOD: Okay. All right. While I'm  
24 calling up -- let me call the whole name. Spring Valley  
25 Wesley Heights Citizens Association, Neighbors for a Livable

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1 Community, and Spring Valley West Homes Corporation, if you  
2 all can come forward?

3           One of the things, I don't want people staying  
4 until 9:30 and, then, we say, "Okay, well, we're going to  
5 have to reconvene another meeting." So, right now, the date  
6 that we have is January the 24th. It meets our schedules and  
7 I'm hoping it meets everybody else's schedules. Because,  
8 actually, sometimes this can be the hardest part of a  
9 hearing, trying to get everybody's schedule to synchronize.  
10 So, the 24th is the date that we have. We have a free date.  
11 Our case that night got postponed. So, the 24th is the  
12 earliest date that we have. Can we all make it?

13           Yes? Okay. This was very easy.

14           (Off-microphone comment.)

15           CHAIRMAN HOOD: Sorry, do we have a written  
16 testimony from you? Okay. You can always submit that.

17           It seems like everybody is able to make it except  
18 for the gentleman in the back. He can always submit his  
19 testimony.

20           Yes?

21           (Off-microphone comment.)

22           CHAIRMAN HOOD: To the second date? The way  
23 things are moving, that's why I announced it now before nine  
24 o'clock. Because I'm going to do an assessment in about  
25 another 15 to 20 minutes. My goal is not to have you sit

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1 here all night, but, actually, it would be advantageous, so  
2 you can hear what the new proposal is, because it may  
3 decrease some of the opposition or it may increase the  
4 opposition. It depends on how that goes. So, it's up to  
5 you, but I want to give you as much notice as possible  
6 because I have had to sit here myself all day and wasn't  
7 heard. So, I don't want to put anybody in the position I've  
8 been in about 20 years ago. Okay?

9 All right. So, we're going to do a reassessment  
10 in about 20 minutes, if that's okay. I'd like to do at nine  
11 o'clock, 15 minutes. Okay? And then, we'll see how far  
12 we're going to go because I can't predict it.

13 All right. Mr. Smith?

14 MR. SMITH: Thank you, Mr. Chairman.

15 Mr. Zimmerman, I just want to follow up with the  
16 questions that Mr. Repp was asking you about the Spring  
17 Valley Shopping Center and the loading, because I'm a little  
18 confused.

19 You talked about moving the dumpsters, having the  
20 dumpsters moved from Yuma Street into the alleyway. Okay?

21 MR. ZIMMERMAN: That's correct.

22 MR. SMITH: And there are already dumpsters,  
23 though, in the alleyway, correct?

24 MR. ZIMMERMAN: Uh-hum.

25 MR. SMITH: I mean, not all these dumpsters are

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1 on Yuma Street, correct?

2 MR. ZIMMERMAN: That's correct.

3 MR. SMITH: Okay. So, how does moving the  
4 dumpsters -- the trash dumpsters, right? We're talking about  
5 trash now? How does that affect the truck unloading issue  
6 that he was talking about? I just was very confused by your  
7 answer.

8 MR. ZIMMERMAN: Well, the first thing is that, if  
9 the dumpsters are on Yuma, then a lot of the activities, our  
10 understanding is, are happening on Yuma. And so, we want  
11 them to be moved off of Yuma for that reason, because we  
12 don't want those activities taking place curbside, but also  
13 just that's public property. And so, we have policies on no  
14 trash storage on public property.

15 MR. SMITH: Okay. I don't mean to be sarcastic  
16 here, but trucks delivering to CVS, Wagshal's, the gasoline  
17 station, they're not unloading trash, right? I mean, they're  
18 unloading goods.

19 MR. ZIMMERMAN: Well, it sounds like we're talking  
20 about two different things.

21 MR. SMITH: We are talking about two different  
22 things, and so were you and Mr. Repp. So, my question is,  
23 how does moving the dumpsters from Yuma into the alley affect  
24 the loading for the stores, the loading and unloading for the  
25 stores at the Spring Valley Shopping Center.

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1 MR. ZIMMERMAN: Okay. I guess it doesn't. I was  
2 referring to the trash trucks specifically.

3 MR. SMITH: Okay. The other thing you mentioned  
4 was that there was private space at the Spring Valley  
5 Shopping Center for trucks to load and unload. Where is  
6 that?

7 MR. ZIMMERMAN: Well, we would consider anything  
8 on private property, drive aisles, et cetera, they can  
9 certainly do what they want on their own property, but, also,  
10 we have the alley network in the back. And we would prefer,  
11 if they can't do it on private property, do it in the alley  
12 over doing any kind of pickup/dropoff or loading/unloading,  
13 trash pickup, whatever, on public streets.

14 MR. SMITH: Do you know where the loading docks  
15 for the Spring Valley Shopping Center are? Have you ever  
16 seen where -- when you went out there, did you take a look  
17 at where the loading docks for the Spring Valley Shopping  
18 Center are?

19 MR. ZIMMERMAN: I've only toured the site under  
20 review for this property, for the next property. So, I'm not  
21 --

22 MR. SMITH: Well, they're on Yuma Street.

23 MR. ZIMMERMAN: Okay.

24 MR. SMITH: So, that's where the loading docks --  
25 and we're not talking about trucks pulling in. We're talking

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1 about just opening spaces. There is no private space there.  
2 So, I guess my question is, you're trying to work out a deal,  
3 some kind of an agreement with Regency Shopping Center to  
4 require trucks to load and unload in the alley, is that  
5 correct?

6 MR. ZIMMERMAN: Correct.

7 MR. SMITH: The north-south alley --

8 MR. ZIMMERMAN: To move it out of the public --

9 MR. SMITH: Instead of where they load now, which  
10 is on Yuma Street?

11 MR. ZIMMERMAN: Correct.

12 MR. SMITH: And how do you enforce that? And how  
13 do you get a truck when they're trying to load and unload,  
14 and the loading area is right there on Yuma Street, how do  
15 you get them to -- on a practical level, how do you enforce  
16 that they go into the alley to do it? What truck driver is  
17 going to do that?

18 MR. ZIMMERMAN: Well, first, it's a public space  
19 violation. That would take DDOT Public Space Inspectors to  
20 go out and enforce that.

21 MR. SMITH: And so, then, the community would have  
22 to alert the Public Space Department about the violations and  
23 wait for all that to happen?

24 MR. ZIMMERMAN: Correct.

25 MR. SMITH: Isn't that correct?

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1 MR. ZIMMERMAN: Correct.

2 MR. SMITH: Okay. All right. I'm sorry. Thank  
3 you. I just wanted to follow up right immediately after his  
4 because I just didn't understand what you were saying.

5 MS. GATES: I'm going to follow up on that because  
6 I was part of the walkaround. My name is Alma Gates. I  
7 represent Neighbors for a Livable Community.

8 Were you aware before the walkaround that the  
9 dumpsters even existed on Yuma Street?

10 MR. ZIMMERMAN: Yes, I was.

11 MS. GATES: Okay. I was of the impression that  
12 you were surprised to see them.

13 MR. ZIMMERMAN: No. I mean, it was in our report.  
14 We have seen those in the past, and that's what triggered our  
15 comments to coordinate with the shopping center to have those  
16 moved to the alley.

17 MS. GATES: And that is going to add additional  
18 trash dumpsters to the alley. Can it accommodate them?

19 MR. ZIMMERMAN: That is correct, they are. From  
20 my conversations with the Applicant, it sounds like -- and  
21 they can correct me if I'm wrong -- that they're moving more  
22 to a trash compacter-type system, you know, recycling systems  
23 that actually take up less space than the current dumpsters,  
24 that it would not be the gigantic ones with the truck that  
25 pulls the dumpsters over top.

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1 MS. GATES: Yes, we saw that in the alley.

