

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 :

-----:

Thursday,

October 10, 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
BRANDICE ELLIOTT

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

HILLARY LOVICK, ESQ.
MAXIMILIAN TONDRO, ESQ.

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF PRESENT:

AARON ZIMMERMAN

The transcript constitutes the minutes from
the Public Hearing held on October 10, 2019.

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

6:32 p.m.

CHAIRMAN HOOD: Okay. We're ready to begin.

I'm going to incorporate the opening statement and everything from our initial hearing on Monday, Zoning Commission Case 19-10. I will forego reading all of the statement into this record. This is just a continuation.

Good evening, ladies and gentlemen. This is a continuation of Zoning Commission Case No. 19-10 of the Valor Development, LLC consolidated PUD related, Square 1499, Lot 802, 803, 806 and 807. Today's date is October the 10th, 2019. We're located in the Jerrily R. Kress Memorial Hearing Room.

So I'd like to get right into it, but first just a few housekeeping so we can move with efficiency. We will continue as we did Monday evening with representatives from each party doing cross-examination, one person.

I see Mr. Wheeler is here tonight, so I guess you will be representing Ward 3 Vision. Correct?

MR. WHEELER: Yes, sir. I will be the person cross-examining. Ellen Bass will be the person testifying on behalf of Ward 3 Vision.

CHAIRMAN HOOD: Okay. I don't believe that's a problem as long as we just have one person who's doing the cross.

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1 And I see Dr. Kraskin. So you will be doing the
2 -- okay.

3 Commissioner -- Commissioner? Well, I know you
4 as Commissioner. Commissioner Smith?

5 COMMISSIONER SMITH: Yes.

6 CHAIRMAN HOOD: Okay. Well, commissioner of the
7 medical board.

8 Okay. Tom Smith will be doing the cross-
9 examination for Spring Valley Wesley Heights Neighbors for
10 a Livable Community. So Dr. Herswich will not be doing that
11 tonight. Okay. I don't see her, so okay.

12 Okay. And also in order to finish this case in
13 a -- if you plan to testify, we ask you to please register
14 at the kiosk to my left. And again, for the sake of
15 efficiency if one of your colleagues or one of your
16 counterparts says something, it's really no reason to keep
17 iterating. We get it. So that would be very helpful for us
18 to get as much information pertaining to this case as
19 possible. Very helpful.

20 Just one another announcement. Again, I would
21 like everyone to please do the kiosk. At a certain time I'm
22 going to cut it off, but I believe everybody who's -- pretty
23 much who's going to testify tonight are here.

24 So without further ado, let's go right -- I'm not
25 sure who would like to go first. Is it Ward 3 Vision? Mr.

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1 Wheeler?

2 MS. SCHELLIN: Can we --

3 MR. WHEELER: We're ready.

4 CHAIRMAN HOOD: Do we have a preliminary --

5 MS. SCHELLIN: -- start by swearing --

6 CHAIRMAN HOOD: Okay. Does anybody need to be
7 sworn in again? Stand up everybody who needs -- who's here
8 tonight stand up and please be sworn in.

9 Ms. Schellin, would you please swear everyone in?

10 MS. SCHELLIN: Yes. Please raise your right hand.

11 (Whereupon, the witnesses were sworn.)

12 MS. SCHELLIN: Thank you.

13 CHAIRMAN HOOD: Okay.

14 MS. SCHELLIN: I don't believe these parties had
15 any expert witnesses. Each party has five minutes.

16 CHAIRMAN HOOD: Okay. So with that, we will
17 begin. Mr. Wheeler, right? You would like to go first?

18 MR. WHEELER: Yes.

19 CHAIRMAN HOOD: Okay. Mr. Wheeler will go first,
20 Ward 3 Vision. You may begin.

21 MS. BASS: Good evening, Commissioners. I'm Ellen
22 Bass and I'm on the Steering Committee of Ward 3 Vision.
23 We're here in support of the PUD proposal before you tonight.

24 Ward 3 Vision is an advocacy group for smart
25 growth. We are interested in improving vitality,

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1 walkability, and availability of amenities in the
2 neighborhoods here. We are committed to increasing the
3 availability of multimodal forms of transportation, promoting
4 the use of public transit, and increasing housing and housing
5 density near transit. We support this PUD because it
6 advances these goals.

7 We have filed a written submission, No. 157, in
8 the record, and we wish to associate ourselves in the
9 interest in of brevity with the excellent submissions and
10 testimony of ANCs 3E, 3D, and also that of the Coalition for
11 Smarter Growth.

12 I'd like to highlight a few points: First of all,
13 as far as process, the proposal before you has been changed
14 and amended and downsized over the course of four years to
15 respond to opponents' concerns. There has been an
16 extraordinary amount of community input via the two ANCs and
17 otherwise. This is an excellent illustration of how the PUD
18 process provides an ample amount of due process for everyone
19 before the matter even reaches you Commissioners.

20 For example, the grocery store has been made
21 smaller in this proposal from that in the original design in
22 response to opponents' concerns. Also the residential
23 component has been downsized. The design and façade have
24 been changed to blend better with the area. There are more
25 setbacks near existing residences. In addition, to address

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1 concerns over the project's height, the structure has been
2 lowered. Thus, the opponents' position has been accommodated
3 already.

4 As far as amenities we support the grocery store
5 strongly because it makes the project better than a
6 residential-only project because it makes for more
7 walkability and vitality in the neighborhood. It provides
8 a business for the community that many will use often and
9 will reduce car use.

10 There has been a grocery store in Spring Valley
11 for over 60 years until the Super Fresh at the site closed
12 about six years ago. So this is not actually much of a
13 change. And with the closing of both the Tenleytown and
14 Palisades Safeways a grocery store is even more desirable for
15 this neighborhood.

16 This stretch of Spring Valley is recognized as a,
17 quote, neighborhood commercial center with a number of
18 existing businesses and shops. This proposal is wholly
19 compatible with that concept, both, one, by providing a
20 grocery store, and, two, by increasing the pool of residents
21 to support these local businesses. Density in housing is
22 critical to support local retail.

23 As far as the other amenities offered they also
24 enhance the neighborhood such as the alley improvement,
25 public open space, and the traffic symbol on Massachusetts

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1 Avenue. We especially applaud the money being set aside for
2 transportation to the Tenleytown Metro. This service will
3 supplement an existing private shuttle service offered by
4 American University. This makes the development, which is
5 already close to bus service on Massachusetts Avenue even
6 more transit-oriented and we expect that with additional use
7 this bus service will be enhanced by Metro. This is a plus
8 for the environment to cut down on car-generated pollution
9 and control traffic congestion from commuters.

10 Finally, the most important is housing. As the
11 recent and ongoing debate about amending the Comprehensive
12 Plan before the D.C. Council illustrates, building more
13 housing and more affordable housing is critical to keep up
14 with the growth and population and demand in this city. This
15 project will provide over 200 apartments and town houses,
16 including a significant number of larger units which has been
17 lacking in some other recent developments here.

18 Why force people out to Montgomery County with the
19 attendant loss of tax revenue in D.C. and increase in
20 commuter traffic? We believe it's better to provide them
21 housing options here and we welcome the addition of diversity
22 of housing options including multifamily housing and town
23 housing. Not everyone who desires to live here can afford
24 a house or wants one, and some will find this project a good
25 place to transition out of single-family housing but stay in

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1 the area.

2 Affordable housing is a big issue in D.C., as it
3 should be. This project contributes to the fix through
4 application of the IZ rules. There will be about 26 lower-
5 than-market-priced units and more than half will be larger
6 apartments.

7 (Alarm sounding.)

8 CHAIRMAN HOOD: That's the time. Okay. We have
9 your written statement, I believe, right?

10 MS. BASS: Yes.

11 CHAIRMAN HOOD: Okay.

12 MS. BASS: I just have one more point, if I may?

13 CHAIRMAN HOOD: So in this circumstance you're a
14 party and your time is up.

15 MS. BASS: All right.

16 CHAIRMAN HOOD: We will continue to read -- you
17 know, this is the part I hate because I hate being rude. My
18 parents didn't raise me that way, but I have to make sure I
19 stay within the regulations because later on it may be a
20 problem. So I'm going to stick to the regulations for sure.

21 All right. So we will -- I just wanted to assure
22 we will read your submission.

23 Okay. What I'd like to do, Mr. Clarkson, is you
24 also -- because there's a certain amount of time that you
25 have two, five minutes as well.

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1 MR. CLARKSON: Yes.

2 CHAIRMAN HOOD: So I'd like to hear from you and
3 then we'll do cross of both of you all individually, if
4 there's any.

5 MR. CLARKSON: Great.

6 CHAIRMAN HOOD: All right. You may begin.

7 MR. CLARKSON: Chairman Hood and Commissioners,
8 my name is William Clarkson and I'm testifying on behalf of
9 the Spring Valley Neighborhood Association, SVNA.

10 SVNA is comprised of residents of Spring Valley,
11 the neighborhood directly across Massachusetts Avenue from
12 the proposed Ladybird development and we greatly appreciate
13 the opportunity to participate as a party in this proceeding.

14 SVNA has supported and continues to support Valor
15 Development's planned unit development application currently
16 under consideration. We believe that the proposed project
17 will have an overall beneficial impact on the community,
18 especially with the return of a full-service grocery store
19 to the former Super Fresh site. Furthermore, the proposed
20 project would provide 29 affordable housing units under the
21 District's inclusionary zoning regulations.

22 I think all of the parties here tonight would
23 agree that the District continues to face a severe
24 affordable housing shortage and that more needs to be done
25 to address this issue, especially in Ward 3.

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1 While one opposing party has argued that the
2 Applicant's proposal, quote, would not remotely qualify as
3 a significant contribution to the District's stock of
4 affordable housing, it is important to note that since 2015
5 only 53 IZ units have been built in Ward 3. None of those
6 53 units are located in ANC 3E or ANC 3D, the two affected
7 ANCs. In fact, according to the Office of Planning there is
8 not a single income-restricted affordable housing unit in all
9 of ANC 3D.

10 While it is our hope that -- sincere hope that the
11 Applicant will consider providing additional affordable
12 housing units as part of this proposal, a 50 percent increase
13 in IZ units for Ward 3 cannot be dismissed as an
14 insignificant contribution.

15 Another opponent criticized the Applicant in the
16 affected ANCs for claiming that, quote, there is insufficient
17 affordable housing in Ward 3 and for failing to recognize a
18 significant number of rent-controlled apartments in Ward 3.
19 We don't believe that the Applicant or the ANCs are
20 questioning the benefits of the District's rent-control
21 statute, particularly with respect to senior's aging in
22 place. In this case, however, affordable housing creation
23 is a primary issue, not rent control.

24 As stated in the recently-passed Comprehensive
25 Plan Framework Amendment Act, quote, the preservation of

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1 existing affordable housing and the production of new
2 affordable housing especially for low-income and workforce
3 households are essential to avoid a deepening of racial and
4 economic divides in the city and must occur citywide to
5 achieve fair housing objectives.

6 It is our understanding that Valor or another
7 developer could have chosen to pursue a matter-of-right
8 residential-only development project which would have
9 eliminated the need to work with the affected ANCs and the
10 opportunity for significant meaningful community review and
11 input that has occurred on this project since September of
12 2015.

13 While we understand and appreciate neighbors'
14 concerns about the potential negative impacts which could
15 result from the current proposal, we believe that Valor has
16 made a concerted good-faith effort to address issues and
17 concerns raised by community stakeholders, the affected ANCs
18 and D.C. government agencies. As a result of this engagement
19 and outreach Valor has made a number of revisions to address
20 community concerns. Notably, while retaining the grocery
21 store element of the project the current proposal reduces the
22 building one height by 21 feet and the overall density by
23 over 90,000 square feet. Valor's revised plan has been
24 endorsed by the Office of Planning and after analyzing the
25 potential traffic and parking impacts to the project DDOT has

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1 stated that it has no objection to the approval of the
2 application.

3 We also think it is important to highlight the
4 continued efforts of our elected ANC representatives to keep
5 neighborhood residents informed and for working tirelessly
6 to foster meaningful dialog among the various stakeholders
7 and community interests. During its consideration of the
8 Applicant's previous voluntary design resident application,
9 Case 16-23, and the current case ANC 3D has actively
10 solicited neighbors' input in the resolutions to the Zoning
11 Commission including the formal consideration of proposals
12 offered by non-ANC 3D residents.

13 (Alarm sounding.)

14 MR. CLARKSON: All of us are here tonight again
15 because we care deeply about our community and recognize the
16 importance of participating in this process and making it
17 better. We appreciate the Commission's consideration of our
18 testimony and we'd be happy to answer any questions. Thank
19 you.

20 CHAIRMAN HOOD: Okay. Thank you, both.

21 Just for the record, I don't know what that one's
22 doing, but he did not go over his time because his time is
23 over here. That one's just going haywire. All right. So
24 with that we will ignore that and we will continue to look
25 at this one.

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1 Let's do cross of Ms. Bass first.

2 COMMISSIONER MAY: I'm sorry. I haven't seen
3 testimony from Ward 3 Vision. So I mean, written testimony.
4 Do we have a submission?

5 PARTICIPANT: One-fifty-seven.

6 COMMISSIONER MAY: One-fifty-seven? Okay. Good.
7 Thank you.

8 CHAIRMAN HOOD: Okay. All right. Mr. Glasgow,
9 do you have any cross?

10 MR. GLASGOW: No cross.

11 (Alarm continues to sound.)

12 CHAIRMAN HOOD: I wonder if that's going to be
13 buzzing all night.

14 Mr. Kravitz, you have -- ANC 3D have any cross?

15 MR. KRAVITZ: No, sir.

16 CHAIRMAN HOOD: All right. Now this is of Ms.
17 Bass. Does ANC 3E have any cross?

18 MR. MCHUGH: No, sir.

19 CHAIRMAN HOOD: Does Spring Valley Neighborhood
20 Association have any cross?

21 (No audible response.)

22 CHAIRMAN HOOD: Does Spring Valley Wesley Heights
23 Neighbors for a Livable Community have any cross?

24 (No audible response.)

25 CHAIRMAN HOOD: Okay.

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1 MR. SMITH: Good evening. I just have one quick
2 question. You mentioned about density and housing necessary
3 to support retail and with respect to the grocery store. Was
4 the closing of Super Fresh in your view a reflection of
5 inadequate density within the neighborhood?

6 MS. BASS: I really don't know.

7 MR. SMITH: Okay.

8 CHAIRMAN HOOD: Turn your mic on.

9 MS. BASS: I really don't know, but my point is
10 that you need density for all of the retail and to support
11 all of the retail. There's a problem with retail throughout
12 the city and throughout the country, really. I mean you need
13 density to support it.

14 MR. SMITH: Yes, my only question was whether --
15 since you made reference to the grocery store my question
16 really was related specifically to the Super Fresh as to
17 whether it closed -- whether density was a factor in its
18 closure within -- at the Spring Valley site.

19 MS. BASS: I don't know.

20 MR. SMITH: Okay. Thank you.

21 CHAIRMAN HOOD: Thank you. CRD, you have any cross?

22 (No audible response.)

23 CHAIRMAN HOOD: Okay. Let's do Mr. Clarkson.

24 Does the Applicant have any cross?

25 MR. GLASGOW: No, sir.

1 CHAIRMAN HOOD: ANC 3D?

2 MR. KRAVITZ: No, sir.

3 CHAIRMAN HOOD: ANC 3E?

4 MR. MCHUGH: No, sir.

5 CHAIRMAN HOOD: Ward 3 Vision?

6 MR. WHEELER: No, sir.

7 CHAIRMAN HOOD: Okay. Spring Valley Wesley
8 Heights Neighbors for a Livable Community?

9 DR. KRASKIN: No.

10 CHAIRMAN HOOD: Okay. And then CRD?

11 MR. DONOHUE: No, sir.

12 CHAIRMAN HOOD: All right. Thank you, both. We
13 appreciate it.

14 Now we're going to take persons who are here to
15 testify in support.

16 Thank you. Thank you, all. Appreciate it.

17 You want to come forward? All persons who are
18 here to testify in support, if you can come forward at this
19 time.

20 Okay. Ms. Cort?

21 MS. SCHELLIN: We've got three: Troy Kravitz,
22 Cheryl Cort and -- Cheryl Cort twice.

23 CHAIRMAN HOOD: Okay. So, Ms. Cort will testify
24 -- no. No.

25 MS. SCHELLIN: No. Yes, Ms. --

1 CHAIRMAN HOOD: All right. So we have Ms. Cort.
2 She's by herself, so she's the only individual who's
3 testifying in support.

4 Okay. Ms. Cort, the show is yours.

5 MS. CORT: Thank you, Chairman Hood and members
6 of the Commission. My name is Cheryl Cort. I'm the policy
7 director for the Coalition for Smarter Growth. We're the
8 leading organization in the Washington, D.C. Region dedicated
9 to making the case for smart growth. Our mission is to
10 promote walkable, inclusive and transit-oriented communities
11 and the land use and transportation policies and investments
12 needed to make those communities flourish.

13 We're pleased to be here again to support the --
14 this now is a planned unit development, the Case 19-10. We
15 testified in support in 2018 when it was proposed as design
16 resident. We're pleased to see that the project still offers
17 similar benefits to the community and to the city with 219
18 apartments in a high-amenity neighborhood. We appreciate
19 that bringing back a small grocery store is of particular
20 value to many nearby residents and as a feature that further
21 reduces the carbon footprint of households who have the
22 opportunity to live here.

23 The project is sensitively designed to respect its
24 single-family neighbors nearby and contributes to a more
25 vibrant neighborhood shopping node. In addition to

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1 increasing the supply of housing with 219 new rental
2 apartments we recognize that a majority of these units are
3 larger two and three-bedroom units. This is an additional
4 benefit as D.C.'s household size is growing. Further, about
5 11 percent of these new homes will be affordable with most
6 of them at 60 percent AMI and a few at 50 percent median
7 family income.

8 The Ladybird project offers to enhance the
9 amenities of the Spring Valley Shopping Center with new
10 retail and improved connectivity and walking conditions.
11 These are all good benefits for the neighborhood and help
12 make this part of the city a more sustainable -- more
13 sustainable with increased walkability. While not a transit
14 hub the site is a 15 to 20-minute walk from the Tenleytown
15 Metro station in addition to it being served by local bus
16 service. It all adds up to a good place to offer multifamily
17 housing opportunities.

18 I just want to sort of wrap up by saying that;
19 because I've testified to this before, when I went to look
20 at the new case, I was like, oh, how many housing units have
21 we lost? How many numbers of inclusionary zoning units have
22 we lost? And it's the same number. So whatever has been the
23 kind of reconfiguration to better conform to concerns that
24 have been found in the neighborhood, I want to applaud the
25 developer for continuing to deliver 219 units with 11 percent

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1 of those being affordable at 60 and 50 percent median family
2 income.

3 The need for more housing in general is -- has
4 been well demonstrated by Office of Planning these days and
5 we have -- we're a growing city. Only three percent of the
6 city's growth has been occurring in Ward 3 since 2006, so
7 these are welcome new housing opportunities. And
8 furthermore, of course to have something in the neighborhood
9 of 29 affordable homes in this neighborhood is outstanding.
10 This is -- we have -- since 2015 we've only produced 53
11 below-market-rate units in Ward 3 and now we're going to add
12 29. It's actually -- this is a tremendous contribution that
13 this project is making to a very exclusive and very desirable
14 place to live. And furthermore, we applaud the two and
15 three-bedroom homes as well. This is also a big contribution
16 to the current trends of mostly producing smaller units.

17 And overall we want to recognize that this is an
18 important step towards achieving the fair housing goals that
19 the city is examining now and looking at. This is one of the
20 most important contributions that I know of for how we can
21 bring Ward 3 to be contributing to our fair housing goals to
22 build a more inclusive Ward 3. Thank you.

23 CHAIRMAN HOOD: Thank you, Ms. Cort.

24 Let's see if we have any questions up here.

25 (No audible response.)

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1 CHAIRMAN HOOD: Okay. Not seeing any, does the
2 Applicant have any cross?

