

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 - : Case No.

Consolidated Planned Unit : 19-10

Development at Square 1499, :

Lots 802, 803, 806 and 807 :

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Monday,

October 7, 2019

Hearing Room 220 South

441 4th Street, N.W.

Washington, D.C.

The Public Hearing of Case No. 19-10 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 G. MAY, Commissioner (NPS)
- 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

JOEL LAWSON

DAVID MALONEY

ELISA VITALE

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALEXANDRA CAIN, ESQ.

MAXIMILIAN TONDRO, ESQ.

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF PRESENT:

AARON ZIMMERMAN

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

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

6:30 p.m.

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CHAIRMAN HOOD: So we're going to go ahead and get started. All right. Let me go ahead and get started.

Good evening, ladies and gentlemen. This is the public hearing of the Zoning Commission for the District of Columbia.

My name is Anthony Hood. Joining me this evening are Vice Chair Miller, Commissioner Shapiro, Commissioner May and Commissioner Turnbull.

We are also joined by the Office of Zoning staff Ms. Sharon Schellin, Office of Attorney General Mr. Max Tondro and Ms. Cain, Office of Planning staff Mr. Lawson I believe so far and then the District Department of Transportation we're joined by Mr. Zimmerman.

I believe we'll be joined, Mr. Lawson, by others from the Office of Planning. We will announce them as they come in.

Notice of this hearing was published in the DC Register and copies of that announcement are available in the bin near the door.

Because this hearing is being recorded by a court reporter, it's also webcast live, we ask you to refrain from any disruptive noises or actions in the hearing room including display of any signs or objects.

1 This hearing will be conducted in accordance with
2 provisions of 11-Z DCMR Chapter 4 as follows.

3 Preliminary matters, applicant's case. The
4 applicant has up to 60 minutes, but I believe in this case,
5 and we're dealing just with this case, no other cases, that
6 the record is complete and we will ask that you probably do
7 it in 20 to 30 minutes. Report of the Office of Planning and
8 Department of Transportation, report of other government
9 agencies, report of the ANC, testimony of organizations and
10 individuals each having five to three minutes respectively.
11 And we'll hear in order from those in support, opposition and
12 undeclared. And then we'll have rebuttal and closing by the
13 applicant. And also that includes parties that we've already
14 included thus far.

15 While the Commission reserves the right to change
16 the time limits for presentations if necessary it intends to
17 adhere to the time limits as strictly as possible and notes
18 that no time shall be ceded.

19 Just a few housekeeping items are as follows.
20 Please turn off all electronic devices so that the hearing
21 is not interrupted.

22 Anyone who will testify is asked to register at
23 the witness kiosk and that is to my left. Ms. Schellin will
24 be here to assist you if you need some assistance.

25 Also, those who will testify are to fill out two

1 witness cards which can be found on the table near the door
2 to my left.

3 Please give the cards to the court reporter before
4 -- sitting to my right before taking a seat at the table.

5 When you present your testimony please turn on and
6 speak into your microphone first stating your name and home
7 address.

8 When you are finished speaking turn off your
9 microphone.

10 The Commission's decision must be based
11 exclusively on the public record. The Commissioners request
12 that you not engage them in conversations at any time.

13 There should be no direct contact whatsoever with
14 any commissioner concerning this case whether written,
15 electronic, or by telephone.

16 The staff will be available throughout the hearing
17 to discuss procedural questions.

18 And we've also been joined with the Office of
19 Planning Ms. Steingasser and Mr. Maloney.

20 Would all individuals wishing to testify please
21 rise to take the oath? Ms. Schellin, would you please
22 administer the oath.

23 (Whereupon, the witnesses were sworn.)

24 CHAIRMAN HOOD: You know, I was thinking when I
25 read the opening statement all the stuff that I have, if I

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1 was sitting there I wouldn't remember half. I was getting
2 ready to ask somebody to name me one thing I said in the
3 opening statement, but I'm not going to do that tonight.
4 I'll do it another night.

5 Ms. Schellin, do we have any preliminary matters?

6 MS. SCHELLIN: We do. We have a couple. As far
7 as party status if the Commission will recall back in July
8 the Citizens for Responsible Development also known as CRD,
9 Mr. Donohue is representing them.

10 They were given party status at a prior meeting.
11 So tonight you have an application at exhibit 31 in support
12 from the Ward 3 Vision, John Wheeler. Is he present? Susan
13 Kimmel then.

14 CHAIRMAN HOOD: Ms. Kimmel will be representing
15 Ward 3 Vision. That's under our consideration.

16 MS. SCHELLIN: Yes.

17 CHAIRMAN HOOD: Okay.

18 MS. SCHELLIN: In support.

19 CHAIRMAN HOOD: Ward 3 Vision has asked for party
20 status in support. What's your pleasure? Any objections or
21 any comments? Okay, so we will give Ward 3 Vision party in
22 support in this case. Zoning Commission Case 19-10.

23 MS. SCHELLIN: There's a second request for party
24 status in support at exhibit 34, Spring Valley Neighborhood
25 Association, SVNA.

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1 And that was submitted by William Clarkson, the
2 co-president. Is he present? Okay. I'm going to ask the
3 Commission to consider that request.

4 CHAIRMAN HOOD: Okay, any objections? Not hearing
5 any, no objections stated so we will give the Spring Valley
6 Neighborhood Association, SVNA, party in support as well.

7 MS. SCHELLIN: Okay. And then at exhibit 33 there
8 is a joint application for party status in opposition from
9 the Spring Valley Wesley Heights Citizens Association and
10 Neighbors for a Livable Community in opposition.

11 It was submitted by Jeffrey Kraskin, the
12 president, who is not able to be present tonight. So he did
13 submit a letter of authorization.

14 And I believe Dr. Herstein is going to be -- she
15 is present. She's in the front row here. She is going to
16 be the one that is going to be the lead on that as far as
17 cross examination.

18 CHAIRMAN HOOD: Okay. So we have Spring Valley
19 and Neighbors for Livable Communities that are combined. So
20 we will have one representative to do cross. You all can
21 work together however you all feel to do that.

22 I don't think I hear any objections.

23 COMMISSIONER MAY: No objection.

24 CHAIRMAN HOOD: No objections. Okay. So we will
25 combine that group. Spring Valley Wesley Heights Citizens

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1 Association and the Neighbors for a Livable Community will
2 work in tandem. Okay.

3 All right. So we will grant them party status in
4 opposition.

5 Anything else, Ms. Schellin?

6 MS. SCHELLIN: The applicant's proffer -- that's
7 all for party status.

8 The applicant's proffered expert witnesses. I
9 have three listed that have been previously accepted. Sarah
10 Alexander with Torti Gallas in architecture, Erwin Andres
11 with Gorove/Slade and Shane Dettman with Holland & Knight in
12 urban planning -- sorry, Erwin Andres in transportation.

13 Mr. Glasgow, was there any others?

14 MR. GLASGOW: No, there are not.

15 MS. SCHELLIN: Okay. So we'd just ask the
16 Commission. They've all previously been accepted by this
17 Commission to accept them in this case.

18 CHAIRMAN HOOD: Okay. We have previously accepted
19 them. Any objections to continue that acceptance?

20 No objections. Okay. We will continue that
21 acceptance. Anything else, Ms. Schellin?

22 MS. SCHELLIN: Staff has nothing else.

23 CHAIRMAN HOOD: Okay. What I plan on doing is to
24 do an assessment about 8:30.

25 MS. SCHELLIN: CRD did ask for some experts and

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1 the Commission usually takes that up right before they do
2 their presentation.

3 CHAIRMAN HOOD: Okay. We'll take CRD up at the
4 time before they do their presentation.

5 So at about 8:30 which is a little less than two
6 hours from now we're going to do an assessment. We're
7 probably going to try and go until about 10. We're going to
8 be respectful. If people need to leave earlier we're going
9 to see then how far we're going to get.

10 I believe we will be back here Thursday night and
11 we'll go from there. Is that an agreement? Okay, sounds
12 good.

13 I didn't hear anybody say anything. Are we in
14 agreeance with that? So you all want me to tell you at 10
15 o'clock that we're not going to get to you and then you maybe
16 have to leave. But anyway, it's a joke, it's a joke, it's
17 a joke.

18 But seriously, I want to be respectful of your
19 time, not have you sit here and not get to you. So that's
20 the way we've operated.

21 Okay. Anything else, Ms. Schellin?

22 MS. SCHELLIN: No, sir. Staff has nothing else.
23 I don't know if the applicant has any other preliminary.

24 CHAIRMAN HOOD: Mr. Glasgow, you have anything?

25 MR. GLASGOW: No, sir.

1 CHAIRMAN HOOD: Okay. You all may begin.

2 MR. GLASGOW: I'm just going to call Mr. Dettman.

3 CHAIRMAN HOOD: Let me just say this case here is
4 on a zone. We don't need to be here about what happened
5 previously if there was something that went on previously.

6 Let's make sure we stick to the merits of this
7 case, okay? All right. Thank you.

8 MR. GLASGOW: Mr. Dettman.

9 MR. DETTMAN: Thank you, Mr. Chairman and members
10 of the Commission. For the record, Shane Dettman, director
11 of planning with Holland & Knight.

12 My testimony this evening is going to focus on
13 essentially the PUD standard of review. I'll go through a
14 short summary of the benefits and amenities that are
15 proffered as part of this application, talk a little bit
16 about the development incentives that are requested by the
17 applicant, provide a summary of potential project impacts and
18 how the three of those categories are judged, balanced and
19 reconciled with one another.

20 I'll talk a little bit about the comprehensive
21 plan as well as the consistency of the project with other
22 public policies and programs.

23 CHAIRMAN HOOD: Let me -- I'd like to correct my
24 mistake. My wife always tells me -- sees them. We've also
25 been joined by Ms. Vitale from the Office of Planning. I

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1 didn't want to leave her out because I'm sure she did a lot
2 of work on this case. Okay, thank you.

3 MR. DETTMAN: On the screen -- are you able to see
4 the screen?

5 CHAIRMAN HOOD: Maybe we can ask Paul, Office of
6 Zoning, to come out and help us get this up and running.

7 MR. DETTMAN: So this screen I think you have
8 already committed to memory so I think I can continue on.

9 CHAIRMAN HOOD: Is it showing down there where you
10 are?

11 MR. DETTMAN: Yes. It's showing here. So on the
12 slide before me right now is the --

13 COMMISSIONER MAY: We have the paper version if
14 you want to talk to the paper. Tell us what page you're on.

15 MR. DETTMAN: Second slide. It's after the
16 transportation slides of the full deck.

17 So on the slide before you currently is just a
18 copy and paste from the Zoning Regulations in terms of what
19 the standard of review is for a PUD application.

20 And essentially what the regulations say, that in
21 deciding a PUD application the Commission has to judge,
22 balance and reconcile the relative value of the public
23 benefits and amenities offered, the degree of development
24 incentives requested, and the potential adverse effects
25 according to the specific circumstances of this application.

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1 And in so reviewing the application the Commission
2 shall find that the proposed development is not inconsistent
3 with the comprehensive plan, does not result in unacceptable
4 project impacts but rather that those impacts shall be found
5 to be favorable, capable of being mitigated, or acceptable
6 given the quality of the public benefits and amenities
7 offered.

8 And that finally, the project includes specific
9 public benefits and amenities that are consistent with the
10 comprehensive plan or other adopted public policies and
11 programs.

12 Running through quickly in terms of the benefits
13 and amenities that are proffered as part of the application.

14 The information is before you in the record and
15 it's just summarized here in the tables. I won't go through
16 them in detail, but in a sense the application will provide
17 superior urban design and architecture through the
18 considerable height and setback massing reductions as part
19 of the architecture of the building, through the large
20 courtyards that are provided, the facade articulation, the
21 high quality materials that are used for the project.

22 It will also provide superior landscaping and
23 create new open spaces in the form of Windom Park, Northwest
24 Plaza as well as private landscaped courtyards and terraces.

25 The applicants also in addition to providing high

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1 quality landscape, public plazas and open spaces the
2 applicant has committed to providing \$15,000 towards the
3 design and activation of the private spaces onsite as well
4 as nearby public spaces.

5 In terms of site planning the project will remove
6 a long vacant under-utilized site that's located within a
7 designated neighborhood commercial area.

8 It provides multiple building types. It utilizes
9 stranded density from the historic Massachusetts Avenue
10 Parking Shops site to restore a grocery store use to the
11 site, a use that has a longstanding history on this site.

12 It also creates new through-block pedestrian
13 connections and circulation.

14 In terms of historic preservation it's going to
15 permanently reduce the future development potential on the
16 historic MAP site.

17 In terms of housing it's going to provide
18 approximately 219 new residential dwelling units including
19 approximately 29 affordable units.

20 It has a higher percentage of larger size units
21 including three-bedroom units.

22 It provides affordable housing that exceeds what
23 would otherwise be required under IZ.

24 In terms of environmental it provides numerous
25 environmental and sustainable benefits to the site. The

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1 project will achieve LEED-Gold certification, remove a
2 significantly impervious site that does not have any
3 sustainable storm water management.

4 It also provides sustainable transportation
5 options such as EV stations in the garage, car sharing spaces
6 in the garage, and eBike charging in the long-term bike
7 charging storage rooms.

8 Several transportation benefits are provided in
9 excess of those, the improvements that are required to
10 mitigate the impacts of the project and they're listed there
11 before you on the screen.

12 I've already mentioned that the project restores
13 a new full-service grocery store use to the site, a use that
14 has special value to the community and that we've continued
15 to hear from the community that that's a desired use to be
16 restored on this site.

17 The application will provide additional public
18 benefits by way of replacement of trees along adjacent
19 segments of 48th and Yuma Street.

20 The applicant provides all of those benefits and
21 amenities without requesting any development incentives for
22 the project.

23 There's no PUD zoning flexibility being requested
24 in terms of height and density. There's no MAP amendment
25 requested. The application is consistent with the matter of

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1 right height and density that's permitted under the existing
2 MU-4 zone.

3 The PUD is also below the matter of right density
4 that's permitted in the MU-4 zone across the site. You can
5 see this in the charts that are before you today.

6 The buildings that are proposed on lot 807 measure
7 43 feet 6 inches from their measuring point along 48th
8 Street. As a matter of right under the MU-4 you can go to
9 50 feet.

10 In terms of density you can see the breakdown of
11 density there and overall across the PUD site the density of
12 the project is an overall 2.68 FAR of which 1.38 FAR is
13 devoted to non-residential use. That's below the matter of
14 right that's permitted under the MU-4 zone under IZ.

15 There's information in the record regarding
16 density of the PUD and that the unused density at the MAP
17 site, the aggregation of density from the MAP site is not
18 permitted.

19 The Commission is familiar. This is the issue of
20 aggregation of density. Some have referred to it in the
21 record as an allocation of development rights. Others have
22 called it a transfer of development rights.

23 But this is not the upper case TDRs or CLDs that
24 are available to developers and project proponents in the D
25 zones under Subtitle I.

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1 The zoning regulations are clear that in a PUD
2 the, quote, "FAR of all buildings shall not exceed the
3 aggregate of the FARs permitted in the zone or zones included
4 in the PUD boundary."

5 This is not flexibility nor is it relief. It's
6 merely how density is calculated for a PUD. And if the
7 regulations don't provide enough clarity I believe that past
8 actions of the Commission and the court do provide that
9 clarity and that would be in the Heurich Mansion case, that's
10 Zoning Commission Order 101 and most recently in the McMillan
11 case in ZC Order No. 13-14(6) which is the Zoning Commission
12 order that was recently upheld by the court. That order
13 addresses aggregation of density.

14 And finally for this slide it's worth noting that
15 while under a PUD the density of a project is measured across
16 the entire PUD lot it's worth noting that in terms of density
17 and the question of whether or not the lot that's being
18 developed, lot 807 is being overpacked with density.

19 Even on lot 807, the density on lot 807 is below
20 the matter of right density that's permitted in the MU-4.

21 Just on lot 807 based on that land area the FAR
22 is 2.95. Again under MU-4 matter of right 3.0 is permitted
23 and it's just a 0.26 FAR for non-residential uses.

24 Moving along to impacts. Again, I'm not going to
25 go through these in detail. And the way that we've organized

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1 our slides on potential impacts thinking about how do you
2 address that, what are the categories that you're going to
3 sort of try to put the impacts in.

4 Our slides on potential impacts are organized
5 according to the comprehensive plan element names. And so
6 with respect to land use we see a better utilization of an
7 under-utilized site within a designated neighborhood
8 commercial area, an area where multifamily opportunities are
9 limited.

10 This is an area of the city where it's primarily
11 single-family residential zone, R-1, R-2 zones. There's very
12 limited opportunities except for along the corridors of
13 Connecticut Avenue, Wisconsin Avenue.

14 Other than that we have very limited opportunities
15 to do multifamily development. So we need to take advantage
16 of these opportunities in upper Northwest to achieve some of
17 the housing goals that the Mayor and the city is focused on
18 especially in upper Northwest.

19 We're going to have new housing within walking
20 distance of several neighborhood amenities.

21 The building impacts through the design, through
22 the materials, through the massing and height setbacks, and
23 courtyards, and landscaping. We believe the building impacts
24 are mitigated through those design gestures.

25 Parking impacts will be mitigated through adequate

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1 parking supply as well as the applicant's commitment to
2 committing to RPP restrictions.

3 So overall I think, and again referring to the
4 favorable recommendation by OP we think that overall with
5 respect to land use the impacts for the project could be
6 favorable or capable of being mitigated.

7 Transportation. There's not much to say there.
8 It's already in the record. The project has been fully and
9 thoroughly analyzed in the CTR prepared by Gorove/Slade.

10 It's been thoroughly analyzed by DDOT and found
11 that the transportation impacts of the project can be
12 mitigated through some improvements to four intersections as
13 well as through the implementation of a TDR plan -- TDM plan
14 as well as a loading management plan.

15 We also think that there's going to be several
16 positive impacts to pedestrian safety and circulation.
17 Overall favorable impacts or capable of being mitigated.

18 I've already mentioned housing and the additional
19 219 housing units that will be added to this site where there
20 currently is no housing. So we're not talking about a
21 displacement of existing housing or a displacement of
22 existing residents.

23 This is a long vacant site that will be improved
24 with a new grocery store and approximately 219 new housing
25 units.

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1 That results in a positive impact on affordable
2 housing. Based on recent data released and prepared by the
3 Office of Planning this project will have a 6 percent
4 increase in affordable housing in the Rock Creek planning
5 area and approximately a 13 percent increase in affordable
6 housing located in ANC 3E. Those are all favorable impacts
7 to housing.

8 Environmental protection. LEED-Gold
9 certification. The replacement of 100 percent impervious
10 site, reduction in urban heat island effects.

11 All of the green roof on top of the building
12 provides new habitat. There will be no impacts to water
13 quality or hydrology.

14 There's been some discussion in the record about
15 an old stream that potentially goes through the site.

16 There's information that we have that we can
17 present to you this evening that decades ago the stream that
18 used to go through the site has been channelized below Yuma
19 Street and it daylights on the opposite side of Mass Avenue,
20 on the southwest side of Mass Avenue.

21 There will be no long-term impacts to air quality.
22 And it's a previously disturbed site so the issue of whether
23 or not there's underground storage munitions within the
24 Spring Valley -- what's it called -- former defense site,
25 it's not within that boundary and it's a previously disturbed

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1 site that has underground parking. So perhaps them digging
2 that up back in the sixties would have found something.

3 Very quickly with respect to environmental impacts
4 I just wanted to make a note that the evaluation of potential
5 environmental impacts does not stop with the Commission.
6 It's a very important point to make.

7 While the potential impacts of a PUD may include
8 impacts to the environment and should be included in the
9 Commission's assessment there is an entirely separate set of
10 District regulations that exist for the purposes of analyzing
11 the potential environmental impacts of a project.

12 It happens after a Zoning Commission action on a
13 project. You're looking at two of the forms that are
14 required when you go in for building permit by DCRA.

15 You first fill out the environmental intake form.
16 If you pass a specific threshold you have to move onto an
17 environmental impact screening form which is on the right.
18 And it asks you a series of questions.

19 If you provide more than 50 dwelling units or
20 provide more than 50 parking spaces you're required to
21 provide a more thorough EISF document.

22 You'll recall from the recent McMillan remand
23 hearings of what an EISF document looks like. It's very
24 thorough. It includes a very comprehensive air quality
25 analysis that actually takes the results of the CTR analysis

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1 prepared by Gorove/Slade in this project, in this
2 application, and factors them into a thorough air quality
3 analysis.

4 Economic development. We see positive impacts to
5 economic development in terms of the new full-service grocery
6 store.

7 The increase of property income and sales tax
8 revenue generated by the residents of these new units and the
9 support by nearby businesses.

10 There is going to be a loss of existing retail
11 businesses on the site. We believe that that's mitigated
12 through the favorable impacts through the new grocery store,
13 income and property and sales taxes as well as the support
14 for nearby businesses.

15 We believe that these are favorable impacts, or
16 that the impacts to existing retail businesses that are on
17 the site are acceptable given the PUD benefits that are
18 offered.

19 We have favorable impacts to parks and recreation
20 open space. We're providing several improvements to
21 surrounding public space as well as new open space that's
22 located onsite.

23 With respect to urban design I've talked about the
24 high quality design and contextual design of the project.

25 Several pedestrian oriented improvements. It's

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1 a new mixed use development within a neighborhood commercial
2 area.

3 Overall with respect to design we think that the
4 impacts will be favorable, especially looking at what the
5 site is currently improved with, or capable of being
6 mitigated, or acceptable given the quality of the benefits
7 that are being proposed.

8 We have a favorable report as of today from the
9 Historic Preservation Office talking about the favorable
10 historic preservation benefits that are provided through this
11 project, not only through the permanent reduction in GFA that
12 will be taken away from the MAP site, but also the benefit
13 to the owner of the MAP site in terms of being able to
14 maintain the longstanding historic integrity of the historic
15 shopping center.

16 We'll have favorable impacts on community services
17 and facilities. We have no objection from Fire and Emergency
18 Management and DC Public Libraries. Or they're capable of
19 being mitigated to the extent that there are impacts.

20 We have a pretty comprehensive report from the
21 Deputy Mayor for Education stating no objection to the
22 application, and that this project has been included in
23 DCPS's master facility plan for 2018.

24 We believe the impacts that may occur to DC Public
25 Schools are capable of being mitigated.

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1 And in terms of infrastructure there's going to
2 be a substantial reduction in the impact of storm water
3 runoff to the site.

4 And we also received no objections from DC Water
5 and PEPCO.

6 In terms of the comprehensive plan I'll quickly
7 go through this. The site is designated as a neighborhood
8 commercial center on the generalized policy map.

9 Neighborhood commercial centers meet the day-to-
10 day needs of residents and workers in adjacent neighborhoods.

11 There are policies in the Rock Creek West element
12 of the comprehensive plan that talk about sustaining local
13 retail uses and small businesses, and talk about locating
14 compatible new uses such as multifamily housing within
15 designated commercial areas.

16 Multifamily housing should be considered within
17 the area's commercial centers to meet affordable housing
18 needs, sustain new neighborhoods serving retail and small
19 businesses and bring families back to the District.

20 The site is designated low-density commercial on
21 the future land use map. The definition of it is there
22 before you. I will not read it.

23 You'll find in the framework element of the
24 comprehensive plan that the existing zone MU-4 or the old C-
25 2-A is expressly stated as being not inconsistent with the

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1 low-density commercial designation on the future land use
2 map.

3 But in addition to that the Commission in the
4 Cathedral Commons case has taken up the question of whether
5 or not C-2-A or now MU-4 is consistent with the low-density
6 commercial designation and has determined that it absolutely
7 is.