2 The other question I have for you, Mr. Zimmerman,  
3 is, are you going to require, will DDOT require that the TDM  
4 measures be extended to the townhouses, as recommended in the  
5 OP report?

6 MR. ZIMMERMAN: You know, at this point, I don't  
7 think so. They are kind of a separate portion of the site  
8 with their own parking spaces. And as you heard in the  
9 Applicant's presentation, that those few parking spaces would  
10 not be unbundled. Because they are "for sale" units, that  
11 would be associated with each of those units.

12 MS. GATES: But each of those units has its own  
13 parking space, doesn't it?

14 MR. ZIMMERMAN: Correct.

15 MS. GATES: Okay. Thank you.

16 The rest of my questions are for OP, and they  
17 really relate directly to your report. Ms. Vitale, I suppose  
18 they're for you.

19 On page 6, under Zoning Relief, at (b) -- I'm  
20 sorry, I'm on the wrong page. Is there a word missing in the  
21 statement on the proposed townhouse, penthouses, which  
22 currently says "should tend to affect adversely"?

23 MS. VITALE: We were actually joking; we did that  
24 to see if everyone was reading the report. No, there is a  
25 word missing there. And it should read that they "should not

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1 tend to affect adversely" the use of neighboring properties.

2 MS. GATES: Thank you. I'm glad I read it.

3 On the top of page 8, at Exhibit CL-09, under  
4 Exhibit A of the Applicant's October 16th submission, there  
5 are, under the drawings or the depictions of the signage, a  
6 number of signage guidelines which in your report you have  
7 copied and, then, crossed-out. Are you saying that, by  
8 virtue of the fact they're in this report, they are  
9 automatically part of the order?

10 MS. VITALE: If I could clarify, the  
11 strike-through and underlined, bolded language that you see  
12 -- it actually begins on page 6 of the OP report -- this  
13 relates to the Applicant's requested design flexibility.  
14 This is something that you see frequently with any Zoning  
15 Commission application. Applicants frequently request  
16 flexibility. So, if they need to make minor adjustments or  
17 modifications to the plan, as they go through design  
18 development, that they don't end up having to come back to  
19 the Zoning Commission to make certain minor modifications.

20 So, the Applicant, when this application was  
21 submitted originally, and we had the hearing last year in  
22 February, the Applicant proposed certain flexibility  
23 language. The Applicant refined that requested flexibility  
24 language. And so, I had just done, you know, a legal  
25 black-line or a red-line, if you will, so that you could see

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1 how the Applicant was proposing to modify that flexibility  
2 language.

3           So, when you get to the item that you're referring  
4 to about signage on page 8, the Applicant had initially  
5 included those sub-bullets, you know, (a) through (e), the  
6 ones that you see -- let me see if I can -- the ones that you  
7 see right here. The Applicant is proposing to remove those  
8 and to revise the flexibility in item (k) to be more general  
9 and, then, to refer to the plan and guidelines that are  
10 contained in the approved plans.

11           MS. GATES:    Okay, but, given that and the  
12 flexibility being requested, can the residents, can the  
13 neighborhood be assured that they will not have digital,  
14 kinetic LED lights flashing at all hours of the night?

15           MS. VITALE:    Yes, because the Applicant's  
16 incorporating the signage plan that you see on Sheet CL-09,  
17 and that stipulates that signage shall not be digital or  
18 kinetic.

19           MS. GATES:    I think that that was my question.  
20 Thank you.

21           On page 12, under -- no, we've talked enough about  
22 sidewalks.

23           However, I do have a question about -- that I  
24 forgot to ask Mr. Zimmerman -- about the HAWK light, and the  
25 fact that this alleyway is going to be walkable. Whether

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1 anybody likes it or not, people are -- human nature is what  
2 it is -- and people are going to be walking through there.  
3 But won't the position of the HAWK light encourage people to  
4 walk through the alleys?

5 MR. ZIMMERMAN: Correct. That's correct, yes.

6 MS. GATES: Thank you.

7 So, from a safety standpoint, I would also point  
8 out that I do have a copy of the Public Realm Design Manual  
9 from the Public Space Office, where it talks about how wide  
10 sidewalks are supposed to be. And these sidewalks do not  
11 meet those standards. So, it seems that DDOT is also very  
12 flexible when it comes to putting out guidelines.

13 Did anyone from OP attend the walkaround with Mr.  
14 Marudian on January 3rd?

15 MS. VITALE: No, I did not participate in the  
16 walkthrough.

17 MS. GATES: Okay. Well, would you be surprised  
18 to learn that a truck turning into the north-south alley off  
19 of Yuma Street had to cut across the sidewalk to enter the  
20 alley? Isn't that the proposed public seating area at the  
21 front of the grocery store?

22 MS. VITALE: I was not there. So, I can't speak  
23 to that.

24 MS. GATES: But are you somewhat surprised to hear  
25 that a truck could not maneuver that turn into the alley

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1 without going across the sidewalk? And this was not a  
2 50-foot truck.

3 MS. VITALE: I can't respond to that.

4 MS. GATES: Thank you.

5 On page 15, the top paragraph, has OP heard back  
6 from the Applicant -- no, I'm sorry. Strike that.

7 Also on page 15, the fourth paragraph, under  
8 Section 604.8, OP notes, "Finally, the design review allows  
9 for a reallocation of density across the property which  
10 shifts unused density from lots 802 and 803 to lot 807,  
11 thereby preserving the historic Spring Valley Shopping  
12 Center." Doesn't this reallocation or transfer of density  
13 appear in conflict with Subtitle X, Chapter 6, Section  
14 600.1(e), "Provide for flexibility in bulk controlled design  
15 and site placement without an increase in density or map  
16 amendment."?

17 MS. VITALE: No, it does not. The Applicant is  
18 drawing the project boundary to include the Spring Valley  
19 Shopping Center site. So, this isn't providing for an  
20 increase in density beyond what would be contemplated under  
21 zoning.

22 MS. GATES: But we also said earlier that there  
23 is no lot combining here. So, we're just sort of moving  
24 density around on a lot, but owners remain owners and lots  
25 remain lots, and it's all within a square?

1 MS. VITALE: The Applicant isn't proposing a  
2 subdivision or consolidation of lots. They're proposing a  
3 project boundary that includes multiple lots within a square.

4 MS. GATES: But aren't they transferring density  
5 from one lot to another?

6 MS. VITALE: They're not -- they're looking at the  
7 density within the project boundary as a whole.

8 MS. GATES: Does the proposed transfer of density  
9 actually preserve the historic shopping center or would a  
10 hearing before the Mayor's agent or 106 process allow some  
11 of or the entire shopping center to be torn down, altered,  
12 or rebuilt?

13 MS. VITALE: Again, this isn't a transfer. We're  
14 looking at a project boundary and its compliance with the  
15 zoning regulations as a whole. As you've heard tonight,  
16 there is a small amount of remaining unused density. This  
17 doesn't freeze the Spring Valley Shopping Center in amber.  
18 They certainly could come forward with a proposal to change  
19 that building. That would be a modification to a Designated  
20 Historic Site. That would go to the Historic Preservation  
21 Review Board. You would need to conform to the zoning  
22 regulations. If it didn't conform to zoning, you would need  
23 to seek relief through the Board of Zoning adjustment avenues  
24 or through Zoning Commission approval, whatever might be  
25 appropriate.

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1 MS. GATES: Thank you. I have no more questions.

2 MR. SMITH: I do.

3 On page 13 of your report, you talk about Windom  
4 Park, and you state that it doesn't function to provide a  
5 truly public space. And the design review guidelines specify  
6 that these kinds of projects are supposed to encourage public  
7 spaces. Have you talked with the Applicant about ways to  
8 alter the design of Windom Park to make it a more, in your  
9 words, a more truly public space?