3 (No audible response.)

4 CHAIRMAN HOOD: ANC 3D, any cross?

5 (No audible response.)

6 CHAIRMAN HOOD: ANC 3E?

7 MR. MCHUGH: No, sir.

8 CHAIRMAN HOOD: Ward 3 Vision?

9 MR. WHEELER: No, thank you.

10 CHAIRMAN HOOD: Okay. Spring Valley Neighborhood
11 Association?

12 (No audible response.)

13 CHAIRMAN HOOD: Spring Valley Wesley Heights
14 Neighbors for a Livable Community?

15 (No audible response.)

16 CHAIRMAN HOOD: Citizens for Responsible -- CRD?

17 MR. DONOHUE: No, sir.

18 CHAIRMAN HOOD: Okay. Thank you very much, Ms.
19 Cort.

20 Okay. We have two --

21 MS. SCHELLIN: Right, there's two parties in
22 opposition. We have CRD of course and then the joint
23 parties, Spring Valley Wesley Heights Citizens Association.
24 I don't know who's going first, but we do have at least two
25 preliminary matters for CRD. I don't --

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1 CHAIRMAN HOOD: Okay. Let me do this: I thought
2 we had already established who was going first, but we hadn't
3 done that. So who would like to go first?

4 (Off microphone comment.)

5 CHAIRMAN HOOD: Okay. CRD would like to go first.

6 MS. SCHELLIN: Are you guys splitting it at --
7 if --

8 (Off microphone comment.)

9 MS. SCHELLIN: Did you guys decide?

10 CHAIRMAN HOOD: They have two preliminary matters.

11 MS. SCHELLIN: Right, you want to do that first?

12 CHAIRMAN HOOD: Yes.

13 MS. SCHELLIN: Okay.

14 CHAIRMAN HOOD: Let's deal with that.

15 MS. SCHELLIN: Okay. So the first one is today
16 I received an email from Mr. Donohue asking that they be able
17 to have 45 minutes for just themselves as originally
18 requested. They -- he did state that the Applicant had --
19 ended up having like a total of two hours and I did inform
20 him that cross-examination was not part of any party, not
21 just the Applicant, but it wouldn't be part of his or any
22 other party's direct presentation.

23 And we had counted it. I think it was actually
24 32 minutes and some odd seconds and I just rounded it up to
25 33, which is always split -- or actually it was 23. And then

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1 with the two parties in support that gave another 10 minutes,
2 which made it 33 minutes, which is always split equally.
3 However, he would like for the Commission to consider their
4 request for 45 minutes.

5 CHAIRMAN HOOD: Okay.

6 MS. SCHELLIN: That's the first preliminary.

7 CHAIRMAN HOOD: Let me deal with the first
8 preliminary. I think our regulations speak to this stuff.
9 I understand that the CRD has done a lot of work. I respect
10 that. I think they have had a lot of things in the record
11 already that are able for us to move forward. Looking
12 forward to hearing that testimony in the time limit that was
13 been given.

14 My past experience has taught me a lesson to stick
15 with the rules, especially in cases like these, but let me
16 hear what others have to say.

17 Commissioner Shapiro?

18 COMMISSIONER SHAPIRO: I concur, Mr. Chair.

19 CHAIRMAN HOOD: Okay. Anybody else?

20 (No audible response.)

21 CHAIRMAN HOOD: Anybody disagree?

22 (No audible response.)

23 CHAIRMAN HOOD: All right. So we will stick with
24 the rules, Mr. Donohue.

25 What's the next?

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1 MS. SCHELLIN: Next, they have --

2 PARTICIPANT: Ms. Schellin, on Monday night you
3 said we had 33 minutes to share?

4 MS. SCHELLIN: Thirty-three minutes to share.

5 (Off microphone comment.)

6 CHAIRMAN HOOD: So, if you have --

7 MS. SCHELLIN: No, that included their 10 minutes.

8 CHAIRMAN HOOD: Let me say this: Everything --

9 (Off microphone comment.)

10 CHAIRMAN HOOD: Let me just say this, Ms. --
11 everything needs to be on the record. If there's a question,
12 you can come up and ask Mr. Donohue or you -- or Mr. Repp can
13 come up and represent your question so we can get that
14 answered. I thought it was understood. I think we need to
15 put it on the record so it can be on the transcript for
16 further discovery that somebody else may have to use.

17 MS. SCHELLIN: Yes.

18 CHAIRMAN HOOD: Okay? I think that's important.

19 MS. SCHELLIN: Yes.

20 CHAIRMAN HOOD: So what is the -- could you repeat
21 the --

22 MS. SCHELLIN: I think her question is what about
23 the testimony that was given this evening? That was
24 accounted for. We included that. The Applicant had 22
25 minutes and some odd seconds and I added the 10 minutes that

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1 the two parties in support were going to have this evening,
2 which was five minutes each.

3 (Off microphone comment.)

4 MS. SCHELLIN: There were two. Two parties in
5 support --

6 CHAIRMAN HOOD: The two parties --

7 MS. SCHELLIN: -- that each had five minutes.

8 CHAIRMAN HOOD: -- tonight had five minutes.

9 MS. SCHELLIN: So that made it 33 minutes. I
10 rounded it up.

11 CHAIRMAN HOOD: So we're not going to spend 30
12 minutes talking about this.

13 MS. SCHELLIN: Talking about --

14 CHAIRMAN HOOD: We need to move on.

15 MS. SCHELLIN: Right. So that made it 16½ minutes
16 each. Did you guys decide to split that evenly or was --

17 (No audible response.)

18 MS. SCHELLIN: Okay. So what's the split?

19 (No audible response.)

20 MS. SCHELLIN: They're shaking their head no.

21 CHAIRMAN HOOD: You all need two minutes to decide
22 how you all are going to split the time? Is that what we
23 need to do, because we announced it Monday.

24 MR. DONOHUE: We were hopeful of getting the time
25 that we had asked for back in July, Mr. Chairman; we laid it

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1 out for you, but we respect the ruling. If you could give
2 us 30 seconds, we'll come up with an answer.

3 MS. SCHELLIN: Okay.

4 CHAIRMAN HOOD: Okay.

5 MS. SCHELLIN: In the meantime they did proffer
6 two -- or actually four expert witnesses. Two -- are you
7 going to -- are you still proffering all four, Mr. Donohue?

8 MR. DONOHUE: We have Mr. Westergard and Mr.
9 Hansen as experts for this evening.

10 MS. SCHELLIN: Just the two?

11 MR. DONOHUE: Yes, ma'am.

12 MS. SCHELLIN: Okay. So Mr. Hensen was -- Hansen,
13 I'm sorry. Stephen Hansen has previously -- has previously
14 been given expert status by the Commission in historic
15 preservation.

16 You're still proffering him in historic
17 preservation?

18 MR. DONOHUE: That's correct.

19 MS. SCHELLIN: Okay. And then Mr. Westergard was
20 previously -- and he's also being proffered in visual impact
21 studies?

22 MR. DONOHUE: Yes, ma'am.

23 MS. SCHELLIN: And he was previously proffered and
24 he was actually denied party status in that same field before
25 by the Commission, however, every case is different so I

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1 would ask the Commission to make a decision on him in this
2 case this evening.

3 CHAIRMAN HOOD: So we've already dealt with Mr.
4 Hansen previously. Any objections to keeping Mr. Hansen in
5 his party status with historic --

6 PARTICIPANT: You mean expert?

7 CHAIRMAN HOOD: Expert party status. What did I
8 say? I said party status. His expert witness. Any
9 objections?

10 PARTICIPANT: No objection.

11 CHAIRMAN HOOD: Okay. The next --

12 MR. DONOHUE: Mr. Chairman, may I add a little bit
13 on Mr. Westergard just for sake of completeness?

14 CHAIRMAN HOOD: We just -- we haven't gotten to
15 Mr. Westergard. You want to -- Mr. Hansen is who I was
16 dealing with.

17 MR. DONOHUE: Sorry.

18 CHAIRMAN HOOD: No, I'm just saying. You want to
19 go to Mr. Westergard. I was getting ready to start speaking
20 with Mr. Westergard. So let us have the discussion first and
21 then I will allow you -- if he's denied again, I will allow
22 you time to speak on it. Okay?

23 MR. DONOHUE: Okay.

24 CHAIRMAN HOOD: All right. Mr. Westergard, was
25 -- what, it's visual impacts?

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1 MS. SCHELLIN: Visual impact studies.

2 CHAIRMAN HOOD: Okay. Has any -- let me just --
3 well, this is a different case. We have the request before
4 us. Commissioners, what is your pleasure?

5 COMMISSIONER MAY: Mr. Chairman, we have -- in the
6 work that I do in the day time we have often used the
7 services of people who do visual studies. We try to
8 visualize what the heights of buildings are, what their
9 impacts are on neighboring parkland, et cetera. And I happen
10 to know that Mr. Westergard is one of the people who does
11 this on a regular basis. It's not a really big field, but
12 I do believe he has substantial expertise. So I would have
13 no objection to him being qualified as an expert witness.

14 CHAIRMAN HOOD: Okay. Any objections? Mr.
15 Turnbull?

16 COMMISSIONER TURNBULL: Commissioner May, if you
17 could explain his expertise in visual impacts?

18 CHAIRMAN HOOD: Why don't we let Mr. --

19 COMMISSIONER MAY: Yes, I mean if they want -- if
20 you want --

21 CHAIRMAN HOOD: Yes, because I don't --

22 COMMISSIONER MAY: That sort of question should
23 go to him.

24 CHAIRMAN HOOD: Right.

25 COMMISSIONER MAY: All I can say is that I have

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1 seen his work before and have relied on his work before, Mr.
2 Westergard's.

3 CHAIRMAN HOOD: Okay. Mr. Donohue?

4 MR. DONOHUE: So Mr. Westergard was unavailable
5 during the hearing in which we discussed that; his associate
6 was here. So when he was disqualified or not allowed, not
7 accepted as an expert, he wasn't here to speak on his behalf.
8 He is here this evening.

9 He has been qualified as an expert before the
10 Virginia State Corporation Commission, before the Maryland
11 Public Service Commission, before the Montgomery County Board
12 of Appeals and a number of other local zoning boards. He is
13 an expert in demonstrating what the visual impact might be
14 of structures such as wind turbines, transmission towers,
15 cell towers and buildings. So his training is as a landscape
16 architect. There isn't a graduate field in visual impact
17 studies, but he has been deemed an expert numerous times and
18 relied upon by federal agencies, state agencies and as I said
19 the local zoning boards.

20 He's here and he can speak on his behalf, but his
21 credentials and his experience, and frankly, his expertise
22 in 16-23, which I think is very -- served the Commission very
23 well in that he was able to show you what things might look
24 like using the science that he's relied upon flying a balloon
25 and then showing the photographs to try to demonstrate the

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1 visual impact.

2 CHAIRMAN HOOD: Okay. Mr. Turnbull, you -- for
3 this question?

4 COMMISSIONER TURNBULL: Yes, Mr. Chair.

5 CHAIRMAN HOOD: Okay. Commissioner Shapiro?
6 Vice-Chair Miller?

7 COMMISSIONER SHAPIRO: Mr. Chair, based upon on
8 the previous -- the description of other agencies who have
9 granted him expert status and based on Commissioner May's
10 comments I have no objection.

11 CHAIRMAN HOOD: Okay. Vice-Chair Miller, you want
12 to add?

13 (No audible response.)

14 CHAIRMAN HOOD: I think the denial last time was
15 totally different than -- for me for this aspect this time,
16 so I want to make sure that's for the record. I'm not going
17 to get into it because I don't want to talk about the
18 previous case, but I think the reliance on what we were
19 looking at and what we're doing this time is totally
20 different. So I think to me it shows the -- as the secretary
21 just mentioned, this is a different case. Even though some
22 people don't believe it, but it's actually a different case
23 and it's different things that we're looking at here. So I
24 don't have a problem. So we will give him visual impact --

25 MS. SCHELLIN: Studies.

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1 CHAIRMAN HOOD: -- studies. That's a new one that
2 I've experienced. Not that we're trying to be like
3 Montgomery County or Prince George's. They actually take the
4 lead from us.

5 (Laughter.)

6 CHAIRMAN HOOD: So you can tell them I said it
7 because I know them, too.

8 All right. Anything else?

9 (No audible response.)

10 CHAIRMAN HOOD: All right. So --

11 MR. DONOHUE: Give us 30 seconds. We'll tell
12 you --

13 CHAIRMAN HOOD: Okay.

14 MR. DONOHUE: -- who's going to go first --

15 CHAIRMAN HOOD: Okay.

16 MR. DONOHUE: -- and how long we're going to take.

17 CHAIRMAN HOOD: Okay.

18 (Whereupon, the above-entitled matter went off the
19 record at 7:03 p.m. and resumed at 7:04 p.m.)

20 MR. DONOHUE: Mr. Chairman, CRD is going to take
21 28 minutes, and then we'll leave 5 minutes for our
22 colleagues, and we're going to be as efficient as we can.
23 We do have a couple PowerPoints. It's going to take some
24 time to get through those, but we're going to move as quickly
25 as we can.

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1 CHAIRMAN HOOD: And to help you, if you're not
2 redundant, as I said in my statement, that would help us get
3 as much information as possible. Okay?

4 MR. DONOHUE: We'll talk fast.

5 CHAIRMAN HOOD: Okay. Well, not fast, just the
6 redundancy. If we can do that --

7 MR. DONOHUE: Understood.

8 CHAIRMAN HOOD: -- that would be very helpful.
9 Okay. All right.

10 MS. SCHELLIN: You said 28?

11 CHAIRMAN HOOD: Twenty-eight-and-a-half.

12 MR. DONOHUE: Twenty-eight and five.

13 CHAIRMAN HOOD: Oh, 25?

14 PARTICIPANT: Twenty-eight.

15 MR. DONOHUE: Twenty-eight and five. I think
16 that's 33.

17 CHAIRMAN HOOD: All right. You all may begin.

18 MR. DONOHUE: All right. I'm going to introduce
19 Mr. Shelly Repp, who is well known in this Commission.

20 Shelly?

21 MR. REPP: Thank you. Good evening,
22 Commissioners. Thank you for the opportunity to speak here
23 tonight on behalf of Citizens for Responsible Development.

24 Valor Development is proposing to build a four to
25 six-story, 214 to 235-unit multi-unit apartment building in

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1 a residential area of American University Park. The
2 apartment building will rise to 81½ feet and include around
3 50,000 more square feet of gross floor area than is allowed
4 as a matter of right on the site, and this doesn't count the
5 more than 57,000 square feet in residential space in the
6 cellar, penthouse and projections. The project would
7 overwhelm both the surrounding residential neighborhood of
8 two-story homes and the commercial neighborhood of mostly one
9 to three-story buildings.

10 At the outset I want to clearly state the CRD
11 supports the mayor's initiative for more housing citywide and
12 the need for more affordable housing in Ward 3. Valor is
13 proposing only one percent more affordable housing above its
14 interpretation of what is minimally required and is well
15 below the 15 percent recommended by the Department of Housing
16 and Human -- Community Development, 50 percent of which is
17 supposed to be -- is recommended to be at 50 percent MFI.

18 We also want to remind the Commission that the --
19 in 2018 Valor decided to circumvent the -- a higher
20 affordable housing requirement by sinking the building six
21 feet into the ground.

22 CRD this evening will demonstrate that the
23 Applicant has failed to meet his required burden of proof to
24 show that the project meets the PUD requirements,
25 specifically that the project is not inconsistent with the

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1 Comprehensive Plan that the project, does not result in
2 unacceptable impacts on the surrounding area, and that the
3 project includes specific benefits to justify the
4 developmental relief requested above matter of right.

5 The fundamental flaw of the project is that it is
6 simply too big for the neighborhood. CRD has engaged digital
7 design and imaging to evaluate the height, massing and scale
8 of the current design on the nearest neighbors.

9 Curt?

10 PARTICIPANT: They need to stop the clock.

11 MR. REPP: Stop --

12 PARTICIPANT: Can we stop the clock, please?

13 MR. WESTERGARD: Good evening. My name is Curt
14 Westergard. I'm a landscape architect from Falls Church,
15 Virginia.

16 We were engaged by the Citizens for Responsible
17 Development to look at three items: The height, the massing
18 and the scale of the current Ladybird design, especially
19 relative to the nearest neighbors. The second was to
20 evaluate the accuracy of the renderings submitted to the
21 community. And the third is to provide expert testimony and
22 evidence that addresses the obvious inaccuracies in several
23 of the Valor depictions.

24 Let's take a look at some of those depictions.
25 You may not be able to orient well; the neighbor who lives

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1 here could not understand this, but in this very well-
2 rendered scene there's a number of faults that should be of
3 interest to the community. The two yellow arrows, for
4 example, point at 40 to 50-foot trees that simply aren't
5 there. The one on the right in one of the neighbor's lawn,
6 it's not there at all. She concerned -- confirmed that. So
7 by covering up things like the roof on the right-hand side
8 or softening it up, most importantly, giving it really great
9 scale; I commend them on the scale, but it's based on using
10 props that don't exist or won't exist for probably 30 to 35
11 years.

12 Using their own imagery on the left and on the
13 right you can see that this tree on the left is 85 feet tall.
14 The actual tree on the right with the yellow one is the true
15 height at 60 feet. Is that just an exaggeration? Yes. Is
16 that a crime? No. But it makes -- when it's next to a
17 building, it makes the building look smaller. That's a
18 common strategy to make something look smaller. You put
19 something big next to it.

20 The big items that would be next to it here shown
21 in red, are a lot of the elm trees, American elm, surrounding
22 the site. Obviously they will die from construction most
23 likely, and if not, from the excavation process. All of the
24 yellow areas that you -- the red areas that you see within
25 the yellow are going to be having heavy construction on it.

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1 So a lot of what they're depending on on scaling it down is
2 going to disappear. It's going to be a much smaller
3 vegetation area.

4 How do I know that? Partly because there's power
5 lines going through most of the trees. Looking at most of
6 the elms on the right side and on the left side, they're
7 really at the end of their useful age. They've got tip
8 dieback. There's other health issues, not mentioning the
9 construction.

10 So here in this one the house on the right, yes,
11 we're picking out the nearest neighbor, but it's three times
12 smaller -- I'm sorry, twice the height of the top of the
13 Valor building, as you can see by that dotted line.

14 But the real issue here is with the neighborhood
15 pattern and context. This is a Google Earth image just
16 looking at that. And the scale transition which -- the
17 Historic Planning in their guidelines suggests that you
18 should step up scale elements. Here you're going from small
19 single-family homes straight to a very large one. And so
20 while the rendering is not crisp, it does show true scale
21 relationships.

22 If you take a look at the view that the -- some
23 of the residents may have from their balconies, here only at
24 57 feet, and just look around; this is sort of the vantage
25 point of somebody on a balcony, you are looking down on it.

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1 More importantly, some of the shadows which are from the
2 Valor diagrams, are extended and show that this street
3 becomes a shaded area. Not a big deal, but it changes the
4 vegetation that can survive in there very well.

5 Moving to the area in front, that same mismatch
6 or misrepresentation of vegetation height is disturbing.
7 Here on the right that's the actual situation. There on the
8 left is what they're depicting, again exaggerating the height
9 of the trees. You can't have 120-foot tree. It's
10 botanically impossible. So that small exaggeration has big
11 effects on judging the scale, probably the same scale that
12 was used by Historic Preservation in their summary report of
13 saying it's not -- the impact isn't so strong. If you look
14 at that, they're right. If you look at the one on the right
15 side, it's a little bit stretched.

16 So in conclusion, unrealistic depiction of height
17 and location and maturity of vegetation distorts the true
18 mass and scale of the building. It's not just to the
19 neighbors, but to the community and the decision makers.

20 And then the cross-section through the residences
21 makes a very abrupt change. The scale clues are lost partly
22 because the trees are lost and it's a big distance to scale
23 that up.