8 Not only is the zone not inconsistent with the
9 future land use map designation of low-density commercial,
10 but development that's consistent with the development
11 standards of the MU-4 zone is not inconsistent with the
12 comprehensive plan.

13 The Commission's determinations in the Cathedral
14 Commons case were upheld by the court in Wisconsin New York
15 Neighborhood Coalition v. DC Zoning.

16 There's information submitted by the opposition
17 about the Durant case and how that might provide the
18 Commission with some guidance in terms of how to review this
19 project.

20 I wanted to include a slide here just to talk a
21 little bit about how Durant is very, very different from this
22 case.

23 First, Durant involved a PUD with a related map
24 amendment. This does not include a map amendment. We're
25 designing this project under MU-4 which exists on the site

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1 and it's designed in accordance with the matter of right
2 height and density.

3 In Durant the existing zoning prior to the PUD was
4 C-1 and R-2. They're both low-density zones. R-2 is a low-
5 density residential zone.

6 The proposal was to go to C-2-B which is a
7 moderate density commercial zone.

8 The record has information that talks about how
9 Durant was -- while Durant concerned a parcel zoned R-2 and
10 C-1 the court of appeals noted that the FLUM designated parts
11 of the parcel for low-density and moderate density mixed use
12 and that the density of each use must be separately
13 evaluated.

14 Durant did not say that. Durant did not say that
15 each lot had to meet the matter of right or the PUD densities
16 which in this case we happen to do that. But Durant did not
17 say that.

18 The opinion actually said that the FLUM designates
19 most of the parcel for low-density residential use and parts
20 of the parcel for low-density and moderate density use.

21 Where Durant turned was that the majority of the
22 site as you can see in this slide was designated for low-
23 density residential use and the proposed map amendment was
24 to go to moderate density commercial.

25 That's not our situation at all. We are low-

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1 density commercial and we are currently zoned to a zone
2 that's already been previously determined as not inconsistent
3 with the low-density commercial designation.

4 Land use element. There's information in the
5 record that talks a little bit about how the project might
6 be inconsistent with the land use element.

7 I'll just submit for the record these next few
8 slides where the section of the comprehensive plan referred
9 to by the opposition is not applicable to the PUD site.

10 We have never said that this is a transportation
11 oriented development that's located in close proximity to the
12 Metro. That's what this policy is actually talking about.

13 What we have a project is that -- we have a
14 project that's designed in a manner that makes improvements
15 to transportation and transportation related mitigation
16 measures that will help transportation infrastructure, that
17 will help provide alternative means of transportation such
18 as additional bike infrastructure, the HAWK signal, \$100,000
19 contribution for connections to Metrorail.

20 But again we don't believe that this policy is
21 applicable.

22 In terms of infill development. In the land use
23 element as well as the urban design element and the Rock
24 Creek West element there's a lot of overlapping policies that
25 talk about the need to relate scale and design to the

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1 surrounding context on this type of site.

2 We think that through the sections that are
3 submitted to the record that it's very clear that the project
4 has been designed with the adjacent residential area in mind.

5 In Durant there was no separation between existing
6 single-family homes and the project. Here we have separation
7 just by virtue of the streets that surround the project site.

8 We are separated from the existing residential
9 homes by a minimum of 90 feet. The separation ranges between
10 96 feet and actually 137 feet down in the northwest corner
11 where the topography is the least advantageous.

12 And so what the architect has done is pulled the
13 building away as the topography along Yuma Street is reduced.
14 That's what this slide is showing.

15 There's information in the record about that the
16 project is inconsistent with the policy that encourages nodal
17 development.

18 That policy talks about doing what you can to
19 prevent sort of the typical auto-oriented strip mall
20 development.

21 As you can see on the generalized policy map here
22 is that the defined neighborhood commercial center is very
23 nodal. It's concentrated around an area.

24 And what this project will do through the policies
25 of the comprehensive plan, it's going to encourage

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1 multifamily development in an area that is already zoned for
2 that type of development, and that type of development is
3 actually going to sustain the existing neighborhood serving
4 retail amenities that are there.

5 In terms of housing this is an important graphic
6 because the one on the left shows the 2006 comprehensive
7 plan.

8 And what that shows, since 2000 it was the number
9 of developments that were constructed in the city.

10 And what it shows is that there's very few even
11 market rate developments that occurred in upper Northwest.

12 The text that goes along with this diagram talks
13 about how most of the -- all of the affordable and income
14 restricted housing developments between 2000 and 2006 were
15 located in transitioning or unstable neighborhoods.

16 And it talks about if this trend continues most
17 of the affordable housing constructed going forward is going
18 to continue to go into those types of neighborhoods rather
19 than stable neighborhoods like upper Northwest.

20 I'd submit that since 2006 that trend has
21 continued. If you go to the DMPED Economic Intelligence
22 Dashboard which is the middle graphic it shows only four
23 projects in upper Northwest, four affordable housing projects
24 being delivered in upper Northwest since 2015. It's a total
25 of 53 dwelling units.

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1 And then most recently the Office of Planning
2 released data that shows only 1 percent of the income
3 restricted dwelling units in the city are located in Rock
4 Creek West.

5 I think that's a function of that there's very
6 limited opportunity within this area to do new multifamily.
7 And so I would argue that a site like this, we need to take
8 advantage of that opportunity to do new multifamily.

9 I've touched on the urban design element at the
10 same time that I was doing land use as well as the Rock Creek
11 West element so I won't belabor the point about we believe
12 that we are not inconsistent with the policies of the urban
13 design element with respect to the need to relate to the
14 surrounding scale and development character of the
15 neighborhood.

16 We do that through our consistency with matter of
17 right development parameters as well as the high quality of
18 design.

19 We're providing many transportation elements, not
20 only through just not needing -- improvements to mitigate the
21 project, but also improvements to -- just as benefits to the
22 project.

23 Mr. Chairman, I'll just conclude my presentation
24 to say that based on the presentation provided the project
25 is not inconsistent with the comprehensive plan.

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1 There's no map amendment requested and the
2 existing zoning is not inconsistent with the future land use
3 map.

4 The project is designed with matter of right
5 height and density. Overall it's not inconsistent with the
6 city-wide and area element policies, and any inconsistency
7 with specific policies are outweighed by consistency with
8 many other policies standard throughout the comprehensive
9 plan.

10 We are not requesting any development incentives.
11 We're providing a whole host of benefits and amenities.

12 The applicant has proffered a commendable number
13 and quality of meaningful benefits and amenities that have
14 been developed together with District agencies, the ANCs, and
15 the community.

16 Since no development incentives are requested the
17 proffered benefits and amenities are far outweighed by any
18 development incentives that are being requested which is
19 none.

20 The large majority of potential impacts will be
21 favorable or capable of being mitigated. And finally, any
22 potential impacts that cannot be mitigated are far outweighed
23 by the benefits and amenities provided by the applicant.
24 That concludes my presentation.

25 CHAIRMAN HOOD: Okay. Thank you very much, Mr.

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1 Dettman. Very well done.

2 Before I go to my colleagues let's go back to the
3 chart that you had of Rock Creek West. Talk about the units
4 that are being developed for affordable housing in that area.

5 That's very alarming. I didn't know the stats
6 were actually that bad. And I will tell you I'm willing to
7 hear from others on that because I have some serious
8 concerns.

9 We're doing it all over the city. Why are we not
10 doing it all over the city because I sit here all the time.
11 We do things like this everywhere else. Maybe we do need to
12 look at making sure that we provide it across the city.

13 Where did you get that information from? And I
14 think you mentioned it.

15 MR. DETTMAN: The diagram on the left is actually
16 MAP 5.1 in the existing land use element. The image in the
17 middle is from Deputy Mayor for Planning and Economic
18 Development's website called the Economic Intelligence
19 Dashboard.

20 And then the one on the right is -- you can get
21 to it through the Office of Planning's website. It's recent
22 data that they have prepared in response to the Mayor's
23 initiative on housing.

24 CHAIRMAN HOOD: Okay. I would like to hear more
25 from others on that if they can expand on that as we move

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1 forward, but let me go to my colleagues, have any other
2 questions. I'll end up asking any questions or comments.

3 Any questions or comments from up here?
4 Commissioner May.

5 COMMISSIONER MAY: Sure. Okay, I'll try to go
6 through my questions quickly, but no guarantees.

7 So there were a number of concerns that were
8 raised about the Office of Planning and I saw that you
9 responded to those with a later submission.

10 But it doesn't seem like everything was completely
11 done. Do you want to address that in sort of general terms
12 because I know there were a number that you took care of like
13 the signage I think.

14 But do you want to try to address those?

15 MR. DETTMAN: I think we addressed all the issues
16 except for we've heard from the Office of Planning today.
17 They needed some additional information on the layout and
18 design of the long-term bike storage rooms which we received
19 from the architect today and we're prepared to submit a hard
20 copy of that revised sheet into the record.

21 COMMISSIONER MAY: So that was the only one that
22 was outstanding.

23 MR. DETTMAN: Yes.

24 COMMISSIONER MAY: And what about the issues with
25 the flexibility language. I know you submitted new

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1 flexibility language. I didn't get a chance to compare that
2 versus their questions.

3 Are all their concerns satisfied there as well?

4 MR. DETTMAN: I think that's a question that they
5 can answer. I can tell you that the revised flexibility
6 language that we submitted -- so we took the language that
7 we submitted with our application.

8 We got some comments from the Office of Planning
9 and I believe some comments that came through the Office of
10 Planning from OAG.

11 The revised language takes those comments into
12 consideration. It didn't accept all the changes, but we
13 think it's a reasonable balance.

14 And it tracks fairly closely with the language
15 that's currently pending before the Commission in 1605.

16 COMMISSIONER MAY: Okay. Thank you. Can you
17 address the building height measuring point issue that was
18 raised by some of the opposition?

19 MR. DETTMAN: Sure. I believe that the argument
20 is that 48th Street is an embankment that at some point in
21 time -- at some point in time the elevation of 48th Street
22 was raised as part of the construction of the existing vacant
23 grocery store and parking structure that's currently on that
24 site.

25 We do have some information in slides that would

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1 make it easier to respond to your question if you're
2 interested in seeing them.

3 COMMISSIONER MAY: Sure.

4 MR. DETTMAN: Commissioner May, I can address the
5 zoning piece of the question. We have --

6 COMMISSIONER MAY: I mean, I guess the crux of the
7 argument is why is this not an embankment in the terms of the
8 building height measuring stuff that we went through, I don't
9 know, 15 years ago.

10 MR. DETTMAN: So the zoning piece to that response
11 is that the provision that the opposition is pointing to
12 talks about when the curb grade elevation has been
13 manipulated.

14 You can't have a curb grade elevation until a
15 street is actually constructed.

16 The information that we have shows that when 48th
17 Street was put in it was put in at about -- the curb grade
18 elevation was approximately 262 and it's still at 262.

19 We think through the photographs that we can show
20 you right now 48th Street existed prior to the construction
21 of the Superfresh site, but really what happened was coming
22 from the east towards 48th Street, if you cross 48th Street
23 it sort of just sort of sloped down into a parking area that
24 was there.

25 When they built the Superfresh building and the

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1 parking garage what they did is they cut into that slope and
2 retained 48th Street at its preexisting elevation.

3 And then the ramp that leads down there is just
4 a way to get down to the parking deck that's there. Again,
5 we can show you the information if you're interested.

6 COMMISSIONER MAY: I think I got it from the
7 explanation. But is that something that's in -- it's in your
8 slide presentation today?

9 MR. DETTMAN: No. These were really intended for
10 rebuttal slides, but we can certainly submit them to the
11 record.

12 COMMISSIONER MAY: You'll probably want to just
13 save them for rebuttal. Explain it now. The explanation is
14 good enough for me. Thank you.

15 So, how is the grocery store actually considered
16 a benefit given the requirement that a grocery store has to
17 be 15,000 square feet and there has to be no other within 3
18 mile and there are like hundreds of them within three miles.
19 I'm exaggerating.

20 MR. DETTMAN: So if you look at the application
21 that provision that talks about the 3-mile radius is not the
22 provision that we proffered the full-service grocery store
23 as a benefit.

24 COMMISSIONER MAY: Right.

25 MR. DETTMAN: It came later. I think it's in

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1 subsection is it 304.5(q). I don't know if I have the 304.5
2 correct.

3 But (q) just says uses of special value to the
4 neighborhood or the District.

5 If you think about that language about the 3 foot
6 radius which is new to ZR 16.

7 COMMISSIONER MAY: Three mile.

8 MR. DETTMAN: Three-mile radius. Three-mile
9 radius. So the District is approximately 68 square miles and
10 a 3-mile radius circle is approximately 20 some square miles.

11 And so assuming that there are no grocery stores
12 in the District whatsoever only 2 point some odd grocery
13 stores could ever be proffered as a public benefit.

14 And I think that a 3-mile radius is not -- we want
15 grocery stores --

16 COMMISSIONER MAY: Well, it wasn't written to
17 address the shortage of grocery stores in Northwest. Right?
18 It was written to address other parts of the city that had
19 no grocery stores.

20 So it's addressing a different provision which
21 makes sense.

22 All right. Can we get an explanation of why the
23 loading and trash situation, the alley is going to be better?

24 I know that you're fencing in. I know you're
25 doing things to the alley. But it's helpful to understand

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1 why that is -- what the current situation is is actually an
2 improvement because many people have -- who are opposed to
3 the project raise this as an issue.

4 MR. ANDRES: Good evening, Commissioner May,
5 members of the Zoning Commission. For the record Erwin
6 Andres with Gorove/Slade Associates.

7 In response to your question, Commissioner May,
8 what we've identified as improvements to the alley is a
9 couple of fold.

10 What currently exists today are various trash
11 compactors strewn in the public alley. As a result the
12 effective width of that alley is probably in the range of
13 about 12 feet. I can't see that from there, but from what
14 I remember it is in the range of about 12 feet which doesn't
15 allow for two-way traffic. It becomes very tight.

16 So as part of the proposed development plan,
17 redevelopment plan, next slide, what we're trying to do is
18 essentially corral those compactors and essentially modify
19 the way that the deliveries are made for those compactors as
20 well.

21 As a result the effective width is 20 feet because
22 what we're doing is we're providing an access easement onto
23 our property to allow for that width and provide a 3-foot
24 pedestrian walkway which in DDOT's standards with respect to
25 alleys aren't required, but in response to some comments

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1 we've identified a section of which there is a clear
2 pedestrian path.

3 COMMISSIONER MAY: Okay. So, the trash enclosure
4 that's going to be constructed clearly enters into the public
5 alley, right?

6 MR. ANDRES: Yes. So as part of essentially when
7 we've coordinated with DDOT this has to go through the public
8 space, go through a public space hearing and identify all of
9 these changes that we've identified.

10 COMMISSIONER MAY: Right. And they're more or
11 less in line with the idea of there being a permanent
12 encroachment into the public alley to handle the trash.

13 I mean obviously the existing situation with them
14 in the public alley is not -- copacetic with DDOT or
15 shouldn't be. But they're okay with this concept.

16 MR. ANDRES: So, yes. Obviously the DDOT public
17 space is its own essentially entity. So based on our
18 feedback with DDOT and obviously DDOT is here to speak to
19 that, it's our understanding that this essentially is a
20 compromise to identify an opportunity to clean up a
21 preexisting condition while allow for adequate circulation
22 for both vehicles and non-vehicles.

23 COMMISSIONER MAY: Can you flip back one slide
24 again? So, there are one, two, three, four, five, six, seven
25 dumpsters there identified. Right? And can we go to the new

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1 condition.

2 And there's two and then a large compactor. So
3 it's been worked out so that everything that was handled by
4 those previous number of dumpsters will be handled by this
5 system.

6 MR. ANDRES: Yes. So there is going to be a
7 modification in delivery schedules and essentially combining
8 a lot of those dumpsters.

9 COMMISSIONER MAY: And given the -- the way this
10 is configured the trucks that will need to access those
11 dumpsters that are in the larger pen, the maneuvering is
12 sufficient even with the outswinging doors and things like
13 that.

14 MR. ANDRES: So we've provided -- we've performed
15 the auto turn exhibits that confirm the adequacy of the
16 turning radiuses.

17 COMMISSIONER MAY: Okay. All right. So what does
18 it mean to work with DDOT in installing a Bikeshare station
19 in the vicinity of the project? That's written somewhere as
20 a benefit of the project.

21 I mean, I know what it means literally, but how
22 is that a benefit because you're just saying that you're
23 going to work with them. Or did I misread something?

24 MR. ANDRES: So in working with them Capital
25 BikeShare, the DDOT Capital Bikeshare division identifies

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1 sort of their needs over the next couple of years.

2 So as part -- I guess that statement looks at
3 identifying potential locations for a Capital Bikeshare
4 station.

5 COMMISSIONER MAY: So it's just about locations.
6 It's not about funding or anything like that.

7 MR. ANDRES: That's correct.

8 COMMISSIONER MAY: And the locations could
9 conceivably be within the property?

10 MR. ANDRES: Again, that's something that we would
11 need to coordinate with DDOT.

12 COMMISSIONER MAY: Obviously. That much I got out
13 of the work with DDOT part. Okay.

14 It's a little squishy. It's hard to understand
15 what the benefit of that really is.

16 What is the rationale for having a limited time
17 shuttle? I mean, the shuttle, there's going to be a shuttle
18 service that's going to last for a limited period of time.
19 What's the rationale for doing that? What's the benefit of
20 doing that and then having it go away?

21 MR. ANDRES: Well, the intent is that once we
22 create sort of an opportunity here for people to understand
23 that this is a way to get back and forth. That and we don't
24 know essentially what potentially, what other new
25 technologies are coming down the line that can potentially

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1 substitute for that.

2 So we're providing flexibility for that to take
3 place.

4 COMMISSIONER MAY: Okay. One of the parties in
5 opposition raised concerns about the turning radius diagrams
6 in the transportation document.

7 And there was a concern about large trucks
8 entering the east-west alley from 48th Street encroaching on
9 the sidewalk there. Is that correct? Is it going to require
10 driving trucks over the sidewalk in order to --

11 MR. ANDRES: Well, no. The way that the mouths
12 of the alley would be designed is consistent with a lot of
13 the other projects that we've worked on where large vehicles
14 enter an alley.

15 Case in point, the Apollo project. The Whole
16 Foods on H Street is a similar condition where you have large
17 trucks where the actual width of the -- the visual width
18 complies with DDOT standards, but there are mountable curbs
19 on both sides to allow for that, for those movements.

20 COMMISSIONER MAY: Being able to mount the curb.

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

22 COMMISSIONER MAY: Okay. A couple of small
23 architectural questions. What is happening with the other
24 courtyards other than Windom Park? I mean there are two
25 other courtyards along that side of the building.

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1 And it's not clear exactly how they're going to
2 be used and who will have access to them. Are they just
3 private courtyards for the four units that abut them?

4 MS. ALEXANDER: Sure. My name is Sarah Alexander
5 with Torti Gallas for the record.

6 The two courtyards you're speaking about on 48th
7 Street would be sunken slightly from the street and they are
8 private accessed courtyards for the adjoining units.

9 COMMISSIONER MAY: Okay. And they're sunken.
10 What's the grade difference there?

11 MS. ALEXANDER: It's approximately I'd say 10 to
12 12 feet.

13 COMMISSIONER MAY: Oh, okay. So they're quite
14 sunken. Okay.

15 MS. ALEXANDER: You can see the section through
16 them in the diagrams that are on -- let's see. One moment.
17 A31. There's a cut-through of that situation.

18 COMMISSIONER MAY: Perfect. Thank you. And then
19 the rooftop access for the townhouses that require relief.
20 Can you explain why you're actually bothering with that? I
21 mean, why not just do hatches to access those rooftops.
22 Because they are quite visible because you happen to have a
23 street that aligns fairly closely to the front of those
24 townhouses.

25 MS. ALEXANDER: Very good question. The thought

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1 was that given the visibility. And I applaud I guess the
2 suggestion to make the sloped roofs. I think that did
3 greatly enhance the view from the street given that they now
4 taper back away from the street, that there are stairs coming
5 up.

6 And accessibility-wise, water proofing-wise, and
7 cost-wise the typical stair condition is what you see in
8 townhouse conditions throughout the District. That's what
9 people are accustomed to and what they are most comfortable
10 having.

11 We can also investigate the other options, but we
12 were hoping for this option.

13 COMMISSIONER MAY: Yes. So one of the reasons why
14 I ask this is that this is a frequent topic for BZA cases and
15 it has to do with the Zoning Regulations that were changed
16 a little while ago with townhouses in RF-1 neighborhoods
17 where we did not agree to allow this kind of access to the
18 rooftop as a matter of right, that we required some sort of
19 relief for it.

20 And many developers are just putting in the
21 hatches and I think that's really great. I wish that was
22 just like what happened all the time because then nobody
23 would be aware of it.

24 And I don't want to hear that it's not possible,
25 especially for a scale of project like this where it's --

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1 some of these other projects are done by very small-time
2 developers who don't necessarily have the most sophisticated
3 construction companies working for them.

4 So I would like to think that in this circumstance
5 that something actually could be done that would work well
6 and be completely invisible from the street.

7 And I'm not sure I agree with having a sloped roof
8 being more -- or less of an impact. So, I think some
9 examination of that would be worthwhile.

10 I think that's it for my questions. Yes. I think
11 that's it. Thanks.

12 CHAIRMAN HOOD: All right, thank you.
13 Commissioner Turnbull?

14 COMMISSIONER TURNBULL: Thank you, Mr. Chair. Let
15 me -- Mr. Dettman, you were talking about the FAR on the site
16 and you got a little sidetracked, talked about the individual
17 lots.

18 But for the record the FAR for the PUD is for the
19 entire site that you've got. What's in the record is based
20 upon FAR for the whole site. Your calculations in the record
21 are for the whole site.

22 MR. DETTMAN: That's correct. Not including the
23 area of the public alley.

24 COMMISSIONER TURNBULL: Okay. Just wanted to be
25 sure.

1 You also talked -- you made reference to several
2 comprehensive plan land use elements, the infill development
3 LU 1.4.1, conserving and enhancing, revitalizing
4 neighborhoods, conservation of single-family neighborhoods,
5 requirements for screening, scale and design.

6 The unifying element of all of these policies is
7 their focus on preserving the established character of the
8 surrounding neighborhood by maintaining consistent zoning,
9 providing adequate protection and transitions between
10 commercial and residential uses. Generally ensuring that the
11 height, mass and scale of design is compatible with the
12 surrounding uses.

13 And I know you mentioned a section, but as a
14 separation a street doesn't always cut it. I mean, can you
15 explain a little bit more what you're doing for the existing
16 neighborhood in trying to address the elements of those, of
17 the comp plan?

18 MR. DETTMAN: Certainly. And I'm not an
19 architect, but I'm going to try to pretend to use language
20 like I hang out with architects all the time.

21 So when you look at the land use element and the
22 urban design element and in this case the Rock Creek West
23 element as you mentioned there are several policies and
24 they're all tied together with this idea or this focus on
25 scale and pattern and relating to surrounding context and

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1 architectural character.

2 And so when I see those policies I think about
3 looking at the zoning map throughout the city. And the
4 transition between or the relationship between MU-4 and R-1-
5 B. You see it all around the city in different neighborhood
6 commercial areas.

7 So then my thought process goes to, okay, well
8 thinking about height and massing where you have an MU-4 and
9 an R-1-B that's next to each other or separated by a 90-foot
10 street.

11 The MU-4 is a matter of right. You can go to 50
12 feet and 3.0 FAR. That's sort of like -- just as a starting
13 point that's sort of your box.

14 And an R-1-B will let you go to 40 feet as a
15 matter of right.

16 Now, the existing development pattern isn't built
17 out to 40 feet around this site, but in an R-1-B you can go
18 to 40 feet.