10 MS. VITALE: I think, given its nature, that it's  
11 surrounded on three sides by the private building, I think  
12 that was our rationale for why this felt like a more private  
13 space, I think. Hopefully, people will feel comfortable and  
14 will use it.

15 The Applicants certainly are providing public  
16 gathering space along Yuma with the cafe seating that will  
17 serve visitors to the grocery store. I hope folks do feel  
18 comfortable using this park. Windom Walk served as a very  
19 direct connection. I think people would have used that to  
20 walk through the site. This is more of a stopping point.  
21 So, it may get less traffic than Windom Walk may have gotten,  
22 but, hopefully, folks in the neighborhood do see this as an  
23 amenity and will use this space.

24 I think, obviously, it's not fenced-off; it's not  
25 blocked-off in any way. It's directly accessible from the

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1 sidewalk. The Applicant could certainly, through discussions  
2 with the community, see if there are ways to make this feel  
3 more publicly accessible. But I just think, as compared to  
4 Windom Walk, which was a direct pedestrian connection, this  
5 won't function in the same way in terms of pulling people  
6 through the site.

7 MR. SMITH: So, you still stand, though, by what  
8 you've written in your report, correct, on page 13?

9 MS. VITALE: Yes.

10 MR. SMITH: Okay. All right. Has OP signed off  
11 on the IZ calculations that have been proposed by the  
12 developer?

13 MS. STEINGASSER: The IZ calculations are being  
14 presented as a point of information. The issue of the IZ  
15 compliance is not one that's technically before the Zoning  
16 Commission as part of this case. It's been raised and  
17 repeatedly brought up. But the regulations specifically say  
18 -- and I want to read this, so that it's -- regarding Section  
19 603, Design Review Flexibility, "The design review process  
20 shall not be used to vary other building development  
21 standards, including FAR and Inclusionary Zoning."

22 And that's really important because we're going  
23 back and forth and spending a lot of time talking about  
24 Inclusionary Zoning. The Applicant has not provided, or not  
25 requested any relief from IZ, and they have repeatedly made

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1 it clear that they intend to completely comply.

2           So, we have not signed off on IZ. We don't,  
3 typically, as part of any building permit sign off on the  
4 Inclusionary Zoning. We have confirmed with the Department  
5 of Consumer and Regulatory Affairs, Office of the Zoning  
6 Administrator, that the interpretation and the application  
7 of the regulations as they are written now is consistent with  
8 the way that they would review that submittal.

9           MR. SMITH: Okay. I asked that question only  
10 because -- are you aware that at the ANC 3D meeting in  
11 December that the Applicant testified that OP had signed off  
12 on the IZ calculations?

13           MS. STEINGASSER: I'm not aware of that. I'm  
14 aware of the fact that we have conferred and concurred on the  
15 interpretations --

16           MR. SMITH: Okay.

17           MS. STEINGASSER: -- and how they would be  
18 applied. But the actual assessment and the actual  
19 determination won't be made until they're in front of a  
20 building permit.

21           MR. SMITH: All right. Thank you.

22           MS. STEINGASSER: So, right now, we've got a  
23 design that's in flux and we've got regulations that have not  
24 yet been finalized by the Zoning Commission.

25           MR. SMITH: Okay. Okay. Thank you.

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1           Also, as part of your review, have you seen or  
2 asked anything about a lighting plan? I guess I would ask  
3 this to both OP and DDOT. Have you seen or signed off on any  
4 kind of thing for a lighting plan in the alleyways?

5           MR. ZIMMERMAN: I have not, no.

6           MR. SMITH: Has OP?

7           MS. STEINGASSER: No.

8           MR. SMITH: Okay. And can you clarify the  
9 comments that you've made about the blank facades at the  
10 windows on the alleyway? Are you supportive of those or have  
11 you recommended changes for the blank facade? I believe you  
12 mentioned you had some concerns about the facades of the  
13 windows in the north-south alleyway where that 3-foot-wide  
14 sidewalk is running from Yuma to Mass Avenue -- well, not  
15 quite all the way to Mass Avenue, but --

16           MS. VITALE: As I stated previously, we wanted to  
17 ensure that there were opportunities for visibility from the  
18 interior commercial spaces to that sidewalk. The Applicant  
19 has confirmed that that visibility and openness will be there  
20 along the north-south alley. So, we're comfortable with the  
21 proposed design there.

22           MR. SMITH: Okay. And those are blank windows,  
23 correct?

24           MS. VITALE: There is a mix. There are some areas  
25 that are screened and will cover back-of-house operations,

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1 and there are other areas that will have transparent window  
2 glass.

3 MR. SMITH: And are the transparent ones closer  
4 to Yuma Street? Is that it?

5 MS. VITALE: There are actually window at both  
6 ends --

7 MR. SMITH: Okay.

8 MS. VITALE: -- on both Yuma and, then, closer to  
9 Mass Ave.

10 MR. SMITH: Okay. Okay. Can you help me  
11 understand this? As I read your report, you seem to suggest  
12 that the 4801 Massachusetts Avenue building makes this  
13 project compatible with the character of the neighborhood.  
14 Is that a fair assessment of my read of your report and your  
15 conclusions?

16 MS. VITALE: I wouldn't say that that building  
17 makes this project compatible. And I'm not sure what portion  
18 of the report you're referring to that --

19 MR. SMITH: It runs through several different --  
20 when you start talking about the character of the  
21 neighborhood and that the project is consistent with the  
22 character of the neighborhood.

23 Let me ask my question a different way. How is  
24 the proposed height and the massing of this building, of the  
25 apartment building, consistent with the character of a

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1 neighborhood that is comprised primarily of single-family  
2 homes and one- and two-story commercial buildings?

3 MS. VITALE: Well, as you just alluded to, there  
4 are other structured in the area that exceed that two-story  
5 height. There is a mix of building types, particularly along  
6 Massachusetts Avenue, which is a bit more commercial,  
7 particularly in this location.

8 MR. SMITH: What building, other than the 4801  
9 Mass Avenue building, what building exceeds a two-story  
10 height on Mass Avenue? On Mass Avenue?

11 MS. VITALE: That is the one building that exceeds  
12 the two-story --

13 MR. SMITH: But that's it?

14 MS. VITALE: Yes, that's correct.

15 MR. SMITH: Okay. And there are no other  
16 buildings like that there, correct?

17 MS. VITALE: Not in the immediate vicinity, no.

18 MR. SMITH: Okay. And that building without the  
19 access, without the easement, with the east-west alley, would  
20 be a nonconforming building, is that not correct? I mean,  
21 that's what all this fuss is about with the parking and all  
22 the rest of it. But that would be a nonconforming building,  
23 correct?

24 MS. VITALE: I'm not sure what you mean when you  
25 say it would be a nonconforming --

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1 MR. SMITH: AU has -- there's an easement on that  
2 building currently.

3 So, let's forget about that. Let me phrase it  
4 another way. If that building was not there -- and I know  
5 that's hard for all of us to imagine -- but if that building  
6 was not there, would you still conclude that this project,  
7 the massing and the height, is consistent with the character  
8 of a neighborhood whose commercial strip is no higher than  
9 two stories?

10 MS. VITALE: That's not the project that's before  
11 us. That's not what we're evaluating.

12 MR. SMITH: Well, it is the project that's before  
13 you. The question is the neighborhood.

14 CHAIRMAN HOOD: So, let me say this, Mr. Smith.  
15 That question -- I'm going to ask you to move on to the next  
16 question --

17 MR. SMITH: Okay.

18 CHAIRMAN HOOD: -- because that question is very  
19 irrelevant because the building is there.

20 MR. SMITH: Okay.

21 CHAIRMAN HOOD: She doesn't need to be doing a  
22 hypothesis and analyzing what we're doing here today.

23 MR. SMITH: Okay.

24 CHAIRMAN HOOD: So, let's move forward to help us.

25 MR. SMITH: I will do that.

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1           My point was that that building is an anomaly in  
2 the neighborhood, and I probably didn't ask the question  
3 correctly.