24 And then lastly the shadows cast by the proposed
25 buildings changes the whole ecosystem along 48th Street, so

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1 from a nice shaded area by trees it's going to be shaded by
2 the building. So it's -- the planting plans that we've seen
3 are very vague and what's going to be planted, but in any
4 case some off-site plantings may need to be considered to
5 make up the scale that you see.

6 MR. DONOHUE: Mr. Chairman, there's a video
7 imbedded in the PowerPoint that we're attempting to get
8 loaded up here; that's the challenge, a panoramic from the
9 patio view over Yuma.

10 MR. WESTERGARD: Yes, so what we're looking at
11 here -- again, that's from one of the balconies. You can see
12 the scale relationships of this building to the neighbors.
13 That's much smaller and much less impactful. However, if you
14 pan and see along 48th Street, which is what we're seeing
15 here, and you look at the building itself, which is again
16 only 57 feet, theirs is actually going much higher. It is
17 -- it's a very strong an abrupt change, here softened by the
18 elms today, but when construction starts all of that's going
19 to be changed and quite a bit different.

20 COMMISSIONER MAY: Can you keep going all the way
21 to the left? You stopped before. Keep going. Keep going.
22 Keep going. Okay. I'm not sure how you see the size there.

23 MR. WESTERGARD: We're using a building massing.
24 Not trying to depict the building. It was -- it's --

25 COMMISSIONER MAY: I understand. Okay. I just

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1 didn't want to -- I wanted to see the full view. Thank you.

2 MR. REPP: And the building goes up another 27
3 feet from the terrace level that -- where we -- where that
4 balloon shot was taken from.

5 Okay. Thank you, Curt.

6 While our written presentation goes into more
7 detail, the fundamental reason why the project is
8 inconsistent with the Comprehensive Plan is that it's too
9 big. It does not complement the character of the
10 neighborhood. Effective buffers for the project that sits
11 mostly on the property line are not included. Contrary to
12 the Comprehensive Plan it creates an overpowering contrast
13 in scale, height and density with the surrounding residential
14 neighborhood. Simply put, the massing of this project
15 belongs on a major thoroughfare, not on two local streets.

16 The project is also inconsistent with the future
17 land use map which designates the site as low-density
18 commercial, which is defined to be comprised of primarily one
19 to three-story commercial buildings. With the sole exception
20 of the American University building this designation
21 accurately describes the Super Fresh site, lots 802 and 803,
22 and the commercial area across Massachusetts. In fact, the
23 very existence of the oversized American University building
24 are used for lower-density on the adjoining lot facing the
25 neighbor.

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1 A major negative is the additional traffic of --
2 the project will generate 283 additional trips per hour
3 during the afternoon peak hour according to Gorove/Slade.
4 Using metrics from the Institute of Transportation Engineers
5 our traffic expert estimates that traffic, weekday traffic
6 will increase by -- will reach -- will increase by 3,000
7 trips, 3,000 a day. This traffic will come and leave through
8 the adjoining street network. All traffic entering and
9 leaving the site will be funneled into the alley network
10 bordering the site as shown on this slide.

11 Traffic in the three 20-foot-wide alleys leading
12 into the site will increase from 900 to 2,300 percent. The
13 alley traffic during the P.M. reach hour -- P.M. peak hour
14 will be comparable to that on the 48th Street and Yuma
15 Street.

16 Also, we find Gorove/Slade's conclusion that the
17 project will result in fewer trips than existing uses
18 unbelievable. Except for the grocery store the rest of the
19 building was fully occupied in March of this year when
20 Gorove/Slade did its traffic counts, so they have the
21 numbers. They are extremely low. The Super Fresh grocery
22 consisted of roughly 16,000 square feet of grocery space plus
23 lower-level, below-grade dry storage and other space that did
24 not generate trips. It defies reason to believe that a Super
25 Fresh grocery and the other retail would generate

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1 significantly more trips than the 16 to 18,000 square-foot
2 grocery apparently being proposed plus 219 residential units.

3 Trucks for the Spring Valley Shopping Center will
4 unload in the alleys. Also American University's loading
5 docks shown right here are on the other alley. It is
6 interesting that AU doesn't -- the Applicant doesn't even
7 discuss the AU loading docks in its application. How are
8 cars and trucks for the project going to maneuver around
9 these existing trucks? The increase in traffic creates
10 dangers for pedestrians as well. Barbara Repp will go into
11 this.

12 MS. REPP: Good evening, Commissioners. Good
13 evening. My name is Barbara Repp. Thank you for the
14 opportunity to speak before the Commission this evening.

15 The next slide, please. Regarding the AU loading
16 bays, they're on the east-west alley. And here we see a
17 truck that will approach the east-west alley. This is a 50-
18 foot wheel-base truck. As you can see, it's in the far right
19 lane of Massachusetts Avenue. It will turn left onto 48th
20 Street. It will turn left from the far right lane of
21 Massachusetts Avenue, proceed up 48th Street and do a little
22 back up and back movement and somehow try to get to the
23 loading dock.

24 Next slide, please. And this same truck has to
25 leave. The outbound pattern is there in front of you. It

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1 has to come to the alley at 48th -- the end of 48th Street
2 alley and it needs a clear line of sight there. It's very
3 important there because there are many pedestrians walking
4 there. There are obstructions and there's two-way traffic.
5 We have not yet seen the site distance evaluation that DDOT
6 requested.

7 The truck will then turn, according to
8 Gorove/Slade, onto Massachusetts, a left onto Massachusetts.
9 Why does the truck head downtown instead of turning right to
10 go toward the Beltway? A reasonable guess would be that the
11 truck is not able to make a right-hand turn onto
12 Massachusetts.

13 Moving onto the north-south alley, the photo on
14 the left shows existing conditions in that alley today. The
15 drive lane is about 20 feet wide, but parts of the alley as
16 you can see are wider and extend in width up to 50 feet. The
17 right side of the diagram was prepared by an AU Park resident
18 using the Applicant's measurements.

19 So 12 feet, as you can see on the far right in
20 green, will be for new trash receptacles. A three-foot-wide
21 delineated pedestrian pathway is in blue. It abuts the
22 building shown in red. The yellow shows the alley at 20 feet
23 in width. So the drive lane remains. Twenty feet is not
24 being widened. The alley space is actually narrowed.

25 So pedestrians in this alley will have to walk

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1 right next to the building wall. Their shoulders will brush
2 it and they must walk single file to avoid brush-ins with
3 vehicles. There will be no protected barriers between the
4 pedestrians and vehicles. That alley that we're looking at
5 right now comes out on Massachusetts Avenue where you see a
6 do not enter sign that's posted right there today.

7 The next is a circulation diagram which you'll be
8 familiar with. The do not enter sign we just saw is at point
9 D. As you can see with the red arrows the Applicant is
10 showing that there will be two-way traffic. The red arrows
11 stand for the vehicles. The yellow arrows stand for
12 pedestrians. And at some points, as you can see, the red
13 arrows overwhelm the pedestrian pathways.

14 So keeping this in mind a short video of a driving
15 simulation will show activity in the alleys. Participants
16 included a driver in a 30-foot truck, five people in cars and
17 five pedestrians, other cars and trucks who are pursuing
18 typical daily activities. Keep in mind there will in the
19 future be two-way traffic.

20 Here we have a truck unloading creating only one
21 lane per car. Trash will be picked up in this alley. Right
22 now the alley as we said is up to 50 feet wide. In the
23 future it will be 20 feet wide. The new receptacles for the
24 trash will be larger and the trucks might have to back in to
25 actually retrieve the trash. Can two-way traffic manage here

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1 and get around the truck or will the traffic be backing up?
2 Will queues be forming behind this truck?

3 We're still in the same alley, the north-south
4 alleyway, and you can see the pedestrians walking on a gray
5 strip of asphalt which is approximately where the new
6 pedestrian pathway would be and a truck is entering on its
7 way towards Massachusetts Avenue. As you can see, they're
8 very close together. To the right would be the wall of the
9 new building.

10 A car is exiting from the PNC Bank right now and
11 has to stop immediately because of pedestrians. The woman
12 with the dog is in the east-west alley. There is no sidewalk
13 here.

14 Here cars are turning into the alley where there's
15 a do not enter sign right now and the black SUV on the left
16 there is trying to get to Massachusetts but has to wait. So
17 the truck will finish going through the alley. Pedestrians
18 are very close here. As the truck exits, as you can see, it
19 takes up both lanes and has to wait for pedestrians. Line
20 of sight evaluation is important here because of all the
21 pedestrians. As the truck exits it needs to take up both
22 lanes and it jumps the curb.

23 Next the truck is turning from the north-south
24 alley into the east-west alley where the loading docks will
25 be and where the entrance to the underground parking garage

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1 will be. Cars on the left represent the two-way traffic.
2 Where will pedestrians walk here? So the truck cannot make
3 this turn. It has to stop. It backs up slowly. It hinges
4 on PNC Bank property. It almost hits a pole. The 30-foot
5 truck got stuck in the east-west alley because it cannot
6 maneuver around the angle. What would a 50-foot truck do?
7 And the final scene was a truck unloading safely in the
8 alley.

9 So we have two questions: What will it look like
10 in the future with 3,000 more auto trips throughout the day
11 in this alley than are there now? Would we want our family
12 members walking or biking through these alleys under the
13 conditions imposed by the Valor project? This is not Vision
14 zero. This is vision disaster. Thank you for your
15 attention.

16 MR. REPP: Thank you. Before turning this over
17 to Ann Stansbury, who's going to talk about public benefits,
18 I refer you to our written submission for additional
19 discussion of adverse -- other adverse impacts and additional
20 topics which we don't have time to address this evening.

21 Ann?

22 MS. STANSBURY: Good evening, Chairman Hood and
23 Commissioners, and thank you for hearing us again.

24 In order to approve a planned unit development the
25 Commission must find that the Applicant offers meaningful

1 public benefits that are measurable and quantifiable. These
2 benefits must be weighed against any potential adverse
3 effects. The Applicants list of alleged public benefits
4 consists mainly of efforts to mitigate adverse effects as
5 follows:

6 (1) Applicant's claim that it offers superior
7 urban design and architecture is not supported. The proposed
8 design features and architectural details such as
9 articulation and the color of façade materials may be
10 supposed to create the impression that the building is
11 smaller than it is, but this claim is not proven. The fact
12 remains that it is still a very large building that is out
13 of proportion to the surrounding houses and the rest of the
14 commercial property in the area.

15 The upper stories and penthouses may be set back,
16 but they're still there. In our written submission we have
17 noted the court of appeals decision in the Durant case
18 regarding the real size of a structure and its effects.
19 Moreover, the architecture cannot both serve as mitigation
20 of adverse effects and also qualify as a public benefit.

21 (2) The proposed superior landscaping and creation
22 of open spaces do not qualify as public benefits. Along 48th
23 Street and Yuma Street there are already wide sidewalks, a
24 heritage tree that is to be preserved, elms, and a row of
25 mature yew trees from the corner of Yuma Street to the

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1 current entrance to the Super Fresh. These are within the
2 city's 90-foot right of way. They do not create a newly
3 created public space.

4 The Urban Forestry Administration has expressed
5 concern about the trees and has objected to the removal or
6 pruning of the elm trees. If the Applicant is planning
7 merely to maintain these areas and replace any damaged or
8 missing trees, that is again mitigation of harm. The
9 Applicant could do much more to develop a detailed
10 landscaping plan that would enhance the tree canopy and
11 screen the building from the nearby residences.

12 As to open spaces most of the open spaces would
13 be within the Ladybird complex itself, including the interior
14 courtyard of Building 1 and two of the three front courtyards
15 facing 48th Street. They would not be publicly accessible.
16 The proposed Windom Park is the same size as the other two
17 courtyards facing 48th Street and does not appear to be a
18 truly open and inviting public space. In its latest response
19 to OP Valor has said only that it will consider installing
20 playable elements and will work with the ANC on other
21 elements.

22 (3) The sidewalks or delineated pedestrian
23 pathways in the north-south and east-west alleys perhaps are
24 meant to suggest that this is a walkable community project,
25 but these pathways must share the alley space with two-way

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1 vehicular traffic, as you've just heard. Rather than a
2 benefit this creates a hazardous situation. The plan to
3 install a HAWK light at the exit from the alley is again an
4 attempt to mitigate the hazardous situation that the new
5 alley pathways would create. As to other alley improvements,
6 that is mitigation of harm. The trash compactors are just
7 mitigation.

8 And finally, whether or not the city needs more
9 high-rent housing is not a question that we can answer, but
10 we do know that the city needs more affordable housing. The
11 project offers a bare minimum of affordable housing, but is
12 using that space in order to build the largest possible
13 structure for the most return on investment.

14 The MOM's Organic Market does not qualify as an
15 amenity because there are or will be about a dozen full-
16 service grocery stores within a three-mile radius.

17 In conclusion, most of the proposed public
18 benefits and amenities amount to nothing more than mitigation
19 of damage and they're insufficient in themselves to justify
20 the construction of such a large building. Thank you.

21 MR. REPP: Okay. And we're going to turn it over
22 to Stephen for about two minutes here.

23 MR. HANSEN: Good evening. I'm Stephen Hansen
24 with Preservation Matters. I'll have to give a very
25 condensed talk here.

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1 The HPO has submitted its report to the Zoning
2 Commission, but I still do not consider the historic
3 preservation issues closed. It is not so much what the HPO
4 tried to address in its report, but what it did not.

5 First, it did not discuss the PUD criteria for
6 historic preservation benefits for a landmark under 11-X
7 305.3. And two, it does not address the question of how much
8 available density is actually available to remove from the
9 map site to use on the project site.

10 To start with the first point, 305.3, Planned Unit
11 Development Public Benefits, states that all public benefits
12 of which historic preservation may be one, shall be tangible,
13 quantifiable and measurable. Tangible, quantifiable and
14 measurable benefits as required under 305.3 regarding a
15 landmark are direct.

16 Tangible benefits for a landmark are restoration,
17 rehabilitation and preservation. I refer you to the limited
18 number of PUD projects that incorporated landmarks mentioned
19 in my report and also in the CRD filing. All these provided
20 tangible physical benefits for landmark.

21 In terms of an example of a quantifiable benefit
22 I give you the Heurich PUD case, ZC 101, where there was a
23 specific amount of money involved in the sale of its density
24 that was publicly disclosed and earmarked for the
25 preservation and upkeep of the mansion.

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1 As to the second point, that the HPO report does
2 not address the question of how much density is actually
3 available, I'd say that you simply can't take any MU4-GFA,
4 FAR, et cetera, and subtract that from what is currently
5 being used by the map's landmark and say that it is available
6 unused density, especially for a landmark whose historic
7 attributes include the site plan, layout and height.

8 Is this Applicant's calculated available density
9 for maps actually useable? Probably not. I'd like to use
10 the example of taking what the Applicant claims is unused
11 density from maps, taking that same density and trying to
12 build a project on the maps site itself. Would that be
13 possible? Probably not. And the Historic Preservation
14 Office and the HPRB would definitely be involved in the
15 decision on the use of the density and how much there is.

16 So therefore, any determination of useable
17 transferrable density should be determined by what is
18 actually able to be built on the map site, and that would
19 involve the HPRB. Therefore, any determination of available
20 density cannot be made by ZC alone.

21 This PUD project provides no direct historic
22 preservation benefits to the landmark site included in the
23 project lot and therefore what is being proffered cannot be
24 considered a public benefit under 305.3. This project only
25 attempts to take an undetermined amount of density from maps

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1 and provides nothing in return. There is no justifiable
2 reasons for including it in the PUD's projected lot. Thank
3 you.

4 MR. DONOHUE: Thank you, Stephen.

5 Mr. Chairman, we're running very short on time,
6 so I'll leave those closing points up there. I will say very
7 briefly that we disagree with the Applicant's
8 characterization of the Durant case and Cathedral Commons,
9 but more importantly, go to the last slide, CRD remains
10 committed to working with Valor on the project. We know that
11 the site is going to be redeveloped. We're not excited about
12 a grocery store that failed some six years ago, but we do
13 remain committed to meaningful redevelopment on the project,
14 on the property, something in a scale that the community can
15 support.

16 CHAIRMAN HOOD: All right.

17 MR. DONOHUE: Thank you.

18 CHAIRMAN HOOD: Okay. Thank you. Thank you, all,
19 for your presentation. Let's see if we have any questions
20 or comments up here.

21 Commissioner Turnbull?

22 COMMISSIONER TURNBULL: Thank you, Mr. Chair.

23 Thank you for your presentation. I know you were
24 going like hell to try and get it all in, but thank you very
25 much.

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1 I just have a question for Mr. Westergard.

2 MR. WESTERGARD: Yes, sir?

3 COMMISSIONER TURNBULL: Very insightful comments,
4 thank you. But you made a point about the trees, that some
5 of the trees and some of the views, the perspectives not
6 being in scale. But let me ask you do feel that the
7 buildings were accurately represented, I mean the scale and
8 height of the buildings were accurately represented?

9 MR. WESTERGARD: In the beginning absolutely not.
10 Toward -- as the process went on, yes, they got much --

11 (Simultaneous speaking.)

12 COMMISSIONER MAY: Excuse me. In the beginning
13 you were talking about a different case, right?

14 MR. WESTERGARD: I'm sorry.

15 COMMISSIONER MAY: The ones we are looking at
16 tonight.

17 MR. WESTERGARD: Tonight. I thought the
18 architectural ones were pretty accurate.

19 COMMISSIONER TURNBULL: Pretty accurate.

20 MR. WESTERGARD: Right. Everything surrounding
21 it was not.

22 COMMISSIONER TURNBULL: Okay. All right. Thank
23 you.

24 Ms. Repp, you stated that the existing alley is
25 50 feet wide?

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1 MS. REPP: In parts the north-south alley is 50
2 feet wide right now, yes.

3 COMMISSIONER TURNBULL: But isn't some of that
4 private property belonging to the current Applicant? It's
5 like I'm looking at the drawing of the existing conditions
6 and it looks like there is a tremendous loading zone on
7 private property for the existing buildings and that the
8 actual loading dock -- the actual alley itself would still
9 only be about 20 foot, 2 inches wide and then there's the --

10 MS. REPP: If you mean the drive lane --

11 COMMISSIONER TURNBULL: Yes --

12 MS. REPP: Yes.

13 COMMISSIONER TURNBULL: -- the drive lane.

14 MS. REPP: Yes, it's about 20, 20' 2". Yes.

15 COMMISSIONER TURNBULL: I mean --

16 MS. REPP: But the way the trucks manipulate --
17 maneuver right now is they do take up the entire --

18 COMMISSIONER TURNBULL: Alley.

19 MS. REPP: At points, yes.

20 COMMISSIONER TURNBULL: The whole -- the space,
21 yes.

22 MS. REPP: They back up or move around.

23 COMMISSIONER TURNBULL: But that -- but I just
24 wanted to clarify that that's really not the public alley
25 where the private property is though.

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1 MR. REPP: But the loading zones will be gone
2 under this --

3 CHAIRMAN HOOD: Right.

4 MR. REPP: -- so basically the loading will have
5 to take place to -- in that drive lane and going forward.
6 So --

7 COMMISSIONER TURNBULL: Well, the loading zone
8 goes -- it's going to be inside the building for that
9 building.

10 MR. REPP: The loading zone for the Spring Valley
11 Shopping Center --

12 COMMISSIONER TURNBULL: Is still on this, right?

13 MR. REPP: It will still be on that drive lane
14 there --

15 COMMISSIONER TURNBULL: Right.

16 MR. REPP: -- on that alley. So --

17 COMMISSIONER TURNBULL: Okay. Thank you.

18 CHAIRMAN HOOD: Any other questions or comments
19 up here? Commissioner May?

20 COMMISSIONER MAY: Yes, thank you. Sorry for
21 interrupting there. I just want to make it clear that what
22 we're talking about is what's before us today, not any
23 previous versions of the building, so I apologize,
24 Commissioner Turnbull.

25 At the very beginning you stated the height of the

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1 building is 81½ feet. Is that -- so you're saying that it
2 is not consistent with what's allowed by zoning?