19 And so I'm thinking from a massing perspective,
20 just the box, it's a 40-foot and a 50-foot transition
21 separated by a 90-foot right of way.

22 But you don't stop there. So then you look at
23 specifically about what the development pattern is around the
24 site.

25 And I think what Torti Gallas has done is they've

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1 taken that 50-foot 3.0 FAR box and they've carved it up in
2 a manner that at the street level, just thinking about 48th
3 Street, they've broken that what could be just a straight
4 facade, and they've broken it into three pavilions in
5 addition to five townhomes.

6 And the pavilions are separated by 40-foot by 40-
7 foot deep courtyards, landscaped courtyards plus all the
8 landscaping along the public space.

9 That initial pavilion goes up 43 feet 6 inches.
10 So it's 6 and a half feet shorter than the matter of right
11 height of 50 feet and it's compatible with -- if you look at
12 our elevation data. I don't know what drawing it is. But
13 it shows you what the elevation is of the rooftops of the
14 houses around the site.

15 That 43 feet 6 inches is very consistent with the
16 top of the roof at sheet A27. Very consistent with the tops
17 of the roofs across the street.

18 So again, now you have a more consistent height,
19 but also that height of that initial facade is broken up by
20 these courtyards.

21 And then as you step back higher, further into the
22 site, the height of the massing goes up and the penthouses
23 all set back.

24 Finally, along Yuma Street where I had a slide
25 that showed -- there's focus on Yuma Street because there is

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1 a substantial grade difference. At 48th and Yuma you're at
2 about elevation 258 and as you move west on Yuma you're down
3 when you get to the alley 236. So that's a difference of 22
4 feet.

5 If you look at how Torti Gallas has treated the
6 facade along 48th Street, again we have that initial height
7 of 46 feet.

8 But also as you move westward on Yuma Street the
9 facade of the actual building is pulling away from the
10 property line.

11 And so at the grocery store the building is 17
12 feet away from the property line, and then it's further away
13 from the property line as you go further up the building.

14 So, and that's when I mentioned that at that point
15 in the project even though it's the lowest point you're
16 separated from the homes by approximately 137 feet with
17 mature trees and the street right of way.

18 And then the final thing is after you take that
19 box and you carve it up and you do your setbacks then it's
20 the way in which -- how do you relate to the surrounding
21 context through materials.

22 And I think that our material sheets show that
23 Torti Gallas has taken inventory of the materials that you
24 find in the surrounding context and applied them to this
25 building in a way that relates to the surrounding context

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1 both on the north side and the east side in terms of the
2 homes, and along the west side to relate to the historic
3 shopping center.

4 COMMISSIONER TURNBULL: Okay. One of the concerns
5 of the opposition is that the landscaping and the screening
6 are really insufficient.

7 And I guess my other issue going on is one of the
8 items that OP pointed out is that you want flexibility with
9 the landscaping, final selection of the landscape elements.

10 It's hard for me when I see the landscape plans
11 here which simply show green and little circles. Nothing
12 labeled. Nothing.

13 Usually if somebody wants flexibility I have to
14 know what flexibility is based upon. Right now I think your
15 landscape plans are really insufficient.

16 Normally when we see an applicant give landscaping
17 plans we see landscaping plans and then we have several pages
18 that have like 20 to 30 individual elements that explain what
19 each type of plant is, what it's doing, you know, whether
20 it's vinca or pachysandra or whatever on the ground, ground
21 cover.

22 I don't see that here. So I'm concerned that at
23 least this Zoning Commission really can't -- I see these nice
24 little pictures and these renderings, but I really don't know
25 what's going into this landscaping plan.

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1 MR. DETTMAN: Thank you, Commissioner Turnbull.
2 So in the revised flexibility language the landscape
3 flexibility was taken out.

4 COMMISSIONER TURNBULL: I haven't seen that.

5 MR. DETTMAN: As part of a post -- you're right
6 that the landscape plan that are currently in the drawings
7 though don't get specific in terms of the species that's
8 being provided.

9 As part of the post hearing submission we'd be
10 happy to develop something a bit more specific.

11 COMMISSIONER TURNBULL: Yes, I think part of the
12 problem the opposition may be having is that we really don't
13 know how you're protecting or screening the various elements
14 of the PUD. And how that's enhancing and working in with the
15 neighborhood.

16 So I think it would really be good to have that.

17 Pardon me while I go through my notes here. Could
18 you explain maybe a little bit more. You've talked about it,
19 but we talked about the consistencies and how some of these
20 different zones can overlap.

21 You can have a zone that says one thing, but it
22 can edge into another zone. How do you feel this qualifies
23 as moderate density as opposed to medium density? Strictly
24 a number game?

25 MR. DETTMAN: No. And I think -- so the MU-4, the

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1 old C-2-A is described as falling within the low-density
2 commercial and the moderate density commercial depending upon
3 the surrounding context.

4 I think that the fact that we're in a PUD -- and
5 you know the comprehensive plan talks about how greater
6 heights and densities can be achieved through a PUD.

7 In this respect although we're in a PUD and we're
8 proffering a collection of benefits and amenities we're still
9 consistent, well below the matter of right height and density
10 that could be achieved through a PUD.

11 And so I think that there's that, but then there's
12 also part of what I was describing about how the building and
13 the way that -- its massing and its materials and how it
14 relates to the surroundings I think MU-4 is specifically
15 stated as being consistent with low-density commercial as
16 been determined previously by the Commission and the courts.

17 And then also in the way that this project has
18 been designed makes this be more of a low-density commercial
19 project than it is a moderate density commercial project.

20 COMMISSIONER TURNBULL: Okay. Getting back to the
21 flexibility requested. Have you -- I guess not knowing what
22 you revised.

23 So you've basically changed OP's report. Page 8
24 you had items 7 through 11.

25 MR. DETTMAN: Seven is gone. And I don't have the

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1 revised submission in front of me. Seven is gone. Eight and
2 nine are modified but they're still there. And 8 is still
3 requesting what's typically the 10 percent flexibility in
4 number of dwelling units.

5 The retail uses, that's still there. And the
6 reason why we're doing that, that's a result of the
7 changeover from '58 to '16 where everything was lumped under
8 retail and service use, and now everything is sort of broken
9 out.

10 And so to try to avoid a situation at permitting
11 we've been doing number 10.

12 COMMISSIONER TURNBULL: Well, I guess getting into
13 that retail. I mean, the grocery store is designed at 15 or
14 17?

15 MS. ALEXANDER: It's a total of 18,000 square feet
16 grocery or retail.

17 COMMISSIONER TURNBULL: Eighteen thousand square
18 feet. But you're asking for flexibility that you won't go
19 less than 13. That seems like a big -- that's 5,000 square
20 feet.

21 MR. DETTMAN: That's language that's in the ANC
22 resolution and really that's just in there to be consistent
23 with the ANC resolution.

24 I can't say I recall where the 13,000 came from.
25 It could be that at one point the grocery store was 13,000.

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1 MS. ALEXANDER: That's true.

2 COMMISSIONER TURNBULL: But you're still asking
3 for that, that if you change it you won't go below 13, right?
4 Seems like -- I don't know if that meets the neighborhood's
5 requirements.

6 MS. ALEXANDER: Some of the full-service grocery
7 stores have a range of around 13,000 square feet. So that
8 was part of that flexibility --

9 COMMISSIONER TURNBULL: A range at a very low end?

10 MS. ALEXANDER: Correct. If you look at sheet G07
11 there's an area plan for the lower level that shows the
12 grocery at approximately 17,283 and a small retail space on
13 the south that's at about 1,100 square feet.

14 COMMISSIONER TURNBULL: Okay. I guess getting --
15 and again, not knowing where you're going with the retail,
16 whether it will be diminished in any way, if you're still --

17 MR. DETTMAN: Mr. Turnbull, I think this is
18 something that we need to look at.

19 Again, the 13,000 came -- there was a time when
20 the grocery store was 13,000 and this is sort of a remnant.

21 The applicant just mentioned that we'll commit to
22 what's shown on the plans in terms of the amount of square
23 footage.

24 COMMISSIONER TURNBULL: Seventeen. I forget what
25 you just said.

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1 MR. DETTMAN: So if you recall from the plans
2 there's the grocery. Then there's a small --

3 COMMISSIONER TURNBULL: A small little piece to
4 the side.

5 MR. DETTMAN: Yes. And there's a good potential
6 that the grocer is going to take that space and so it's all
7 going to be grocery store.

8 If the grocer decides not to take that space then
9 it could be a separate retail space. So we'll look at
10 modifying the language of this flexibility. We'll find a
11 number that allows for the grocery to be -- doesn't include
12 the small corner space or it does.

13 COMMISSIONER TURNBULL: Okay.

14 CHAIRMAN HOOD: Mr. Lansing, could you come to the
15 table? Because the optics to me. I just noticed you came
16 up. It looks like this is Mr. Glasgow and Mr. Dettman's
17 project so I want to make sure you sit at the table. Okay.

18 COMMISSIONER TURNBULL: Mr. Chair, those are my
19 questions for now.

20 CHAIRMAN HOOD: Great. All right, Vice Chair, you
21 have any questions?

22 VICE CHAIR MILLER: Thank you, Mr. Chairman. So,
23 this project has a lot of positive features from my
24 perspective including mostly the increase in housing supply
25 in this part of the city and the -- with the 219 units and

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1 the 11 percent dedicated to inclusionary zoning which is
2 above the 10 percent that would be required under
3 inclusionary zoning.

4 But it also has a substantial number of two and
5 three-bedrooms that are part of the overall mix of market
6 rate and IZ. But I think that the -- 16 of the IZ units are
7 two-bedroom and 4 of the IZ units are three-bedroom. So
8 that's to be commended.

9 And two of the two-bedroom IZ units are at the 50
10 percent median family income level. The rest are at -- I
11 think there's overall 3 units at the 50 percent MFI level and
12 -- median family income level, and 26 of the 29 IZ units at
13 the 60 percent median family income level.

14 And the -- I think there's been changes in this
15 project from the outset that have been positive including
16 reducing the scale or height of the building as I recall from
17 the original plans and the square footage and the height.

18 And then the increasing the LEED score to Gold I
19 think was a change that's very positive.

20 So following up on Commissioner Turnbull's
21 question and some of your testimony, Mr. Dettman, I think it
22 may be in the record as a whole, but I think especially after
23 we hear from the opposition testimony I think we're going to
24 need a more explicit discussion submitted on the McMillan
25 balancing test.

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1 An acknowledgment of the potential inconsistencies
2 of those policies in the comp plan, whether they're the
3 future land use map low-density commercial, all the
4 protecting stable character surrounding neighborhoods in the
5 land use element and in the Rock Creek West element.

6 An acknowledgment that they're potentially
7 inconsistent but why they are when you balance them with all
8 of the other policies of the comp plan, with other policies
9 of the comp plan, not all the other, but with other policies.

10 Those need to be spelled out as to why they
11 outweigh whether it's the housing policies or the
12 environmental policies to which come to mind and historic
13 preservation policies.

14 But those need to just be acknowledged and then
15 explicitly explained as to why certain policies that may be
16 potentially inconsistent when you look at them alone on their
17 face are outweighed by the housing and other policies of the
18 comp plan.

19 So I don't know if you want to speak on that now,
20 but you did touch on it. But I think we're going to just
21 need a concise explanation of that balancing, McMillan
22 balancing exercise.

23 And on that you may want to think about upping the
24 affordable housing to 12 percent or something like that which
25 I think was suggested by the Office of Planning and maybe by

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1 even the ANC's testimony that was in support of this
2 application.

3 So that certainly would help in that balancing
4 exercise. So that's just a comment, but I have a couple of
5 questions.

6 On the parking -- well, first going to the -- you
7 have a memorandum of agreement with ANC 3E. There are two
8 ANCs affected by this project, 3D and 3E, but the site is
9 physically located in 3E and you have a memorandum of
10 agreement that you've signed with 3E.

11 And I would encourage you to work with the Office
12 of Attorney General if we get to this point in memorializing
13 in zoning conditions, conditions that are part of the zoning
14 order the conditions that are both in 3D and 3E's statements
15 of support to the extent that they're appropriately related
16 to zoning.

17 Construction as we know is not necessarily related
18 to zoning, but we can reference that in the zoning order.

19 But the ones that are related to zoning and that
20 conform with the requirements of our zoning regulations in
21 terms of being enforceable, and if they're currently not
22 enforceable -- and I think there might be some question
23 about, in my mind at least about the escrow account and other
24 of the monetary.

25 We just need to tighten those up to make sure that

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1 they are enforceable and conform with the requirements of our
2 zoning regulations if we get to the point of a zoning order
3 in this PUD case.

4 You agree with all the conditions in the -- that
5 you signed with 3E and they're separately enforceable by the
6 terms of that agreement by ANC 3E, is that correct?

7 MR. GLASGOW: That is correct.

8 VICE CHAIR MILLER: So one of the conditions I
9 noticed was the -- offering -- to the extent that the grocer
10 doesn't use all of that corner space and to the extent that
11 that is available for retail that you've agreed to the
12 condition that the developer would have to offer that space
13 as a right of first refusal to the existing retail tenants
14 that are on the Superfresh site. Is that correct?

15 MR. LANSING: That's correct.

16 VICE CHAIR MILLER: Okay. On the parking there's
17 a -- numerous references both in the applicant's statement
18 and in the DDOT report that there will be 375 -- that there
19 are 375 onsite vehicle parking spaces and apart from the fact
20 that there may be -- that there is some apparently separate
21 private agreement between American University and the
22 applicant that of the 375 there would be an allocation for
23 certain uses, 228 for the residential uses, 5 for the
24 townhomes, 86 for the retail/grocery and 56 for American
25 University.

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1 And I guess that means American University -- I
2 think there's a reference in numerous places that the AU
3 would be leasing back a good portion of the spaces that
4 they're entitled to in that building to the applicant for
5 these purposes. Is that correct?

6 MR. LANSING: That's correct.

7 VICE CHAIR MILLER: So you would not have an
8 objection to a condition that -- in the zoning order which
9 allocated the parking spaces to the specific uses which they
10 are intended for.

11 MR. LANSING: That's correct.

12 VICE CHAIR MILLER: Okay. So that means at least
13 about -- I think there's some reference to about 180 of those
14 so-called AU spaces of the 236 or whatever they are, AU
15 spaces, 180 of them are going to be used for this
16 development, this new development. Approximately.

17 MR. LANSING: That's correct.

18 VICE CHAIR MILLER: Mr. Chairman, I think that's
19 it for my questions for now. I had a couple of others, but
20 I unfortunately did not write them down. I just was jotting
21 them down in my head and now I realize why I need to jot them
22 down. So it may come back to me later.

23 CHAIRMAN HOOD: Okay, no problem. All right,
24 Commissioner Shapiro.

25 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. My

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1 colleagues have certainly done a thorough job at addressing
2 a lot of the issues that I had questions about as well. Just
3 a couple of quick things.

4 One is especially related to the vice chair's
5 question about the balancing test and how the affordable
6 housing benefit fits into that.

7 I would agree that 11 percent considering the need
8 in DC and what the Rock Creek West study has described that
9 this is an opportunity to even do better.

10 And I think you have a unique opportunity to help
11 address these goals.

12 DHCD talked about -- Mr. Vice Chair, I think DHCD
13 also jumped in on this point and they were saying that -- I
14 believe they were talking about wanting to encourage you to
15 even reach up to 15 percent affordable units.

16 So I'd like to see what you can do to bump up that
17 number.

18 The other question I have is related to one of the
19 conditions that the Office of Planning suggested related to
20 rooftop solar.

21 So you have 30,000 square feet of green roof.
22 Have you considered rooftop solar?

23 MS. ALEXANDER: Yes, we have looked into it. A
24 large percentage of that green roof that you're referencing
25 is actually below the upper penthouse. Because of all the

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1 setbacks the upper penthouse is actually a pretty modest
2 amount of overall roof area.

3 And the idea is we didn't want to have solar units
4 blocking people's views outside their windows onto the roof
5 beyond their units.

6 COMMISSIONER SHAPIRO: So what can you get at the
7 upper level?

8 MS. ALEXANDER: That study I think we need to do
9 more thoroughly.

10 COMMISSIONER SHAPIRO: That's all I have for now,
11 Mr. Chair.

12 CHAIRMAN HOOD: All right. As stated by
13 Commissioner Shapiro I think my colleagues have asked a
14 number of questions which I had.

15 I think even the presentation with Mr. Dettman,
16 I think he covered a lot of the questions that I had. But
17 I will ask a few.

18 Mr. Dettman, you mentioned about DCPS. I saw in
19 one of the opposition letters that that was a concern and I
20 know that they've had an opportunity to weigh in because
21 that's part of the requirement in the Office of Planning.

22 But did you all reach out to them as well? I
23 heard you mention DC Public Schools. I think you did in your
24 presentation to us.

25 MR. DETTMAN: No. So we attended -- our

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1 interaction with DCPS took place at the interagency meeting
2 that was hosted by the Office of Planning for this project.

3 At that time we communicated to them that we knew
4 that there were some comments from the community about
5 concerns about the schools and so we stressed to them that
6 we'd appreciate getting comments from them and would be happy
7 to provide any information that we had to them.

8 And then the report they submitted.

9 CHAIRMAN HOOD: Okay. All right. Let's walk
10 through this environmental impact statement study and a full-
11 blown assessment.

12 Walk me through. What's the first step? Is it
13 the statement? Is it an environmental impact statement and
14 then the assessment and then the study? How does that work
15 now?

16 MR. DETTMAN: My understanding is when you go in
17 for a building permit you fill out what's called an intake
18 form, an environmental intake form. It's one or two pages
19 and it asks you a series of questions. Are you providing
20 this much parking, this much that.

21 And if you -- and for that, the intake form, it's
22 based on cost. And if it's a project that's over, I think
23 the form says now \$1.9 million then you're kicked into an
24 EISF, environmental impact screening form.

25 That screening form, again it's a four-page thing

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1 that asks a series of questions. And then if you are
2 providing 50 or more dwelling units or 50 or more parking
3 spaces it significantly increases the amount of environmental
4 analysis that you have to do.

5 I specifically was looking at those forms for
6 purposes of what would be required for this project for air
7 quality analysis just because I know there's a lot of people
8 in the community that are interested in the increase in
9 traffic.

10 And I remember from the McMillan case where there
11 was an air quality analysis that was about this thick.

12 And so I did have a conversation with the branch
13 chief at DOEE Air Quality Stephen Ours and he explained --
14 he was very helpful in explaining kind of what the process
15 is.

16 If you hit that trigger, and this project does,
17 50 dwelling units, 50 parking spaces, you go in and have a
18 meeting. You scope out the air quality analysis.

19 Just like a CTR is done you establish a baseline
20 based on average daily traffic in the area. You put in
21 background projects, pipeline projects, and then you factor
22 in the results of the CTR to determine whether or not the
23 impact exceeds national ambient air quality standards.

24 CHAIRMAN HOOD: Okay. I was just trying to
25 remember years ago. It was a certain way that went. It just

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1 seems like the names have changed but the process is still
2 the same.

3 I also want to thank you for providing that
4 information about the affordable housing, especially in the
5 chart. That's very compelling to me and I will be interested
6 in hearing from others especially those in opposition about
7 those numbers as well.

8 The only thing, and I didn't hear this from my
9 colleagues, but I'm always concerned about light colored
10 brick. Over years light colored brick, I've noticed in some
11 projects that I've actually been involved with, it gets
12 dirty.

13 So I didn't hear from my colleagues. I don't know
14 if they have that same concern, especially the people -- Mr.
15 May who taught me that.

16 And I didn't hear that concern from him so I just
17 raise that. I'm not saying change it because I didn't hear
18 him speak on it, but I will tell you that I always am
19 concerned about light colored brick and the dirtiness of it
20 after so many years.

21 And this is the thing about going last. I think
22 Vice Chair Miller mentioned about the ANC letter and some of
23 the recommendations and concerns they had. It sounds like
24 that's all been taken care of.

25 And also I would concur with the vice chair and

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1 I think Commissioner Shapiro and others who wanted to see the
2 balancing of the adverse impacts.

3 I'd like for you to really list -- because we know
4 from the start that there are adverse impacts. It's how they
5 are being mitigated as well as what may outweigh one versus
6 the other, especially in the comp plan and other things like
7 that of how we should move forward.

8 I think a number of questions in Mr. Dettman's
9 presentation were answered, a number of questions that I had
10 were answered especially because I looked at a lot of
11 opposition letters about the grocery store -- well, support
12 about the grocery store.

13 I looked at the opposition letter about the DCPS
14 and other things that were mentioned about parking and other
15 issues. The alleys being used. The sidewalks being wider.
16 I looked at all of that and I know there are other venues in
17 which some of that is handled. So we will see how this
18 evolves as we continue to proceed in this particular PUD
19 case.

20 That's all I want to state for now. Did those
21 questions come back? Sometimes that happens. When they come
22 back let us know and we'll go back to them. Okay.
23 Commissioner May.

24 COMMISSIONER MAY: I just want to follow up on one
25 thing that Commissioner Shapiro just touched on which was the

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1 solar panels.

2 So on the main roof where there are small patios
3 outside of the units or whatever the concern there is you
4 didn't want to block views.

5 Are the solar panels going to be so big that you
6 can't like see off the roof? Or it's just that people don't
7 want to look at the solar panels?

8 MS. ALEXANDER: When you mount the solar panels
9 on top of green roof they do need to be raised up high enough
10 that the green roof can also still survive. And there's a
11 specific section that we do not have included in this, but
12 it's one of the DDOE's specific sections. So that's part of
13 it.

14 They're usually about 4 to maybe -- around 4 feet
15 tall. So I guess you could see over them, but they would be
16 slightly --

17 COMMISSIONER MAY: So do you think people actually
18 like looking at solar panels?

19 MS. ALEXANDER: The back side of solar panels?

20 COMMISSIONER MAY: Yes.

21 MS. ALEXANDER: It's a good question. I wouldn't
22 think so, but.

23 COMMISSIONER MAY: I wouldn't think so either.
24 I tried to argue that with the Commission on another case but
25 they seem to think that everybody loves solar panels. But

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1 that's water under the bridge. Thank you.

2 CHAIRMAN HOOD: Hold on one second. I rolled by
3 that. That's coming along very well. Anyway, any other
4 questions or comments, follow-up?

5 Okay. Let's see. Let me work through this cross
6 examination. ANC -- okay, ANC 3. Let me ask. Is there a
7 report in the record from ANC 3E or did I miss it? It is?
8 Could somebody tell me what exhibit because I've actually
9 been looking for that. Oh, is that what it is? Okay. Hold
10 on. Okay, hold on one second. Because I was actually
11 looking for that.

12 Actually I looked for it more than once and if it
13 was a snake it would have bit me. Hold on.

14 So we have something from 3D and E. I know we
15 have D. I saw D. Okay. You know what? Here it is right
16 there. I was looking so hard I guess I went right on by it.

17 And I actually looked more than one day. I
18 shouldn't admit that. Maybe I was watching the Redskins game
19 when I was looking for it. But anyway, let me.

20 Let's see if we can get cross examination. ANC
21 3D, you have any cross? Mr. Kravitz?

22 MR. KRAVITZ: No, sir.

23 CHAIRMAN HOOD: Okay. Mr. McHugh, are you going
24 to do cross or is Ms. Hall going to?

25 MR. MCHUGH: I don't think we have cross.

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1 CHAIRMAN HOOD: Okay, you have any cross? Okay.
2 Okay, Ward 3 Vision. Ms. Kimmel.

3 MS. KIMMEL: No cross.

4 CHAIRMAN HOOD: No cross. Okay. Now I messed up
5 sometime on the Spring Valley. So you all be patient with
6 me. Spring Valley Neighborhood Association, Mr. Clarkson,
7 you have any cross? Okay. Ms. Schellin has me very well
8 prepared up here.