4           CHAIRMAN HOOD: So, there are a lot of things  
5 around the city that I can say, if it wasn't there, could we  
6 do this, but it is there.

7           MR. SMITH: Okay. I understand.

8           CHAIRMAN HOOD: Okay.

9           MR. SMITH: On page 11, your report stresses that  
10 the property slopes downward from Mass Avenue to Yuma Street.  
11 Can you explain that? Because the way I'm reading this, Mass  
12 Avenue, going up 48th Street is an elevation. So, you have  
13 to go up a slight hill and you're going up a hill. So that  
14 the rental building is actually higher than Mass Avenue. So,  
15 what do you mean that the property slopes downward from Mass  
16 Avenue to Yuma? It's on page 11 of your --

17           MS. VITALE: I was saying that the low point, I  
18 believe, is where the alley -- let me see. I'm basically  
19 saying that, as you go from Mass Ave to Yuma and from 48th  
20 to the alley, that kind of the northwest corner of the  
21 project is the lower point.

22           MR. SMITH: And can you show us where that is on  
23 your -- the northwest corner is the lower point?

24           MS. VITALE: Yes, that's correct.

25           MR. SMITH: Okay. But you do go --

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1 MS. VITALE: So, as you go from Mass Ave to Yuma,  
2 it's sloping downward. And as you go from 48th to the alley  
3 that separates the project from Spring Valley, that's the low  
4 point here at this corner.

5 MR. SMITH: Okay. Thank you for that  
6 clarification.

7 Also, in your report you mention that the project  
8 will front on Mass Avenue. Is this building being built on  
9 Mass Avenue?

10 MS. VITALE: Could you point me to that?

11 MR. SMITH: Well, I'll have to go back and find  
12 it. Okay? But it's in your report.

13 CHAIRMAN HOOD: Mr. Smith, you have many more  
14 questions?

15 MR. SMITH: I have about two more questions, sir.

16 CHAIRMAN HOOD: Okay. Let me do this, though,  
17 because I wanted to stop at nine o'clock, and it's now 9:12.  
18 So, just hold the questions. And if you get another one,  
19 that's fine.

20 What I would like to do is tell you how far we're  
21 going to go. I'm going to try this. I'm going to work  
22 backwards on this, Ms. Schellin.

23 We will not hear rebuttal and closing by the  
24 Applicant, naturally. We will not hear organizations and  
25 persons in opposition. We will not hear organizations and

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1 persons in support.

2           What I would like to do, though, is hear from both  
3 ANCs and do the cross. And I think that may be a good  
4 breaking point. I'm looking at my colleagues to see if it  
5 would be fine with them.

6           I really could go to 11:00, but we want to make  
7 sure we're all fresh when we are hearing other testimony.

8           So, are we all on the same page? You know what  
9 we're not going to do. We're going to stop after we have the  
10 reports of the ANCs and cross examination. That will be a  
11 good stopping point.

12           So, Ms. Schellin, help me remember, when we come  
13 back on the 24th, we will start out with the parties in  
14 support and, then, the parties in opposition. And I think  
15 you know your time requirements, what the times are. If not,  
16 Ms. Schellin will remind us on the 24th.

17           Okay? Are we all on the same page and know we're  
18 going to stop? We're going to hear from the ANCs. We're  
19 going to do cross examination.

20           So, I ask you a question -- whenever you're ready  
21 to go, unless you're one of those, you may leave. Okay.

22           All right. Okay. I'm sorry. I don't know why  
23 I keep wanting to calling you "Commissioner Smith," but  
24 anyway.

25           MR. SMITH: Well, I'm on the Medical Board. So,

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1 it's technically you're being correct.

2 (Laughter.)

3 CHAIRMAN HOOD: Okay. Well, "Commissioner Smith,"  
4 okay. All right.

5 MR. SMITH: I want to follow up with former  
6 Commissioner Gates' question about lots 802 and 803 with  
7 respect to what could be built on that site.

8 Again, I don't mean to deal in suppositions, but  
9 this is a reality, that when buildings are destroyed -- for  
10 example, if there's a fire at that site and the buildings are  
11 destroyed, if the shopping center, Spring Valley Shopping  
12 Center is destroyed, what limits would be placed on  
13 construction at that site? I mean, the historic designation  
14 would no longer exist. Okay? What limits would be placed  
15 on that site with this exchange of density?

16 MS. STEINGASSER: That gets to the issue of,  
17 again, a hypothetical and trying to determine what would be  
18 done through a hypothetical development, and that's really  
19 not an analysis we've done.

20 MR. SMITH: Well, but it's actually more than a  
21 hypothetical. It's about planning. We're talking about a  
22 major avenue -- hold on; let me finish -- we're talking about  
23 a major avenue. And at the last hearing, the Commission  
24 raised some concerns about, you know, why isn't this building  
25 on Mass Avenue instead of being on Yuma and 48th Street, and

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1 it's not there because we have an historic designated  
2 shopping center. If that historic designation goes away, and  
3 that shopping center goes away, in terms of planning for the  
4 future of the city, are we compromising -- and that's really  
5 my question here -- are we compromising what we could have  
6 in terms of development at that site by virtue of this  
7 density exchange now for this building?

8 MS. STEINGASSER: Again, that's a hypothetical.  
9 And, you know, I encourage you to testify to that, if that's  
10 your position, but that's really not an analysis --

11 MR. SMITH: I just don't know the answer to it.

12 MS. STEINGASSER: -- that OP is --

13 MR. SMITH: But I don't know the answer to the  
14 question. That's why I'm asking the question.

15 MS. STEINGASSER: It's a hypothetical and we  
16 really haven't done an analysis of a hypothetical any more  
17 than --

18 CHAIRMAN HOOD: Okay.

19 MR. SMITH: Okay.

20 CHAIRMAN HOOD: I think that's your answer.

21 MR. SMITH: Yes.

22 CHAIRMAN HOOD: Okay.

23 MR. SMITH: Actually, those are the only  
24 questions. I do have a couple of questions, though, for  
25 DDOT. I'm sorry.

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1           When you were responding earlier to Commissioner  
2 Gates, you said you hadn't -- if I got this correct -- you  
3 said you hadn't seen the turning maneuver diagrams until  
4 after this January 3rd site visit that was done. Did I hear  
5 that correctly?

6           MR. ZIMMERMAN: Yes.

7           MR. SMITH: Okay.

8           MR. ZIMMERMAN: And I just wanted to go back and  
9 confirm that and take a look at them. And I do see that  
10 there was a document on the record that the Applicant had  
11 uploaded, but they also emailed it to me also.

12          MR. SMITH: So, that means, then, that DDOT's  
13 December 27th letter that was introduced in the record saying  
14 everything is okay with this project, you had not yet seen  
15 those diagrams, is that --

16          MR. ZIMMERMAN: We saw them with the earlier  
17 proposal, which had more than one.

18          MR. SMITH: Okay.

19          MR. ZIMMERMAN: And then, they were meeting the  
20 zoning for that.

21          MR. SMITH: Okay.

22          MR. ZIMMERMAN: So, that was acceptable.

23          MR. SMITH: Okay. And then, also, my last  
24 question -- well, it relates to the HAWK signal. I have two  
25 questions about the HAWK signal.

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1           This is a followup to a question you were asked  
2 by, I believe it was Commissioner Shapiro. And you said that  
3 you don't want to encourage people to walk through the  
4 alleys. So, if you don't want to encourage people to walk  
5 through the alleys, wouldn't a HAWK signal at that location  
6 encourage people to walk through the alleys?