3 MR. REPP: I used the 81½ -- the land slopes --
4 (Simultaneous speaking.)

5 COMMISSIONER MAY: So it's the highest point of
6 the building?

7 MR. REPP: Yes. Yes.

8 COMMISSIONER MAY: But you understand how zoning
9 works, right?

10 MR. REPP: Well, one of our -- I understand the
11 argument there, but --

12 COMMISSIONER MAY: Okay. My question is, you have
13 a statement in your PowerPoint that goes to an invalid
14 building height measuring point.

15 MR. REPP: That's right.

16 COMMISSIONER MAY: You want to go ahead and
17 explain that?

18 MR. REPP: Well, our argument there is that
19 because there's -- the land slopes down from basically 47th
20 Street to 48th Street to 49th Street. And so all -- so the
21 roadway along 48th Street had to be -- it had to be built up
22 somehow or other, and therefore there's an -- we say there's
23 an embankment there and there -- as a result of the
24 embankment being there it changes -- we have a -- there's an
25 exception to the base height measuring point --

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1 COMMISSIONER MAY: Right.

2 MS. REPP: -- that would kick in. So --

3 COMMISSIONER MAY: So but that has to do with an
4 elevated viaduct --

5 MR. REPP: Well.

6 COMMISSIONER MAY: -- or an artificial embankment,
7 right?

8 MR. REPP: No, I -- there -- I mean, we see no
9 basis for the argument that there's --

10 COMMISSIONER MAY: Well, so did you hear the
11 testimony of the Applicant stating that they couldn't find
12 any evidence that the road was built up in recent memory?
13 I mean, I don't know what the exact number was, but they were
14 talking about, I don't know, 100 years it's been at that
15 level.

16 MS. STANSBURY: It has been at that level.

17 COMMISSIONER MAY: For that long?

18 MS. STANSBURY: Well, I'm not sure about 100
19 years --

20 COMMISSIONER MAY: Well --

21 MS. STANSBURY: -- but it's -- 48th Street --

22 COMMISSIONER MAY: -- certainly as long as the
23 houses have been there, right?

24 MS. STANSBURY: Well, 48th Street has been there
25 since -- at the same level --

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1 COMMISSIONER MAY: Yes --

2 MS. STANSBURY: -- the whole time.

3 COMMISSIONER MAY: -- the whole time it was
4 constructed.

5 MS. STANSBURY: But when the road was built there
6 must have been some movement of dirt to reinforce it. And
7 the only --

8 COMMISSIONER MAY: That's true. Many, many
9 streets --

10 MS. STANSBURY: -- way to tell --

11 COMMISSIONER MAY: -- were leveled in the city.

12 MS. STANSBURY: The problem is that you're -- when
13 you look at old contour maps from the 19th Century and you
14 compare them with handheld barometric altimeters, which is
15 what we use nowadays I think --

16 COMMISSIONER MAY: I'll trust you on that.

17 MS. STANSBURY: -- okay -- the -- all of those
18 measurements have a very wide margin of error.

19 COMMISSIONER MAY: Yes.

20 MS. STANSBURY: So what you'd -- what would have
21 to be done is to actually take a soil sample and drill down
22 and to see whether there was --

23 COMMISSIONER MAY: So --

24 MS. STANSBURY: -- fill under there or not or
25 where --

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1 COMMISSIONER MAY: -- let me ask --

2 (Simultaneous speaking.)

3 MS. STANSBURY: -- see where the natural grade
4 was.

5 COMMISSIONER MAY: Okay. I understand your
6 argument --

7 MS. STANSBURY: Okay.

8 COMMISSIONER MAY: -- but let me understand what
9 you're trying to say about the Zoning Regulations.

10 MS. STANSBURY: Yes.

11 COMMISSIONER MAY: You're saying that any time a
12 building is measured, we have to determine what the original
13 grade was before there was any development there at all.
14 That's what you seem to be alleging. Is that correct?

15 MS. STANSBURY: Well, I think it could be a
16 question, yes, that would --

17 COMMISSIONER MAY: I don't think it is a
18 question --

19 MS. STANSBURY: Because --

20 COMMISSIONER MAY: -- because I was here when
21 those rules were written --

22 MS. STANSBURY: Yes.

23 COMMISSIONER MAY: -- and it had everything to do
24 with an artificial embankment or a viaduct that was of recent
25 construction as opposed to the various attempts to make

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1 relatively reasonably sloped streets across the city. I mean
2 there was much leveling of streets that was done across the
3 city. I mean there are classic examples around the city, and
4 this all happened more than 100 years ago.

5 MS. STANSBURY: Yes.

6 COMMISSIONER MAY: And it was an attempt to have
7 the streets go relatively flat or gradual slopes as opposed
8 to the up and down that is the natural configuration of land.
9 So I don't think there's any intention on the part of the
10 Zoning Commission to say that we have to go back to the
11 original land formation to determine what the street level
12 would be. If it was more recently constructed or constructed
13 for the purpose of the -- of, I don't know, doing an overpass
14 or something like that, that's the sort of thing that we were
15 concerned about. So I don't -- I'm not sure I'm buying
16 anything related to the building height measuring point.

17 MR. REPP: We couldn't find any authority for the
18 argument that it's -- this only comes up in the case of
19 viaducts, or that it's only --

20 COMMISSIONER MAY: Did you read the case?

21 MR. REPP: We --

22 COMMISSIONER MAY: Did you read the transcripts?

23 MR. REPP: I did not, but --

24 COMMISSIONER MAY: Oh, okay.

25 MR. REPP: No.

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1 COMMISSIONER MAY: Well, I was here and I -- I
2 mean my memory is not that great, but it was brought up in
3 -- with particular concern to a case. I think Mr. Glasgow
4 remembers the case because I think he was the attorney on it.
5 But it had to do with the H Street viaduct that led over the
6 bridge. Right? So that's where all of this came from and
7 that's where we got into the original height issue. It has
8 subsequently been modified a couple of times, but that's
9 where it dates back to. It was the Station Place case, next
10 to Union Station.

11 Mr. Turnbull covered the 50-foot alley question
12 that I had as well. So just to be clear, the traffic counts
13 that your expert looked at was based on a comparison of the
14 current condition compared with the future condition as
15 opposed to what would have happened or what was happening six
16 years ago when the grocery store was operating, right?

17 MR. REPP: Which traffic counts?

18 COMMISSIONER MAY: Your traffic counts by your
19 expert seem to be based on the current condition compared
20 with the future condition as opposed to what the Applicant's
21 traffic expert looked at, which was -- or what DDOT relied
22 on, which was the condition of a grocery store that existed
23 some time ago or what a grocery store would be on that site
24 that's currently there compared to now.

25 MR. REPP: Well, what our traffic consultant told

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1 us is that the -- using the Institute of Transportation
2 Engineers' metrics is that this project in the future would
3 generate 3,000 car trips a day. The argument that I was
4 making with respect to the grocery store and the --

5 COMMISSIONER MAY: No, but you have a chart that
6 shows 2019 versus the future condition, right?

7 MR. REPP: Let me see. Let me see. Let me --
8 let's take a look at it.

9 (Pause.)

10 MR. REPP: Yes. I mean this -- comparing the --
11 yes, the -- for both the -- for Yuma Street, current traffic
12 is on the -- on Yuma Street and 48th Street. That's the blue
13 -- that's what the blue lines are.

14 COMMISSIONER MAY: Right.

15 MR. REPP: The blue things here.

16 COMMISSIONER MAY: Right. So I mean -- so just
17 to be clear, it's sort of apples and oranges, right? We're
18 getting two different sets of numbers from two different
19 traffic consultants based on different assumptions.

20 (Off-mic comment.)

21 COMMISSIONER MAY: I can't hear -- take testimony
22 from somebody shouting in the audience.

23 MR. REPP: Okay. The numbers on the right are the
24 traffic that Gorove/Slade is predicting in the future.

25 COMMISSIONER MAY: Right.

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1 MR. REPP: And the traffic on the left shows you
2 what the traffic will be today on the streets. On the
3 streets, not in the alleys.

4 COMMISSIONER MAY: Okay. But it's based on a
5 vacant grocery store?

6 MR. REPP: The --

7 COMMISSIONER MAY: I'm not taking additional
8 testimony. I'm just asking Mr. Repp what this is based on.

9 MR. REPP: The numbers on the left on the existing
10 streets are -- assume that there's -- do not take into
11 consideration a grocery store.

12 COMMISSIONER MAY: A functioning grocery --

13 MR. REPP: Yes.

14 COMMISSIONER MAY: An open grocery store? That's
15 all I was trying to clarify.

16 MR. REPP: Yes.

17 COMMISSIONER MAY: That's it for my questions.

18 CHAIRMAN HOOD: Commissioner Shapiro?

19 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. This
20 is a question for Mr. Westergard. I just want to pick up
21 something that Commissioner Turnbull asked you. He asked you
22 whether you thought that the renderings were accurate related
23 to the building. You said you thought they were.

24 MR. WESTERGARD: I thought the architectural
25 portion of them were.

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1 COMMISSIONER SHAPIRO: Right.

2 MR. WESTERGARD: Not the grade nor the
3 landscaping.

4 COMMISSIONER SHAPIRO: So I'm looking through the
5 materials that you have in front of me and I'm trying to
6 figure out -- that landscaping I see that you felt that --
7 I mean what I was reacting to is your response to
8 Commissioner Turnbull was that the building depiction was
9 accurate but everything else wasn't. That's --

10 MR. WESTERGARD: Correct.

11 COMMISSIONER SHAPIRO: I believe that's what you
12 said. So I think I'd appreciate a little more nuance in
13 that. I'm looking at the -- what you have presented to us,
14 and from what I can see there's a couple trees that you feel
15 like you aren't accurate.

16 MR. WESTERGARD: It's more than a couple trees.
17 There's vegetation that's -- doesn't exist that are put in,
18 not just the height of trees that are there. There's very
19 clear masking of the building by those same trees that aren't
20 even there according to the neighbor who owns the property.
21 And just that general mode of depiction suggests that there's
22 suspicion in other areas. You know, you find two or three
23 mistakes in one picture, you kind of wonder what else is
24 there.

25 COMMISSIONER SHAPIRO: Well, I think you're the

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1 expert on this. I believe that you were tasked with finding
2 out what else was there. And what I'm seeing from this is
3 -- I'm taking what you said. I know the area, I think that
4 tree isn't there. So I would agree with that. I'm trying
5 to make sense if there are other things that you're saying
6 beyond suggesting that because there's a couple trees that
7 aren't there, then the rest of their depictions are
8 inaccurate.

9 MR. WESTERGARD: Well, to push that further, they
10 had the sun coming up in the north like on the southern
11 hemisphere. They had lighting situations, which are
12 important. It's what keeps the trees alive. You know, a
13 nice sunny street is illuminated backwards and the shadows
14 were cut off on important days like the solstice, the
15 equinox. Very much distorted. So if the sun isn't working
16 right, you kind of wonder if the fenestration and the shadows
17 are also suspect -- suspicious.

18 COMMISSIONER SHAPIRO: So another question: One
19 of the slides you have says that the -- you're talking about
20 the house on Yuma Street and that the building being proposed
21 is twice the height of the nearest house. I just want to
22 make sure I understand what you're suggesting. Not literally
23 the words you're suggesting, but are you -- because you are
24 -- and the expertise is in the -- what is it called, visual
25 impact studies, are you suggesting that they were

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1 misrepresenting it in some way -- that they in some way were
2 inaccurately portraying the difference in the height between
3 what they're proposing in the neighboring houses --

4 MR. WESTERGARD: Well, yes.

5 COMMISSIONER SHAPIRO: -- or are you just noting
6 that there is a difference in height?

7 MR. WESTERGARD: Well, I'm saying that they took
8 their cross-sections on the most benign and gentle areas
9 through it. The one I'm showing here, the black building
10 next to the black house, that's the closest looking at
11 nearest neighbors.

12 COMMISSIONER SHAPIRO: But this wasn't the only
13 drawing that they presented to us.

14 MR. WESTERGARD: No, but they skipped this. They
15 had many slices through the E-shaped building. Many of
16 them --

17 COMMISSIONER SHAPIRO: So this is your version of
18 one of the things they missed?

19 MR. WESTERGARD: Correct.

20 COMMISSIONER SHAPIRO: Okay. Thank you.

21 That's all I have for now, Mr. Chair.

22 CHAIRMAN HOOD: Okay. Vice-Chair, you have --

23 (No audible response.)

24 CHAIRMAN HOOD: So, Mr. and Mrs. Repp, let's talk
25 about the affordable housing issue. I'm looking here. I

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1 think this was provided by ANC 3E, so I hope they don't mind
2 me using this. Ward 3 has contributed about 0.5 percent of
3 affordable housing. Why? And why is it such -- let me back
4 up. Have you been on Pennsylvania Avenue, S.E. lately?

5 (No audible response.)

6 CHAIRMAN HOOD: Have you been on Eastern Avenue,
7 S.E. lately?

8 MR. REPP: No, I have not.

9 CHAIRMAN HOOD: Have you been in Ward 5 lately?

10 MR. REPP: Yes.

11 CHAIRMAN HOOD: What you all depicted --

12 MR. REPP: Yes. Yes. I have, yes.

13 CHAIRMAN HOOD: So what you all have depicted that
14 you don't want to share, at least the way I'm taking it, in
15 your area is what other people -- what we doing in different
16 types of housing stocks. I listened to the supporters. I'm
17 hearing what you all are depicting is that, okay, it's all
18 right if it's over there, but I just don't think that -- from
19 what I see in these numbers, my problem, I said this the
20 other night, Ward 3 is not getting their fair share. Help
21 me understand that.

22 MR. REPP: Well, I understand that argument. The
23 -- what -- I mean we have said before that they should have
24 more affordable housing on this site, right? That was our
25 -- that is our argument and we -- what we're saying here is

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1 that they're at basically 1 percent over the bare minimum
2 under the IZ rules. And frankly, there's an argument as to
3 what the IZ rules are. I know they've been going through
4 revision, but there's an argument there. I mean, that's in
5 our brief.

6 We're not against -- in fact, we're in favor of
7 affordable housing. The question is what's going to -- what
8 else is going to go in this project and how much of it -- as
9 far as how much of that massing do -- is -- do the neighbors
10 -- can the neighbors live with, is what --

11 (Simultaneous speaking.)

12 CHAIRMAN HOOD: So let me ask you this: You say
13 more. And the way I understand how it works there's
14 economics in it. So you say more. So if they do more
15 affordable housing, then they have to build more, right?
16 Would you be in favor of that?

17 MR. REPP: No.

18 CHAIRMAN HOOD: No?

19 MR. REPP: No, no.

20 CHAIRMAN HOOD: Okay. I appreciate that --

21 MR. REPP: No, no, no.

22 CHAIRMAN HOOD: -- because I already knew the
23 answer.

24 MR. REPP: Yes, yes, yes.

25 CHAIRMAN HOOD: I'm not going to never ask you a

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1 question that I pretty much don't already know the answer to.

2 MR. REPP: Yes. Yes.

3 CHAIRMAN HOOD: Okay?

4 MR. REPP: I mean there are ways to have more
5 housing here. The grocery store takes up a lot of space and
6 there -- you got to balance a lot of options here. But the
7 -- this building, which on -- the 81½ feet on the back side
8 is really seven stories because the grocery store takes up
9 two stories. So --

10 CHAIRMAN HOOD: So I'm really -- and I said this
11 the other night, this is a heavy lift for me because I looked
12 at the policies we have to look at, and right now this policy
13 right now is outweighing a whole lot of stuff that's not
14 happening there. And I think this brings some balance. No,
15 we don't get to where we need to be. No, you don't want any
16 more density so they can make -- do the economic balances to
17 be able to do more affordable housing in Ward 3. Because
18 these charts really are devastating to me, and I have problem
19 with disinformation, and we'll continue to have the
20 discussion now.

21 Let me ask this question about the video, because
22 what you all seem to think is -- was -- first of all, was
23 that a script? Was it theatrical or was it normal?

24 MS. REPP: Was the video --

25 CHAIRMAN HOOD: Theatrical. Did you all plan that

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1 happening?

2 MS. REPP: We --

3 CHAIRMAN HOOD: Was it staged?

4 MS. REPP: As I explained, it was a simulation.

5 CHAIRMAN HOOD: Okay. So guess what, in other
6 parts of the city, that's the norm. That's the norm. So if
7 that's not going on up there all the time without
8 performance, everybody else is adapting to that. That's the
9 norm.

10 And let's get to the pictures. Now I don't know
11 whether the trees are in the yard or not, I'll be frankly
12 honest, but I do want to comment on pictures. We've had a
13 case down here some years ago. It was about parking. And
14 for the life of me, the applicant came up, 12:00 on a Sunday,
15 no cars. The opposition came up -- and I've never forgot
16 this. Some who've been around probably heard me say this
17 forever because it's how people present it. Everybody can
18 present their twist to the story. Same Sunday, same time,
19 same street, cars were packed.

20 Now I don't know how they worked that out. I even
21 said it then. It was about 15 years ago. I don't know how
22 that happened, but what I've learned down here is that people
23 can come down here and give their position and come up with
24 -- and I can tell you, pictures are worth 1,000 words. You
25 got pretty much the same time. You don't have a -- you have

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1 an empty street. And then you got the same time, you got a
2 full street. And to this day I have never really figured
3 that out.

4 So I understand about the tree being there and the
5 depiction and -- it's not all -- it's not -- I'm not saying
6 that the Applicant misrepresented, but I understand exactly
7 what you're saying, and I appreciate that. But we also up
8 here have been around a while and we know when people do
9 certain things, and to some degree we have seen enough to
10 where we can visualize how these things are going to fit in.

11 That's why when I ask for perspectives I ask for
12 things that are -- we can drop it into what the current
13 situation is. Now, I don't know about the tree in the front
14 yard because I'm not -- that's -- that perplexes me, but I'm
15 not going to go into that.

16 But I'm really having an issue with this
17 affordable housing. And you don't want them to build no
18 more. They do have economics to balance. But I don't see
19 where you're doing your fair share. That's the Commission's
20 ---

21 MR. REPP: Well, I mean --

22 CHAIRMAN HOOD: -- perspective.

23 MR. REPP: Yes, I understand. I mean, the issue
24 is how much -- what is the share of the -- whether -- you
25 could you build more affordable housing than is there right

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1 now and than is in the plan, number one. And I mean they're
2 basically 1 percent over the minimum. Department of Housing
3 and Community Development asked that there be more.

4 I mean this -- I mean I think the issue is -- and
5 there's -- and there are -- and there's other development
6 going on in Ward 3, the Fannie Mae site, the building next
7 to the Fannie Mae site going up Wisconsin Avenue. So it's
8 not -- the question is how much of the burden here of the
9 public policy that -- the commendable public policy of having
10 more affordable housing should be placed on this site where
11 we don't think it fits? And you can have a lot of housing
12 in this -- on this site. You can't have a lot -- you can
13 have a lot of affordable housing. And that's where it's the
14 balancing there that we were hoping for. Come up with a
15 compromise.

16 We've -- all along we have said we would like a
17 compromise. Coming down one floor would make this a lot more
18 reasonable. I know I can tell you that Troy Kravitz has told
19 me that he was -- from 3E is -- he was recommending that they
20 come down two floors. And he's a -- he thought they'd come
21 down one floor. And they haven't.

22 Also there's -- I mean there's -- as we filed
23 today in the record, there's a lot of rent-controlled housing
24 in Ward 3. There's -- Ward 3 has the second highest level
25 of rent-controlled housing in the -- among the wards in the

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1 city.

2 CHAIRMAN HOOD: Okay. I appreciate your response.
3 I just disagree with it.

4 All right. Any other questions up here?

5 COMMISSIONER SHAPIRO: I just want to build on one
6 point you made, Mr. Chair, related to the affordable housing
7 because I want to make sure I'm understanding where -- how
8 you're balancing this out in your mind.

9 First of all, I just -- I want to be clear that
10 if they took away the grocery store -- what I'm hearing is
11 that if they took away the grocery store, essentially you'd
12 probably be supporting this.