9 Spring Valley Wesley Heights and Neighbors for a
10 Livable Community. Dr. Herstein or Ms. Gates? Who's going
11 to do the cross? Dr. Herstein, do you have any cross?

12 DR. HERSTEIN: Yes.

13 CHAIRMAN HOOD: You can come forward. And Mr.
14 Donohue you can prepare because I'm calling you next. Do you
15 have any cross?

16 MR. DONOHUE: Yes, sir.

17 CHAIRMAN HOOD: I thought you would. Could you
18 identify yourself and then you may begin.

19 DR. HERSTEIN: My name is Jessica Herstein. I'd
20 like to understand what the height of the apartment building
21 is including the penthouse from the north-south alley as seen
22 from Massachusetts Avenue.

23 MS. ALEXANDER: It's approximately 81 feet from
24 the alley up to the uppermost top of the mechanical
25 penthouse.

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1 That said, that is not a consistent height and
2 there are setbacks provided in various places to mitigate
3 that height.

4 DR. HERSTEIN: How does that compare to the height
5 on the other side? From Yuma Street.

6 MS. ALEXANDER: On Yuma Street it is 43 and a half
7 feet to the parapet, and then another -- well, it's 12 feet
8 for the penthouse or 15 feet for the mechanical penthouse
9 from the top of roof. We have an 18-inch parapet so you have
10 to add 43 and a half and 15.

11 DR. HERSTEIN: On the Massachusetts Avenue side
12 will it appear taller than the AU building?

13 MS. ALEXANDER: On the -- no. The AU building --
14 we actually do have a slide for this. One second. Well,
15 actually, the end of my presentation. One second.

16 So, on this slide that you can see on the screen
17 you can see the surveyed measured heights of each of the
18 buildings in our surrounding context.

19 The AU building's parapet is approximately 12 feet
20 taller than our building's parapet. Same relationship. The
21 penthouse for AU is approximately 15 foot 3 taller for AU
22 than our building's penthouse.

23 DR. HERSTEIN: Okay. Going into the alley and the
24 delivery trucks, could you explain how you'll require the
25 delivery trucks for the Parking Shops to unload in the alley

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1 instead of on Yuma Street, especially since the ingress and
2 egress for the CVS, for example, is -- for that building is
3 on Yuma Street. How does that work?

4 MR. ANDRES: So our team has coordinated with
5 Regency. And so in that coordination sort of the plan that
6 we presented where we're consolidating some of those
7 compactors and some of those compactors are going to be in
8 an enclosure along with a modified schedule.

9 For some of the deliveries that currently take
10 place on Yuma, and we acknowledge that, we're still going to
11 have to work -- move forward with Regency to figure out how
12 we address some of those.

13 Because right now DDOT understands that that is
14 an activity that takes place, but there are some physical
15 limitations of some of those vehicles.

16 DR. HERSTEIN: It sounds like there will need to
17 be some unloading and loading on Yuma Street. Is that what
18 you're saying?

19 MR. ANDRES: Not for our project.

20 DR. HERSTEIN: No.

21 MR. ANDRES: So we had done a study back in
22 January of this year where we looked at the alley operations.

23 And approximately half of the activity that's
24 going on in the alley --

25 COMMISSIONER SHAPIRO: Mr. Chair, is that in the

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1 record for this case?

2 CHAIRMAN HOOD: You mean is that pertaining to
3 this case?

4 COMMISSIONER SHAPIRO: Right. Are you referring
5 to a study that was done that's in the record for this case?

6 MR. ANDRES: Yes. It is in the appendix of our
7 CTR.

8 COMMISSIONER SHAPIRO: Okay, thank you.

9 MR. ANDRES: So it was included as part of the
10 appendix of our CTR.

11 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.

12 MR. ANDRES: So in that study we identified that
13 actually half of the loading activity that takes place in
14 that north-south alley that we're trying to clean up is
15 associated with the tenants that are currently in the
16 building that we're replacing.

17 So in essence what we're doing is reducing half
18 of the activity in that alley by essentially redeveloping the
19 site. And all of that loading activity is now in loading
20 facilities inside the building. So that is sort of the
21 balance that we're trying to complete with our proposed
22 loading plan.

23 DR. HERSTEIN: And in the proposal regarding trash
24 receptacles moving from Yuma Street to the alley does that
25 include the Exxon station?

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1 MR. ANDRES: No. They're separate ownership.

2 DR. HERSTEIN: So there will still be truck
3 unloading and trash receptacles for Exxon separately.

4 MR. ANDRES: We have -- none of that is changing.

5 MR. GLASGOW: Just for the record, none of that --
6 that Exxon station is not part of the project and it's
7 separately owned.

8 CHAIRMAN HOOD: Okay. Dr. Herstein, what's the
9 relevance of that question?

10 DR. HERSTEIN: I'm just trying to understand the
11 traffic flow and the pedestrian crowding and everything going
12 on in the area.

13 CHAIRMAN HOOD: So why don't you make that the
14 question as opposed to the Exxon station.

15 DR. HERSTEIN: So, I guess the question is how are
16 you going to look at the big picture in terms of the various
17 trucks that are going to be loading and unloading on Yuma
18 Street at the Exxon in the alley with regards to also the
19 cars and the pedestrians and everything else going on.

20 It's one picture even if it's not all under your
21 roof, you know.

22 MR. ANDRES: And we understand that. And you
23 know, one of the first things we did was identify the
24 preexisting condition which is the existing utilization of
25 that north-south alley which we've taken significant steps

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1 to help clean that up.

2 And we understand there's other users essentially
3 on the block that for all intents and purposes are -- have
4 used an existing environment where they have been loading and
5 unloading on Yuma.

6 We in our coordination with ANC 3E there is a
7 study that is going to be embarked on as part of our proffer
8 where the median break essentially on 49th Street is going
9 to be reviewed so that the potential for trucks that are
10 currently loading on Yuma might be able to load within the
11 parking lot.

12 But again, that's something that we will continue
13 to work on as we move forward.

14 With respect to the pedestrian sort of circulation
15 issues that you've raised we've made significant strides in
16 committing to -- significant strides in identifying a whole
17 host of pedestrian improvements that include all of the
18 upgraded intersections with respect to pedestrian crossings
19 which are highlighted in green.

20 Some of the alley improvements that are
21 highlighted in the middle in red. The pedestrian pathways
22 that run along the perimeter of the building within the alley
23 system.

24 And so in coordinating all of those we believe we
25 have addressed a comprehensive look and meet all of DDOT's

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1 requirements and guidelines as part of their CTR review.

2 DR. HERSTEIN: Are you proposing a HAWK signal on
3 Massachusetts Avenue?

4 MR. ANDRES: Yes.

5 DR. HERSTEIN: And why are you proposing that?
6 Is that because of a traffic problem?

7 MR. ANDRES: Well, in sort of the beginning stages
8 of our work as part of this development in addition to
9 identifying impacts associated with the site we've also
10 looked at preexisting conditions.

11 What was identified based on our review as well
12 as feedback that we've gotten from the ANCs are a significant
13 amount of mid-block crossings that take place.

14 So in order to address that we identified sort of
15 in our toolkit potential alternatives for that. And HAWK
16 signals are essentially one of those elements that are
17 consistent in addressing mid-block crossings throughout the
18 District.

19 DR. HERSTEIN: I understand that and it doesn't
20 sound like you think your project is going to actually cause
21 the need for that. And there has been a longstanding DDOT
22 Far West Rock Creek Livability Study that's been examining
23 traffic safety in this area.

24 And they've made some very extensive
25 recommendations including at 48th and Fordham, and 49th and

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1 Mass.

2 CHAIRMAN HOOD: Dr. Herstein, are we going to go
3 to the question? Because --

4 DR. HERSTEIN: Yes. But I just don't --

5 CHAIRMAN HOOD: Two more sentences and it will be
6 testimony. So let's just go to the question.

7 DR. HERSTEIN: Why is it that you think that we
8 need a HAWK light when that livability study has not
9 suggested or recommended that?

10 MR. ANDRES: Well again, based on our
11 conversations with the ANC, based on our observations and
12 based on our coordination with DDOT this was an appropriate
13 recommendation.

14 DR. HERSTEIN: And you just mentioned a median
15 break on 49th Street. Could you explain what that is?

16 MR. ANDRES: It's essentially -- there is the
17 porkchop that serves the Mass Avenue shopping center where
18 it's right in, right out.

19 We're looking at adjusting that to allow for left
20 turns to the left of that.

21 DR. HERSTEIN: Do you have any pictures of that?

22 MR. ANDRES: We don't have a drawing.

23 DR. HERSTEIN: There's no median that I know of
24 on 49th Street, but there is on Mass Ave.

25 MR. ANDRES: Yes. In addition to sort of that

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1 porkchop there is discussions associated with the HAWK signal
2 as well where we are looking at -- that we are potentially
3 looking at the median break.

4 DR. HERSTEIN: Okay, I think those are very
5 important things to all look at together because we're
6 talking about a very busy avenue with multiple stops and
7 breaks between 48th and Westmoreland Circle.

8 So I haven't heard any convincing information
9 about how that will really work.

10 MR. ANDRES: Well, with respect to the context.
11 And we've identified this in our traffic study.

12 The existing 44,000 square foot retail center that
13 is there today, if it were to be reoccupied it would actually
14 generate more traffic in the evenings and on Saturdays
15 compared to what we're proposing.

16 And the reason for it is because retail per square
17 foot generates more traffic than residential. So when we're
18 reducing the amount of retail and replacing it with
19 residential there's a delta that results from that, and that
20 delta is a reduction in traffic.

21 So with respect to sort of if you look at this
22 site in context with the historical usage of the site the
23 amount of traffic that's being generated as part of this
24 proposal is actually going to be less than what was there
25 when it was an active grocery and retail use.

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1 DR. HERSTEIN: Did the Rock Creek Far West study
2 recommend a cut in the Mass Avenue median?

3 MR. ANDRES: That was a study that was completed
4 before we essentially got engaged in this project. Actually
5 after we got engaged in this project.

6 DR. HERSTEIN: Can you share who did that study,
7 what that study was?

8 COMMISSIONER MAY: I'm sorry, if it's not already
9 part of the record that they've introduced then it's -- I
10 mean, you didn't put it into the record, right?

11 MR. ANDRES: No, I did not.

12 COMMISSIONER MAY: So you can't cross examine him
13 on something -- somebody else's product. You're certainly
14 welcome to introduce it as testimony.

15 DR. HERSTEIN: But he is telling me that that
16 product exists and that you relied on it. Is that right?

17 MR. ANDRES: The livability study? No. The
18 livability study was being prepared as we were preparing the
19 traffic --

20 DR. HERSTEIN: Right, right.

21 (Simultaneous speaking)

22 DR. HERSTEIN: Somebody did a study that showed
23 that the cut in the median would make the best traffic --

24 MR. GLASGOW: I think this is beyond the scope of
25 the direct.

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1 CHAIRMAN HOOD: Hold on one second.

2 DR. HERSTEIN: Perhaps this is an issue that DDOT
3 can address when they're speaking.

4 CHAIRMAN HOOD: I want to make sure we proceed
5 correctly. Mr. Andres, is this something that you relied on?
6 Did you rely on this when you were doing your study?

7 MR. ANDRES: So, the Rock Creek Far West
8 Livability Study was an ongoing study that was going on as
9 we were preparing this traffic study. So the short answer
10 is no, we didn't --

11 (Simultaneous speaking)

12 MR. ANDRES: No.

13 CHAIRMAN HOOD: So it goes back to what
14 commissioner says, Dr. Herstein. If you can bring that up
15 in your presentation to us that will be the appropriate way
16 to do that.

17 You have any other -- next question?

18 DR. HERSTEIN: I don't. Thank you.

19 CHAIRMAN HOOD: Okay. Thank you very much. Dr.
20 Herstein, I want to thank you for being so pleasant to me.
21 Most of the time when I cut people off and do that they get
22 mad with me and go back -- but you were very pleasant and I
23 appreciate that.

24 Sometimes it's nice to be -- you know, I know it
25 wasn't all going your way, but you were very pleasant and

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1 professional and I appreciate that. I really do. Thank you
2 too, Ms. Gates, as well.

3 Okay. Let me see. Oh, Mr. Donohue, how could I
4 forget you. Citizens -- now this is where I always mess up,
5 but this is Citizens for Responsible Development. Okay. Mr.
6 Donohue.

7 MR. DONOHUE: I thought we agreed in the last go-
8 around we would just call it CRD so none of us would make a
9 mistake.

10 CHAIRMAN HOOD: That's true. Thank you for
11 reminding me.

12 MR. DONOHUE: Mr. Chairman, I'm going to try to
13 be efficient here with your time. I'm going to ask my client
14 Mr. Repp to ask some questions. I've got a few and then I
15 think you said you were talking about taking a break at some
16 point so maybe we can get you to that break.

17 CHAIRMAN HOOD: So we want to make sure that --
18 who's going to ask the questions?

19 MR. DONOHUE: Both.

20 CHAIRMAN HOOD: No. Only one person. See that's
21 where I made the mistake in another case and caused a lot of
22 problems. So I try not to repeat my mistakes. And I think
23 I've allowed it previously in other cases, not even these
24 cases, but I've made mistakes. So that's I wanted to be fair
25 and do the same thing I did with the previous party in

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1 opposition.

2 So you all can either feed the questions to each
3 other like they did, or give them -- but we only want one
4 person to do the cross examination.

5 MR. DONOHUE: Let him handle it.

6 CHAIRMAN HOOD: Okay.

7 MR. REPP: Okay. Going back, Ms. Alexander, you
8 talked about the height of the AU building and the Valor
9 building.

10 How high is the AU building, how high is it above
11 sea level not counting the mechanical penthouse?

12 MS. ALEXANDER: The parapet is 317 feet point 33.

13 MR. REPP: 317.33. How high is the western edge
14 above sea level of the Valor building?

15 MS. ALEXANDER: Three hundred -- the parapet again
16 is at 305.5 feet.

17 MR. REPP: Is there a higher level for the Valor
18 building than that 304 feet?

19 MS. ALEXANDER: Yes. The penthouse.

20 MR. REPP: And it's not a mechanical penthouse,
21 right?

22 MS. ALEXANDER: There is both a regular penthouse
23 and a mechanical penthouse.

24 MR. REPP: And what is the height above sea level
25 of the Valor building, the highest?

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1 MS. ALEXANDER: The top of the mechanical
2 penthouse is at 319 feet.

3 MR. REPP: Thank you.

4 MS. ALEXANDER: But to note the top of the
5 mechanical penthouse for the AU building is 334 feet point
6 26.

7 MR. REPP: Mechanical penthouse. Mr. Lansing, how
8 many employees -- full-time employees does Valor Development
9 have?

10 MR. GLASGOW: Mr. Chairman, I'm going to object
11 that that's beyond the scope of any of the direct.

12 CHAIRMAN HOOD: Was that provided in the
13 submissions? I didn't see it. Okay. So what is the
14 relevance of that?

15 MR. REPP: Well, they're the applicant so -- the
16 main applicant.

17 CHAIRMAN HOOD: Okay. I'm going to rule that out
18 of order. Next question.

19 MR. REPP: With respect to the \$100,000 that's
20 provided to connect residents to Metro what's going to happen
21 once that's used up?

22 MR. LANSING: When that escrow account is used up
23 we'll reevaluate based upon demand of the residents of the
24 building and what technologies exist at that point in time.

25 MR. REPP: The agreement with AU on parking, the

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1 leasing from AU to Valor, what is the term of that lease?

2 MR. GLASGOW: Mr. Chairman, once again beyond the
3 scope of the direct. We discussed with Commissioner Miller
4 that if there are uses with respect to the parking that can
5 be a condition of the order if the Commission gets that far.

6 CHAIRMAN HOOD: Mr. Repp, let me ask you again
7 what is the relevance.

8 MR. REPP: Well, the parking on the site is key
9 to keep parking off the residential streets. AU has an
10 easement for 236 spaces on this site.

11 Apparently there is a lease back, or a lease from
12 American University to Valor of a high percentage of those.
13 And the question is what's the term of that lease and can it
14 be terminated at any time by American University.

15 Because that will change the whole parking picture
16 in the neighborhood.

17 MR. GLASGOW: Mr. Chairman, I renew my objection.
18 It's -- when the condition goes in the Zoning Commission
19 order it's for the life of the project.

20 CHAIRMAN HOOD: Okay. I actually want an answer
21 to that too. But that's something I can bring up. Hold on
22 a second.

23 All right. I'm going to save this also. This is
24 a question that I'll follow up on. Next question.

25 MR. REPP: In regard to the ANC 3E memo MOU that

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1 you've mentioned it states that the allocation of parking
2 spaces to the various user groups within the below grade
3 garage will be reviewed regularly by the building owner and
4 property management company to ensure that the parking demand
5 of each user is met and the impact on onstreet parking is
6 minimized. What does this mean?

7 CHAIRMAN HOOD: Is that a separate agreement again
8 between Valor and -- is that another MOU that you have in
9 place? With 3E.

10 MR. LANSING: It's just the MOU with ANC 3E.

11 CHAIRMAN HOOD: 3E. So that to me, Mr. Repp,
12 stands on its own. Again, next question.

13 MR. REPP: With respect to the grocer where are
14 you today on your negotiations with the grocer?

15 MR. LANSING: So we stand as we always have at a
16 deeply negotiated letter of intent. As I've noted to the
17 community many times grocers are hesitant to sign a full
18 lease agreement on a site that has yet to be entitled.

19 So we still stand at a deeply negotiated letter
20 of intent and work letter with a grocer.

21 MR. REPP: With respect to your request for
22 density under the PUD are you only asking for enough density
23 from the shopping center from the MAPS to provide the grocery
24 store for the project?

25 MR. DETTMAN: No. There's -- if I can get there

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1 quickly. No. So the amount of gross floor area that will
2 come over to lot 807, that will be aggregated to lot 807 is
3 approximately 50,115. I think approximately 20 of that will
4 be devoted to non-residential use including the loading area.

5 MS. ALEXANDER: Correct.

6 MR. DETTMAN: So that's about 30,000 square feet
7 of additional GFA that's coming over that will be devoted to
8 housing.

9 MR. REPP: Your October 4th submission states that
10 the loading dock manager will direct trucks servicing the
11 shopping center to utilize the alley or a private drive for
12 loading.

13 Do you have an agreement with Regency, the owner
14 of the shopping center to this effect?

15 MR. ANDRES: Can you repeat your question?

16 MR. REPP: The October 4th submission just a
17 couple of days ago states that the loading dock manager will
18 direct trucks servicing the Massachusetts Avenue Parking
19 Shops to utilize the alley or a private drive for loading.

20 Is this in your agreement with Regency that they
21 will comply?

22 MR. DETTMAN: That's a provision in the loading
23 management plan that will be made a condition in the order.
24 And so that's something that has to be implemented.

25 MR. REPP: I take it it's not there right now.

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1 Refers to a private drive for loading. What private drive
2 are you referring to? It says both the alley or a private
3 drive.

4 MR. ANDRES: So there's -- so the alley system
5 consists of a private portion of the alley. It's one alley
6 system, but there's a portion of it that's private.

7 MR. REPP: So are you saying that the delivery
8 trucks for the Massachusetts Avenue parks and shops may be
9 doing their loading behind the AU building? That's where the
10 private drive is.

11 MR. ANDRES: No. So that portion of the private
12 drive also will primarily serve our trucks. So that's the
13 intent of the loading management plan to allow for trucks to
14 access that portion of the private drive.

15 MR. REPP: Okay, moving on. Isn't the only
16 construction that's coming out of this PUD going to be on lot
17 807?

18 MR. DETTMAN: I'm sorry, could you -- let me first
19 clarify something related to your last question because I
20 think there are two things getting conflated.

21 And in the DDOT report it talks about in relation
22 to the -- or in reference to the Spring Valley Shopping
23 Center all trucks serving the Spring Valley Shopping Center
24 should be directed not to load or unload on Yuma Street, but
25 to instead utilize the alley or internal private drive

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1 aisles. That's what you're referring to, right?

2 MR. REPP: Yes.

3 MR. DETTMAN: Okay. So as part of the loading
4 management plan there's a provision that talks about
5 coordinated loading and loading -- trucks on Yuma Street
6 utilizing the alley.

7 Mr. Andres also mentioned the potential -- there's
8 going to be a study that looks at the potential for breaking
9 the median along Massachusetts Avenue which may allow trucks
10 that are delivering to the Spring Valley Shopping Center to
11 enter the parking lot.

12 So the private drive aisle that's referred to
13 there is a drive aisle that's onsite in the parking lot at
14 the Spring Valley Shopping Center. So I hope that clarifies
15 it.

16 MR. REPP: What drive aisle -- you mean right into
17 the parking lot of the Spring Valley Shopping Center?

18 MR. LANSING: Yes, that's correct.

19 MR. REPP: So the breakthrough then wouldn't be
20 near where that alley is that comes out of -- the north-south
21 alley behind the building. It would be over on the other
22 side of the PNC -- no, on the other side of the entrance,
23 where the entrance is to the shopping center, a good 30-40
24 feet down away.

25 There's a north-south alley there that ends up

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1 between the PNC Bank and the shopping center. But where the
2 shopping center is there, that's a grassy area. The entrance
3 to the shopping center is up Massachusetts 30-40 feet.

4 MR. LANSING: That's correct. I think this is the
5 intention of why the ANC wanted us to study this and that's
6 what will happen. That's why we committed to it.

7 MR. REPP: Okay. Going back to the question I was
8 asking before we had that clarification there. Isn't the
9 only construction that will occur as a result of this PUD
10 that involves four lots, isn't the only construction going
11 to be on lot 807?

12 MR. DETTMAN: That's correct. The only buildings
13 proposed are located on lot 807.

14 MR. REPP: And what is the matter of right allowed
15 density on lot 807?

16 MR. DETTMAN: Including IZ based on the land area
17 of record lot 9 which includes 807 and 806 I think it's
18 184,000 and change.

19 MR. REPP: And what is the density of the -- what
20 is the FAR currently on 807 as part of this project?

21 MR. DETTMAN: I can do that quickly.

22 MR. REPP: I meant GFA, not FAR.

23 MR. DETTMAN: What's the FAR on --

24 MR. REPP: What's the GFA of -- I'm sorry, what's
25 the GFA proposed for lot 807?

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1 MR. DETTMAN: Two hundred and thirty-four thousand
2 six twenty-nine. That's what it says on the slide.

3 MR. REPP: And matter of right as you just said
4 is 184,000 roughly.

5 MR. DETTMAN: In a matter of right project, yes,
6 the 184,000 square feet on the lot. This is a PUD.

7 MR. REPP: Okay. With respect to this issue that
8 was raised about the embankment doesn't the grade change on
9 Yuma Street begin way to the east of 48th Street, basically
10 begins between 47th and 48th Street and it begins to slope
11 down all the way down to the north-south alley there next to
12 where DeCarlo's is right now?

13 MR. DETTMAN: The grade of Yuma is decreasing from
14 east to west.

15 MR. REPP: Beginning before -- beginning east of
16 48th Street.

17 MR. DETTMAN: I can say yes just because I ride
18 my bike down Yuma.

19 MR. REPP: Yes. Okay. Well I walk down it and
20 the answer is yes too. Okay.

21 Mr. Andres, you testified that the current alley,
22 north-south alley is 12 feet wide, drive lane is 12 feet
23 wide. Where did you get that?

24 MR. ANDRES: So, my actual statement was that the
25 effective width of the alley is 12 feet because of the way

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1 that the dumpsters are currently in the alley.

2 The alley itself is actually 20 feet wide. But
3 the Massachusetts Avenue Parking Shops have their dumpsters
4 in the alley. And since the dumpsters are in the alley it
5 effectively narrows the width of that alley.