7           MR. ZIMMERMAN: Well, we want to provide, in  
8 coordination with the Applicant, provide a HAWK signal based  
9 on the already-existing movements that are happening and the  
10 jaywalking that's already happening, plus the additional  
11 cross pedestrian --

12           MR. SMITH: Do you have any data on this  
13 jaywalking?

14           MR. ZIMMERMAN: You asked for that the last time.  
15 We do not have that.

16           MR. SMITH: I didn't remember asking that, but --

17           MR. ZIMMERMAN: Yes, you asked me.

18           MR. SMITH: I don't remember. I'm sorry.

19           MR. ZIMMERMAN: Well, you asked me a lot of these  
20 questions over.

21           MR. SMITH: Well, your answers are good tonight,  
22 much better than the last time.

23           MR. ZIMMERMAN: I don't have --

24           MR. SMITH: You don't know? You haven't  
25 quantified this?

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1 MR. ZIMMERMAN: What's that?

2 MR. SMITH: You haven't quantified this?

3 MR. ZIMMERMAN: We do not have that data available  
4 for you.

5 MR. SMITH: What are you basing it on? What are  
6 you basing it on?

7 MR. ZIMMERMAN: We've had our experts go out and  
8 take a look visually and have identified this as a good  
9 candidate location in which we'll go out and do the formal  
10 design at a later date.

11 MR. SMITH: Okay. So that, even though you're not  
12 encouraging it, do you think that a HAWK signal would  
13 encourage more pedestrian movement through the alleys?

14 MR. ZIMMERMAN: There probably would be some extra  
15 pedestrians going --

16 MR. SMITH: So, it runs against your objective?

17 MR. ZIMMERMAN: Well, we're not trying to  
18 completely discourage people from using the alley. But we  
19 want to recognize that people are going to use the alley and  
20 currently are. So --

21 MR. SMITH: Okay. My last question, and it is  
22 about the HAWK signal again. There's no diagram that is here  
23 that shows the entire width of Mass Avenue, okay, that  
24 stretches over to the Crate & Barrel across where the HAWK  
25 signal would be located. Okay? At least not that I recall.

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1           Someone crossing with the HAWK signal, they have  
2 to cross a service road, too. Is that HAWK signal going to  
3 be applying to the service road, that narrow service road in  
4 front of Crate & Barrel, Chicken Out, all those? So, you  
5 cross a two-lane highway. There's a median strip. You cross  
6 another two-lane highway. Then, there is a grassy strip with  
7 a service road. And then, finally, the sidewalk. So, you're  
8 going to be able to do that with the HAWK signal?

9           MR. ZIMMERMAN: Yes. I mean, like I said before,  
10 we're going to go into design at some point here this  
11 upcoming year. I suspect, without having engineered this,  
12 that it's probably going to go from the thick landing, the  
13 thick grass strip, and then, go across the four-lane section  
14 of Massachusetts. But we have not fully engineered that, of  
15 course, but that's what I suspect.

16           MR. SMITH: So, it would not be the service road?  
17 So, someone would not be crossing the service road there?

18           MR. ZIMMERMAN: I mean, people could certainly  
19 cross by foot with the light, but there's a sidewalk in the  
20 grass strip. I'm just looking at the aerial right here.

21           MR. SMITH: There's no sidewalk in the grass  
22 strip.

23           MR. ZIMMERMAN: Well, it looks like there is in  
24 this drawing or in this map.

25           MR. SMITH: Well, there's not really a sidewalk

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1 in the grass strip. It may look like that, but there is not  
2 one.

3 So, my question is, they'll still jaywalk across  
4 the service road? They won't have the protection --

5 MR. ZIMMERMAN: We're going to look into that.

6 MR. SMITH: They won't have the protection on the  
7 service road that they would have on Mass Avenue?

8 MR. ZIMMERMAN: We don't know that yet. That's  
9 something we will look at in greater detail when we go into  
10 design.

11 MR. SMITH: And the fact that there are two lanes  
12 of parking along that service road, that's not an issue to  
13 you?

14 MR. ZIMMERMAN: We're going to look into that more  
15 and find what the correct solution is. It may be to extend  
16 it all the way to that shopping center, but I suspect it's  
17 probably not going to cut across the service lane.

18 MR. SMITH: Okay. That's all my questions, Mr.  
19 Chairman.

20 CHAIRMAN HOOD: Okay. Thank you very much.

21 Let's go to the ANC. In this case, I think ANC  
22 3E will be first, and then, we'll go with 3D. If they can  
23 come to the table at the same time?

24 Okay, Mr. McHugh, whenever you're ready, you may  
25 begin.

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1           ANC COMMISSIONER McHUGH: Mr. Chair, thank you.  
2 Thank you for the opportunity.

3           I'm going to go through a quick presentation,  
4 which, frankly, isn't much different than the one that we did  
5 at the hearing a year ago and actually shares a little bit  
6 of what the Applicant had. And then, I'll do some quick  
7 remarks, and then, I'm done, hopefully quickly.

8           So, the ANC 3E supported the project as proposed  
9 4-to-1 at our last meeting, December 13th. This is a quick  
10 reason, a quick presentation showing the reasons why we  
11 supported it and possibly some of the concerns we had.

12           Let's see. So, the original PUD proposal was a  
13 long time ago. I'm going to fly through these because I'm  
14 sure we've been through this plenty of times.

15           What we are going to do is compare that original  
16 proposal to where we ended up today and go through a couple  
17 of the issues that we were concerned about that, frankly,  
18 some of the opponents and some of the community brought up,  
19 and that we felt were well worth looking into.

20           And do you have this on your screens, too? Okay.  
21 Just so we can fly through it.

22           As noted, the retail went up a little bit. Much  
23 of it hasn't really changed. Maybe the Gold certification  
24 and the parking spaces went up a little bit and the HAWK  
25 light.

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1 Just a note on the HAWK light. We, as an ANC,  
2 have noted that there have been many issues with jaywalking.  
3 The crossing at 49th and Massachusetts, if you look at this,  
4 you can picture where it is. This actually goes, when you  
5 go to the north side, it actually goes at an angle down  
6 Massachusetts. So, if you want to get to the Spring Valley  
7 Shopping Center, you actually go down to come back. A lot  
8 of people just say, no, we're not going to do that, and they  
9 just cross over the median in the middle, which is one of the  
10 reasons we suggested it was a good idea to create a HAWK  
11 light there. Actually, frankly, I preferred an actual light,  
12 but DDOT prefers HAWK lights.

13 So, that was a place where it crosses. A lot of  
14 people cross to go to the old AU Law Building. So, we felt  
15 that this was a good opportunity to make pedestrian crossing  
16 safer.

17 Notes on the engagement. This has gone up  
18 somewhat since the last time we saw you, but we felt that the  
19 Applicant had done a lot of outreach to the community and met  
20 with them. I would say that, if we're talking about  
21 negotiation, these meetings resulted in a lot of changes from  
22 our perspective, the ANC, and what we felt the community was  
23 pressing for. And so, if there's negotiation, I'm not sure  
24 if there was a -- I can't think of a better way of saying it  
25 -- a come-to-Jesus meeting. There was a meeting, but I don't

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1 think that's an appropriate thing for this anyway.

2           So, I think these were an iterative process where  
3 they came to us. Frankly, as you'll hear in our testimony,  
4 we didn't think it was a perfect project, but few of the ones  
5 that come before us are. But we felt that had gone through  
6 a lot to try and address a lot of the concerns we had.

7           I'm just going to fly through these because I  
8 think the Applicant has already shown them.

9           The original PUD we were very concerned about.  
10 We felt it was large. It was not appropriate for the  
11 community within its massing and the materials and the way  
12 it was designed architecturally. We felt this is much better  
13 in terms of those concerns.

14           Again, walking through these, the lot coverage.  
15 If anyone ever brings a sketch up to us again, I think that  
16 would probably be a bad idea, but people do that. So, that  
17 looks like a warehouse. So, that was changed.