13 MR. REPP: What I have said is that they -- if
14 they come down a floor, we could probably support it.

15 COMMISSIONER SHAPIRO: Okay.

16 MR. REPP: And one way to have the same amount of
17 housing --

18 COMMISSIONER SHAPIRO: Right, I'm hearing you.

19 MR. REPP: Yes, okay. That's --

20 COMMISSIONER SHAPIRO: Right.

21 MR. REPP: Yes.

22 COMMISSIONER SHAPIRO: So the -- and that's in
23 relation to where the ANCs are who see the grocery store as
24 significant. But that's not where you are and I get that.

25 MR. REPP: Yes, and another way, you come down a

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1 floor and just have what 30 less units --

2 COMMISSIONER SHAPIRO: Right, right. Yes.

3 MR. REPP: -- which would be --

4 COMMISSIONER SHAPIRO: So how would you feel --
5 building on the Chair's point, what if they came back to us
6 and said they'll do 50 percent affordable units, 50 percent
7 IZ units at 50 percent AMI, or 30 percent AMI? What if this
8 became a low-income housing tax credit deal? And so it
9 reduced the scale, and it became majority affordable housing?

10 MR. REPP: Well, we'd have to look at that, but
11 I -- as a matter of principle I don't see why we would oppose
12 it.

13 COMMISSIONER SHAPIRO: Okay. Thank you. Thank
14 you, Mr. Chair.

15 CHAIRMAN HOOD: Any other follow-up questions up
16 here?

17 (No audible response.)

18 CHAIRMAN HOOD: All right. Thank you. Let's see
19 if we have any cross. Does the Applicant have any cross?

20 MR. GLASGOW: I'm sorry. I only have --

21 CHAIRMAN HOOD: Come on, Mr. Glasgow. You have
22 any cross? Come on.

23 MR. GLASGOW: Yes, I've got two questions for the
24 historic preservation expert.

25 At the bottom of your report you have a footnote

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1 3. It says we again draw your attention to the limited
2 number of cases where landmarks have been incorporated into
3 a PUD.

4 COMMISSIONER SHAPIRO: Mr. Glasgow, can you pull
5 the mic closer to you?

6 MR. GLASGOW: Oh, I'm sorry. In all these cases
7 the landmark was either rehabilitated or physically
8 incorporated into the project's new construction. And then
9 one of the cases that you listed is the Church of Christ
10 Scientists. Are you aware that the existing -- that building
11 was completely demolished?

12 MR. HANSEN: Yes, I am.

13 MR. GLASGOW: Okay. You've answered the question.

14 MR. HANSEN: Do I get to qualify the answer?

15 MR. GLASGOW: It was a yes or no question. Were
16 you aware that it was demolished? And you answered yes. You
17 answered my question. Thank you.

18 CHAIRMAN HOOD: Mr. Glasgow, you've been around
19 a long time. He wanted to qualify it, but that was probably
20 a yes or no. It's all in how you phrase it. Okay. I
21 probably should have kept it to myself, but I just felt like
22 getting that out.

23 All right. Where am I at now? Every time I do
24 something, I get distracted. Okay. ANC 3D, you have any
25 cross?

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1 MR. KRAVITZ: Just one.

2 CHAIRMAN HOOD: Oh, okay. You switched your seat
3 on me. I looked over there and you're over here.

4 MR. KRAVITZ: Yes. Mr. Hansen, you spoke about
5 benefits needing to be tangible and quantifiable, and you
6 quoted X 305.3. Do you agree that X 305.10 reads a project
7 amenity is one type of public benefit, specifically a
8 functional or aesthetic feature of the proposed development
9 that adds the attractiveness, convenience or comfort of the
10 project --

11 CHAIRMAN HOOD: So let me do this: And I'm going
12 to start all over. I didn't -- we're going to ask you to
13 identify yourself, especially for the court reporter, before
14 you speak. So --

15 COMMISSIONER MAY: ANC 3D, Troy Kravitz.

16 Mr. Hansen, I was just asking about X 305.10, if
17 it reads, or if you want to read it, either way, that a
18 project amenity is one type of public benefit, specifically
19 a functional or aesthetic feature of the proposed development
20 that adds to the attractiveness, convenience or comfort of
21 the project for occupants and immediate neighbors?

22 MR. HANSEN: I believe that is qualifying some
23 previous text. If you look at 305.3, it says all public
24 benefits shall meet the following criteria. And then
25 305.5(e), Historic Preservation of Public and Private

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1 Structures. So 305.3 trumps.

2 CHAIRMAN HOOD: So let me ask, when Commissioner
3 Kravitz asked the question -- I'm asking the court reporter
4 now -- did you need Mr. Hansen to describe -- say who he was
5 even though he --

6 (No audible response.)

7 CHAIRMAN HOOD: Oh, okay. I just wanted to make
8 sure. All right.

9 All right. ANC 3E, Mr. McHugh?

10 MR. MCHUGH: I'm Jonathan McHugh from ANC 3E.

11 I just wanted to clarify the record from Monday
12 that I don't think I -- I made a -- I misunderstood Mr.
13 Repp's question. So he asked me -- I think the question was
14 whether had Valor coming to a meeting, and I thought he meant
15 a month before, but it was actually the month after I thought
16 he was talking about.

17 So we had a miscommunication with Valor where in
18 May we thought they were coming, but apparently we didn't
19 tell them enough that they were coming. So they didn't show
20 up, but we still had the discussion. And I'll submit to the
21 record, too, all the dates we've given. I thought you were
22 talking about June, which was when we said, look, we don't
23 have any more information; you don't have to come. We really
24 don't want to go every single month listening to the project.
25 So just for the record I wanted to make sure that was clear.

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1 So I just want -- a quick question for Mr. Repp.

2 So in the filing you said there are no apartment
3 buildings in AU Park. The addition of up to 240 new
4 apartments as envisioned by the project is inconsistent with
5 low-density, low-rise, single-family home character of
6 American University Park.

7 The site is zoned MU4, mixed used residential,
8 which clearly allows those things to come. The Comp Plan,
9 FLUM, the Zoning Code all make clear the need for multi-
10 family housing in the city, the entire city, and MU4 zoning
11 is specified as one of the means for addressing that.

12 Given that, do you believe AU Park should have no
13 apartment buildings at all, even if the Zoning Code and the
14 Comp Plan prescribe them?

15 MR. REPP: I've never said that. And we support
16 an apartment building on this site, just not an apartment
17 building that is 50,000 square feet more than matter of
18 right. And you can have an apartment building. As I say,
19 I could support a building that would be one floor lower.
20 So --

21 MR. MCHUGH: Okay. Thank you. That's all I have.

22 CHAIRMAN HOOD: All right. Thank you.

23 Ward 3 Vision? Mr. Wheeler?

24 MR. WHEELER: John Wheeler for Ward 3 Vision. I
25 have a question for Mr. Westergard.

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1 You -- if I heard you correctly, you said that it
2 would not be possible for there to be a tree that's 120 feet
3 tall.

4 MR. WESTERGARD: Not in this USDA Zone, Zone 6,
5 Mid-Atlantic.

6 MR. WHEELER: Well, that made me curious and I --
7 would you be surprised -- when I just Googled that after you
8 spoke that there are a number of trees in Prince George's
9 County near by D.C. Liriodendron, that's the tulip
10 poplar --

11 MR. WESTERGARD: Yes.

12 MR. WHEELER: -- about 160 feet tall? There's a
13 black walnut that's about 130 feet tall. There's red oaks
14 and other oaks that are 130 to 150 feet tall. Would that
15 surprise you?

16 MR. WESTERGARD: I would be surprised. I helped
17 keep the State Tree Champion Book in Maryland all through my
18 training, and so that does surprise me. Maybe not the
19 Liriodendron in a forest, but measured from the ground on a
20 street tree like this, what they were portraying was probably
21 a red maple that -- in the background that they moved up to
22 that altitude. You just don't get red maples that big.

23 MR. WHEELER: How about a sycamore? That looks
24 a lot like --

25 MR. WESTERGARD: I wasn't --

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1 MR. WHEELER: -- a red maple.

2 MR. WESTERGARD: I wasn't addressing the sycamore.

3 There is --

4 MR. WHEELER: But there is also sycamores that are
5 over 130 feet tall.

6 MR. WESTERGARD: That doesn't surprise me, no.
7 That's possible.

8 MR. WHEELER: And are you familiar with the dawn
9 redwoods?

10 MR. WESTERGARD: Of course.

11 MR. WHEELER: And how tall do you think they get?

12 (No audible response.)

13 MR. WHEELER: Well, I'll tell you what I just
14 found on Google. They said 165 feet is not unusual.

15 MR. WESTERGARD: But we're talking in a dense
16 urban area where the tree ball itself is smaller than a car.

17 MR. WHEELER: And I think this question has to do
18 with your submission. In your submission you -- on page 4,
19 you quoted Ward 3 Vision as being critical of this site not
20 connecting to transit that we had recommended that there be
21 bus transit, but there wasn't. But that was for the design
22 review. And we have actually stated, isn't it correct, just
23 the opposite in our current testimony where they have now
24 provided transportation to Metro?

25 MR. REPP: Limited transportation to Metro. I

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1 mean the money is going to run out in maybe a year,
2 year-and-a-half.

3 MR. WHEELER: Okay. Thank you.

4 CHAIRMAN HOOD: Okay. Thank you.

5 Spring Valley Neighborhood Association?

6 MR. CLARKSON: William Clarkson, Spring Valley
7 Neighborhood Association. Traffic is obviously a big issue,
8 and would you agree that the majority of the additional auto
9 trips generated from this proposed project would be because
10 of the retail -- would be attributable to retail versus
11 residential?

12 MR. REPP: Yes, I -- the -- I mean the numbers are
13 in the Gorove/Slade report, and I think more than half of the
14 traffic generated is attributable to the retail.

15 MR. CLARKSON: And you've previously stated that
16 -- criticized the project, the proposal because it would
17 result in the loss of 18,000 square feet of retail space.
18 I believe the other party in opposition in their written
19 testimony claimed there would be 44,000 square feet of lost
20 retail space. So how would that -- wouldn't that lessen the
21 traffic impact if you're losing the retail space, which can
22 -- is the main contributor to the additional auto trips?

23 MR. REPP: Once again, the building is basically
24 half-full today. There's very little traffic generated from
25 the restaurant, the hairdresser -- actually the hairdresser

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1 isn't there anymore, but it was when Gorove/Slade's traffic
2 counts were taken. The Spring Valley Catering. All those
3 traffic counts are there.

4 What is missing today is the grocery store. The
5 grocery store is 16,000 square feet, which is a smaller
6 grocery store than is being proposed, we think. I mean the
7 numbers sort of change from time to time. There is 6,000
8 square feet of lower-level, below the grocery store dry
9 storage and a few other handful of other space that doesn't
10 generate traffic.

11 So I stand by the numbers we -- the analysis that
12 I provided is that it does not make sense to us that the --
13 this project when completed would result in less traffic than
14 was there in a fully-occupied situation before. I'm not
15 saying we're proposing to go back to that. That's not where
16 -- I'm just try to provide an analysis of the conclusion as
17 to the comparative traffic.

18 MR. CLARKSON: Understood. Just one clarifying
19 question about the retail space. But you want more retail
20 space?

21 MR. REPP: We would like a building that is one
22 floor lower. And you can get to it -- there's different ways
23 to get to it.

24 MR. CLARKSON: But you would want additional
25 retail space because the main criticism of this current

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1 proposal is that it would reduce the net retail space by
2 between 18- and 44,000?

3 MR. REPP: That is not my main -- CRD's main
4 complaint. Our complaint and criticism of this is that it's
5 too high and too dense. And there's ways to come up with
6 alternatives that would -- that we could support. And we
7 would hope we could get to the position where we could
8 support something. As far as whether it's retail or housing,
9 there's different ways to get to the -- to a final solution
10 that would work.

11 MR. CLARKSON: But would you agree that -- and I
12 think this is something we could hopefully all agree on, that
13 we should have more neighborhood-serving businesses in -- on
14 that site?

15 MR. REPP: I mean neighborhood-serving --

16 MR. CLARKSON: Retail businesses.

17 MR. REPP: -- retail makes some sense, but not
18 when it's packaged with a seven -- with a building that rises
19 to seven -- in essence seven stories on the back. So --

20 MR. CLARKSON: Okay. That's all. Thank you.

21 CHAIRMAN HOOD: Okay. Commissioner Smith, you
22 have any --

23 MR. SMITH: Tom Smith, Spring Valley Wesley
24 Heights Citizens Association Neighbors for a Livable
25 Community. My first question is actually for Mr. Hansen.

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1 With respect to this tear-down of 16th and I, can
2 you clarify your response from earlier?

3 MR. HANSEN: I believe that was based on the
4 original PUD application. You know the project more several
5 times. So that's the clarification.

6 MR. SMITH: All right. Thank you. I'm just going
7 to direct this -- I don't know who to direct his question to,
8 but maybe it's to your attorney, maybe it's to Shelly, but
9 whoever feels they can answer.

10 I there anything in the record in this case that
11 would demonstrate that additional affordable housing beyond
12 what is being proposed is not economically viable for the
13 developer?

14 MR. REPP: We have never been provided with the
15 economics of this project by the developer. We've asked a
16 couple of times before -- well, it was a while ago, and we
17 were -- it was never provided. I can tell you that Mr.
18 Lansing at an ANC 3E meeting stated that this was \$185
19 million project, but we've never gone -- we've never gotten
20 numbers to drill down to what the details are.

21 MR. SMITH: And you say you haven't got any, but
22 is there anything in the record in this case that you're
23 aware of?

24 MR. REPP: There's none that I'm aware of.

25 MR. SMITH: Okay. And then an additional related

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1 question: is there anything in the record in this case that
2 provides any information on the economics of this project?

3 MR. REPP: I don't believe there is.

4 MR. SMITH: Okay. I want to ask a couple of
5 clarifications. I don't know if you can go back to your
6 slide presentation for this. It was page 17. This is mostly
7 on traffic. This is mostly related to traffic issues.

8 And actually while you're doing that, you had
9 shown an earlier slide -- I don't think we need to bring it
10 up, but it was in the east-west alley, and it showed a truck
11 perpendicular to the loading dock, the AU loading dock. It
12 wasn't in the loading dock. So do the trucks for AU -- do
13 they load and unload in that loading dock?

14 MR. REPP: Sometimes they do and sometimes they
15 don't. That's the only loading space that's available for
16 the 180,000 square foot office building that AU owns there.
17 Sometimes they have to park perpendicular basically along the
18 drive lane, parallel to the drive lane. And sometimes they
19 can back into -- keep on backing up. There's -- that one.
20 That one right there.

21 MR. SMITH: Yes, that one.

22 MR. REPP: Yes, that one right there.

23 MR. SMITH: Do they also load and unload on Mass
24 Avenue?

25 MR. REPP: Well, they're not supposed to.

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1 MR. SMITH: But do they?

2 MR. REPP: They do on occasion --

3 MR. SMITH: Okay.

4 MR. REPP: -- but they're not supposed to.

5 MR. SMITH: Okay. What I was asking was actually
6 page 17. That blue spot, the blue -- that's a pedestrian
7 pathway, right?

8 MR. REPP: That's the three-foot pedestrian
9 pathway, yes.

10 MR. SMITH: Doesn't it mention in Valor's proposed
11 public benefits that there are sidewalks in those alleys?

12 MR. REPP: They call it a pedestrian pathway. It
13 serves -- it functions as a sidewalk. It doesn't meet ADA
14 requirements.

15 MR. SMITH: Okay. But isn't it referred to in
16 public benefits as a sidewalk, not a pedestrian pathway?

17 MR. REPP: I --

18 MR. SMITH: Okay. Never mind with that. But is
19 a raised area? I mean is there any kind of raised curb there
20 that you know, or is it flat with the ground?

21 MR. REPP: I don't know.

22 MR. SMITH: Okay.

23 MR. REPP: I believe it is flat, but I --

24 MR. SMITH: Okay.

25 MR. REPP: -- frankly I don't know.

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1 MR. SMITH: Okay. And can you go to 19? Okay.
2 This is what I was having a hard time seeing, but -- and Mr.
3 Chairman, I have not seen this until tonight, so I just want
4 to clarify that.

5 The point there where you have E coming down, you
6 have D going up, you have C there, that corner, that red
7 corner there of the building -- do you see what I'm talking
8 about right here? This part right here.

9 MR. REPP: Yes.

10 MR. SMITH: What is that?

11 MR. REPP: That's going to be an entrance to
12 retail. I mean people are going to go in and out. It might
13 be a -- depending on the size of the grocery store, it might
14 be a second entrance to the grocery store, or instead it
15 might be a different retail establishment. But in any case,
16 people going in and out of that -- through that door there
17 are going to be walking right out onto the drive lanes for
18 both the east and west -- both the east-west and the
19 north-south alleys. And there are no -- going across toward
20 Massachusetts there for a good 30-40 feet, there are no
21 sidewalks.

22 MR. SMITH: Okay. And just so I understand the
23 circulation pattern here, as you understand it the trucks
24 come off 48th and go down where E is?

25 MR. REPP: Yes.

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1 MR. SMITH: Okay. That's for the loading? Okay.
2 Do the trucks also though -- for loading and unloading can
3 they also come off Yuma or do they -- are they all going to
4 be required to go down 48th Street?

5 MR. REPP: I don't know. I'm not sure.

6 MR. SMITH: Okay.

7 MR. REPP: It's difficult --

8 MR. SMITH: All right.

9 MR. REPP: -- for them to make a turn. The trucks
10 for the Spring Valley Shopping Center, the CVS, there's a big
11 CVS there, today come through -- and for Wagshals come down
12 -- come in from Yuma. Some of them are -- the smaller trucks
13 are able to drive all the way through to Massachusetts when
14 they leave, but a number of them are going to back up to get
15 out like that dumpster did, I mean like that trash truck did
16 in the video because they can't go through and they -- so
17 they end up backing up. And frankly what's going to happen
18 if you have 200 cars an hour going through that alley?

19 MR. SMITH: Okay. I just have two other
20 questions. The video simulation showed a 30-foot truck. Did
21 the Gorove/Slade traffic study make reference to the size of
22 trucks that would be using this --

23 CHAIRMAN HOOD: So did he -- let me ask you think,
24 Commissioner Smith.

25 MR. SMITH: Yes.

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1 CHAIRMAN HOOD: Did Mr. Repp mention -- I know
2 they showed the simulation, but did he talk about the study?

3 MR. SMITH: Yes, they talked about the traffic
4 study extensively, sir, in their presentation.

5 CHAIRMAN HOOD: No, I mean they did -- I mean did
6 he -- did his testimony provide something about the study?
7 So here's what I've been advised.

8 MR. SMITH: Okay.

9 CHAIRMAN HOOD: We want to make sure that we want
10 to -- I understand; I've been up here a long time, I know how
11 you're able to present your case and not present your case.
12 I know that. So what I want you to make sure we do is we're
13 asking them questions primarily -- and I think that question
14 might be in tune, but I want to make sure we ask him
15 questions that are due to his testimony.

16 MR. SMITH: Exactly. They are.

17 CHAIRMAN HOOD: Okay. Because some of the ones
18 prior were going somewhere else. Okay. I just wanted to put
19 that out there.

20 MR. SMITH: Well, I think that everything I've
21 asked has been related to comments in this --

22 CHAIRMAN HOOD: Okay. All right.

23 MR. SMITH: Okay. But --

24 CHAIRMAN HOOD: So you've got two more.

25 MR. SMITH: But so if I can just clarify for you

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1 the point of asking the question about the 30 -- about the
2 size of the truck is that they used the 30-foot truck in the
3 simulation, and I just want to see if that's consistent --

4 CHAIRMAN HOOD: Yes, that question is in order.

5 MR. SMITH: Okay.

6 CHAIRMAN HOOD: Go ahead.

7 MR. SMITH: All right.

8 CHAIRMAN HOOD: Go ahead.

9 MR. SMITH: Okay. That's my question. That's the
10 gist of my question.

11 MS. REPP: Yes, the truck turning diagrams are
12 from the Gorove/Slade report.

13 MR. SMITH: The size of the trucks?

14 MS. REPP: Yes.

15 MR. SMITH: Okay.

16 CHAIRMAN HOOD: All right.

17 MR. REPP: And they're 50 -- and the -- what we
18 showed was 50-foot -- the 50 -- wheel base 50-foot truck
19 turning, and we saw from the video that a 30-foot truck has
20 problems.