6 MR. REPP: Aren't the dumpsters actually on
7 private space now? I think there was an issue there that I
8 think ANC 3E raised, but I think they've been moved.

9 MR. ANDRES: I'm unaware of that.

10 MS. ALEXANDER: We have a picture. This is the
11 current situation.

12 MR. ANDRES: That looks like it's in the alley.

13 MR. REPP: But also doesn't it look like there's
14 space on the left side there that is a little more than 12
15 feet?

16 MR. ANDRES: Well, that is private property where
17 it's a loading zone.

18 MR. REPP: Okay. Let's move on. The --
19 Gorove/Slade and Mr. Andres, your report states that mixed
20 use building will contain 214 residential units and 18,000
21 square feet of retail.

22 Why didn't you assume that there would be 235 or
23 40 units given the request for increased flexibility?

24 MR. ANDRES: The project as proposed is 214
25 dwelling units and 5 townhomes.

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1 MR. REPP: How big did you assume in your
2 calculations, how big did you assume the grocery store would
3 be?

4 MR. ANDRES: Well, total retail including grocery
5 is 18,198 square feet.

6 MR. REPP: But when you ran your numbers against
7 the -- the Institute of Transportation Engineers did you
8 assume that the whole 18 was grocery rather than some
9 different category? I'm a little beyond my element there,
10 but is that what you assumed?

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

12 MR. REPP: Has Valor conducted a pedestrian survey
13 of the alley and the area?

14 MR. ANDRES: I'm sorry, can you --

15 MR. REPP: Have you conducted a pedestrian survey
16 of the alley and the surrounding streets?

17 MR. ANDRES: When you say pedestrian survey we
18 reviewed all of the pedestrian infrastructure that's
19 currently out there and we've identified recommendations as
20 per our coordination with DDOT.

21 MR. REPP: Your report states that pedestrian
22 facilities along the public and private alleys to the south
23 of the site will be improved so they meet DDOT and ADA
24 standards. Does the sidewalk to the west of the building
25 also meet ADA standards?

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1 MR. ANDRES: There is no sidewalk to the west of
2 the building. There is a pedestrian path that we've
3 identified on private property as well as an easement on
4 private property to widen the public alley.

5 MR. REPP: Does the pedestrian pathway meet ADA
6 standards?

7 MR. ANDRES: Well, the way that the plan currently
8 is identified is that that pathway is flush with the alley.

9 So essentially the effective width to allow for
10 somebody who's handicapped in a wheelchair coming down the
11 alley is similar to as it is today.

12 MR. REPP: Your previous CTR, the 2017 CTR had 48
13 percent of trips generated using the 48th Street entrance and
14 32 percent using --

15 MR. GLASGOW: Mr. Chairman, I'd like to interpose
16 an objection. He's talking about the prior case. Prior CTR,
17 prior case.

18 CHAIRMAN HOOD: Okay. So I'm going to rule that
19 out of order. This is not about any other case. This is
20 about this case only.

21 MR. REPP: How did you determine that in the
22 current CTR that 36 percent of the vehicle entrances and
23 exits will be using 48th Street and 41 percent will be using
24 Yuma Street?

25 MR. ANDRES: So based on existing traffic counts

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1 we look at the way that people would arrive at the site.

2 So that is something that not only do we develop
3 independently, but that is submitted for DDOT's review as
4 part of the scoping process.

5 MR. REPP: Okay, we're getting down to the end
6 here, but this is a bit of a big one.

7 You have testified that the traffic generated by
8 this project will be less than the traffic generated
9 previously, for the existing -- if it's fully occupied
10 retail. Is that correct?

11 MR. ANDRES: What I testified to is that if the
12 44,000 square feet of existing retail space onsite is
13 reoccupied it would generate -- the existing use would
14 generate more traffic during the afternoon and on the
15 weekends and over a 24-hour period.

16 MR. REPP: Okay. Looking just at the afternoon
17 because actually that's the number -- one of the numbers you
18 have in your chart. I don't have the number now in front of
19 me. The number in your chart.

20 When you did your counts in March of this year
21 except for the Superfresh grocery which was empty weren't all
22 the other retail space occupied?

23 MR. ANDRES: So, when we do this comparison this
24 is not actual vehicle counts. This is using the industry
25 standard.

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1 If you were to compare the industry standard for
2 a box, a volume of 44,000 square feet and compare that to the
3 number of units and the amount of retail we're proposing that
4 is where the delta comes from.

5 So it's irrelevant with respect to the amount of
6 traffic that's being generated today.

7 However, as part of our updated traffic study we
8 did do new traffic counts in and around the area. And if you
9 look at our CTR the intersections that we studied does take
10 into account new baseline counts associated with activities
11 such as Millie's and such as some of the other background
12 developments.

13 MR. REPP: Actually that's not what I was getting
14 at. I was looking at what the count would be attributable
15 to the DeCarlo's Restaurant, Pitmasters BBQ, the hair salon
16 and Wagshal's Kitchen.

17 And those counts are available. If you're not
18 using them I'll do it on direct what it is.

19 With respect to the grocery store are you aware
20 of what the actual square footage is of the grocery -- of the
21 Superfresh grocery?

22 MR. ANDRES: Well, the total square footage is
23 44,000 square feet which includes the grocery and the
24 ancillary retail in that.

25 MR. REPP: I will testify on direct that the

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1 actual grocery is smaller than the grocery here. So we'll
2 come back to that.

3 MR. ANDRES: But the overall retail still needs
4 to be accounted for as part of the traffic.

5 MR. REPP: To answer your question there the --
6 based on your numbers we know -- we can figure out what the
7 actual trips generated by the existing retail is, and then
8 we can try to figure out what it would be for the Superfresh
9 based on the size.

10 CHAIRMAN HOOD: So sometime -- let me just explain
11 why I let that happen. Sometimes it's easier to go ahead and
12 let that happen. You're right. That wasn't a question. It
13 was really out of order. But, it will save us a lot of time
14 if I didn't interrupt.

15 So, trust me, I've been doing this a long time.

16 MR. REPP: We trust you.

17 CHAIRMAN HOOD: Because you were going to get it
18 out anyway.

19 MR. REPP: Yeah. We trust you.

20 CHAIRMAN HOOD: You have a next question?

21 MR. REPP: What percentage of the trips generated
22 by the project during the afternoon peak hour will travel
23 through Fordham Road and 48th Street on the other side of
24 Massachusetts?

25 MR. ANDRES: Please give us a minute. Sir, is the

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1 question considering Fordham Road during the evening or
2 during the morning?

3 MR. REPP: I'm sorry. Say that again?

4 MR. ANDRES: Approximately 5 percent.

5 MR. REPP: Have you discussed the alley
6 improvements with the Public Space Commission?

7 MR. ANDRES: No. Typically when you go before
8 Public Space, it's -- the Public Space Committee approval is
9 part of, essentially, the permitting that goes through when
10 you have a -- when you have a building permit.

11 MR. REPP: What do you need to do, given the fact
12 that you've shifted the alley onto private space, what do you
13 need to do to legalize that?

14 MR. ANDRES: Well again, as part of the Public
15 Space permitting process, typically the way that it's handled
16 is we submit civil plans that show essentially the graphic
17 that is before you on the screen, and the improved graphic.
18 And identify what the changes are in the public space.

19 MR. REPP: Okay. I want to ask you one last
20 question here. Will a typical moving van be able to enter
21 the loading docks off of the east/west alley?

22 MR. ANDRES: Yes.

23 MR. REPP: A 55-foot moving van?

24 MR. ANDRES: That's -- typical moving vans are not
25 55 feet.

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1 MR. REPP: Okay. And we'll stop there. I have
2 no other questions.

3 CHAIRMAN HOOD: Thank you Mr. Repp. Mr. Donohue?

4 MR. DONOHUE: Thank you Mr. Chairman.

5 CHAIRMAN HOOD: Do we have -- that's all our
6 parties, right? Okay. All right, let's -- let's go through
7 the -- so yeah, let's go to the Office of Planning. I think
8 through that, HPO may have a presentation. Then we'll go to
9 DDOT, District Department of Transportation.

10 Ms. Vitale?

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

13 This case is familiar to the Zoning Commission.
14 It was before you as a design review in Zoning Commission
15 Case 16-23. The Applicant has withdrawn that application.
16 And you have a consolidated planned unit development
17 application before you now.

18 The Office of Planning supported the design review
19 application. And continues to recommend approval of the
20 subject PUD. Similarly, both ANC 3D and 3E have recommended
21 approval of the design review and PUD.

22 The subject PUD application does not involve a map
23 amendment. And the proposed development would be within the
24 development standards, including height and density for an
25 IZ development in the MU-4 Zone.

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1 The Applicant is not requesting any PUD related
2 flexibility. They are requesting design flexibility. And
3 I can speak to that flexibility language in more detail later
4 in my report.

5 The Applicant has also requested special exception
6 relief from the rear yard requirements for building one. And
7 they're requesting special exception relief to permit a
8 penthouse on townhouses one through four. And to permit
9 enclosing walls of unequal height for those penthouse
10 enclosures. OP supports the requested special exception
11 relief, and has provided an analysis in its report.

12 This project meets the PUD standards for review.
13 And would result in a project superior to what would result
14 from the matter of right standards, as it would support the
15 redevelopment of an underutilized site with a mixed use
16 development that would bring 219 housing units, including 29
17 inclusionary zoning units, as well as neighborhood-serving
18 retail to an area that's designated as a neighborhood
19 commercial center.

20 The project would offer a commendable number of
21 -- or, quality of meaningful public benefits, including
22 public and open space improvements, housing, and affordable
23 housing, environmental and sustainable benefits,
24 transportation and infrastructure improvements, as well as
25 uses of special value with the neighborhood's serving grocery

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1 retailer.

2 The project would also protect and advance the
3 public health, safety, welfare, and convenience, and is not
4 inconsistent with the Comprehensive Plan.

5 The MU-4 zoned property, which is located in a
6 designated neighborhood commercial center on the
7 Comprehensive Plan policy map is a suitable site for a
8 planned unit development and for the proposed project.

9 The proposed building is well designed, would use
10 high quality materials, and would be compatible in
11 architectural style with the surrounding neighborhood
12 character.

13 The proffered benefits and amenities fully justify
14 the development incentives requested, because as previously
15 stated, the Applicant is not requesting a map amendment, and
16 is not utilizing any PUD-related height or density
17 flexibility.

18 OP would like to provide some additional detail
19 regarding the housing and affordable housing discussion from
20 our report. If I can work the laptop over here. And the
21 Applicant also used a similar slide. But, we'll expand a bit
22 more on this discussion.

23 Rock Creek West has the smallest percentage of
24 income-restricted affordable housing units of the District's
25 Comprehensive Plan planning areas. And that's what you see

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1 depicted on the screen before you now.

2 There really are limited opportunities for
3 multifamily developments in Rock Creek West. And limited
4 opportunities to utilize IZ and bonus densities.

5 To walk through, the area with kind of the dark
6 line around it, that's Rock Creek West. That's the
7 comprehensive planned planning area where this project is
8 located. A portion of Rock Creek West is federal land or
9 park land, you can see that in green on the screen here.

10 Other areas in this light shade of green that you
11 see now are covered by campus plans, or are zoned for low
12 density, single family residential use. Other areas where
13 IZ would apply are built out or are small parcels in
14 individual ownership. So you can see that again, in the
15 light green here on the screen.

16 So, the opportunities to provide affordable
17 housing in Rock Creek West are limited to the Wisconsin and
18 Connecticut Avenue corridors and to other commercial nodes,
19 such as the commercial node where this subject PUD is
20 located. And as we've stated, the PUD would provide 29
21 inclusionary zoning units, including four family-sized IZ
22 units. If I can -- that's it for the housing discussion.

23 I will run though, since there have been some
24 questions about the Office of Planning, kind of, items for
25 the Applicant to address in our report, I'll go ahead and

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1 walk through those now. We had requested that the Applicant
2 provide a revised signing plan that reduces the number of
3 grocery signs on the north building facade to no more than
4 two signs. The Applicant in its supplemental filing has
5 agreed to that. There would be one directional blade sign.
6 We think that the sign plan along with condition in the order
7 can address that issue.

8 The Applicant has indicated that the 1100 square
9 feet at the southwest corner of building one will be used for
10 retail and not amenities. So they've clarified that.

11 We've discussed briefly the issue of rooftop
12 solar. The Applicant has indicated that they don't believe
13 rooftop solar would be a good solution for this project. But
14 they did indicate that they would ensure that the building
15 is solar ready. So should technology, design, other factors,
16 change in the future, the building would be equipped to
17 handle solar if that was a potential in the future.

18 They have indicated that the electric vehicle
19 supply equipment is a level two charger. So they've
20 addressed item number four.

21 Item number five came from the Department of Parks
22 and Recreation. They had requested that the Applicant
23 consider providing playable elements in the common areas and
24 public space, and to gear those towards younger kids and
25 toddlers. This is a multifamily development. We anticipate

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1 that there will be some children living in these units. The
2 Applicant, I believe through its agreement with the ANC is
3 looking at ways to address these types of issues. So I think
4 that comment has been addressed.

5 I'll defer to DDOT with respect to item number
6 six.

7 There were some additional things, one of those
8 was the common flexibility language. The Applicant in its
9 most recent filing did submit revised flexibility language.
10 That language does much more closely match what the
11 Commission normally adopts in terms of design-related
12 flexibility. So, I think OP is comfortable with the
13 Applicant's latest language. I think based on tonight's
14 discussion there maybe a few areas where we'll continue to
15 refine that. And I think, you know, we're happy to continue
16 to work with the Applicant and OAG on that.

17 The Applicant will be providing the long term bike
18 parking detailed information. The Applicant has provided the
19 detailed drawing with the dimension section of the walk outs
20 in the patios on the east facade.

21 There's been discussion about the affordable
22 housing proffered. And I think the Applicant is going to
23 continue to look at that. And obviously the final list of
24 proffered project benefits and amenities will be submitted
25 by the Applicant in its post-hearing submission.

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1 I believe this concludes my portion of the report.
2 I'm happy to answer any questions, or I can hold those until
3 other folks have a chance to speak.

4 Thank you.

5 CHAIRMAN HOOD: Okay. Thank you. We'll hear all
6 the reports, and then we'll come back with our questions.
7 Okay.

8 MR. MALONEY: Thank you Mr. Chair. David Maloney,
9 State Historic Preservation Officer in the Office of
10 Planning.

11 As part of OP's report, we've prepared a historic
12 preservation analysis, because this PUD does include within
13 its boundaries a designated historic landmark, the
14 Massachusetts Avenue Parking Shops.

15 I think the first thing to point out about our
16 report is that development on the Super Fresh site, which is
17 most of the construction proposed by this PUD, is not subject
18 to historic preservation review. The only thing that is
19 subject to historic preservation review is the portion of the
20 PUD area that is the lot of the historic landmark.

21 But, for the purposes of this analysis and
22 information for the Zoning Commission, we did evaluate the
23 impact of the PUD on the historic landmark using the criteria
24 in the historic preservation law that apply to construction
25 affecting historic landmarks. The purposes of the law in

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1 that respect are to retain and enhance historic landmarks in
2 the District of Columbia, and to encourage their adaptation
3 for current use. And also to encourage the restoration of
4 historic landmarks.

5 Our bottom line conclusion is that this -- the PUD
6 project would overall enhance the character of the parking
7 shops by improving its architectural setting through a
8 compatible design and superior execution, as ensured through
9 the PUD process, which is the only design review process that
10 would apply since the Historic Preservation Review Board, as
11 I said earlier, does not have the authority to review the
12 design of the construction on the Super Fresh site.

13 Briefly, the reasons for that are two, if you boil
14 it down. The first is that the setting of the landmark would
15 be positively improved through the improvements in the alley.
16 The -- certainly the controlling of the unsightly collection
17 of the dumpsters in the alley, reinforcing the feel of the
18 alley as more of a minor street, than just a service area.
19 And also the treatment of the massing of the new project in
20 a way that responds spatially to the historic landmark, and
21 reinforces the visual character of the shop frontages on Yuma
22 Street.

23 Aside from those improvements to the setting, the
24 project does obviously have a visual effect on the historic
25 landmark. And it is of course larger than what is there now.

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1 However, the context of that scale has already been
2 established by the American University Building. And most
3 importantly, the PUD effect is in terms of the quality of
4 design of the building that would be visible behind the
5 landmark.

6 That structure is a well-designed building in a
7 compatible architectural style, using materials, coloration,
8 fenestration, and a window-to-wall ratio that harmonize with
9 the landmark. And so that is a distinct advantage that a
10 planned unit development project would have over matter of
11 right construction.

12 So, those are the major conclusions of the report.
13 And I'd be happy to answer any questions.

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

17 Throughout this process we have conducted a
18 thorough review of the site design plans and a comprehensive
19 transportation study. DDOT concurs with the analysis in the
20 CTR, that there would not be any impacts to the roadway
21 operations necessitating the need for any mitigation at
22 intersections in the vicinity of the site with the addition
23 of site-generated traffic.

24 We did request a couple of conditions in our
25 report to offset the potential impacts of induced vehicle

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1 demand from the high supply of parking. These include
2 pedestrian network upgrades at four intersections around the
3 perimeter of the site, and implementation of a robust TDM
4 plan to encourage walking, biking, and transit usage.

5 As you heard in the Applicant's presentation,
6 they've agreed to all DDOT conditions. Above and beyond
7 those conditions, the Applicant has worked in close
8 coordination with the ANC community and DDOT on numerous
9 additional transportation benefits and amenities.

10 DDOT believes those are all significant and
11 positive contributions to improve walkability in the
12 neighborhood. And we look forward to continuing to work with
13 the Applicant during public space permitting on the final
14 design of the alley network, intersection improvements and
15 HAWK signal.

16 With the DDOT requested conditions included in the
17 final zoning order, DDOT has no objection to the approval of
18 this planned unit development. Thank you.

19 CHAIRMAN HOOD: Okay. Thank you all, Ms. Vitale,
20 Mr. Maloney, and Mr. Zimmerman.

21 Let me do the assessment now. It is now 8:51.
22 And I believe, and I'm talking to my colleagues now to see
23 how far we can go. I think we're looking -- aiming to stop
24 tonight at 10 o'clock. I believe that depending upon how
25 cross-examination goes of the three -- well, of the two

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1 agencies, I believe we could probably make it down to hearing
2 the ANC reports tonight and stop there.

3 I would like to do more. But, I think --
4 (Off-microphone comments.)

5 CHAIRMAN HOOD: Well, the reason I want to make
6 sure I stop is, is anybody going to leave?

7 (Off-microphone comments.)

8 CHAIRMAN HOOD: Oh, okay. Oh, you --
9 (Off-microphone comments.)

10 CHAIRMAN HOOD: Well, I have four other
11 colleagues, and I know what time they want to stop, because
12 they do have other jobs. And I know -- you know, so. I
13 could go probably to 11:00. But, I don't want to -- others
14 want to stop at 10:00, I believe. Okay?

15 But let's see how it goes. I just don't want
16 anybody to leave and we keep going, and then you've been
17 left. So, why don't we do another assessment. Does anybody
18 have a problem doing another assessment about 9:00, maybe
19 9:30? Is that too late for an assessment?

20 (Off-microphone comments.)

21 CHAIRMAN HOOD: Okay. All right. Ms. Gates?

22 MS. GATES: Thank you Mr. Chairman. The later we
23 get into the evening, it makes it more difficult for all of
24 us who have been sitting here listening to this.

25 I mean, it's not like the first time we've heard

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1 some of it. But, it would be much better and more fair to
2 the opposition to start fresh in the evening at the next
3 possible hearing date.

4 CHAIRMAN HOOD: So, I'm going to use your -- I'm
5 going to use your exact words what you said, for all sides.

6 So, as we continue to make testimony, just
7 remember what Ms. Gates said. So, I think that can work in
8 everybody's favor, including the Commission's. Okay?

9 That works a number of ways. So, let me define
10 it right now, and if I mess up, I will take that from Ms.
11 Gates. We will try to get through. We will not go to the
12 parties in support or opposition until the next time. We
13 will stop at the ANC and cross-examination of ANC.

14 Okay? So, if somebody chooses to leave, you can
15 do that. All right?

16 All right, so let's continue where I leave off.
17 Cross -- colleagues, any questions of either? Mr. Turnbull?

18 COMMISSIONER TURNBULL: Thank you Mr. Chair. Ms.
19 Vitale, the Comp Plan notes that residential uses are allowed
20 in commercial zones. Can you confirm this for the record?

21 MS. VITALE: Yes.

22 COMMISSIONER TURNBULL: Okay.

23 MS. STEINGASSER: May -- can I -- can I add a
24 little bit more to that answer?

25 COMMISSIONER TURNBULL: That's good. Okay.

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1 MS. STEINGASSER: They're not just allowed in the
2 zones, they're actually incentivized in the commercial zones.
3 In order to maximize the FAR permitted in these mixed use
4 zones, you would have to have residential. So they're
5 actually an incentivized use in the residential -- in the
6 commercial/mixed use zones.

7 COMMISSIONER TURNBULL: Well that hadn't been
8 stated tonight. That's why I asked. That's why I wanted it
9 on the record. Thank you, very much.

10 VICE CHAIR MILLER: Does anybody -- does any of
11 my colleagues have further questions of the Office of
12 Planning or DDOT?

13 COMMISSIONER MAY: I just have one. So, going
14 through the list of amenities, benefits, mitigations that are
15 in the OP report, I was curious, I didn't see any -- the
16 mitigation box checked off for any one of them. Maybe I
17 missed something, but, so everything that has been discussed
18 here is either essentially a benefit or an amenity to the
19 project in your view. Is that right?

20 Is there anything that might be considered
21 something that's necessary to mitigate an adverse impact of
22 the project? I know that's sort of a broad question, so.

23 MS. VITALE: And I would agree. We haven't
24 checked off the mitigation box specifically in our analysis.
25 I do think, particularly related to some of the

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1 transportation improvements --

2 COMMISSIONER MAY: Right.

3 MS. VITALE: -- those would be considered
4 mitigation for project impacts.

5 COMMISSIONER MAY: Okay. So, and it's probably
6 worth taking a look at that and noting anything.

7 I mean again, based on Mr. Zimmerman's testimony,
8 it seems like there -- it also seemed like everything was a
9 benefit or an amenity, as opposed to something that's
10 required to mitigate. But, when you think about pedestrian
11 improvements or even the HAWK signal, I mean, -- well, maybe
12 not the HAWK signal. But, so I mean it seems like they are
13 necessary to mitigate potential adverse impacts of having all
14 the trucks coming and going, all the cars coming and going.

15 MR. ZIMMERMAN: Yeah. In our report we identified
16 three mitigations. One is the loading management plan.

17 COMMISSIONER MAY: Right.

18 MR. ZIMMERMAN: The second is the TDM plan. And
19 the third are the four intersection improvements.

20 COMMISSIONER MAY: Yeah.

21 MR. ZIMMERMAN: And so we've been considering
22 those more mitigation.

23 COMMISSIONER MAY: Got it.

24 MR. ZIMMERMAN: And then everything else that I
25 mentioned, the HAWK signal, --

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1 COMMISSIONER MAY: Yeah.

2 MR. ZIMMERMAN: -- the alley improvements, that's
3 all -- those are all amenities or benefits.

4 COMMISSIONER MAY: Yeah. Okay. Good. I
5 appreciate that. And I -- and I recall that now from having
6 read your report. It was the OP report that, I guess, I was
7 thinking of mostly. I don't have anything else, I just want
8 to thank Mr. Maloney for coming down, because we don't
9 usually get to see him here. We see him in plenty of other
10 circumstances, but not here. Yeah, thank you.

11 CHAIRMAN HOOD: Okay. Any other questions up
12 here? Okay. I do want to ask, Ms. Vitale, this may have
13 been asked while I was out of the room.