18           The floor plans, again, I'm going to fly through  
19 these. The one thing we felt here is the facade is still  
20 broken up as it was a year ago in order to create less of a  
21 wall effect. And I think I mentioned this in our testimony  
22 last year, that our fear is that a matter of right might not  
23 be able to get the Applicant to design a building like this.  
24 So, you might have something that's much more flattened and  
25 not interesting.

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1           The calculations, they haven't changed  
2 dramatically, either, as far as we see. The grocery is a  
3 little bit bigger, but not much different.

4           This might be a good place to point out the  
5 Commissioner that did have issues with this, one of his  
6 issues was that he didn't think the grocery was big enough.  
7 He thought that the amenities should be bigger. And this is  
8 a Commissioner who has actually lost a Safeway where the GDS  
9 is. So, his constituents would like to have a very large  
10 grocery store. He also had other concerns, but that was the  
11 main one.

12           Massing, I'm flying through this because I've done  
13 this once before. Let's see. The articulation, all this,  
14 and clever comments.

15           Let's see. Again, back, back, back, back, back.

16           Okay. And the last part, it seems a very fungible  
17 number of what the grocery store is, whether it's 24,000 or  
18 18,000, what's existing there now. Is it 16, 15,300, or  
19 whatever, but that's essentially the size they came up with.  
20 You'll see in the appendix or Exhibit A in our MOU, which  
21 I'll mention in a second, ABRA does have a definition of  
22 grocery stores. And this certainly fits their definition.  
23 Six thousand was their minimum. This is somewhere around  
24 15,300.

25           It met a number of the requirements to qualify for

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1 a grocery store, fresh foods, things like that. Those are  
2 all in Exhibit A.

3 The underground streams we looked into, which was  
4 a concern of the Murdock Creek, the Murdock Mill, a number  
5 of these things. We felt they had been addressed.

6 Again, every building has issues with groundwater.  
7 So, they're all going to have to deal with water, one way or  
8 the other. We were just concerned maybe the streams were too  
9 close.

10 Parking, you'll see in our MOU, again, we had the  
11 parking easement. But we wanted the restrictive building  
12 tenants to get RPP permits. The Applicant agreed to that,  
13 with the exception of the townhomes. We also felt the  
14 townhomes actually have garage parking in them, anyway. So,  
15 we weren't that concerned if they weren't part of the RPP  
16 restrictions.

17 The easement has been addressed a couple of  
18 places.

19 The alley, again, I think there's also something  
20 in the MOU that says to work with Spring Valley Shopping  
21 Center and its owner on how to deal with the alley, because  
22 we think the alley is a very difficult issue to address and  
23 to get right, and that it's not something that we could  
24 actually put into an MOU without them actually being -- if  
25 they have an approved project that this Board would go

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1 through, they would have a lot more interaction with Regency  
2 and the Spring Valley Shopping Center. So, we do see that  
3 as not -- this is not the end-all of how it's going to be  
4 addressed. We expect it will be changed and fixed in many  
5 other ways.

6           Mass transit was something that came up. We would  
7 like to have seen some other things, a shuttle or something  
8 to get to the Tenleytown Metro Station, but there's also a  
9 very strong system of buses that runs down Mass Avenue both  
10 directions, one going downtown. I actually take it fairly  
11 often, and it works fairly well. It also goes the other way  
12 against rush hour. So, you can get to the Friendship Heights  
13 Station within five minutes going the other way. So, we felt  
14 that it was fairly well served by public transportation.

15           Let's see. The grocery store impacts. The  
16 original size of the store was 55,000, a Harris Teeter, or  
17 something like that. We thought, well, we don't really have  
18 to think about that because it's not on the table anymore.  
19 But we felt it is an adequate full-service grocery and we  
20 feel like its impact will be much less than, say, one that  
21 was 40,000 square foot larger. I think that's it for that

22           Mercifully quick couple of comments. In the MOU,  
23 we do have a 10-year term in there, just to reiterate. It  
24 has been publicly stated that it's supposed to be a MOM's  
25 Organic, which is different than the Balducci's that preceded

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1 it, which we were not thrilled by, and we find the MOM's to  
2 be a much better fit for the neighborhood.

3 Just going through the community meetings, we felt  
4 that they have done a lot.

5 Let's see. I think that's about it. I think we  
6 said a lot the last time, too. So, I'm open to questions.

7 CHAIRMAN HOOD: Commissioner McHugh, if you could  
8 just hold your seat, we want to go to Commissioner Kravitz.  
9 And then, what we'll do is we'll go through the cross, and  
10 then, they can direct, if they have any questions, they can  
11 direct them to whichever Commissioner.

12 Okay. Commissioner Kravitz?

13 ANC COMMISSIONER KRAVITZ: Good evening. I'm Troy  
14 Kravitz, officially designated to be here on behalf of ANC  
15 3D to deliver our testimony in support of this project. Our  
16 ANC, and my SMD in particular, include the neighborhoods  
17 immediately across Massachusetts Avenue from the project  
18 site.

19 Thank you for having me again.

20 In the interest of time, I've condensed our  
21 testimony. If you're interested in our full comments, our  
22 full written testimony will be in the record.

23 Before you is an application to construct a new  
24 mixed-used project on a site that for decades and decades has  
25 hosted a grocery store and other retail uses. The grocery

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1 store, however, is no longer operational. It died five years  
2 ago last month. The grocery store that occupied the site  
3 before that one also died. By and large, the community  
4 mourns this loss.

5           For decades, the exact site being discussed  
6 tonight included amenities to the community. Make no  
7 mistake, by and large, and by a large margin, my neighbors  
8 want the grocery store back. You don't have to take it from  
9 me, however; you can take it from the supporters of the  
10 project, and you can take it from the opponents of the  
11 project. There is no shortage of quotations available in  
12 praise of the return of a grocer. I have some here, if you  
13 want them, but I will not belabor the point at this time.

14           This project promises the return of a grocery  
15 store. ANC 3D's support begins there. Importantly,  
16 returning a grocery store is the one thing that cannot be  
17 accomplished by a matter-of-right building. Given this, to  
18 us and many of our constituents, the debate has often been  
19 about how much residential we'd like in combination with  
20 returning the long-missed grocer to the site.

21           Right now, the Applicant proposes about 30,000  
22 square feet of additional residential for a project that  
23 could have 184,000 square feet of residential by right. So,  
24 we're talking about one-sixth or 17 percent more residential  
25 than a by-right proposal, in addition to bringing back a

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1 highly-valued amenity, the grocery store.

2           And given the increased density above the new  
3 grocery store, this one would, hopefully, succeed where the  
4 previous two grocery iterations died. When my constituents  
5 talk about this project, and talk they do, that's what they  
6 say. That's the transaction at the heart of the matter. And  
7 they prefer 17 percent more residential plus a grocery store  
8 instead of a by-right building permanently foreclosing the  
9 possibility of a grocery store that we already miss sorely.

10           There are other benefits to this project, of  
11 course. And I'll mention some of them for completeness.

12           The project brings more housing and more  
13 affordable housing to an area starved for it.

14           The Applicant, Valor Development, has agreed to  
15 seek approval for, and fund construction of, a mid-block HAWK  
16 light to better unite the two commercial areas surrounding  
17 Massachusetts Avenue and to help protect the many residents  
18 who already cross mid-block to go between Millie's, Pizzeria  
19 Paradiso, and Crate & Barrel on one side of Massachusetts and  
20 CVS on the other.

21           The Applicants also promise to clean up the  
22 unsightly and unfriendly alley that currently is a hodgepodge  
23 of dumpsters, recycling containers, and mechanical equipment.

24           Many of the recent submissions in the record make  
25 reference to an increase in traffic. From the start, we have

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1 found these arguments largely unconvincing. To us, the  
2 bottom line is that traffic under the proposal is roughly the  
3 same as if the existing buildings were suddenly reoccupied.