21 MR. SMITH: Okay. That was helpful. Then the
22 last question I have has to do with the east-west alley, the
23 east-west alley sidewalk that you talked about. And are --
24 do you know whether that is a real sidewalk, or is that also
25 a pedestrian pathway?

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1 MR. REPP: It's wider. It's -- I think it is --
2 it may qualify as a real --

3 MS. REPP: But it's not raised.

4 MR. REPP: But it's not raised.

5 MR. SMITH: But it's not raised?

6 MR. REPP: Yes.

7 MR. SMITH: Okay. And there's no separation that
8 you're aware of?

9 MS. REPP: No.

10 MR. SMITH: Okay. All right. Mr. Chairman, thank
11 you.

12 VICE-CHAIR MILLER: Thank you. Do any of my
13 colleagues have any further questions of this party?

14 (No audible response.)

15 VICE-CHAIR MILLER: Okay. Thank you.

16 MR. DONOHUE: Thank you.

17 VICE-CHAIR MILLER: We'll next call the Spring
18 Valley Wesley Heights Neighbors for a Livable Community party
19 for their presentation. Five minutes. And again identify
20 yourselves for the record and begin whenever you're ready.

21 DR. KRASKIN: Good evening. My name is Dr.
22 Jeffrey Kraskin, and I'm president of the Spring Valley
23 Wesley Heights Citizens Association. I will keep my remarks
24 brief. More detailed testimony was submitted for the record
25 earlier today, and you're receiving some right now.

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1 Spring Valley residents will experience the impact
2 of this proposed development. That is why you see so many
3 signs in neighbors' front yards, especially along
4 Massachusetts Avenue, opposed to this project.

5 The Association opposes this application because
6 it does not meet the requirements of Sections 300.1(b),
7 300.1(c) and 304.4(b) of Chapter 3 of the Zoning Code for the
8 planned urban developments.

9 Affordable housing has been a comment made a lot,
10 and as Zoning Commission Chairman Hood has indicated, an
11 adequate supply of affordable housing is a critical public
12 benefit and has been made a priority for approval of any PUD
13 application. Previously we have opposed a nearly identical
14 proposal because of the inadequate supply of affordable
15 housing that was being proffered through the city's
16 inclusionary zoning regulations.

17 The amount of affordable housing proposed in this
18 application is still inadequate and does not meet the
19 requirements for meaningful public benefits required under
20 Section 300.1(b) of the PUD regulations.

21 CHAIRMAN HOOD: Excuse me, Dr. Kraskin.

22 DR. KRASKIN: Hello, sir. Welcome back.

23 CHAIRMAN HOOD: Put the minutes back on the table.

24 I mean back on the clock. I want to hear your first part,
25 if you don't mind. I want to hear you because you're talking

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1 about what I wanted to hear. I caught myself trying to go
2 to the restroom and get back, but I didn't make it.

3 (Laughter.)

4 CHAIRMAN HOOD: So let's start all over again.
5 All right. Thank you.

6 DR. KRASKIN: I will start where I get to
7 affordable housing.

8 CHAIRMAN HOOD: -- on the record, so if anybody
9 says anything differently, I did have to go to the restroom.

10 (Laughter.)

11 DR. KRASKIN: I know the feeling.

12 I'm going to start where affordable housing --

13 CHAIRMAN HOOD: Yes, that's --

14 DR. KRASKIN: Okay. As Zoning Commission Chairman
15 Hood has indicated, an adequate supply of affordable housing
16 is a critical public benefit and has been made a priority for
17 approval of any PUD application. Previously we have opposed
18 a nearly identical proposal because of the inadequate supply
19 of affordable housing that was being proffered through the
20 city's inclusionary zoning regulations.

21 The amount of affordable housing proposed in this
22 application is still inadequate and does not meet the
23 requirements for meaningful public benefits required under
24 Section 300.1(b) of the PUD regulations. Although some cited
25 the proposed 29 affordable housing units as reason for

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1 approving this project, we think that Valor's proffer does
2 not go far enough.

3 Although this housing may be labeled affordable,
4 neither Valor nor OP have indicated whether these 29 units
5 or some of these units will be for workforce housing, housing
6 affordable for a D.C. public school teacher or a first
7 responder. This is an important element missing from this
8 discussion so far.

9 The Rock Creek West Area is a lucrative market for
10 developers. That is precisely why Valor should provide more
11 affordable housing than the 29 units they now propose. The
12 city should be demanding more of new development in Ward 3,
13 especially given the limited opportunity to build new housing
14 west of Rock Creek Park. We also should not accept poorly
15 planned development that puts public safety at risk and
16 sacrifices neighborhood-serving retail just to secure a
17 minimum number of affordable housing units.

18 We can and we must insist that developer like
19 Valor do better. We should be able to put neighborhood
20 character -- protect, excuse me, neighborhood character while
21 creating opportunities for new residents, including young
22 families, to enjoy what prompted many of us to choose and
23 continue to choose living in these neighborhoods.

24 Affordable housing goals for the city and Ward 3
25 should not rest on this proposal or even the city's

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1 inclusionary zoning rules. We are concerned that OP seemed
2 to suggest earlier this week that inclusionary zoning is the
3 only means to ensure affordable housing in our city. If that
4 is the case, then this city will not meet the challenge that
5 lies ahead.

6 Inclusionary zoning is a tool in our city's
7 affordable housing toolbox, but as other cities' experiences
8 show it is not a silver bullet, nor is inclusionary zoning
9 the only criteria to assess the amount of affordable housing
10 in an area such as Exhibit 205 in the record of this case
11 indicates. Ward 3, as has been mentioned tonight, provides
12 nearly 13,000 rent-controlled apartments, second in the city
13 only to Ward 1.

14 Even the campus planning process also provides an
15 opportunity for this Commission to address affordable
16 housing. As the growth in American University's
17 undergraduate enrollment outpaces the supply of on-campus
18 housing, we are losing affordable units in our neighborhood
19 to university master leasing programs. So we must be as
20 vigilant in safeguarding affordable housing as we are in
21 mandating affordable housing through inclusionary zoning.

22 Public safety risks. Our primary concern with
23 this project though remains in the public safety and the loss
24 of nearly half of the current retail space including spaces
25 currently occupied. The solution to mitigating the safety

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1 problems is to widen the proposed sidewalk or pedestrian path
2 in the north-south alley, ensure that this pedestrian path
3 is actually a sidewalk raised up from the alleyway itself and
4 widening the alleys beyond what is proposed in Valor's
5 application.

6 We believe the alley should be re-envisioned and
7 designed as open and sustainable visually appealing
8 streetscapes that can be used and enjoyed by residents, as
9 well as accommodate the needs for more retail, truck
10 deliveries and access to the parking lot for residents and
11 retail customers.

12 We also find other aspects of the public benefits
13 package in this proposal to be deficient and not to be public
14 benefits at all, but sources of additional problems that will
15 require additional mitigation. This is discussed more fully
16 in our formal statement.

17 Conclusion: So we ask the Commission to carefully
18 examine this proposal, assess what are the neighborhood
19 benefits and how they do stack up against the public safety
20 and loss of retail and missed opportunities. We think this
21 proposal fall short, that it could be substantially improved
22 and does not warrant your approval at this time.

23 Thank you again for the opportunity to give these
24 comments. I do want to make mention that Neighbors
25 for a Livable Community, NLC, has submitted its statement to

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1 the record. Thank you.

2 CHAIRMAN HOOD: Okay. I want to thank you, Dr.
3 Kraskin and everyone else at the table with you. Does the
4 Applicant have a copy of your testimony?

5 (Off microphone comment.)

6 CHAIRMAN HOOD: Okay. Just heads up, I'm going
7 to be asking about the affordable housing component in Dr.
8 Kraskin's testimony. And I would like to have some
9 responses, so I would ask that the Applicant review that
10 before they come back up.

11 So let me see. Any questions or comments?
12 Commissioner May?

13 COMMISSIONER MAY: Yes, my first one is about one
14 of the statements about affordable housing. And what you --
15 what I heard you say was that the Office of Planning
16 suggested that inclusionary zoning was the only way to deal
17 with the affordable housing problem.

18 DR. KRASKIN: I was not here the other day Monday,
19 but I reviewed all four hours of the tape.

20 COMMISSIONER MAY: Yes. And?

21 DR. KRASKIN: And in that tape there was a
22 suggestion that OP --

23 COMMISSIONER MAY: There was a suggestion or a
24 statement, because what I heard was that rent control is not
25 affordable housing, that it's --

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1 DR. KRASKIN: And I would agree that -- I'm not
2 saying that rent control is affordable housing.

3 COMMISSIONER MAY: Right.

4 DR. KRASKIN: It's one of many pieces in a toolbox

5 COMMISSIONER MAY: Right. And that's all I've
6 ever heard --

7 DR. KRASKIN: Okay.

8 COMMISSIONER MAY: -- from the Office of Planning,
9 that it's -- inclusionary zoning is one of many tools in the
10 toolbox, not all -- I mean, even with the number of tools we
11 have in the toolbox, it isn't getting fixed quickly, but I
12 did not hear a statement that it is a magic bullet or
13 anything like that.

14 DR. KRASKIN: I'm going to ask Mr. Smith.

15 COMMISSIONER MAY: Okay.

16 MR. SMITH: Commissioner May, I can tell you what
17 we heard, okay, and --

18 COMMISSIONER MAY: Okay.

19 MR. SMITH: Okay. And actually on
20 cross-examination OP was asked specifically about apartment
21 units in the Palisades neighborhood --

22 COMMISSIONER MAY: Right.

23 MR. SMITH: -- okay, within the 3D boundary.

24 COMMISSIONER MAY: Right.

25 MR. SMITH: And what OP said was that these were

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1 not ways to have permanent affordable units in the
2 neighborhood. That to me --

3 COMMISSIONER MAY: Right. I heard that, too.

4 MR. SMITH: Okay. That to me suggests that
5 everything else that perhaps would be in that toolbox --

6 COMMISSIONER MAY: Yes.

7 MR. SMITH: -- would not be sufficient given that
8 the question was also about, well, what about all these units
9 that are under rent control?

10 COMMISSIONER MAY: Right. No, all they were
11 saying is that the rent control --

12 MR. SMITH: Well --

13 CHAIRMAN HOOD: -- was not -- again, we're getting
14 a lot of feedback.

15 MR. SMITH: I understand what you're saying, but
16 I'm just offering you our interpretation of what we heard.

17 COMMISSIONER MAY: Okay. Well, I heard something
18 different, and I'm glad to hear what you heard because we
19 heard the same thing and came up with a different conclusion
20 about what it meant.

21 All right. So in your statement there's a
22 reference to the so-called full-service grocery store. And
23 then in your -- one of your submissions there was somebody
24 sampled something out of the checkbook.org survey of grocery
25 stores. So somebody put that in there. Is there somebody

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1 who can answer to that?

2 MR. SMITH: Sure. I'll do my best if you --

3 COMMISSIONER MAY: Okay.

4 MR. SMITH: But what's your question?

5 COMMISSIONER MAY: So I thought it was very
6 interesting that you had included that because that is -- I
7 happen to subscribe to that service as well. And I saw that
8 come in, and I was very curious about it, and I'd read a fair
9 amount of that survey. And the mention of it I thought was
10 rather curious. So let me just find what I --

11 MR. SMITH: I believe that was in the statement
12 from Neighbors for a Livable Community.

13 COMMISSIONER MAY: Right.

14 MR. SMITH: Yes.

15 COMMISSIONER MAY: And I'll say -- yes. Hold on
16 a second. Let me find the thing.

17 MR. SMITH: Unfortunately we're without Ms. Gates
18 tonight who was --

19 COMMISSIONER MAY: Oh, okay.

20 MR. SMITH: -- our --

21 COMMISSIONER MAY: All right.

22 MR. SMITH: But we'll do our best.

23 COMMISSIONER MAY: So then I mean it's -- okay.
24 So the -- first of all, this sampling that was shown was a
25 graph that showed the number of people who rated the grocery

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1 store excellent in certain areas.

2 MR. SMITH: Yes.

3 COMMISSIONER MAY: And what it showed was that of
4 all the things that you would consider about the proposed
5 grocery store, MOM's, that the lowest area in which they
6 ranked excellent was in the diversity of product choice,
7 right?

8 MR. SMITH: Right.

9 COMMISSIONER MAY: And so you're saying that that
10 brings into question whether it is in fact a full-service
11 grocery store.

12 MR. SMITH: Exactly, Commissioner May. There has
13 been some concern that MOM's because of its nature as a
14 boutique grocery and also because of its operations in some
15 other areas of the area --

16 COMMISSIONER MAY: Yes.

17 MR. SMITH: -- and given the size of this one
18 versus even the other MOM's stores, which tend to be larger
19 and --

20 COMMISSIONER MAY: Yes.

21 MR. SMITH: -- they're moving away -- from a
22 marketing standpoint, they're moving away from the smaller
23 stores to have larger stores. College Park, Maryland was one
24 of their smaller stores.

25 COMMISSIONER MAY: Right.

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1 MR. SMITH: So, yes --

2 COMMISSIONER MAY: So that -- I mean that
3 wasn't --

4 MR. SMITH: -- there was concern --

5 COMMISSIONER MAY: -- that information wasn't in
6 the testimony --

7 MR. SMITH: Right.

8 COMMISSIONER MAY: -- but I appreciate hearing
9 that.

10 MR. SMITH: But there was some concern about --

11 COMMISSIONER MAY: Right.

12 MR. SMITH: -- whether it would be full service.

13 COMMISSIONER MAY: So I think for that to be
14 relevant it would be good to understand how MOM's compared
15 to other grocery stores.

16 MR. SMITH: Yes.

17 COMMISSIONER MAY: So, and since you didn't submit
18 this I don't expect you to know this, but I know it because
19 I read it.

20 MR. SMITH: Yes.

21 COMMISSIONER MAY: Right? The other stores that
22 had -- were ranked on how many people considered their
23 selection of products to be excellent, there was only one
24 that I saw that was better. I didn't look at every single
25 one of the 30, but among the major ones, right --

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1 MR. SMITH: Yes.

2 COMMISSIONER MAY: -- Wegmans was better.

3 MR. SMITH: Right.

4 COMMISSIONER MAY: 87 percent. Not surprising.
5 They have 80,000 square feet in the store. Whole Foods was
6 51 percent compared to 62 for MOM's. Trader Joe's was 50
7 percent. Giant was 47 percent. Safeway, which everybody
8 would think is a full-service grocery store --

9 MR. SMITH: Yes.

10 COMMISSIONER MAY: -- 36 percent. I think it was
11 very deceptive to include that information.

12 MR. SMITH: Okay.

13 COMMISSIONER MAY: As I said, there were 30
14 stores. Do you know how many of them rated higher than MOM's
15 overall in excellence?

16 MR. SMITH: I do not know the answer to that.

17 COMMISSIONER MAY: Right. There was one.

18 MR. SMITH: I don't know the answer to that.

19 COMMISSIONER MAY: There was one --

20 MR. SMITH: Okay.

21 COMMISSIONER MAY: -- and that was Wegmans.

22 MR. SMITH: Yes.

23 COMMISSIONER MAY: It was number two among 30 in
24 terms of the people who gave it an overall excellent score.

25 MR. SMITH: Right. Commissioner May, if I could

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1 just clarify for your purposes, and the other Commissioners'
2 purposes as well, we have never indicated that we are opposed
3 to the idea of a grocery store at this site. We have never
4 --

5 COMMISSIONER MAY: No, and I understand that.

6 MR. SMITH: Okay.

7 COMMISSIONER MAY: And I've heard that.

8 MR. SMITH: Okay. But --

9 COMMISSIONER MAY: It's just that there are people
10 who are saying that it's not a full-service grocery store.
11 It is. And in your testimony you handed us tonight, it said
12 a so-called full-service grocery store. And I don't think
13 that you've demonstrated that. In fact, I think what you've
14 submitted now -- I don't mean you, I mean your combined
15 group, right -- was actually quite deceptive.

16 MR. SMITH: Well, we would also argue, sir, that
17 whether it's full service or not full service is largely
18 irrelevant to the issues that are before us.

19 COMMISSIONER MAY: Then I wish I wasn't even
20 brought up.

21 MR. SMITH: Well, okay. I don't disagree with
22 you.

23 CHAIRMAN HOOD: Commissioner Shapiro.

24 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. Just
25 a question about the issue in the alley and the concerns

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1 around pedestrian safety. The language you used -- so Dr.
2 Kraskin, you said that your primary -- that the organizations
3 collectively, primary concern with the project remains public
4 safety, and you're locating the primary public safety problem
5 as the combination of pedestrians and vehicular traffic in
6 the alley.

7 DR. KRASKIN: Correct. The conflicts that come
8 by the design as presently presented.

9 COMMISSIONER SHAPIRO: So at the risk of being
10 flip, because I'm thinking of the staged production that you
11 showed --

12 DR. KRASKIN: No, I didn't show that.

13 COMMISSIONER SHAPIRO: I'm sorry. Fair enough.
14 That was showed. But it emphasizes the point that I think
15 you're making that, if you were a person who was wheeling a
16 baby carriage with two kids in it, it would be hard if a
17 truck was coming along.

18 DR. KRASKIN: I think so.

19 COMMISSIONER SHAPIRO: Right. So what else could
20 you do besides go down that alley with the babies, with the
21 two babies in your carriage? What other options would you
22 have?

23 DR. KRASKIN: I think, number one, it depends
24 where you're going. I think if you're not going to --

25 COMMISSIONER SHAPIRO: How about if you're going

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1 to the grocery store?

2 DR. KRASKIN: If you're going to that retail,
3 there, obviously, I believe, is an entrance that one could
4 enter off of Yuma Street, correct?

5 COMMISSIONER SHAPIRO: Right.

6 DR. KRASKIN: Right. But if I'm going to go down
7 this alley after I've left that grocery store to go to the
8 quickest to Massachusetts Avenue to this proposed HAWK light
9 idea --

10 COMMISSIONER SHAPIRO: Well, you wouldn't --

11 DR. KRASKIN: -- then I'm going to go --

12 COMMISSIONER SHAPIRO: Dr. Kraskin, you wouldn't
13 need to do that because there's a quicker way to get to a
14 traffic light at Massachusetts Avenue from the entrance to
15 the grocery store.

16 DR. KRASKIN: How is that?

17 COMMISSIONER SHAPIRO: Straight down Yuma.

18 DR. KRASKIN: That's possible, but that's --

19 COMMISSIONER SHAPIRO: Less than half a block.
20 I think it's probably 50 yards.

21 DR. KRASKIN: I appreciate your comment because
22 I think that shows the exact reason why the HAWK light is not
23 a necessity to even be considered because there are, there
24 are --

25 COMMISSIONER SHAPIRO: I'm not asking you --

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1 DR. KRASKIN: -- exactly as you say --

2 COMMISSIONER SHAPIRO: I'm not asking you whether
3 the HAWK light is --

4 DR. KRASKIN: No, I'm looking for pedestrian
5 safety.

6 COMMISSIONER SHAPIRO: So a pedestrian has
7 options.

8 DR. KRASKIN: Absolutely. And one of the things
9 I think we're asking is if you know, and I'm sure you do, the
10 entrance to the Whole Foods off Wisconsin Avenue across from
11 the former Best Buy --

12 COMMISSIONER SHAPIRO: Yes.

13 DR. KRASKIN: -- where the Robeks and there is a
14 sidewalk that takes you along that walk, but it's a protected
15 sidewalk. It has protection there. And I think that's what
16 we are trying to say. If we're going to have this, let's
17 have it safely.