14 The issue about the -- I think it was 1 percent
15 of housing in Rock Creek West. That issue, is it because --
16 you said there wasn't a lot of area to provide this type of
17 housing, but, do we have others in the pipeline besides this
18 case that maybe coming to fruition at some point in time that
19 we know of? Or this -- is this it?

20 And maybe Ms. Steingasser, or maybe one of you can
21 -- we don't know of anything?

22 MS. STEINGASSER: I can think of maybe one other
23 small project. And it's going to be a matter of right
24 project --

25 CHAIRMAN HOOD: Okay.

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1 MS. STEINGASSER: -- in Rock Creek West.

2 CHAIRMAN HOOD: Okay. So again, and I'm saying
3 this for the opposition, that's a heavy lift for me. Because
4 we need to start doing this across the city.

5 And this -- that's a heavy -- that's a big point,
6 a big issue for me. So, you have to convince a lot, at least
7 for this Commission, there's only one vote, because I'm
8 trying -- I'm not saying that it's already a done deal for
9 me. But, to me that is a problem. That's a major problem
10 for me. Okay. I don't have anything else.

11 Does the Applicant have any cross-examination?

12 MR. GLASGOW: No cross.

13 CHAIRMAN HOOD: Okay. Does ANC 3D have any cross?
14 ANC 3E have any cross? Does Ward Three Vision have any
15 cross?

16 (Off-microphone comments.)

17 CHAIRMAN HOOD: Oh, she took the call and left.
18 Okay. The Spring Valley Neighborhood Association, Ms.
19 Clarkson, do you have any cross? Okay. Spring Valley,
20 Wesley Heights, and Neighbors for a Livable Community, Dr.
21 Herstein, you have any cross?

22 So let me -- let me confer with my counsel for a
23 second.

24 Okay, Ms. Gates, I've been advised that I need to
25 keep the same person. So, Dr. Herstein, if you and Ms. Gates

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1 can come up here, and she can give you the questions, we want
2 to make sure we're consistent.

3 DR. HERSTEIN: I have a question, if the traffic
4 is going to be reduced with this new plan, we don't --
5 there's no --

6 CHAIRMAN HOOD: You're asking DDOT? Yeah, these
7 questions are for the Office of Planning or --

8 DR. HERSTEIN: Okay.

9 CHAIRMAN HOOD: Or HPO, Mr. Maloney, or DDOT.

10 DR. HERSTEIN: Okay. Right. Gotcha. How -- why
11 do we need the HAWK light?

12 MR. ZIMMERMAN: So, we did not request that at
13 DDOT. That is not a mitigation for the project. But as part
14 of the PUD process, the developer negotiates with the ANC and
15 the community on things that the community has determined,
16 you know, are important to them.

17 And so, you know, the origins of the HAWK signal,
18 you know, my understanding is it came four or five years ago.
19 Like years before I got involved on this project. And you
20 know, we've had a lot of transportation engineers back at
21 DDOT going out and meeting with the community. And kind of
22 scoping out the site and the location. And determined that
23 if this is something that the Applicant wanted to offer up,
24 we think it's a good candidate location for a mid-block
25 crossing.

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1 DR. HERSTEIN: Who from the community requested
2 the HAWK light?

3 MR. ZIMMERMAN: My understanding is, this has all
4 been coming through the ANC. I'm not exactly sure which of
5 the ANCs, but that's the origins of that recommendation.

6 CHAIRMAN HOOD: So, we do try to be organized down
7 here. So, normally we can yell out and get the answer
8 quickly. But, I'm going to say, it was awesome, I saw 3E
9 raising their hand. So, I think they requested it. Oh, 3D?

10 Okay. Maybe I need to be quiet. Okay. So here's
11 the thing -- okay, but here's the thing. We will find that
12 out. I'm sure when they present they will let us know that
13 answer. I just added to the problem. Okay.

14 (Laughter.)

15 DR. HERSTEIN: Would DDOT support cutting the
16 median on Mass Ave?

17 MR. ZIMMERMAN: I think at this point we're not
18 looking to have a median break there for vehicles at the
19 alley entrance.

20 As part of the HAWK signal itself, you know, there
21 would be a crosswalk that would go across roughly in that
22 location, wherever it's determined that the signal will go.

23 And there might have to be something that goes
24 through the median so pedestrians can get through and so that
25 wheelchairs can get through.

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1 DR. HERSTEIN: Right.

2 MR. ZIMMERMAN: But at this point in time, we're
3 not looking at any change of access. The Applicant hasn't
4 proposed that and we haven't offered that idea up.

5 DR. HERSTEIN: Do the proposed alley sidewalks
6 meet DDOT standards, in terms of width and separation from
7 the alleyways?

8 MR. ZIMMERMAN: So, in our design and engineering
9 manual, we do not require sidewalks with alleys. My
10 understanding is they're both on -- all three of them are on
11 private property.

12 The lead walk from Massachusetts on the west side,
13 and then on the east side of the alley, on private property
14 the three-foot walking path. And then on the east/west
15 alley, the five or six-foot sidewalk that's there.

16 So, those are on private property. They were
17 proposed by the Applicant. They're outside of DDOT
18 jurisdiction, so.

19 DR. HERSTEIN: Does DDOT have to approve them if
20 they're put in place?

21 MR. ZIMMERMAN: No. But we will look when we get
22 to public space permitting, and work on the final design of
23 the alley, those will certainly be topics of discussion. You
24 know, how those are incorporated into the overall vision of
25 the alley network.

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1 DR. HERSTEIN: Isn't there a lot of affordable
2 housing on MacArthur? For OP.

3 MS. STEINGASSER: There's rent control. Is that
4 what you're referring to? Rent control is not the same thing
5 as income-restricted. And so it is not reflected in these
6 numbers.

7 DR. HERSTEIN: So it's not IZ?

8 MS. STEINGASSER: It is not.

9 DR. HERSTEIN: Nevertheless, isn't there a lot of
10 affordable housing on MacArthur? Just so we can understand
11 the full picture.

12 MS. STEINGASSER: There is not permanently
13 affordable income-controlled affordable housing on MacArthur,
14 no, ma'am.

15 DR. HERSTEIN: Thank you.

16 CHAIRMAN HOOD: Thank you. Okay, now we can go
17 to CRD. Mr. Repp and Mr. Donohue. Mr. Repp is going to be
18 doing the cross-examination.

19 MR. REPP: With respect to Mr. Maloney's report,
20 we just got his report today. We have Steven Hansen in the
21 audience. Frankly, I'm not -- I don't feel equipped
22 personally to deal with the questions. So, I guess the best
23 way to deal with this is to deal with it on direct, unless
24 you have another way to -- for us to address those questions.

25 CHAIRMAN HOOD: So, back to Ms. Gate's brilliant

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1 idea, you all will not be doing your direct until Thursday.

2 MR. REPP: That's right.

3 CHAIRMAN HOOD: So, you can respond to anything
4 you have on Thursday.

5 MR. REPP: Yeah. That's probably the best way to
6 deal with it, --

7 CHAIRMAN HOOD: Okay.

8 MR. REPP: -- given everything. The -- Mr.
9 Zimmerman, the east/west alley has loading docks for American
10 University. I don't see the existence of those loading
11 docks, which can block traffic, being discussed in your
12 report. Do you see an issue there?

13 MR. ZIMMERMAN: I don't see an issue there. The
14 alley is where we want the loading to occur. They're on the
15 opposite side of the alley from the Applicant's property, and
16 the garage entrances and the loading dock entrances are
17 offset. So, I don't see any major problem there.

18 MR. REPP: If you knew that trucks parked in the
19 alley there to unload for American University, would that
20 change your answer?

21 MR. ZIMMERMAN: Well, we would prefer that they
22 use their loading dock area. But, you know, worst case
23 scenario, if they park in the alley, we would much rather
24 that, then park in the middle of a public street.

25 MR. REPP: Your Rock Creek West livability study,

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1 that we mentioned before, says traffic along streets,
2 peaceable arterials like Massachusetts Avenue will be over
3 24,000 vehicles a day. How much additional traffic on
4 Massachusetts Avenue do you think will be generated by this
5 project?

6 MR. ZIMMERMAN: I mean, I would have to take a
7 look at the CTR and the traffic projections in here. I can't
8 give you a quick answer on that. But, we can certainly get
9 back to you on that.

10 MR. REPP: Thank you. With respect to the dialog
11 that I had with Ms. Andrews about fewer trips, vehicle trips
12 during the weekday afternoon hour, post project and before
13 project, you picked that up in your report, right? Did you
14 do an independent analysis of that -- of those numbers?

15 MR. ZIMMERMAN: I reviewed in the appendix of the
16 CTR the Gorove/Slade trip generation estimates. And they
17 seemed pretty reasonable to us. But, overall, I mean, we
18 think the principle still holds.

19 You know, grocery and retail generate more traffic
20 than residential in the peak hours. And so therefore, if a
21 high generating building is being removed, and a less
22 generating building is taking its place, you know, we concur
23 with the analysis that it would be net reduction, as compared
24 to reoccupying the existing building.

25 Not the existing conditions of today with the

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1 closed grocery store, but if the grocery store were to
2 reopen.

3 MR. REPP: Would that conclusion hold even if the
4 existing grocery -- if the grocery store in the project were
5 larger than the grocery store in the existing grocery store
6 space?

7 MR. ZIMMERMAN: Can you just repeat that one more
8 time?

9 MR. REPP: Okay. Would your conclusion still be
10 valid if the grocery store in the Super -- in the Valor
11 project was bigger size-wise than the actual grocery space
12 in the Super Fresh -- that Super Fresh occupied?

13 MR. ZIMMERMAN: I would have to run the numbers
14 on that. I don't want to put an answer out there and have
15 the square footages change or anything. But, you know, it
16 would be dependent on if you have different numbers than
17 what, you know, the Applicant has provided to us as to what
18 the existing square footages are.

19 MR. REPP: Ms. Vitale, the -- are you -- is the
20 Office of Planning comfortable with the commitment from Valor
21 to deliver a grocery store of some size between 13 and 18,000
22 feet? Are you comfortable with that commitment?

23 MS. VITALE: The Applicant has indicated that they
24 will provide a grocery tenant. I don't think we can state
25 anything beyond the Applicant's commitment to that, much like

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1 any other project that comes before this Commission and
2 indicates a proposed tenant.

3 The Applicant is making that commitment. The
4 Office of Planning is relying on the Applicant's word that
5 they will provide that.

6 MR. REPP: And apparently the commitment is only
7 for ten years. Is that -- what are your -- what is the
8 Office of Planning's views on that?

9 MS. VITALE: Again, that's what the Applicant is
10 proffering. And I believe that duration for the commitment
11 was partially negotiated through discussions with both ANCs.

12 So again, we're accepting the Applicant's proffer
13 to provide a grocery tenant and to provide that grocery
14 tenant for a time period of ten years.

15 MR. REPP: Last question here. Mr. Zimmerman, the
16 -- how do you envision that deliveries will be made for,
17 like, Peapod, you know, spring water deliveries? You know,
18 where will they -- for the 200 -- for the 219 residential
19 units?

20 MR. ZIMMERMAN: We would expect those to occur on
21 the loading dock areas of the building. There is a 55-foot
22 loading berth and a 30-foot loading berth as well.

23 MR. REPP: Is it realistic to expect Peapod and
24 Amazon and -- to preschedule their deliveries?

25 MR. ZIMMERMAN: Well, I guess it would depend on

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1 what the size of the truck is. You know, I guess when you
2 mentioned Peapod I was thinking of a much larger truck that
3 would come more infrequent.

4 But if you mean just typically deliveries, you
5 know, we would expect that the larger trucks use the loading
6 berths. And then you know, some of the smaller trucks, the
7 delivery trucks, use some kind of pick up/drop off zone on
8 the street.

9 MR. REPP: If they use the zone, a loading zone
10 on Yuma Street, or maybe even 48th Street, but let's say Yuma
11 Street, which is a slightly busier street, won't that block
12 one lane of traffic on that street?

13 MR. ZIMMERMAN: No. So, over on 48th Street right
14 now, there's rows of parking on both sides. And then there's
15 enough space for two cars to pass down the middle. And that
16 would be the same condition on Yuma. So, you know, we could
17 see that type of loading zone, or I guess we would call it
18 like a no-parking entrant zone established along there.

19 But that's something that we'll, you know, further
20 refine as we go into public space permitting and we go into
21 working with the ground transportation team at DDOT to
22 actually deploy and reevaluate the new signage based on the
23 changes to the land use.

24 MR. REPP: Isn't the south side of Yuma supposed
25 to be a no-parking zone today?

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1 MR. ZIMMERMAN: Correct. It's a -- today it's no
2 parking and no standing. But, you know, we'll be looking at
3 different options for pickup/drop off, for TNCs and Ubers,
4 and you know, small, short, quick deliveries.

5 And the way that we usually do that is with a no
6 parking zone with two Ps with a cross through it pointing at
7 each other.

8 MR. REPP: We're done.

9 CHAIRMAN HOOD: All right. Thank you all. Let's
10 go right into the ANCs. And I'm going to call both ANCs up
11 at the same time. It's Commissioner Kravitz and then
12 Commissioner McHugh from 3.

13 Commissioner McHugh, let me just say, I did look
14 at your Powerpoint. I'm just accustomed to looking for one
15 letter. So, I did see that earlier. So I did see you all's
16 presentation. I actually have a question for you off of
17 that, but I'll wait and let you all do your presentation
18 first.

19 So, we'll start with Commissioner Kravitz first.
20 And then we'll go to Commissioner McHugh.

21 Let me do this. Whose testimony is probably going
22 to be the longest? Do you know? Yours is going to be the
23 longest? Okay. All right.

24 (Off-microphone comments.)

25 CHAIRMAN HOOD: Well, take your time. All right.

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1 All right. Oh, you may begin.

2 MR. KRAVITZ: Yes. Thank you yet again for having
3 me. Officially on behalf of the ANC 3D, I'm glad to be here.
4 But mostly I'm glad to be almost done with this project. I
5 think we're almost there.

6 As you can tell from our vote count, our
7 Commission doesn't -- didn't appear to have much trouble
8 evaluating the PUD application. You have our properly
9 adopted resolution in Exhibit 26.

10 We reviewed the application in light of the PUD
11 evaluation standards in DCMR Section 11-2403. Section 2403.3
12 is about city services and facilities.

13 Balancing the impact of potential increased
14 crowding at our neighborhood schools, against expanding the
15 opportunity of high quality education to more members of the
16 community, we believe this project is at least acceptable and
17 likely favorable in terms of impact on public school
18 facilities. We believe the proposals impact on
19 transportation to be acceptable as well.

20 Subsection 2403.4 is about compatibility with the
21 Comprehensive Plan. We find no obvious reason to believe the
22 project is inconsistent with the Comprehensive Plan.

23 And we have provided some photos in our submission
24 to show that the project in relation to existing buildings
25 in the same commercial area. I'll display these now for

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1 Commissioner Turnbull.

2 For Subsections 2403.6 and 2403.7, we list several
3 public benefits and amenities that are superior features to
4 a significantly greater extent, than likely under a matter
5 of right proposal. We start with the grocery store. This
6 is a significant benefit. The existence of a zoning statute
7 that we believe A, doesn't apply, and B, defies all reason,
8 doesn't change that.

9 The grocery store is proffered under 305.5(q), not
10 305.5(j), if that even matters. But regardless, in a city
11 of 68.34 square miles, asserting that a grocery store does
12 not count as a public benefit if there's another one within
13 a 28 square mile area, appears to us as an argument beyond
14 redemption.

15 To Commissioner May, I don't believe there's a
16 single location in D.C. that meets this supposed criterion.

17 Second is housing. And in particular, affordable
18 housing, including exceeding the required amount by at least
19 10 percent.

20 The Chair asked about inclusionary zoning. We've
21 talked about affordable housing generally, and at times
22 conflated this term with inclusionary zoning units. I'll
23 speak to the latter here.

24 According to DHCD, 1,502 units of IZ have been
25 constructed, are under construction, or are being planned

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1 across all of D.C. since 2011. According to the Mayor's
2 fiscal year 2018 inclusionary zoning annual report, 792 units
3 have been constructed since 2011 across all of D.C.

4 Of these, 53 units of IZ have been constructed,
5 are under construction, or are being planned according to
6 DHCD across all of Ward 3. To Commissioner Hood, there are
7 others being planned, including at City Ridge. However, this
8 project offers about 29 units of IZ. So, we're talking about
9 increasing the number of IZ units across all of Ward 3 by 50
10 percent.

11 We view a 50 percent increase in IZ units in Ward
12 3 as sizable. Would we be happy to see more? Of course.
13 But that doesn't change our view that exceeding the required
14 IZ set aside by 10 percent is a significant public benefit
15 and amenity.

16 The third public benefit and amenity that we list
17 is funding for a HAWK light to improve pedestrian crossings
18 so that the existing makeshift porosity of the commercial
19 areas can be formalized safely.

20 Adding sidewalks, cleaning up the dumpster alleys,
21 LEED gold certification, and outdoor publically accessible
22 space, and reduced height and massing facing the neighborhood
23 of homes on 48th Street are other benefits and amenities.

24 Per section -- per Subsection 2403.8, these
25 project amenities and public benefits are judged against the

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1 degree of develop and sentence requested. And now the punch
2 line. In our evaluation of this proposal, we believe the PUD
3 application in ZC 1910 should be approved according to the
4 standards of DCMR Section 11-2403.

5 But really, we're glad to be here. It's been
6 challenging, don't get me wrong. You can probably tell,
7 especially when one party testifies before this Commission,
8 that we've been trying to basically leave no stone unturned
9 to try and figure out reasons to oppose the project.

10 That's one way to engage, I guess. At this point
11 we've heard everything. The arguments coming before you,
12 they've probably come before us already.

13 We've heard about the grocery store and how stores
14 aren't really needed anymore. Or that we live in a
15 cornucopia of grocery options, at least once you're willing
16 to buckle up and drive through other communities to someone
17 else's neighborhood store.

18 Heck, we even heard that CVS would satisfy most
19 of our needs if pressed. And that Target coming a mile way
20 in Tenleytown, the people building up the space snickered
21 when I asked how much space is set aside for groceries. It
22 will be 1500 square feet of frozen and prepackaged food.

23 We've heard about the loss of existing businesses.
24 It's funny, these same lamentations about the loss of
25 businesses, where were they when Wagshal's added their dining

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1 restaurant just before 2016? This helped cause Wagshal's
2 next door neighbor, our local neighborhood Thai place to
3 close up shop. That space is still vacant.

4 And just to go fully through the looking glass,
5 I read a few months ago that Wagshal's is looking to expand
6 into other neighborhoods. I have the quote right here,
7 Wagshal's owner said, we've decided to move forward into a
8 pretty aggressive growth pattern.

9 He didn't reveal how many neighborhoods he wants
10 to enter, but I wish him God's speed in doing so. And hope
11 none of the residents in those locations, let alone any
12 existing businesses seeking to cordon off their turf, try to
13 keep him out.

14 And we've heard about adding new residents to our
15 community. You can tell how those private conversations go
16 when some opponents testify before you about quote/unquote,
17 unnecessary people. I guess that's better than when a
18 200-footer spoke at our December 2018 meeting referring to
19 the project and its density of these people as a pile of
20 manure. Not only do we not share those views, we reject them
21 and all of their attendant arguments. My children go to a
22 wonderful public school.

23 The Applicant referenced a submission by the
24 Deputy Mayor for Education predicting few students from the
25 development. I've met personally with him on this issue

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1 throughout Ward 3.

2 I put little to no stock in the DME's forecast.
3 But based on the experience at City View directly across the
4 street from Janney Elementary School, the DME is probably
5 right, even despite his office's poor track record in the
6 past on this issue.

7 At my children's school, the student population
8 exceeds the programmatic building capacity just like the
9 other schools nearby. But the right response is not to close
10 our doors. We have a wonderful school and an even better
11 community that has worked tirelessly to create the special
12 environment that it is. We need to find ways to expand that
13 opportunity for such an education, the opportunity to become
14 part of such a community.

15 We need to expand them to more people. My
16 children have no more right to those opportunities than my
17 neighbor's child. Getting there first is not a defense for
18 building a wall as soon as you enter.

19 What's next? Placing a covenant on the home of
20 every senior in our neighborhood who may sell to a young
21 family? The logic is the same. Our community has done
22 covenants in the past. Exclusion didn't have a place then,
23 and it sure doesn't have a place now. So when people talk
24 about renters, you can guess our view. We hope and we have
25 asked the Applicant to include both units for rent and units

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1 for purchase.

2 We believe a diversity of unit types, benefits the
3 broader community. We welcome a diverse assortment of unit
4 sizes and affordability levels so that people from a broader
5 socioeconomic demographic can join our community.

6 There are some things we would still like to see.
7 We seek the Commission's guidance on the appropriate width
8 of the sidewalks and the alleys. I personally have found
9 myself persuaded in both directions on this matter. We
10 didn't suggest to have the alley widened, because we didn't
11 -- we don't think it should be. A 30-foot wide street, which
12 is generally the minimum in our area, with parking, has a
13 passageway of 16 to 17 square feet, of 16 to 17 feet. I
14 measured it. Such a street usually carries vehicles along
15 it for blocks and blocks. This proposal includes an alley
16 stretching half a block that is 20 feet wide.

17 We remain supportive of limiting the Applicant's
18 upward flexibility to increase the number of units by up to
19 10 percent. Uncertainty is costly, we get that, and we
20 understand that requesting such flexibility is practically
21 standard. But we'd like to see the Applicant work within
22 their baseline project, instead of foisting that uncertainty
23 upon us.

24 And lastly, we'd like to see the Zoning Commission
25 grant the Applicant flexibility to increase the amount of

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1 retail and commercial space at the site. They haven't asked
2 for this. And you may wonder what we're envisioning here.
3 But there are many within the community that would like to
4 see more retail space in the project.

5 Some of them have been parties in opposition in
6 the past, and some still are. We've tried to convince the
7 Applicant to increase the retail space. I'm sure they have
8 good reasons for not running with the request. But we'd
9 like, I'd like, to continue lobbying them even after this
10 application has been approved.

11 You've heard from neighbors and neighborhood
12 groups. You've even heard from interests of Maryland
13 commuters and the views of Maryland, well, frankly NIMBY
14 organizations.

15 You've heard from the District's Office of
16 Planning and the District Department of Transportation, and
17 the ANCs, both of them. I believe you have what you need.
18 We do.

19 We support this application on behalf of our
20 community. We support it because we believe it's good for
21 our community. Thank you.

22 CHAIRMAN HOOD: Thank you, Mr. Kravitz. What
23 we'll do is hear from your colleague. And then we will ask
24 our questions.

25 MR. MCHUGH: Would you like the short or the long?

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1 I imagine the short. I realize what I've given you is the
2 long version, but I actually shortened this. So, I figured
3 --

4 CHAIRMAN HOOD: Well, if you can just hit the many
5 points that your ANC wants to convey to us.

6 COMMISSIONER MAY: Can I just say, I don't think
7 either of these testimonies are really that long. And I
8 would note that Commissioner Kravitz cut out some good stuff.
9 And maybe we ought to want to -- we actually want to hear
10 that on the record.

11 CHAIRMAN HOOD: Okay.

12 COMMISSIONER MAY: I have that.

13 CHAIRMAN HOOD: I actually heard that in my right
14 ear. But, if -- we want that put on the record. Let's go
15 ahead. Why don't you go back and --

16 COMMISSIONER MAY: There were a few paragraphs
17 toward the end that you sort of skipped.

18 CHAIRMAN HOOD: Why don't you go back and those
19 paragraphs that you missed.

20 MR. KRAVITZ: Okay. So, this is a personal aside.
21 It's an indulgence if you will, for having spent hundreds of
22 hours on this case. This is my opinion, and my opinion
23 alone.