4 Much like the case record being replete with  
5 support for a grocery store, it also contains wistful  
6 reflections on the small size of the planned grocery store.  
7 Again, in the interest of time, I'll spare you the  
8 quotations.

9 It is amusing that those purportedly wanting a  
10 larger grocery store are the same people advancing concern  
11 about traffic impacts. If you take these comments about  
12 wanting a larger grocer as genuine manifestations of the  
13 actual desires, you'll inevitably conclude the concerns about  
14 traffic cannot simultaneously be genuine.

15 Take, for example, a modestly larger grocery  
16 store, say at 20,000 square feet, and two fewer floors of  
17 residential than what's before you today. Traffic counts in  
18 the a.m. peak hour for such a supposedly Shangri-La project  
19 would be the same as under the current proposal, while p.m.  
20 traffic would be 22 percent higher.

21 During ANC 3D's meeting in December at which we  
22 adopted the resolution in Exhibit 245, we accepted proposed  
23 amendments to the resolution from the audience. An  
24 audience-proffered amendment from an opposition party in this  
25 case asked the ANC to instruct the Zoning Commission to not

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1 approve the project until a new traffic study is completed  
2 and reviewed. The ANC voted against this proposed amendment.

3           That's enough about the project. Let's talk about  
4 how we got here. I was ANC 3D's lead correspondent,  
5 negotiator, pest to the Applicants, I presume, for this  
6 project. I was given the role of learning all about the  
7 project and provide factual analysis of the proposal. I want  
8 to share my personal experience, my personal perspective,  
9 because this project has raised some real challenges for me  
10 as an elected official. I'm confident enough and comfortable  
11 enough in my position to talk about these challenges. I  
12 think they shed light on an important, but largely hidden  
13 side of this project.

14           As you may know, Advisory Neighborhood  
15 Commissioners take an oath to support good policy for the  
16 District as a whole. The climax of the oath is, "I will  
17 exercise my best judgment and will consider each matter  
18 before me from the viewpoint of the best interest of the  
19 District of Columbia as a whole." We are sworn to advance  
20 the interests of the District, but we serve on behalf of our  
21 constituents.

22           There are opponents to this project, and their  
23 reasons are varied, but the large majority of people with  
24 which I correspond support this project. I hear the  
25 objectors. Don't get me wrong. I hear them loudly and I

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1 hear them repeatedly. But they don't change the fact that  
2 I hear from many more people in support of this project.

3           Some of the community support you have on the  
4 record before you, but more of the community support for the  
5 project is not before you. Instead, it was communicated to  
6 me by neighbors that have attended some of the almost two  
7 dozen community meetings about the project. They understand  
8 the project and they tell me they support the project. Not  
9 all, of course, I repeat for necessity.

10           Sometimes they tell me that they don't want to  
11 speak up more loudly, for fear of creating a disagreement  
12 with their neighbors who more vocally oppose the project.  
13 There is nothing wrong with vocally opposing this project,  
14 and I intend no such implication by merely relaying that  
15 sometimes neighbors don't want to openly support something  
16 that they know their neighbor opposes. This doesn't  
17 undermine their sentiment of support, though.

18           The challenge for me is what to do with the  
19 supporters' sentiment that is shared personally with me. I  
20 tell these neighbors that, now that they've expressed their  
21 views to me, I will combine them with the others I received,  
22 and nothing more is needed from their end. They don't need  
23 to say anything publicly and they don't need to email you,  
24 the Zoning Commission, or anyone else.

25           While this is the right guidance, the only

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1 guidance really, I also know that, by virtue of being less  
2 vocal, others will invariably claim their views don't exist.  
3 I believe you know better. I just wish others shared your  
4 wisdom.

5 In my opinion, this project could be better. And  
6 lately, I've come to the conclusion that it would have been  
7 better without my engagement. Like I said, I'm confident  
8 enough in my position to speak frankly about the challenges  
9 that have plagued this process.

10 Our mistake, in my opinion, is that the ANC's sent  
11 the Applicant to negotiate with the opponents instead of  
12 negotiating with the community. The effect was that Valor  
13 Development had at least six private meetings with Citizens  
14 for Responsible Development, another six larger community  
15 meetings outside the ANC's and Zoning Commission, and only  
16 four meetings, all of which were formal and open, with ANC  
17 3D.

18 Despite all of these meetings, the opponents  
19 insist that the project hasn't come close enough to their  
20 wishes. I'm not surprised the Applicants and opponents  
21 didn't get closer. In Citizens for Responsible Development's  
22 written testimony in Exhibit 247, it is stated CRD would  
23 support a one- to three-story development on the site.  
24 That's on page 9.

25 The project site is zoned MU-4, I remind you. In

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1 another audience amendment from our December meeting,  
2 Citizens for Responsible Development proposed an amendment  
3 supporting mediation between Valor Development and the  
4 opponents. The ANC voted against this proposed amendment.

5 I used to think there was another way this could  
6 have played out. Armed with intimate knowledge, personal  
7 engagement, and just good old experience, I now know better.  
8 This may sounds morose. I contend it's nothing more than a  
9 reflection of reality. But we are where we're always going  
10 to end up.

11 So, that's where we are. The scene looks a lot  
12 like it did a year ago. Both ANCs are in support again.  
13 Some neighbors have written in support; some in opposition.  
14 Some community groups are here as parties in support; some  
15 in opposition.

16 The Applicant has had another half dozen meetings  
17 with the community and with the opponents. They have changed  
18 the proposal along several dimensions, all in the direction  
19 of the opponents. The opponents remain opposed.

20 The inevitability of it all stings. There are  
21 things I would do differently, components of the project that  
22 are missing from my point of view, but they wouldn't change  
23 where we are. We would all still be here in these same seats  
24 just the same.

25 In the end, like the beginning, we're here, ANC

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1 3D and our colleagues from ANC 3E, because this project is  
2 desired by our community and I believe the project is good  
3 policy for the District.

4 Thank you.

5 CHAIRMAN HOOD: Okay. I want to thank you both.  
6 We appreciate the time and attention, again, that you've put  
7 into your presentations to us.

8 Let's see if we have any questions or comments up  
9 here of either ANC 3D or 3E. Okay, not seeing any --

10 COMMISSIONER TURNBULL: I just want to thank you  
11 for all your effort. It sounds, again, a lot of work.

12 CHAIRMAN HOOD: Okay. Does the Applicant have any  
13 cross?

14 MR. GLASGOW: No cross.

15 CHAIRMAN HOOD: Okay. Ward 3 Vision, do you have  
16 any?

17 PARTICIPANT FROM WARD 3 VISION: No cross.

18 CHAIRMAN HOOD: Spring Valley Neighborhood  
19 Association, any cross.

20 PARTICIPANT FROM SVNA: No cross.

21 CHAIRMAN HOOD: Citizens for Responsible  
22 Development, any cross?

23 MR. REPP: Mr. Kravitz, you quoted a statement  
24 that we made in an answer about that we would support a one-  
25 to three-story building. However, have I ever told you that

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1 I would only support a one- to three-story building?

2 ANC COMMISSIONER KRAVITZ: Not to my knowledge.

3 MR. REPP: Isn't it a matter of fact that I have  
4 told you that I would support a building that was two floors  
5 lower than the five- to seven-story building that they had  
6 originally proposed?

7 ANC COMMISSIONER KRAVITZ: You have personally,  
8 yes. And the question was whether or not that would preclude  
9 legal action, and you said that, for you personally, it  
10 would, but you couldn't speak on behalf of others.

11 MR. REPP: And haven't you told me that you were  
12 recommending, actually, that they come down two floors from  
13 the five- to seven-story building?