18 COMMISSIONER SHAPIRO: Dr. Kraskin, there is
19 virtually no other way to get to that from the largest number
20 of pedestrians who are trying to get to it. Unless you're
21 parking in the garage, you're pretty much going through that
22 way because you've got Wilson on the other side. The main
23 entrance to this grocery store is on Yuma, and it's about 50
24 yards away from an intersection at Yuma and Mass.

25 DR. KRASKIN: Or 48th and Mass.

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1 COMMISSIONER SHAPIRO: Or 49th and Mass.

2 DR. KRASKIN: 48th and Mass.

3 COMMISSIONER SHAPIRO: Well, I'm talking about the
4 one at 49th and Mass now.

5 DR. KRASKIN: I know. I'm saying both directions
6 would work.

7 COMMISSIONER SHAPIRO: Okay. I just, I also feel
8 that it is a bit disingenuous to say that the major, the
9 major route that pedestrians are going to be taking is
10 through this alley to the grocery store. Mr. Smith has a
11 comment to make.

12 MR. SMITH: You know, the issue here, Commissioner
13 Shapiro, from our perspective, is that there are, and I hate
14 to bring up the HAWK light but it is important in the sense
15 of does it create an incentive for more pedestrian passage
16 through the alley than is there now, okay? That's point one.

17 The second point has to do with the entrance that
18 is at the confluence of those alleys to the grocery store.
19 That's one of the reasons why I asked that question. It was
20 our understand based on a meeting with Valor back in mid-
21 September that that retail entrance would actually be used
22 by the grocery store and not as a separate retail entity.
23 So that would be another pedestrian pathway into the grocery
24 store. For Spring Valley residents, that would be the more
25 likely way to enter the grocery store if you're not driving,

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1 you know. But we would argue, of course, that most people
2 that go into a grocery store, unless you're picking up a few
3 items here and there, are probably going to be driving, you
4 know, probably going to be driving.

5 So the question is that alleyway going to have
6 greater pedestrian usage than previously? That's always what
7 we have been told, so that's why we have expressed concern
8 about the conflict, you know. If you're having an alleyway
9 that is only going to be used for an alleyway, fine, great,
10 wonderful, you know, no issue. But that's not what is
11 happening.

12 COMMISSIONER SHAPIRO: Alleyways are almost always
13 used for cars and pedestrians.

14 MR. SMITH: Yes, but there's a difference between
15 the way an alley is used and the way a road is used, the way
16 a minor road is used. And what this network of alleys is
17 being used for is something that was never, never
18 anticipated. The question is not whether those uses have
19 changed but what degree of mitigation has been done to ensure
20 that everyone is protected? Everyone. That's all we're
21 talking about. And what we're suggesting to you is that this
22 proposal doesn't include the necessary mitigation. Now,
23 we've suggested some ways to --

24 COMMISSIONER SHAPIRO: And that is, according to
25 your words, that is the primary concern with this project.

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1 Not the lack of affordable housing --

2 MR. SMITH: What we have said is, from our
3 perspective --

4 COMMISSIONER SHAPIRO: -- not the design issues.

5 MR. SMITH: -- we are concerned about the public
6 safety issue. We don't --

7 COMMISSIONER SHAPIRO: Your primary concern with
8 this project is public safety?

9 MR. SMITH: That has always been our concern with
10 this project.

11 COMMISSIONER SHAPIRO: The primary concern?

12 MR. SMITH: Sure, yes. I mean, that's what we
13 said. Public safety is a big deal to us.

14 COMMISSIONER SHAPIRO: Okay. You know, we're
15 talking about lives here. And it's not a minor concern. I
16 mean, all you have to do is --

17 MR. SMITH: No, it's clear.

18 COMMISSIONER SHAPIRO: All you have to do is walk
19 or drive along the streets of Washington, D.C. and realize
20 we've got a very serious public safety issue here for
21 pedestrians everywhere.

22 MR. SMITH: Commissioner, I appreciate it and I
23 hear you. Thank you. Thank you, Mr. Chair.

24 CHAIRMAN HOOD: Any follow-up questions? So, Mr.
25 Smith, you said exactly my point about stuff happening, and

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1 this is where I was going earlier with the earlier part. You
2 know, this is not unique. It doesn't just happen over here
3 with the staging. It goes on all over the city. So, you
4 know, and I know Columbia Heights and other areas, they deal
5 with it all the time.

6 So I just think that, for me, in your testimony,
7 and I'm glad that Commissioner Shapiro went down those lines
8 so I look more to public safety, but I thought your
9 affordable housing piece really resonated with me and I'm
10 going to push the Applicant and see what we can do because
11 it goes back to what I was saying to Mr. Repp. You know, I
12 know about the economics, and, no, it probably wasn't
13 anything. Maybe I asked for that. But if you're really
14 serious about affordable housing, we have some, but can we
15 get more? Let's see. Let's go down that road. And if
16 you're really serious and you don't have a problem with
17 affordable housing in your area, then I'm hearing you talk
18 about the density now and I know what it calls for, but I'm
19 hearing that. So what if we pushed the envelope a little
20 more to do the economic piece because I know it costs to
21 build, so that's why I walked down those lines with Mr. Repp.
22 I wasn't really satisfied with his answer. But let me ask
23 you all the same thing: would you be willing to build more
24 so we can get more affordable housing?

25 MR. SMITH: Chairman Hood, I think that we, you

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1 know, from a personal level, you're talking to the choir
2 here, okay? But looking at this from the perspective of this
3 hearing and what we're here for tonight, we would embrace the
4 idea of more affordable housing, really affordable housing,
5 at this site. And whether it's, you know -- and we're also
6 aware that, you know, the numbers for D.C. nationwide are
7 relatively low in terms of the requirement. I mean, you go
8 out to Montgomery County, it's 15 percent. Go out to Fairfax
9 County, it's 20 percent, maybe it's 25 percent, you know.
10 Even in Boston, the way it's done is that there are different
11 zones within the city where -- and the wealthier areas have
12 a higher requirement for delivering affordable housing.

13 So, yes, you know, if you want to push the
14 envelope, you know, let's all look at the economics of this
15 project and see how much affordable housing is reasonable to
16 ask for. You know, we're not privy to that information. I'm
17 not sure, you know, I'm not sure we can or should be privy,
18 but someone here in the city should be privy to it if it's
19 a PUD and you're looking at the possibility of public housing
20 as a meaningful, I mean, not public housing but affordable
21 housing as a meaningful public benefit of the project. I
22 mean, that's what the PUD process is all about.

23 So I would encourage you all to look at it to see
24 what you think is worth, makes sense from an economic
25 standpoint.

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1 CHAIRMAN HOOD: Yes, well, maybe we should find
2 out some areas in Ward 3 to put some public housing, as well
3 --

4 MR. SMITH: That's fine.

5 CHAIRMAN HOOD: -- so everybody across the board
6 can live all over the city.

7 MR. SMITH: That's fine.

8 CHAIRMAN HOOD: That's where I am with this.

9 MR. SMITH: And we agree with you, Chairman Hood.

10 CHAIRMAN HOOD: Okay, good. I'm glad --

11 MR. SMITH: We agree with you and that's what
12 we've been fighting for many, many, many years.

13 CHAIRMAN HOOD: Okay.

14 MR. SMITH: Many, many years.

15 CHAIRMAN HOOD: All right, all right. That's
16 enough on that, but I'm glad to know and I really appreciate
17 the conversation you had. I was hoping affordable housing
18 was your big push in your testimony, but I see that, actually
19 I'm sure all the points are important, and that's how I'll
20 treat it.

21 Okay, all right. Any other questions or comments?
22 All right. Well, let's see if we have any cross. Does the
23 applicant have any cross? Commissioner Kravitz?

24 MR. KRAVITZ: I just want to make sure I'm clear
25 about this. Does the city consider rent-controlled units

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1 affordable housing units?

2 MR. SMITH: I'll answer your question the way I
3 want to answer it, okay? If you look at the research, at the
4 literature, in the area of affordable housing, the experts
5 tell us that there are multiple tools and inclusionary zoning
6 is not the only tool that's available for any city. You
7 know, affordable housing is a component of the inclusionary
8 zoning regulations, but, from a standpoint of affordable
9 housing, there are multiple tools. And what we are saying,
10 Troy, is that we, as a city, if we're really going to be
11 serious about affordable housing in this city, we need to use
12 all the tools in that toolbox, and that includes rent
13 control. And the literature would suggest that other cities
14 look at it the same way.

15 MR. KRAVITZ: Okay. You spoke about workforce
16 housing for a D.C. Public School teacher or first responder.
17 In D.C., the workforce fund would go towards those making up
18 to 120 percent of the District's median income. Do you know
19 what income corresponds to 120 percent of the District's
20 median income for a family of four?

21 MR. SMITH: No, but I'm sure you can help us.

22 MR. KRAVITZ: Does \$141,000 correspond with your
23 notion of affordable?

24 MR. SMITH: I'm so glad you asked the question
25 what is affordable --

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1 MR. KRAVITZ: Thank you.

2 MR. SMITH: No, no, I'm not -- you asked me a
3 question. I'm glad you asked the question what is affordable
4 because that is an interesting question because according to
5 many experts, in some areas, it's 80 percent of the median
6 income of the area being discussed. All right? So we're not
7 talking necessarily low-income housing. There's differences.
8 There's affordable housing, and what we said was we believe
9 that we should be able to, as we build housing, any area of
10 the city should be able to provide housing that keeps our
11 first responders, our teachers, and others in the
12 neighborhoods in which they serve.

13 MR. KRAVITZ: So I probably know the answer to
14 this, so I'm guessing you disagree with Councilmember
15 Silverman who says that money could be put to better use on
16 public housing renovations and on programs aimed at helping
17 those making between 60 and 80 percent of the District's
18 median income?

19 MR. SMITH: I don't know if that has to do with
20 the case. I'll ask Mr. Hood and the legal counsel.

21 CHAIRMAN HOOD: Let's see, how does that tie in?
22 I know that's really a stretch, but how does it tie in?

23 MR. KRAVITZ: Because the applicant is offering
24 housing that targets those percentages, as opposed to 120
25 percent of area median income.

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1 CHAIRMAN HOOD: Okay. Since he didn't testify,
2 let's go to the next course. ANC 3E, Mr. McHugh, do you have
3 any cross?

4 MR. McHUGH: Jonathan McHugh, ANC 3. This is a
5 question for Mr. Smith, and, actually, I'm not sure how this
6 fits. So we did do, we did look up, for Commissioner May,
7 we did look up the checkbook and found the same results. I
8 can put that into the record.

9 Mr. Smith, you just mentioned something about the
10 numbers about 15 percent IZ in Montgomery County and 20
11 percent IZ in Fairfax County. Where did you get those
12 numbers from?

13 MR. SMITH: Actually from the two counties
14 themselves.

15 MR. McHUGH: I mean, do you have a reference for
16 that?

17 MR. SMITH: I don't have it written down, but I'd
18 be happy to provide it for you for the record.

19 MR. McHUGH: Because I'm pretty sure that's not
20 true, I mean, unless you're talking about some nuance in IZ
21 --

22 MR. SMITH: No, I'm not talking about any nuance.
23 In fact, there's quite a lot of literature out there that
24 identifies the -- lists the amount of -- the IZ requirements
25 by cities. So, you know, it's actually a very interesting,

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1 you know, and I'll be very happy to provide you with, provide
2 for the record, if the Chairman allows me to, for the -- it
3 wasn't included in our testimony. It was just something I
4 offered as part of an answer to a question.

5 MR. MCHUGH: No, I'm just curious because I wanted
6 to have a look and see that. That's all I have. Thank you.

7 CHAIRMAN HOOD: Okay. Thank you. Ward 3 Vision,
8 do you have any? Okay. I'm going to come back to Ward 3
9 Vision. Spring Valley Neighborhood Association, do you have
10 any cross?

11 MR. CLARKSON: William Clarkson, Spring Valley
12 Neighborhood Association. Just back to the rent control
13 question, Mr. Smith, would rent control apply to this
14 project, the rent control statutes? I mean, how would that,
15 how would that help address the lack of affordable housing
16 in Ward 3, specifically ANC 3D and 3E?

17 MR. SMITH: Well, one, ANC 3D and 3E have, I won't
18 answer for 3E. 3D has quite a lot of rent-controlled units
19 within the 3D boundaries. And, in fact, as terms of
20 apartment buildings in Spring Valley, we actually do have two
21 apartment buildings in Spring Valley that are just at the end
22 of the block where I live, for example, that are two-story
23 apartment buildings. I'm not sure whether they're under rent
24 control. I think the question with respect to -- I assume
25 they are, though, because of the date in which they were

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1 built.

2 With respect to the question you asked about this
3 project, I think one of the questions really is whether this
4 project, even though it is being proffered as a rental
5 building, whether it will be registered as a condo or whether
6 it will be registered as a rental building. And so that
7 could, when rent control is back up for 2020, that could be
8 an issue for this building going forward. But we don't know
9 yet. In fact, we've asked the applicant if it will be
10 registered as a condo or an apartment building, and the
11 applicant, as you know, you were at the same meeting,
12 indicated that they would make that determination after this
13 process is over and when they go for permitting of
14 construction.

15 MR. CLARKSON: Thank you for that. But as far as
16 rent control being a tool in the toolbox you mentioned to
17 address affordable housing, would it be used as a tool to
18 help address affordable housing with respect to this
19 particular project or --

20 MR. SMITH: I think I just answered the question.
21 I think that, in some cases, it would be helpful to know
22 whether this building is going to be registered as a condo
23 or a rental building. And when the rental, when rent control
24 comes back, comes up again in 2020, depending upon that
25 classification, it could be a factor for this development,

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1 you know.

2 And, again, you know, this is not about rent
3 control and this case is not about rent control. The issue
4 of affordable housing has come up and the question of whether
5 we're doing our fair share, you know. And could we do more?
6 Yes, we could do more, you know. And all hands need to be
7 on deck for that. Our comment, though, is that the developer
8 has an opportunity to do better with respect to this
9 particular proposal before us and also that we feel that the
10 developer, we feel that the city should be demanding more of
11 the developer than what they have. The 11 percent just seems
12 incredibly inadequate, given the density of this building and
13 the location of this building and what we suspect will be a
14 very lucrative economic sheet, okay? But we don't have those
15 numbers to actually say, but that's our suspicion, given some
16 of what we've heard in, on the street about costs and all the
17 rest of it with this building but none of which we've ever
18 been able to confirm.

19 MR. CLARKSON: One more question. Dr. Kraskin
20 just testified that he, that your group opposed the previous
21 proposal from Valor, which I believe is Case 16-23, because
22 of the affordable housing issue. Is that in the, I assume
23 that's in the record. You stated that in your prior filings.

24 DR. KRASKIN: In our prior filings, under the
25 understanding from Mr. Hood that we're not to discuss 16-23

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1 --

2 MR. CLARKSON: But you raised it.

3 DR. KRASKIN: No, I did not.

4 MR. CLARKSON: You said you opposed this project.

5 DR. KRASKIN: No. Actually, what I said was
6 previously --

7 MR. CLARKSON: In the previous.

8 CHAIRMAN HOOD: Let me say, you did mention those
9 numbers. So why don't we move on? Do me a favor, let's move
10 on. It's getting late. Let's move on and talk about 16-23
11 at the ANC meeting or something.

12 MR. CLARKSON: All right. So no more questions.
13 Thank you very much.

14 CHAIRMAN HOOD: Thank you. I appreciate it. Mr.
15 Wheeler.

16 MR. WHEELER: John Wheeler, Ward 3 Vision. Has
17 Spring Valley Wesley Heights Citizens Association taken a
18 position on affordable housing before any government agency,
19 the Zoning Commission, or the City Council when it was
20 formally considering rules and regulations concerning
21 affordable housing?

22 MR. SMITH: Mr. Wheeler, if you, first of all --

23 MR. WHEELER: I'm just asking a yes or no
24 question.

25 MR. SMITH: There is no yes or no to that

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1 question.

2 MR. WHEELER: Okay. If you don't have a yes or
3 no answer, I'll go ahead.

4 MR. SMITH: You don't want me to answer the
5 question?

6 MR. WHEELER: No, no, if you don't have a yes or
7 no answer, I don't. That was a yes or no question.

8 CHAIRMAN HOOD: He's withdrawing his question.
9 Okay. Next.

10 MR. WHEELER: Has the Spring Valley Wesley Heights
11 Citizens Association made a presentation at the ANC 3D or 3E
12 when they were formally considering this project 19-10?

13 MR. SMITH: Did we make a formal presentation?

14 MR. WHEELER: Did you attend --

15 MR. SMITH: What's your question? Did we attend?
16 The representatives of Spring Valley Wesley Heights Citizens
17 Association were in attendance at ANC 3D meetings during this
18 process.

19 MR. WHEELER: What does that mean,
20 representatives?

21 MR. SMITH: Members of the board.

22 MR. WHEELER: And so those members of the board
23 spoke --

24 MR. SMITH: No, you didn't --

25 MR. WHEELER: Oh, they attended.

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1 MR. SMITH: They attended, actually, you know,
2 with all due respect, the procedures that ANC 3D imposed on
3 residents for this provided little, we don't believe they
4 provided much in the way of opportunities for people to speak
5 in terms of time limitations. And so, you know, that's just
6 the way it goes.

7 MR. WHEELER: So you did not make a formal
8 presentation?

9 MR. SMITH: ANC 3D knew very clearly where it was
10 --

11 MR. WHEELER: And did you make a presentation of
12 ANC --

13 MR. SMITH: Actually, I've even had -- excuse me.
14 I've even had private conversations with Commissioner Kravitz
15 about this, and I think, actually, that should be no secret
16 because Commissioner Kravitz mentioned that at the hearing
17 the other night that he's talked with both Dr. Kraskin and
18 with myself and also with Mr. Paul. So we have worked with
19 our individual ANC commissioner representatives and shared
20 our views with them.

21 MR. WHEELER: Have you made a presentation to ANC
22 3E?

23 MR. SMITH: No. ANC 3, Spring Valley does not
24 fall within the ANC 3E but --

25 MR. WHEELER: But this project does.

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1 MR. SMITH: This project falls primarily within
2 the ANC 3E boundaries. It affects Spring Valley residents,
3 and so we actually talked to our own ANC commissioners who
4 are -- and, as a former commissioner of ANC 3D, I know
5 something about how people feel about when people who don't,
6 are not your representatives talk to you about something.
7 So we talked to our duly-elected representatives.

8 MR. WHEELER: Okay. Thank you.

9 CHAIRMAN HOOD: I feel like I have been at a 3D
10 ANC meeting. Okay. So now I know what goes on, at least
11 from the perspective I just heard. Again, we want to make
12 sure cross-examining questions help us with this particular
13 case. That would be very helpful.

14 So let me go to CRD. Do you have any cross? Who
15 do I listen to? Mr. Repp, he said one question. Okay. I
16 shouldn't do that because -- yes, okay.

17 MR. REPP: With respect to rent -- Shelly Repp.
18 With respect to rent control, you said when rent control
19 comes up again, so the statute is up for -- I know I read in
20 the paper that there's proposals to expand rent control, but
21 so what you're referring to, you know, the possibility of
22 rent control for this building if it's apartments, as opposed
23 to condos, it will depend, correct, on what happens with that
24 legislation?

25 MR. SMITH: Our understanding is that yes, and

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1 that it would also, whether this building would fall under
2 rent control guidelines would be if it was classified as a
3 rental building versus a condo building. If it's registered
4 -- and lots of apartment buildings in our area are registered
5 as condos. The Avalon, for example, is registered as a
6 condo, even though it's been a rental building since day one,
7 you know, and continues to be a rental building today.

8 MR. REPP: But it would depend on whether the new
9 construction, whether it's eligible for rent control under
10 an amended statute.

11 MR. SMITH: Correct.

12 CHAIRMAN HOOD: Okay, thank you. Commissioners,
13 is there any other questions of this party? Vice Chairman
14 Miller?