24 This case has helped me learn what's working. And
25 more accurately, what's not working with development and

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1 community participation throughout the District. It has led
2 me to author ANC resolutions about inclusionary zoning and
3 new zoning classifications.

4 I've told everyone who will listen, from the
5 Council on down that we, as knowledgeable and experienced
6 participants in the development process, need to fix a few
7 things.

8 First, we need to stop allowing the Comp Plan to
9 be weaponized against development. The Comp Plan is
10 important and it serves a vital role, but its vagueness has
11 become the go to crutch of those seeking to oppose anything.
12 Reading it is a bit like reading Dr. Seuss, in that never
13 know where you'll end up. The Comp Plan amendment process
14 is still upon us. We, as experienced participants, need to
15 engage with it.

16 Relatedly, we need to find a way to convince
17 developers to stop buying off neighbors or non-neighbors, in
18 some cases, who aren't acting on behalf of the broader
19 community. Sometimes it's egregious like when good old
20 payoffs are embraced. Community forget-me-not funds, if
21 that's what you want to call them.

22 The absence of transparency, the lawsuits, these
23 are all signs of so-called community benefits not benefitting
24 the community. More often, hopefully it's subtler. It is
25 allowing a project for the whole community to suffer death

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1 by a thousand cuts. To mollify a small, narrow, and vocal
2 constituency.

3 Too much money is burnt throughout this process.
4 In both cases, money is burnt instead of being put to
5 productive use, and the community suffers.

6 And we need to hold developers more accountable.
7 I want more from them. And I want to make sure they deliver
8 what they promise. Instead of spending hundreds of thousands
9 of dollars trying to ward off opposition, and then when it
10 materializes anyway, fighting off appeals and lawsuits that
11 are practically a foregone conclusion from the start, I want
12 the developers to take this money they would have otherwise
13 burnt, and spend some portion of it back on the community.
14 That will help the whole community benefit from development,
15 instead of just a few well-positioned advocates.

16 We need to be more responsible with how we engage
17 developers to engage with the community -- how we encourage
18 developers to engage with the community. We, all of us.
19 There's a better path forward. But we, yes all of us, need
20 to work to build it. Thank you.

21 CHAIRMAN HOOD: Okay. Thank you. I can think of
22 some other things, some that would be well said at the --
23 I'll just keep that to myself for now.

24 All right. Mr. McHugh, you may begin.

25 MR. MCHUGH: Okay. So, if it pleases you, I'm

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1 going to -- I'm not sure which one I should do first.

2 I'm going to do the testimony first, and then I'll
3 run through the slides. No. I'll do the slides first.

4 I'm going to run through them though. I'm not
5 going to be quick. I'm not going to -- so anyway, so this
6 is a little more ad hoc.

7 ANC 3 has been dealing with this issue for four
8 years now. We've gone through a number of things, and we've
9 been through the Zoning Commission a couple of times. I just
10 want to run through some of these things, and by way of
11 explanation, that's -- some of this is going to be
12 duplicative. You've seen this before. So I'm going to run
13 through it just so we can kind of get through it.

14 But, hopefully everyone's read the narrative that
15 I wrote. I will actually do my testimony and not read the
16 narrative.

17 So, the first thing is, we went through the
18 project progression. The initial proposal that they
19 presented us was a PUD. It was a very large PUD. It was
20 something that gave us a lot of concern. The way it was
21 built, the way it was massed, the way -- the aesthetics of
22 it, it gave us a lot of pauses about what they were thinking
23 of doing.

24 So, I'm running through this quickly. But, you
25 can see that is essentially on the right side, the large PUD

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1 that they presented us initially, which was -- I'll show a
2 table here about what they -- essentially that was. And in
3 terms of the amenities they were presenting us too.

4 What they've changed it to, we -- obviously we
5 agree. We've had a four to nothing vote on it. So, we think
6 that they've met the burden of both the massing, the
7 esthetics, how it integrates with the neighborhood around it,
8 the homes, work on the facades. Just the materials used.

9 I want to kind of focus on this. This is
10 initially what they presented to us. It's a huge -- it's a
11 huge project. It also has a 55,000 square foot grocery.
12 Which we thought, at the time, when Wegman's was not coming
13 into City Ridge, and we lost the Super Fresh, and we didn't
14 know the Safeway was going to go away at Palisades, but the
15 Safeway -- the secret Safeway, the one at 42nd Street and
16 Wisconsin had gone away. So, we've lost most of our grocery
17 options, save for Whole Paycheck -- or, Whole Foods. So we
18 -- and the Giant that's up a little bit further. So we
19 thought we'd lost a number of things and we were looking for
20 a larger grocery store.

21 In order to get to that, they needed a much larger
22 project. And this is essentially what they brought us.
23 Clearly, the opponents did not think that was a good idea.
24 And they went back to the drawing board and came back with
25 what they have now.

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1 So, I'm going to run through this fairly quickly.
2 There's a lot of stuff in here that's, like I said,
3 repetitive.

4 I do want to point out, the view stands on this
5 too, from a historic preservation perspective, were not
6 conducive to the Spring Valley Shopping Center or MAPS below
7 it. They weren't very conducive to the homes around them.
8 So, clearly we didn't agree with that.

9 So, what we do agree with is what they've
10 delivered to us. Now with the Torti Gallas and the reduction
11 in terms of the size, the massing, the scaling of this
12 project.

13 So, I'll fly through this, because that's
14 essentially what it is. The project benefits, clearly we
15 think that 219 units, 214 of them apartments, five of them
16 being townhomes, we think that's a benefit to the community
17 in terms of diversifying our housing stock.

18 And bringing the ability to create affordable
19 housing, especially, and I want to point this out, this is
20 affordable housing with multi bedroom units. Which is a
21 family friendly unit.

22 I think 132 of these, and I'll get into this in
23 the testimony, 132 of these units are two and three bedroom
24 units. Which we think is a boon to the community in terms
25 of families.

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1 A full service grocery store. I'll make note that
2 this is a neighborhood grocery store. It is not a Wegman's.
3 It's not an 80 thousand square foot grocery store. And
4 that's not something that neither we nor the community
5 wanted.

6 We wanted something that was on the scale of what
7 was the Super Fresh before. Activation of a site that's been
8 dead for quite a while now.

9 I'll go into the HAWK light. That is essentially
10 coming from our ANC. All five of the Commissioners, I think
11 3D was also interested in the HAWK light.

12 But, if you sit at the Starbucks, if you've ever
13 been there, and you watch the activity going back and forth
14 across Mass Avenue mid-block, because the desired path is a
15 mid-block desired path, you will notice that it's a dangerous
16 thing to do.

17 And the HAWK light would be something that would
18 make a much more safer pedestrian passage there. So, we will
19 stipulate that we are the ones who asked for that.

20 And we asked -- what we did stipulate also, and
21 I'll get into that later, is that, but we're not traffic
22 engineers. We're not -- we can't tell you that that's the
23 perfect idea.

24 And we asked them to fund a study that looked from
25 48th to 49th, with the data that they generated from their

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1 CTR, to determine what is the best solution for the problems
2 that we see here? And how do we solve some of these
3 problems?

4 So, that was part of the MOU of will you fund that
5 study. And try and fix 49th Street, all of the -- it's a
6 very messy intersection there.

7 And all the pedestrian things in the back and
8 forth there. So, that's something that we felt was valuable
9 to the community.

10 We've already been through all the transportation
11 improvements, the pedestrian improvements. The legal
12 building, which we value. And I've already mentioned the
13 exemplary building sign.

14 There are public space improvements. It's hard
15 around this site to find. There's a Windom Park. It's hard
16 to find a place to do the improvements, because there's not
17 a lot of land to deal with right there.

18 So, we did ask them to look. There's a triangle
19 park that's Mass, 49th and Yuma that's formed. So we asked
20 them can you look at that?

21 Essentially what we said, let's set aside money,
22 and we'll look around and see where we can make that better.
23 I know that's a little difficult to nail down in terms of a
24 zoning order, so we did ask them for some more ideas. But,
25 clearly you want something more. We will work with them to

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1 define that better.

2 Project impacts, I think we've been through many
3 of this. This is an MOU. The traffic, the loading, parking
4 and construction activity. As Commissioner Miller pointed
5 out, the construction, we do include these in there even
6 though BZA typically sees them. But, they are part of ours.

7 The parking, there's -- I'll go through that with
8 the MOU. But there's a lot of things in there that we looked
9 at that we hope, were going to mitigate these things. Thus,
10 the MOU.

11 The 13,000 came from us. And I think this was
12 actually a relic from earlier in this process. And I don't
13 know what part. Maybe two or three years ago. That 13
14 thousand was the minimum we were looking for in terms of a
15 grocery store.

16 If they offer 14 or 15 or something like that, we
17 weren't -- but we wanted to have a -- we wanted to have a
18 bottom to that. We want to have a minimum. So, that's what
19 we needed.

20 The 100,000 for connecting to the Metro, frankly
21 would we like to have had a shuttle? Yes. Is a shuttle an
22 expense that just keeps going and going and we're not sure
23 how they're going to be able to sustain that? Yes.

24 Do we know in the future that a shuttle will not
25 be the best solution? Or maybe there's other things that

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1 come along. An autonomous car that winds around.

2 We didn't want to restrict them to something
3 either. We're open to ideas though, in terms of what they
4 would do. That's what we came up with.

5 Agreements for mitigating the building uses, waste
6 management, prevention, all these are standard things that
7 we use through a number of MOUs. And they're all detailed
8 in MOUs which is on file.

9 Community engagement. I'll go to this, I just
10 updated and I don't think I've known of any developer that's
11 met more with a community than this developer.

12 That's partially probably because, you know,
13 they've been doing this for four years. But, whenever we ask
14 them to come and meet with community, meet with us, meet with
15 anyone, they met with us.

16 We had an MOU meeting, I think, three weeks ago?
17 Two weeks ago? They came to it. And that was after we had
18 already pretty much, they'd already been voted on in 3D.

19 And 3E was -- did we vote on that already? I
20 don't know. No, 3E hasn't voted on it yet. But they came
21 to it.

22 This is one thing I could never ding these guys
23 for, is coming and doing community engagement. They come to
24 everything.

25 I'm going to go through these issues fairly

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1 quickly. Some of them are repetitive. Some of them are not.

2 We heard the ZC when they spoke about, the
3 Commission when they spoke about a PUD versus a VDR. We
4 didn't feel comfortable with that either. We thought it was
5 hard to evaluate this project using a VDR versus a PUD.
6 Which we're comfortable doing. We know the -- we've seen it
7 before. We can look at it and make determinations of what's
8 good and bad.

9 We asked them to drop the VDR. And that's
10 possibly a risk from their perspective legal and
11 building-wise. But we asked them, we'd rather look at this
12 as a PUD. And obviously the Zoning Commission would like the
13 same. They did that. And those are in here.

14 Let's see. I'm not going through the
15 Comprehensive Plan. There's just a lot in there. I will go
16 through little bits of this that I think are important.

17 This is a -- and MAPS is an extremely low density
18 development. After it was historically designated, there's
19 essentially, I think, 39 thousand square feet there, 16
20 thousand of it is developed. It won't be developed again.

21 It is the second oldest at least, and I can defer
22 to the Historic Preservation Office. I think Jamal's and
23 Sam's Park & Ride over in Cleveland Park is the older one.

24 I won't tell you my opinion why, if that should
25 have been historically designated. But, it took away a lot

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1 of density from our neighborhood, which could have been used
2 for a number of things. Not the least of which is mixed
3 used. So, that was a blow.

4 That said, the building next to it, and I'm just
5 going through here to be frank, was over-developed. That had
6 a 4.3 FAR. I don't think anyone would think that's a good
7 idea in there. So, I don't -- we don't agree with that.

8 That said, all this came out when you put it in
9 a PUD, much easier to evaluate the PUD versus a VDR. We came
10 up with a solution that looked like it balanced all these
11 different issues. And came with all of the lots, I'd say
12 three, but there are four lots, that all balanced out in our
13 opinion, from the ANC's perspective.

14 I'm going to put some things in here that agree
15 with the Applicant in terms of when you add all this up, you
16 still end up with a project that aggregated comes out to less
17 than 3.0 FAR.

18 That seems like a reasonable project from our
19 perspective. That you didn't even pass by an IZ FAR, yet
20 alone get up to a PUD FAR.

21 Some of this is already in there. So, I'm just
22 going to pass through it. I think one of the other things
23 too, is the -- we did want them to come up with a transit --
24 this is not that close to a Metro. It's a mile -- it's .87
25 miles, I think.

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1 I walk that, no problem. My kids walk to the
2 Metro. They have no problem doing that. But that will not
3 be necessarily what everyone does.

4 So they needed to come up with some multimodal
5 transit options that would allow people to either use the
6 Metro or to use alternate methods for -- of getting from one
7 place -- A to B.

8 And they were receptive of that. They came up
9 with the car shares. They came up with, you know, the
10 electric cars.

11 We asked them to put in on 48th Street, there's
12 metered parking right now on the western side of it. We
13 asked them, well what if you work with DDOT to create an
14 alternative transit zone there that would have car shares or
15 Zipcars, and places to park.

16 Electric scooters, electric mopeds, bikes. All
17 these things get scattered throughout our neighborhood that
18 are a problem. What if you created something where you could
19 actually put all those things in one place. And it's an
20 organized transit hub. They agreed to look at that too. So,
21 we hoped that that might yield some results. It's worth
22 trying.

23 Historic preservation. I'm going to walk through
24 this somewhat quickly. But, we had a real issue with the use
25 of historic preservation to prevent this development.

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1 And that the View Stand that was the MAPS was
2 going to be -- and this is before we saw Historic
3 Preservation Office's letter.

4 We had a real issue that the idea that you could
5 use something that wasn't even being built on, that's
6 historically preserved, and then preventing another
7 development with that historic preservation. That gave us
8 a lot of concern.

9 It's -- like I said, I'm not a fan of it being
10 preserved, because I think it's a perfect example of urban
11 sprawl planning.

12 The neighborhoods were designed literally around
13 the idea of only car centric transit movements. Clearly
14 we've gone way past that.

15 These were designed in the 20s and 30s with that
16 ethos. Preserving that actually makes that part of the
17 neighborhood now. You can't go through this, and I'll pass
18 through this real quick. You can't even get through that
19 parking lot without a pedestrian danger zone, because there's
20 no park -- there's no sidewalks. There's no way of going
21 through the parking lot without encountering cars.

22 It's a terrible example. No one would build this
23 in this day and age, something like that. So, preserving it
24 didn't help us. Preserving it and then using it as a way of
25 depriving the community from legitimate development made it

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1 much worse.

2 The affordable housing that's lost there, the
3 housing in general that's lost there, really as the OPs
4 pointed out, we don't have very much housing in our --
5 multi-family housing.

6 In this area there's virtually none. So the fact
7 that we're not going to get multi-family housing and the
8 affordable housing that could go with that, was really
9 something that cause a lot of concern with us. And the fact
10 that that housing that they are proposing is multi-bedroom
11 housing was even worse.

12 Frankly, we think this is an issue of equity. And
13 the fact that all the benefits that are in our neighborhood,
14 of the good, the quality schools, the good food, grocery
15 options, the good transit options, should be available to
16 everyone.

17 And the way you can get that done is to build
18 multi-family housing, not single family homes that cost
19 anywhere from 800 to two million dollars. Not many people
20 can afford that.

21 So it is a matter of equity. And doing what --
22 for the city entirely. And I also show here in some
23 demographics to your point, Mr. Chair, of some of the racial
24 demographics of where that takes effect.

25 And so there's a lot of things that recommend

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1 doing this. To solve a lot of problems that the
2 Comprehensive Plan makes clear, should be solved. Inclusive,
3 family oriented, affordable housing, all those things. This
4 project isn't a silver bullet for all of those things, but
5 it is something that will do a lot for that.

6 And now I realize I'm going right past my
7 testimony. But, I'm not going to go through the View Stands.
8 Actually, the Historic Preservation Office made that clear.

9 But I do want to point out here, these are the
10 pedestrian pathways in the existing shopping center. You're
11 never going to walk through there without encountering a car.

12 The best one is on the south side on Mass Avenue,
13 next to the alley. Which is the only place where you can
14 actually access a sidewalk to get to the rest of the shopping
15 center.

16 So, I think the effects of this are still very
17 strong. And I would hope that we would do something even
18 more beyond this.

19 But, by -- those effects forcing pedestrians to
20 go to the south end of the alley, they also force them into
21 where the desired path for the HAWK light would be. And
22 that's partly the reason why people end up in that area.

23 Affordable housing, I've already covered that.
24 I'll tell you the unit mixes is terms of -- this is actually,
25 I think they've changed it since I put this up.

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1 There's 14 two-bedrooms, four three-room
2 inclusionary zoning units, 132 units of multi-bedroom. And
3 that's a lot. I can't tell you how much more that is than
4 what exists today.

5 These are -- this is a slide of what's available,
6 what's been happening in the pipeline. And this does not
7 include City Ridge. But this is -- and that's a matter or
8 right anyway. But this is what's included in the pipeline
9 since about 2015, yeah. 2015.

10 It's not a lot. And the 26 that are coming out
11 of this, are similar to what the Park Van Ness one generated
12 down on Connecticut Avenue. So, we think it's quite a bit
13 of affordable units that we think are worth having.

14 This is the development since 2015, you know, by
15 ward. One percent is actually represented, I think, by
16 everything. This is what's happened since 2015. We're not
17 pulling our weight to be frank. So, I think we should,
18 within reasonable and appropriate development, we should be
19 building things like this in order to rectify that.

20 Transit options. I ride the N bus all the time.
21 The opponents have said that there is no public transit
22 there. It's news to me, because I ride the N bus on a
23 regular basis.

24 So, it comes reliably. By the time you get down
25 to Alban Towers at Wisconsin and Mass, it is filled to the

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1 brim, because you have a slew of apartment buildings,
2 condominiums, various other townhomes on the way there. And
3 it is a very thriving bus system, bus route. So, I would
4 disagree with that.

5 Again, I go back to the 100,000 for that. That's
6 what we could agree to. Most of these things, if you're an
7 ANC Commissioner, you were just negotiating. And eventually
8 you have to come, you have to balance all of these various
9 things together and come up with a package that we can
10 present to you that mitigates as many of the issues that
11 we've identified.

12 And one of those was that we wanted connectivity
13 between the Tenleytown Metro and the site that was also
14 balanced out by a lot of other things, the car share parking,
15 the -- and especially the inclusionary zoning. So, were we
16 willing to give up some money so we could get inclusionary
17 zoning? Yes, we were.

18 I've gone through that. The major transit
19 facilities, again, these are all part in the presentation
20 itself.

21 We've done a number of things with the traffic.
22 Pedestrian improvements, I'm not going to keep going over the
23 same slides.

24 We did try -- we looked at the parking easement.
25 I think part of the problems with us being able to evaluate

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1 these things is the entitlement. No one signs a contract for
2 something that doesn't exist yet. So it's hard to get them
3 to produce contracts that are part of something that's not
4 here yet.

5 So, do we have their word on it? Yes. We want
6 this included, incorporated into the zoning order. But do
7 we have an actual contract? No. We don't, because we can't.

8 We do think the amount of parking provided is
9 sufficient. We did ask the -- I'm sure DDOT does not agree
10 with us with this, but we did ask them to, if they were to
11 use their flexibility to make sure that there is a one-to-one
12 unit parking space ratio. And that was based on community
13 feedback. I don't think that's what DDOT would like them to
14 do. But, that's what we asked as part of our agreement.

15 The no-RPP policy, we've done this with a number
16 of other developments within 3E. We haven't seen a downward
17 effect of it. So, we think it works.

18 I did get something from another committee member
19 about 24 hour RPP on Yuma so that people don't park after
20 8:30. We said we'd look at that. We'd ask them about that.

21 Parking space allocation, we've discussed that.
22 Alleyway operations. I'm not going to go too deep into that.
23 But, just say that based on feedback from the Zoning
24 Commission and us, we did see a need to very much improve the
25 southwest corner here of the alley and make sure it works

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1 better for pedestrian passages. Because we do think there
2 will be pedestrians going through there. And we'd like them
3 to make sure that that's a safe route. I think they've
4 addressed that.

5 I did this last time, but I'll do it again. We
6 looked at the ground water to see if there were underground
7 streams. We found that they actually just touched the edge
8 of the site as you can see.

9 The storm water, we looked at that. They're
10 actually going to drastically reduce the amount of storm
11 water that's coming off the site, as is part of code. And
12 reducing the GAR and all of that. So, we feel like that's
13 addressed. It will actually produce a lot less water that
14 goes into the drains and into the river.

15 I looked at the toxic chemicals onsite. They're
16 not part of the formerly used defense site of Spring Valley,
17 which had arsenic and mustard gas and all that.

18 One last thing, this is it. We did try and look
19 at some comparable developments around, not the -- and this
20 is strictly not by expertise. But to see kind of like where
21 elsewhere in the neighborhood, if you saw very large
22 developments, like 15 story, 18 story, 21 story developments
23 in Friendship Heights.

24 And is there like a real effect from these things?
25 Is this something that would really, like is there gridlock?

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1 Is there pedestrian conflicts? Is there just a lot of
2 illegal parking? And frankly, we just didn't see any of that
3 in any of these spaces.

4 They also have underground parking. But so does
5 this. So, you know, we just kind of looked through. And now
6 I'm just flying through this because I don't want to waste
7 your time.

8 That's about it. Now, I'll do my testimony and
9 then I'll -- my testimony is shorter than Commission's.

10 Good evening Mr. Chairman and fellow
11 Commissioners. I am Jonathan McHugh, the Vice Chair of ANC
12 3E. And I will deliver the testimony of the ANC regarding
13 the project proposed in ZC Case 1910.

14 The proposal presented to you tonight is the
15 result of a long four-year process. One that has already
16 been reviewed by the Commission before in 16-23.

17 While this has been a difficult path, and the ANC
18 has spent incalculable hours meeting, discussing, reviewing,
19 analyzing, and ultimately voting on the proposals, we believe
20 the final produce, the one you're to review tonight, is a
21 proposal that has substantial benefits for the community and
22 the city, and mitigates the potential impacts of those
23 benefits.

24 The biggest one is the rejuvenation of a currently
25 moribund site. The Super Fresh Grocery Store is currently

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1 the largest building on the site, has been closed for
2 approximately six years.

3 This project will inject new life into the site,
4 and create needed housing choices. The new residents and
5 attractive retail space the project brings will enhance the
6 vibrancy of the neighborhood.

7 The benefits. The project will deliver, as
8 proposed, 214 apartment units, 132 of which will be two or
9 three bedrooms, five townhomes, a neighborhood full service
10 grocery store, and a number of transit improvements for the
11 areas, including a mid-block HAWK signal on Massachusetts
12 Avenue that will create a safe connection between the two
13 shopping centers on either side of the street.

14 In addition, there will be approximately 26, 29,
15 not sure where they're going to land on that, units of
16 affordable housing created. Eighteen of which will be two
17 or three bedrooms.

18 The building's design has been changed -- has
19 changed to be compatible with the surrounding neighborhood
20 in esthetics, massing and scale, and is lower and smaller
21 than the previous iterations of the project.

22 The potential impacts. The potential impacts
23 associated with the development like this are traffic
24 increases, parking shortages, and pedestrian transit
25 conflicts.

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1 Here the Applicant's traffic study shows a net
2 decrease in traffic predicted from the project relative to
3 the existing buildings it would replace. I'll caveat that
4 with if the Super Fresh, or whatever was there, was still
5 operating.

6 Mr. Chairman, we look at the claims like this with
7 a critical eye. Here however, the assertion is credible
8 because the project will replace the multiple commercial uses
9 currently on the site with one use. The proposed grocery
10 store, along with lower traffic accounts, associated with the
11 residential building.