14 ANC COMMISSIONER KRAVITZ: Well, there's two  
15 things there. Actually, I think at one point I had said my  
16 idea would be a grocery store with parkland on top. But, in  
17 reference to the two fewer stories, I was absolutely going  
18 between your group primarily and the Applicants and trying  
19 to get them to come down two stories.

20 MR. REPP: Yes. Okay. Thank you.

21 Mr. McHugh here, first of all, is there an MOU?

22 ANC COMMISSIONER MCHUGH: Yes. And it was posted  
23 today.

24 MR. REPP: Okay. Because when you posted before,  
25 it was not --

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1           ANC COMMISSIONER McHUGH: It was draft before,  
2 but, yes, I don't think there's -- it's not changed  
3 substantially.

4           MR. REPP: So, you have filed it with the Zoning  
5 Commission?

6           ANC COMMISSIONER McHUGH: Yes, it's on the site,  
7 yes.

8           MR. REPP: Today?

9           ANC COMMISSIONER McHUGH: Yes. In fact, I have  
10 copies. I can give you a copy.

11          MR. REPP: Well, I can, obviously, go to the --

12          ANC COMMISSIONER McHUGH: Yes, but it's not  
13 dramatically different from the draft we posted for the last  
14 meeting.

15          MR. REPP: Isn't it true that at the December  
16 meeting that Commissioner Quinn said he's concerned about  
17 pedestrian safety and that he thinks this is an imperfect  
18 project?

19          ANC COMMISSIONER McHUGH: I'd have to check the  
20 minutes. I think most of us said, yes, imperfect project.  
21 I'm not sure directly with the pedestrian safety. Possibly  
22 with the alleyway.

23          MR. REPP: And did you say that it was an  
24 imperfect, you agreed that it was an imperfect project?

25          ANC COMMISSIONER McHUGH: I did agree.

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1 MR. REPP: And didn't you say that you liked the  
2 project more before than now?

3 ANC COMMISSIONER McHUGH: That is true.

4 MR. REPP: That's all I have.

5 CHAIRMAN HOOD: Okay. All right. Let's go to  
6 Spring Valley Wesley Heights Citizens Association, Neighbors  
7 for a Livable Community, and Spring Valley West Homes  
8 Corporation.

9 MR. SMITH: I'll be very brief. I only have two  
10 questions for Mr. Kravitz.

11 What was the vote at ANC 3D for the resolution,  
12 in support of the resolution?

13 ANC COMMISSIONER KRAVITZ: The one in December  
14 2017 was 8-to-1. The one in December 2018 was 6-to-2.

15 MR. SMITH: That's what I mean, the 2018, the most  
16 recent one, was 6-to-2?

17 ANC COMMISSIONER KRAVITZ: 6-to-2.

18 MR. SMITH: Okay. And how many Commissioners were  
19 absent?

20 ANC COMMISSIONER KRAVITZ: There were two  
21 Commissioners absent.

22 MR. SMITH: Okay. I wasn't able to be at that  
23 meeting, but I listened to the recording, actually, earlier  
24 today. And I heard three people speak in support of the  
25 application, two of the three being parties in support in

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1 this case. But I heard a lot more folks, a lot of folks,  
2 speaking out in opposition to the plan.

3 My question is, why hasn't ANC 3D in its  
4 communications to the Zoning Commission outlined the full  
5 scope of the community concerns that were expressed at the  
6 December 2018 ANC 3D meeting?

7 ANC COMMISSIONER KRAVITZ: Can you be more  
8 specific?

9 MR. SMITH: Well, I don't know how to say it any  
10 better. But why haven't you included in your communications  
11 to the Zoning Commission about your December 2018 meeting a  
12 report that includes the full scope of issues and concerns  
13 that were expressed by residents at the ANC meeting who --  
14 you talked a lot about the support of the ANC for this  
15 project, but you never reference in any of the communications  
16 with the Zoning Commission the degree of opposition from the  
17 people who were attending your meeting in December of 2018.

18 ANC COMMISSIONER KRAVITZ: I think the premise of  
19 that question is a little mistaken. So, we don't provide  
20 opposition or supporter counts in our resolutions. But,  
21 during the meeting, we did accept a resolution, and proposed  
22 amendments to our resolution from the audience. There were  
23 two, both from opposition parties here tonight, that were  
24 offered.

25 One of them had three parts. Two of those three

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1 parts were incorporated into our resolution. In particular,  
2 a question about parking, a statement about parking we  
3 incorporated into our resolution. So, it changed the draft  
4 during the meeting. And then, a concern about the grocer,  
5 and we also changed the draft during our meeting to  
6 incorporate that concern as well.

7 MR. SMITH: Was there not an individual at the ANC  
8 3D meeting, Dr. Mordini, I believe is the way you say his  
9 name, who lives within the 200-foot area of the building, who  
10 actually was so irate that he accused the ANC of trying to  
11 stifle community expression of opposition to the -- I mean,  
12 that's what I heard. Did I hear it correctly?

13 ANC COMMISSIONER KRAVITZ: I think the audio  
14 recording speaks for itself on that matter.

15 MR. SMITH: Okay. All right.

16 Thank you, Mr. Chairman.

17 CHAIRMAN HOOD: Okay. Thank you.

18 Ms. Gates has some cross from Neighbors for a  
19 Livable Community.

20 MS. GATES: Thank you.

21 Commissioner McHugh, I just have seen this for the  
22 first time. But is this agreement between you and the  
23 Applicant?

24 CHAIRMAN HOOD: You want to make sure you're  
25 speaking right into the mic.

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1 MS. GATES: Is the agreement between 3E and the  
2 Applicant?

3 ANC COMMISSIONER McHUGH: Well, I'll go through  
4 like last time, yes, it's between us and, then, it's  
5 incorporated into the record as part of the zoning order.

6 MS. GATES: So, you're asking that it be made a  
7 condition --

8 ANC COMMISSIONER McHUGH: Yes.

9 MS. GATES: -- of approval?

10 ANC COMMISSIONER McHUGH: Yes.

11 MS. GATES: Thank you.

12 CHAIRMAN HOOD: Okay. All right. So, I think  
13 that's it for tonight. 9:50, okay. Yes, because I said  
14 we're going to stop this. So, some people may have left.  
15 So, we're going to do that. I can't even move the time up  
16 because we didn't change the time before people have left.

17 All right. Ms. Schellin, we're going to make this  
18 a part, but we can stop at this point.

19 MS. SCHELLIN: Yes.

20 CHAIRMAN HOOD: I would ask if there's anything  
21 that we need or anything. I don't think so. I think we just  
22 need to continue. I'm hoping that Commissioner May will be  
23 back at that time as well.

24 So, can you just give us the date and the time?  
25 And we'll go from there.

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1 MS. SCHELLIN: Yes. Again, that is going to be  
2 Thursday, January 24th. That's about two and a half weeks  
3 from today. And we will start with the two parties in  
4 support, Ward 3 Vision and Spring Valley Neighborhood  
5 Association. They're going to have 12 minutes to split. And  
6 then, we'll go to the individuals in support. And then,  
7 we'll go to the two parties in opposition. They will have  
8 40 minutes to split. And then, we'll go to the individuals  
9 in opposition, and then, individuals undeclared, and then,  
10 finish up with the rebuttal and closings.

11 CHAIRMAN HOOD: And I really think on the 24th we  
12 should be able to complete these hearing proceedings. Okay?  
13 So, we're going to all work together on that, unless you all  
14 want to see me a third night, and I'm sure that's not the  
15 case.

16 Ms. Schellin, do we have anything else?

17 MS. SCHELLIN: No, sir.

18 CHAIRMAN HOOD: Okay. So, I want to thank  
19 everyone, and we will see you on the 24th.

20 (Whereupon, at 9:51 p.m., the meeting was  
21 adjourned.)

22

23

24

25

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DC Zoning Commission

Date: 01-07-19

Place: Washington, DC

was duly recorded and accurately transcribed under  
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