12 The parking is addressed with more parking as
13 required by code, more than DDOT recommends.

14 The traffic and pedestrian issues are addressed
15 with a number of mitigation solutions within the site and
16 around it, and are aided by the Applicant's commitment to a
17 number of multimodal solutions to reduce car use.

18 Parking. The project includes more parking than
19 required by law per DDOT's report. So much that they asked
20 the Applicant to use a remarkably conservative mode split of
21 90 percent versus the typical 65 to 70 percent for an area
22 like this.

23 Nonetheless, we have found that in other buildings
24 within our ANC with underground parking, some residents still
25 prefer to obtain residential parking permits and park on the

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1 street for free rather than pay a monthly fee for underground
2 parking.

3 The block on which the property is located is not
4 eligible for RPPs. At the ANC's request, the developer has
5 agreed to oppose any effort to change that state of affairs.

6 Moreover, the developer has agreed they will
7 prohibit tenants from obtaining RPP permits upon pain of
8 mandatory lease termination in the unlikely event that RPPs
9 should become available to the property.

10 This belt and suspenders approach produces the
11 near zero possibility that the new residents of this project
12 will cause parking problems in the neighborhood.

13 Traffic. The project has undergone two
14 comprehensive transportation reviews. The latest concluding
15 a net decrease in traffic compared the current status, which
16 does not have an operating grocery store anyway.

17 Both studies were reviewed and critiqued by DDOT.
18 The Zoning Commission also had an opportunity to request
19 changes and improvements as a result of the previous Zoning
20 process in Case 1623. The Applicant has proposed changes to
21 address those concerns in addition to the ones suggested by
22 the community and the ANC.

23 Historic preservation. The ANC 3E presentation
24 details the effects historic preservation has on the city's
25 Comprehensive Plan and the goals embodied in it.

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1 Designations have real consequences for creating
2 affordable housing, multifamily housing, vibrant commercial
3 centers, and multimodal transit options. In particular,
4 pedestrian friendly ones.

5 The designation of most of the lots in the area
6 as historic severe -- and by areas I mean in this probably
7 like quarter mile vicinity. And the historic MAPS shopping
8 center adjacent to it, balances the need to complement the
9 historic site next to it with fulfilling the Comprehensive
10 Plan's goals and priorities.

11 The letter from Mr. David Maloney at the State
12 Office of Historic Preservation, Exhibit 187, confirms this
13 conclusion.

14 Affordable housing. The city's Comprehensive Plan
15 highlights the need for affordable housing throughout the
16 city. ANC 3E and this area in particular are no exceptions
17 in helping address this need. This project proposes
18 delivering 26, maybe 29 units of affordable housing.
19 Eighteen of those units being two and three bedroom units.

20 While this is not a silver bullet for solving the
21 larger housing problem, it is a significant amount of family
22 friendly units where there are currently none. And it also
23 adds a diversity of housing choices to an area that has few.
24 Especially the addition of two and three bedroom apartments
25 and several townhomes.

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1 The Memorandum of Understanding I'll go through
2 quickly, because it's already been discussed. The benefits,
3 the grocer, the set aside for the IZ, LEED Gold, agree to
4 fund the HAWK light, 100,000 for the metro, the public
5 alley, the transportation study, and public space
6 improvements on and around the site.

7 The mitigations, in addition to the mitigations
8 required from DDOT and other organizations are typical of
9 what we asked. And the pedestrian infrastructure, which we
10 also had a role in asking DDOT to address when they specify
11 which corners of streets for curb improvements and things
12 like that. We hopefully went through that.

13 And the last as far as we agree -- they agreed to
14 a parking plan that guarantees 370 parking spaces available
15 to the plan.

16 The Applicant has embodied the foregoing promises
17 and others in the Memorandum of Understanding, executed a
18 contemporaneously with this resolution. I have the
19 resolution here. And has agreed to ask ZC to embody the
20 terms of the MOU and an EZC order regarding this matter.

21 Conclusion. For all the reasons that I've just
22 described, and for all the reasons set forth in our written
23 submissions, we respectfully urge the Commission to support
24 the present Application and to incorporate the terms of the
25 MOU between ANC 3E and Valor Development into its order

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1 regarding the property.

2 Thank you for the opportunity to testify.

3 CHAIRMAN HOOD: I want to thank you both. I
4 really appreciate all the time and attention that you all
5 have put into your presentations here tonight.

6 So, I just want that not go unnoticed. And also,
7 if you can mention to your colleagues who also helped with
8 the presentation I'm sure.

9 Let's see if we have any questions or comments
10 from the Commission?

11 (No response.)

12 CHAIRMAN HILL: Very thorough. Not hearing any.
13 Let's see if we have any cross of the Applicant? No cross?

14 Let me do this like this. Vice Chair McHugh, do
15 you have any cross of Mr. Kravitz? Mr. Kravitz, do you have
16 any cross of Mr. McHugh?

17 MR. KRAVITZ: I do. Suppose the funded study does
18 not warrant a HAWK light? What happens to the money planned
19 to be used to construct the HAWK light in that case?

20 MR. MCHUGH: I think in the MOU we made clear that
21 if the benefit can't be realized by the Applicant, they have
22 to provide something as an in-kind benefit to replace it.

23 So the MOU actually does envision that there's a
24 possibility that the HAWK light is something different. Or,
25 but if that happens, they have to actually replace it with

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1 something of equal value.

2 VICE CHAIR MILLER: While we're on that point, Mr.
3 Chairman, can somebody, either you or DDOT or the Applicant
4 say what the value of it is?

5 MR. MCHUGH: I'm not sure if I what to jump ahead
6 of him or not. But we thought it was probably worth about
7 250.

8 MR. ZIMMERMAN: Yeah. That's what -- that would
9 be my guess too.

10 VICE CHAIR MILLER: Thank you.

11 CHAIRMAN HOOD: Any other questions for Mr. --
12 okay. Ms. Kimmel, Ward 3 Vision? Ms. Kimmel's -- okay. She
13 took the early out.

14 Spring Valley Neighborhood Association, Mr.
15 Clarkson, do you have any cross that you want?

16 (No response.)

17 CHAIRMAN HOOD: Dr. Herstein? Ms. Gates, do you
18 have any cross of either one of the ANCs?

19 MS. GATES: Yes.

20 CHAIRMAN HOOD: Okay. Come forward. And just let
21 us know which Commissioner you're asking the question to.
22 Or if it's for both of them, ask that too.

23 DR. HERSTEIN: Okay. For 3D, are you aware that
24 the zoning criteria that 3D used to review the immediate case
25 are taken from 1958 regulations?

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1 MR. KRAVITZ: My understanding is that 11-2403 was
2 from ZR-16. So, no. I would not be aware.

3 However, one thing that we stressed is that, and
4 we confirmed this with the Office of Planning beforehand, the
5 ANC took the view that it was not obligated to view the
6 application as a pre-Zoning Commission.

7 We are not the Zoning Commission. We don't need
8 to evaluate it under the PUD evaluation standards. We choose
9 to do so anyway. Which is also part of our conversation
10 about the -- we discussed at length internally the question
11 about the grocery store being a community benefit given the
12 305.5(j) restriction on a grocery store at least of 15,000
13 feet where there's none other within a radius of three miles.

14 We confirmed with the Office of Planning first
15 that we were under no obligation to view it with that lens.

16 DR. HERSTEIN: That's really -- sorry, that's not
17 exactly what I was asking.

18 I think the point is that they were taken from old
19 regulations. And so I think a number of your discussions are
20 not accurate or appropriate.

21 Can you explain what you meant by, while the
22 evaluation of the PUD proffer is not the responsibility of
23 our Commission, we hope the exercise is helpful for others
24 charged with different aspects of the case?

25 MR. KRAVITZ: So, the ANCs are not charged with

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1 anything in particular. We don't have a statutory obligation
2 to do anything.

3 That includes -- other than advancing sound policy
4 for the District as a whole. So, we can view it as -- we can
5 evaluate it whether it's sound policy for the District as a
6 whole.

7 Through the PUD evaluation standards or not
8 through the PUD evaluation standards. It doesn't -- so
9 that's what that was mean. That's what that meant.

10 DR. HERSTEIN: Where does the great weight come
11 from?

12 MR. KRAVITZ: I mean, are you referring to the
13 Home Rule Act? Or are you referring to the ANC having to
14 provide a sound basis for its -- a sound, rational basis for
15 its arguments?

16 DR. HERSTEIN: Exactly.

17 MR. KRAVITZ: Okay. A sound, rational basis for
18 its argument.

19 DR. HERSTEIN: So that is that based on?

20 MR. KRAVITZ: There -- my understanding, and this
21 is from talking with the Office of the ANC extensively about
22 this, there is not a given thing.

23 One thing is that we can advocate our
24 constituents. We can represent and say that our constituents
25 feel this way. And that's one way to get great weight. But

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1 it's not the only way. It's our argumentation is my
2 understanding.

3 DR. HERSTEIN: Does your letter state the
4 application in Zoning Commission 1910 is almost entirely
5 identical to that in 1623? The arguments underlying are
6 expressions of support, remain applicable to the present
7 case. We do not repeat them here for the sake of brevity.

8 Aren't these reasons based on different zoning
9 criteria and applicable to a different case?

10 MR. KRAVITZ: Again, the ANC does not have to
11 evaluate a project through the lens of the zoning
12 regulations. So, the answer to that would be no.

13 DR. HERSTEIN: Are you aware that the MOR height
14 in the MU-4 zone is 50 feet, and that 65 feet is for a PUD,
15 and more for IZ?

16 MR. KRAVITZ: I believe that's incorrect. I
17 believe that a matter of right height in MU-4 is 50 feet plus
18 a 15-foot penthouse set back one to one. Twelve foot
19 residential, three foot mechanical.

20 DR. HERSTEIN: Are you aware that lot occupancy
21 also increases with PUDs over MOR?

22 MR. KRAVITZ: Yes, I am. Offhand, we haven't had
23 to deal with that much. But I believe a matter of right, lot
24 occupancy is 60 percent. Satisfaction of IZ, I believe it
25 goes up to 75 percent in MU-4.

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1 DR. HERSTEIN: Doesn't ANC 3D have a majority of
2 new members, six to be exact, that did not participate in the
3 design review case?

4 CHAIRMAN HOOD: Overrule that question out of
5 order. This is not a test. Let's stay with the merits of
6 the PUD case.

7 This is not a test of what Mr. Kravitz knows and
8 doesn't know. I'm sure if I had nine ANC commissioners from
9 different areas, they'll all give us a different perspective
10 of how their ANC is run.

11 And I've been to enough ANC meetings, I haven't
12 been to yours, but I've been to enough to know how they run.
13 And they all run differently. And they're all unique to
14 their own specific areas and issues.

15 DR. HERSTEIN: Okay. Do you have any idea of the
16 cost of the rental units? How do you know they're
17 affordable, and affordable for whom?

18 MR. KRAVITZ: No. When we say affordable, we mean
19 in the context of inclusionary zoning.

20 CHAIRMAN HOOD: Well Dr. Herstein, when you come
21 up for your, I want you to tell me affordable to whom. I
22 want you to give us that in your direct. I want to hear that
23 from you. What you all believe.

24 DR. HERSTEIN: Okay. Gotcha.

25 MR. KRAVITZ: I can actually speak a little more

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1 about that if you're interested. We -- Scott Parker from
2 Spring Valley West had a discussion at the last kind of
3 pan-ANC discussion about this.

4 And one thing that came up is that the numbers he
5 was using based upon comparable properties was that it was
6 probably four thousand dollars a month for a two or three
7 bedroom, I believe he was saying.

8 He was -- that was a market rate. This was -- I
9 mean, I can't evaluate, but that's what Mr. Parker said.

10 And I stated that that is at present interest
11 rates, that's a 900,000 dollar mortgage. Principal and
12 interest.

13 DR. HERSTEIN: So, is that affordable?

14 MR. KRAVITZ: I don't have a stance on that. Our
15 point again was, when we use the word affordable, we're
16 referring to the inclusionary zoning in particular.

17 DR. HERSTEIN: Did ANC 3D consider that the MU-4
18 zone where this development is proposed is meant to be a
19 neighborhood commercial center? And did it consider that
20 only 11 percent of the total project would be devoted to
21 retain use?

22 MR. KRAVITZ: Yes. We stated that we'd like to
23 see more retail use.

24 DR. HERSTEIN: Yes. So would we. Did ANC 3D
25 discuss the need for the HAWK signal in terms of it being

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1 very important to current users of the OLLI program at AU?

2 Aren't OLLI members supposed to park in the AU
3 building?

4 MR. KRAVITZ: Yes. ANC 3D has had discussion
5 about this. One of the sources for the impetus for the HAWK
6 light has come from OLLI.

7 I would imagine that people that drive to OLLI
8 classes are required under their agreement with AU to park
9 in AU sites. But, I don't believe everyone's required to
10 drive to OLLI classes.

11 DR. HERSTEIN: What effort will ANC 3D make to
12 ensure its request for up to 44,000 square feet of commercial
13 space on Lot 807 is met?

14 MR. KRAVITZ: I mean, we've been -- I have been
15 twisting their arm for a while. And they certainly heard a
16 unified front from Mr. Parker, myself, Mr. Smith and Mr.
17 Kraskin said something along those lines as well at the last
18 meeting.

19 So, we'll continue doing the same thing. And
20 hopefully it will have a different effect than what it's had
21 thus far.

22 DR. HERSTEIN: With regard to 1910, how many
23 presentations did Valor make to 3D? Was that the first time
24 a majority of members heard the presentation?

25 MR. KRAVITZ: I don't know how to count the May

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1 presentation. I believe there was three-fourths in May. And
2 that was in the transition zone between 1623 and 1910.

3 I think they'd already submitted 1910 by that
4 presentation. There was some talk about expediting the
5 process even. But, for most purposes, yes. The presentation
6 was mainly in September.

7 DR. HERSTEIN: And finally, with regard to 1910,
8 how many presentations -- I'm sorry, were there any other
9 meetings between the ANC and Valor or some commissioners and
10 Valor? And were they before or after September 4th?

11 MR. KRAVITZ: So yes. The ANC at Chairman Elkins'
12 request -- ANC 3D requested a meeting. That Valor convene
13 a meeting with all of the parties both in support and in
14 opposition together.

15 Just to see first off, one aspect of that is that
16 they've been hearing from me that we support more retail.
17 And I've been telling them that I've spoken to some of the
18 parties in opposition that support more retail.

19 Chairman Elkins thought it would be prudent for
20 Valor to hear that directly from the parties in opposition
21 as well, to make it more credible. That meeting took place
22 on September 19th.

23 Importantly, ANC 3D, including Chairman Elkins,
24 voted unanimously in support of the application, you know,
25 before that September 19th meeting.

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1 DR. HERSTEIN: Okay. Thank you.

2 CHAIRMAN HOOD: Thank you. Let's go to CRD. Any
3 cross? And I think this is going to be our -- when you all
4 finish, this is going to be our cutoff point.

5 And we will come up with where we're going to
6 start off and the times for the parties and support and
7 opposition after we finish with this cross.

8 MR. REPP: It's late. I realize that. So, I'm
9 sorry that you all are here and that we're all here. So, I'm
10 not going to take too long here.

11 For both Mr. McHugh and Mr. Kravitz, have you ever
12 heard me say, or my wife say, that we don't want to talk
13 about unnecessary people?

14 MR. KRAVITZ: That quote was not from you.

15 MR. MCHUGH: No. That quote, I have not heard
16 that.

17 MR. REPP: Have either of you ever heard from me
18 that we were -- that I or my wife and I are not in favor of
19 development of the Super Fresh site? Some development of the
20 Super Fresh site?

21 MR. MCHUGH: No. I've heard you say that, yes.
22 You and your wife.

23 MR. KRAVITZ: I don't think it's necessary. But
24 I actually have our quotes from our August 2016 meeting. And
25 I would echo what Commissioner McHugh said.

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1 MR. REPP: Okay. Thank you.

2 Mr. McHugh, haven't you said on a number of
3 occasions that this is an imperfect project?

4 MR. MCHUGH: Yes. I have. I also said that I
5 thought most of our projects were imperfect.

6 MR. REPP: And didn't you say on September 12 that
7 there's plenty of things not to like about this project?

8 MR. MCHUGH: Yeah. I have said that. Like I
9 said, I've said that about a number of projects.

10 MR. REPP: With re --

11 CHAIRMAN HOOD: Let me just ask a question. That
12 last question, how is that going to help us?

13 I'm just -- your questions should be able to help
14 us. Because there are a lot of projects that I vote on that
15 I can tell you that I don't necessarily like the outcomes.

16 MR. REPP: I guess where I'm heading on that was,
17 or what I was trying to build the record on, is they approved
18 this project. But the fact is, they approved it at the same
19 time they were saying that it was, it is imperfect. Or
20 there's things not to like.

21 I think it -- I think it qualifies to some extent
22 the vote in favor.

23 CHAIRMAN HOOD: Let's talk about that on your
24 direct. Because sometimes regulations are put in place that
25 you have to abide by.

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1 So, I'm not going to ask it for them. So, go
2 right ahead.

3 MR. REPP: Well, at least answer the question.

4 MR. MCHUGH: If the question is, do I regret my
5 vote or any of us? No. None of us regret our vote for
6 voting for this, so.

7 MR. REPP: But that wasn't my question. You
8 showed some comparable pictures of comparable developments
9 on the -- on your screen. Including in some on Cathedral
10 Avenue.

11 Aren't the developments on Cathedral Avenue,
12 aren't they well set back from the street?

13 MR. MCHUGH: They are. I also showed some on
14 Connecticut and up on Friendship that were right on top of
15 the street.

16 But I also made those, because those are much
17 larger developments than this is.

18 MR. REPP: And isn't Connecticut Avenue 130 feet
19 wide, and thus allowing taller buildings?

20 MR. MCHUGH: Sure. But, this is a five, I forget
21 what it's starting like three and a half, four and a half
22 going down to seven. That's 12, 15, 18 story buildings.

23 MR. REPP: Okay. The -- Mr. Kravitz, at the end
24 of your -- when you were -- your questioning for Mr. McHugh,
25 you talked about this engagement session that was held in

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1 September of this year.

2 This was at the request of your chairman, Chairman
3 Elkins, correct?

4 MR. KRAVITZ: That's correct.

5 MR. REPP: And that was -- the request was made
6 contemporaneously with the approval by ANC 3D of the project?

7 MR. KRAVITZ: From your perspective, it was.

8 MR. REPP: Okay. And at the negotiation session,
9 you talked about that a request was made for Valor to put
10 more retail in the building.

11 Was that request adopted so far?

12 MR. KRAVITZ: Not that I've seen, no.

13 MR. REPP: But there were other requests too made,
14 right? Correct?

15 MR. KRAVITZ: Um --

16 MR. REPP: Were there other requests made?

17 MR. KRAVITZ: I'm not sure request is appropriate
18 in any situation. But yes, we did -- the people around the
19 table expressed a variety of viewpoints in favor of certain
20 things.

21 There probably -- that may have been the only one
22 that had close to broad support. I believe you were opposed
23 to the more retail. But the rest of the group, I believe,
24 was in favor of it.

25 MR. REPP: Wasn't another topic to widen the Yuma

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1 Street alley from three to six feet?

2 MR. KRAVITZ: You mean the sidewalk?

3 MR. REPP: The sidewalk, yes.

4 MR. KRAVITZ: Yeah, and actually that was the one
5 where I said in my testimony tonight that I personally have
6 been persuaded in both directions.

7 I was the one who authored our resolution. I
8 recommended and asked the Zoning Commission for advice on
9 widening it from three feet to four, or ideally six feet were
10 my words.

11 At that September 19th meeting, so this was
12 September 4th, at the September 19th meeting, I heard
13 arguments as to why the three-foot wide sidewalk would be
14 sufficient.

15 And actually during that meeting, I believe Dr.
16 Kraskin mentioned it. And I conceded that he had a good
17 argument. So that was the other direction of me.

18 MR. REPP: So, I mean, there were some other items
19 I believe. But wasn't another item to include at least some
20 condos in the final project, instead of just apartments?

21 MR. KRAVITZ: Yes. There was probably -- yeah,
22 that probably was the one thing that was unanimously
23 supported.

24 I can't speak for Spring Valley Neighborhood
25 Association. But I believe the others were interested in a

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1 broad unit mix.

2 There was -- and Mr. Parker was pushing for all
3 condos. We settled on maybe one floor of condos as being
4 something that we would hope they would be able to work with.

5 MR. REPP: So, were any of these topics that I
6 just summarized, were any of the -- are any of them included
7 in the current proposal?

8 MR. KRAVITZ: I believe their stance remains that
9 they will determine the unit mix, whether condo or apartment,
10 closer to when the project comes online.

11 So, I mean, I don't think they've committed either
12 way on that one. Although I fully expect there to be
13 majority apartments.

14 MR. REPP: One last question for Mr. McHugh. For
15 your May 9th, 2019 meeting, Valor was on the presentation,
16 Valor was on the agenda.

17 Did Valor show up for that meeting?

18 MR. MCHUGH: No. I think we actually told them
19 not to come. Because we were like -- we thought they didn't
20 have anything to offer to us.

21 We had them a number of times. And frankly the
22 meetings go forever when they come. So, if they didn't have
23 a reason to come, we didn't want to have them.

24 Some of us would like to get out by midnight, but.

25 MR. REPP: Well, I think some people want to get

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1 out by 10:30 here, so I'm done.

2 CHAIRMAN HOOD: Okay. Thank you all very much.
3 Let's get an update of the status of where we are.

4 Ms. Schellin, we're going to start off with the
5 party in support, the two parties in support. And then we'll
6 hear from the individuals in support.

7 And then we'll hear from the party in opposition.
8 How many parties in opposition? I get confused now.

9 MS. SCHELLIN: Two.

10 CHAIRMAN HOOD: Two parties in opposition. And
11 then we will go to the persons in opposition.

12 We are expected to finish this hearing on Thursday
13 at a reasonable hour. We're actually expecting to finish it.
14 That's the goal. I'm hoping. We're not even going to plan
15 a third night.

16 So Ms. Schellin, can you give us a time so that
17 everybody will know coming in what the parties in support and
18 opposition, and the amount of time they all have?

19 MS. SCHELLIN: All right. It's my understanding
20 the two parties in support were looking for five minutes
21 each. Okay.

22 So, and the Applicant ended up going three minute,
23 well actually it was like two minutes and 40 seconds over.
24 So just rounding that up to three minutes.

25 So that made 23 minutes. Plus the 10 minutes that

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1 the two parties in support will take. Which equals 33
2 minutes for the two parties in opposition to split. Which
3 would be 16 and a half minutes each, unless you guys work out
4 something else and you split it some other way.

5 CHAIRMAN HOOD: Okay. We're all straight with how
6 much time we have? Okay. Any questions from any of the
7 parties?

8 (No response.)

9 CHAIRMAN HOOD: So we will convene at 6:30 on this
10 coming Thursday. And we will just reconvene this particular
11 hearing.

12 I won't read the opening statement. I'll just
13 acknowledge who's here. And we'll get right into it.

14 Ms. Schellin, is there anything else tonight?

15 MS. SCHELLIN: Nope. But if everyone would
16 quickly clear the room so we can lock the doors, that would
17 be great so I can go home.

18 CHAIRMAN HOOD: Okay. I want to thank --

19 MS. SCHELLIN: Because I have to be back at 7:30.

20 CHAIRMAN HOOD: I want to thank everybody. And
21 we will reconvene on Thursday.

22 (Whereupon, the above-entitled matter went off the
23 record at 10:21 p.m.)

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: Valor Development

Before: DCZC

Date: 10-07-19

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



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