15 VICE CHAIR MILLER: Thank you, Mr. Chairman. I
16 had to do that to continue along those lines because I think
17 rent control is an important, has been an important
18 affordable housing program in the city. But you are aware
19 that it's not an income-restricted program, and you are aware
20 that rental units, that new construction has always been
21 exempt from rent control ever since the enactment of rent
22 control in 1976, so anything built after 1976. And I think
23 I may have read the same articles that Mr. Repp may have
24 read. I haven't seen any proposal that -- I did see
25 suggestions that it may be expanded to beyond 1976, but I

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1 haven't seen anything that said new construction such as this
2 type of building would be. I think in '80 it went back five
3 or ten years, which would capture a lot of buildings. But
4 it's been exempt, new construction has basically been exempt
5 since 1976. You're aware of that.

6 MR. SMITH: Yes, I am aware of that. But I'm also
7 aware of how the politics in our city is changing
8 dramatically and how the need for affordable housing and how,
9 you know, the issue of affordable housing is at its peak in
10 terms of the level of interest politically and among the
11 residents of this city since I've lived here. I moved here
12 almost, you know, more than 40 years ago now. You know, I've
13 never seen it at this peak and I --

14 VICE CHAIR MILLER: I just wanted to put those
15 facts on the record in terms of what the current situation
16 is and the current proposals, that nothing would --

17 MR. SMITH: I am aware of it, but I also know
18 that a lot of people are working behind the scenes and at a
19 lot of desks to try to come up with a lot of different
20 iterations of rent control, and I hope to be a part of that
21 effort.

22 VICE CHAIR MILLER: Okay. Thank you.

23 CHAIRMAN HOOD: Okay. Any other questions? All
24 right. Thank you all very much. We appreciate it.

25 Okay. I'm going to ask Avalon to come back up.

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1 Oh, I'm sorry. Oh, and this is a big listing for me. I
2 would have been really in trouble. Okay. We're going to go
3 to persons who are in opposition. How many people are going
4 to testify in opposition? Raise your hand. Okay.

5 Okay. Can we go down to one?

6 MS. SCHELLIN: Do you want me to start? Because
7 it's not started -- yes, it's Richard Tatum, Milton Buchler,
8 Keisha --

9 CHAIRMAN HOOD: Come forward when you hear your
10 name called.

11 MS. SCHELLIN: Keisha Hylton-Rodic, Alexander
12 McRae, Sondra Mills. I believe Stephen Hansen was actually
13 part of the opposition party, so he's already testified. Ann
14 Stansbury, Jason Mitchell. How many is that? That's eight?

15 CHAIRMAN HOOD: Everybody whose name has been
16 called, it should be eight people. I see five. So the other
17 three are not here. Let's keep going. Three more.

18 MS. SCHELLIN: Walter Borek.

19 CHAIRMAN HOOD: Are you going to testify? You're
20 part of the group, so yes. Okay. So let's call three more.
21 Two more.

22 MS. SCHELLIN: Okay. Aidan Jones.

23 CHAIRMAN HOOD: One more.

24 MS. SCHELLIN: Charlotte LeGates.

25 CHAIRMAN HOOD: Okay. So the rules of the day,

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1 we want to make sure that we don't have to come back a third
2 night, so the rules of the day is Ms. Schellin will organize
3 the clock. I don't know whether you're a party, I mean, not
4 a party, an organization or an individual. She will organize
5 that. I would ask that when you have a minute left that you
6 get ready to wind, you have a minute left, wind it down.
7 When you hear the second buzzer, that's the end of it, okay?

8 The first person is going to be the example and
9 show us how it's done, and I want everybody to follow suit,
10 okay? Ms. Schellin, we need a warning sound. After the
11 warning sound, you'll hear two beeps. The first one you have
12 a minute left, the second one stop. Okay.

13 All right. Let's start with the young lady.

14 MS. LeGATES: Thank you. I will be brief,
15 Commissioner Shapiro. I am certainly right there with you
16 on turning this into more affordable housing.

17 CHAIRMAN HOOD: Would you identify yourself?
18 Everybody identify themselves first.

19 MS. LeGATES: Oh, I'm sorry. Charlotte LeGates.
20 I live about three blocks from the development on
21 Massachusetts Avenue.

22 But putting more people into this alley, as I
23 believe would happen, you have people standing on
24 Massachusetts Avenue looking about 60 feet toward a retail
25 entrance, and about 30 feet of that you have people walking

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1 in the alleyway in the right-of-way where you have trucks
2 going forward, trucks going backward, trucks backing up
3 through the junction because they have to get into the
4 parking bays. You have a real hazard there, and imaging that
5 people will look at that and then decide to go all the way
6 around the block is just unrealistic.

7 We need more safety in this area, and I would ask
8 the Commission to please take that into consideration as you
9 are looking at this project. The end.

10 CHAIRMAN HOOD: Okay. That's what I'm talking
11 about. Next. That's a hard act to follow right there.

12 MR. BOREK: My name is Walter Borek. I live at
13 4833 Alton Place. It's like 367 steps away. Talking about
14 the comprehensive plan, I know it's under revision or however
15 you want to say that, but this project fails to comply with
16 the comprehensive plan as it is and even as it will go
17 forward. Land use element, urban design element. On each
18 of the slides, the term I want to discuss in the upper right-
19 hand corner, the definition is below it. The definition is
20 from the glossary of the comprehensive plan glossary and
21 there's an illustration to further talk about it.

22 Page two, overarching goals for urban design in
23 D.C., reinforcing the identity of its neighborhoods,
24 harmoniously integrating new construction with existing
25 buildings. Ten sections of those three elements especially

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1 address compatibility of development with existing
2 neighborhoods in terms of neighborhood context sensitivity,
3 density, mass, scale, and human scale.

4 Next page, three, chapter three. You will read.
5 I don't have to read this to you. The pertinent parts are --
6 well, all of these and all on the next page all address and
7 all talk about that compatibility in those terms specifically
8 and that it should be compatible.

9 Page five, neighborhood context, overall
10 atmosphere defined by scale and design of its buildings, the
11 appearance of open space, vegetation, and the characters of
12 its uses. AU Park is a detached, two-story single-family
13 home neighborhood.

14 The next page is a drawing of proposed
15 neighborhood context if this is built. Next page, page
16 seven, context sensitive. We are creating buildings which
17 sensitively integrate projects into the context of their
18 setting. I have the Yuma Street elevation there, I have the
19 pedestrians indicated because it comes up again and again,
20 and the surrounding context which is that home that's there,
21 that brick home that's there.

22 These drawings, all my drawings were drawn over
23 top of their drawings and are not misrepresentations.

24 Next page, eight, context sensitive. We've
25 already gone through the definition. Mr. Hood, I addressed

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1 this a year ago. It never got anywhere, but the brick
2 problem or the brick situation or consideration. Seventy-
3 three percent of the total wall surface of this project, all
4 four sides, is yellow brick and beige material. Twenty-seven
5 percent of the total wall surface is red brick.

6 Page nine, density, the number of dwelling units
7 per acre of land. AU Park runs at about eight residential
8 units per acre. This project runs at 121 residential units
9 per acre. The development is 15 times as dense per acre.

10 Page ten, mass, bulk or expand the structure
11 expressing --

12 CHAIRMAN HOOD: So, Mr. Borek --

13 MR. BOREK: Yes, sir.

14 CHAIRMAN HOOD: I know that has been ringing the
15 whole time so that last one was your stop call.

16 MR. BOREK: Should I stop now?

17 CHAIRMAN HOOD: Yes. We have your --

18 MR. BOREK: Please look at the last page or the
19 last two pages. Thanks.

20 CHAIRMAN HOOD: Keep your seat because we might
21 have some questions. Okay. Next.

22 MR. MITCHELL: My name is Jason Mitchell. I live
23 around the corner from the site with my wife and two small
24 children at 4704 Warren Street. I'd like to provide some
25 perspective to the Commission on the neighbor safety concerns

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1 of the proposed development.

2 Because of the way the development is designed,
3 the traffic impacts on the surrounding neighborhood are going
4 to be extreme. As you've heard, Valor plans to have the
5 tractor-trailers servicing the building coming through
6 neighborhood streets and utilizing the existing narrow alley
7 behind the AU building. That alley will also be used by many
8 of the building residents and customers of the grocery store
9 to enter the building's garage, as well as the other alley
10 entrances.

11 Almost immediately after 48th Street turns off
12 Massachusetts, it intersects with my street, Warren. The
13 intersection of 48th and Warren is going to become a heavily-
14 trafficked choke point due to Valor's plan to route so much
15 traffic onto our neighborhood streets. As a result, all of
16 the surrounding streets in the neighborhood, including mine,
17 are going to absorb a large percentage of the 3,000-plus
18 trips per day this development is going to generate.

19 That's a real threat to the safety of my family
20 and my neighbors. My side of Warren Street does not have a
21 sidewalk. To get to a sidewalk, I and my children and my
22 wife have to cross the street in the middle of the block.
23 The same is true a block over on Windom and in many other
24 streets around the immediate vicinity of this development.
25 Sidewalks can't be added either due to the nature of the lots

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1 and the 80-year-old trees that are up against the street.

2 Nearly every home on my block has either small
3 children or seniors, and that's typical of the neighborhood
4 since the schools attract families with young children. I
5 have a four and six-year-old that have to walk across the
6 middle of our block every day to get to their school. It's
7 simply not going to be safe for my family or me to cross the
8 street if this development goes through the way it's
9 proposed, and that isn't limited to my family or my street.

10 When I walk down to Mass Avenue to take the bus
11 to work, I have to cross 48th Street right where it comes up
12 from Massachusetts and splits into Warren. That's already
13 a dangerous intersection. There's no stop signs for cars on
14 48th Street, including those coming from Mass. They race up
15 our street and throughout the neighborhood to cut between
16 Massachusetts Avenue and Wisconsin. And the AU buses that
17 already stop and idle there obstruct the views of drivers and
18 pedestrians.

19 The increased traffic from this development and
20 the way that it's been designed is going to make an already
21 dangerous situation even worse. Unfortunately, adding stop
22 signs to that intersection, which is the only way to make it
23 safe in my opinion, would make the traffic at this
24 intersection a nightmare backing up onto Mass Avenue if this
25 proposal is approved.

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1 Some increase in traffic would be inevitable even
2 with the responsible development on this site, and I
3 recognize that. But the particular design of this
4 development, which places nearly all of its traffic burden
5 on neighborhood streets, rather than on the major arteries
6 of the city, makes it untenable from my perspective.

7 A responsible development, including one as a
8 matter of right, would not send so many tractor-trailers per
9 day in my neighborhood, would be smaller, and would not be
10 such an imposition and burden on our community. Thank you.

11 CHAIRMAN HOOD: Okay. Thank you. Next. Let me
12 apologize for the beeping. If you don't know which beep it
13 is, I'll help you.

14 MS. MILLS: Good evening, Chairman Hood and
15 members of the Commission. My name is Sondra Mills, and I
16 live at 4827 Alton Place very close to Mr. Borek, you know,
17 a block and a half or so from this particular development.

18 I hope that what has been said tonight has laid
19 to rest the idea that we are just a bunch of so-called
20 NIMBYs. I found personally offensive the accusations that
21 were made by the ANC representatives on Monday evening that
22 we want to just keep certain people out of our neighborhood,
23 that we are opposed to affordable housing, that we're opposed
24 to apartments in our neighborhood. I hope that has been put
25 to rest because those statements were uncalled for,

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1 offensive, and really shameful.

2 Look at us. We are not a bunch of wealthy people.
3 We are retired or nearly retired people. We've lived in the
4 neighborhood for a long time, and it's a neighborhood that
5 has attracted so many young families and we are delighted by
6 that.

7 There are people who have not been able to express
8 their views. One of them is here tonight. Her name is
9 Marilyn Rickert, and she lives on Yuma Street directly across
10 from this particular development. Marilyn is here, and she
11 asked me if I would please say a few words for her. Her
12 health is not very good. She's been in her house for 47
13 years. Twenty-two of those years she has been a retired
14 federal civil servant.

15 That little black house that you saw next to the
16 big development, that's Marilyn's house or at least it's the
17 one right next door to hers. She will no longer look across
18 the street and screening from this little Super Fresh Market
19 parking area. She's going to be looking at a giant building
20 that's going to have a lot of trucks and a lot of people
21 constantly going in and out.

22 And I think you really need to consider the burden
23 on people like Marilyn and people like the rest of us who are
24 not young. We can't hop on a bicycle or a scooter and run
25 around. We depend upon cars. We'd like to be able to walk

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1 places. But we need those places to be safe when we do walk.

2 And so I think that's all that I have to say to
3 you. Thank you for listening.

4 CHAIRMAN HOOD: Thank you. Next.

5 MR. JONES: Good evening, Commissioners. My name
6 is Aidan Jones, and I live at 4612 Brandywine Street, which
7 is about halfway between Massachusetts and Wisconsin Avenues.
8 And I've lived in that neighborhood, I've lived in that
9 particular house since 1983, five blocks away up closer to
10 the Wisconsin Avenue battle zone for six years before that.
11 So I'm very familiar with the neighborhood.

12 We're within walking distance of what was the
13 Super Fresh, and we walk there often. We sometimes drove,
14 but we used it very regularly and found it to be useful for
15 90 to 95 percent of our grocery needs. I oppose Valor's
16 application because it includes a limited-service grocery
17 store, like Mom's, that won't serve additional needs in the
18 neighborhood. And even if Mom's commits to a lease, it would
19 duplicate products and services that Wagshal's and others
20 have long provided in that community. And Valor's project
21 is so massively out of scale for the neighborhood that it is
22 inconsistent with the comprehensive plan in my view.

23 But what I wanted to talk most about in this three
24 minutes I have is that I don't think Valor has a legal basis
25 for this project, and that's because the owner of the lots

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1 in question, which are 806 and 807 and that lower is a party
2 applicant here, transferred \$179,302 square feet of gross
3 floor area rights from Lot 807 to Lot 806 to enable
4 construction of the American University six-story building
5 that's contiguous to this site at issue here. And that
6 relinquishment is reflected in a recorded deed of easement
7 and agreement that runs with the land and is binding on
8 subsequent owners and tenants.

9 Applicant has made a statement to the effect that,
10 other than the owners listed in the agreement to whom the
11 benefits and obligations of the document apply, there are no
12 third-party beneficiaries. That statement is flatly
13 incorrect. I think it's a bedrock of zoning law that owners
14 of neighboring property are, in fact, third-party
15 beneficiaries of recorded easements.

16 The Spring Valley Shopping Center is not able to
17 recompense the owner of Lot 807 for those rights because
18 Spring Valley Shopping Center never received them in the
19 first place. And, certainly, the owner of Lot 806, a
20 co-applicant here, cannot recompense the Lot 807 owner
21 because the relinquished development rights were used up to
22 build and are embedded in the six-story AU building on Lot
23 806.

24 Whatever rights and heightened density that
25 historic property like Spring Valley has to transfer, those

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1 zoning rights are certainly curtailed. And so I think that
2 applicant has repeatedly failed to legally justify its
3 proposed double-dipping here.

4 CHAIRMAN HOOD: Thank you. Next.

5 MR. McRAE: My name is Alexander McRae. My wife
6 Shannis and I have lived at 4420 48th Street, Northwest, for
7 over 43 years. We are 200-footers, our single-family house
8 being only 185 feet from the Super Fresh site. This
9 expresses our sincere opposition to the revised application
10 for development of the Super Fresh site filed by Valor
11 Development.

12 The reason for our opposition to Valor's revised
13 application include a number of continuing issues and
14 negative impacts as follows: The development is just too
15 massive and is incompatible with our neighborhood. That's
16 one. The project would bring no real benefits to the
17 community. The project would bring major difficulties and
18 stress in many aspects of daily life for the residents of the
19 community. The project will have an overall adverse effect
20 on our community, including huge increase in vehicular
21 traffic including trucks and heavy equipment 24/7 with
22 increased danger to pedestrians, diminished air quality, and
23 increased noise pollution.

24 Non-existent public transportation. We are
25 promised public transportation for \$100,000. I wonder how

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1 much that will pay for. But the fact is that most of our
2 residents, as was mentioned before, are not capable of
3 getting to the Metro or out of our neighborhood by bicycle
4 or scooters, and so cars are going to be used and probably
5 by the new tenants, if they move in.

6 Also, there's inadequacy of utility infrastructure
7 and an impact on schools and police, fire, and emergency
8 response services. That's just to mention a few things.

9 Please, take our opposition and objections to
10 Valor's revised proposal for development under consideration.
11 We are definitely not against all development and would
12 support a reasonable development plan more in keeping with
13 our well-established residential neighborhood. This is our
14 third letter to the Commission opposing Valor's proposed
15 massive construction.

16 Thank you for your consideration of these
17 concerns.

18 CHAIRMAN HOOD: Thank you. Next.

19 MR. BUCHLER: I'm Milton Buchler, II, the owner
20 of 4713 Windom Place, a one and a half-story Cape Cod
21 directly across 48th Street from the site which Valor
22 Development seeks to develop, the Super Fresh site. I still
23 strongly oppose the proposed development due to its
24 insistence on a huge building above Valor's chosen 48th
25 Street BMP, the high point of their property.

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1 And since he ticked off many of my bullet points,
2 I will avoid repeating most of them. Just a few. The
3 proposal is inconsistent with the amended comprehensive plan
4 and clearly not in keeping with Thomas Jefferson's vision for
5 a Washington where the houses are low and convenient, the
6 streets light and airy. There is no attempt by this
7 development to respect continuity with the surrounding
8 neighborhood of single-family homes and low-rise commercial
9 shopping center. An undulating wall does not continuity
10 make. They have an ill-conceived traffic pattern, no
11 discernable benefit to the surrounding neighborhood, the
12 western sky forever blocked and blotted from view at my
13 house, and the loss of any sense of privacy.

14 I have heard Mr. Kravitz's comments about the
15 Massachusetts Avenue parking shops being something of a
16 memorial to suburban sprawl, and that's the point. AU Park
17 is like a suburban area. That sprawl to which he appears to
18 object, in this case, is completely urban, this being the
19 District of Columbia. This large building totally unsuited
20 to this neighborhood. It needs a more urban setting. How
21 Hildegrist got it so right 80 years ago and Valor so wrong
22 now is beyond me.

23 As a child, some of my earliest memories are
24 walking across 48th Street with my parents to do the weekly
25 shopping and up Windom a couple of blocks with my mother to

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1 visit my grandmother. Her back porch was covered by a
2 climbing rose. Early on, the house, my house now, was even
3 fronted by a proverbial white picket fence. Of course, there
4 was little traffic. Well, the fence, the trellis, and the
5 rose are all long gone. What memories does this Commission
6 foresee --

7 CHAIRMAN HOOD: Okay. Thank you, thank you.
8 Next.

9 MR. TATUM: I'm Richard Tatum, a homeowner on
10 Windom Place, 270 feet from the site. I am opposed to this
11 development plan for the following reasons: The developer's
12 plans are inconsistent with the comprehensive plan. The
13 future land use map shows the site is low-density commercial,
14 which we've already talked about as being one to three-story
15 buildings. The plan far exceeds this requirement. It will
16 tower over adjacent homes and the historic shopping center
17 as shown in the developer's own renderings.

18 In looking at Chapter 23, Rock Creek West area
19 element, as well as the city-wide elements of the plan, are
20 found at least 40 statements and policies with which this
21 plan is inconsistent. Policy RCW111 summarizes these
22 findings. It states protect the low-density stable
23 residential neighborhoods west of Rock Creek Park and
24 recognize the contribution they make to the character,
25 economy, and fiscal stability of the District of Columbia.

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1 Long-lived successful neighborhood businesses will
2 close or be gravely injured. The DeCarlo's Restaurant, a
3 neighborhood, institution, will be forced to close or move.
4 Wagshal's market, deli, and restaurant operations in the
5 shopping center will be severely damaged because their
6 kitchen will be forced to move from the site, as well their
7 catering and barbeque businesses. Dozens of employees may
8 lose their jobs, contrary to the city's plans for job growth.

9 The comprehensive transportation review in DDOT
10 supporting memo are flawed. The CTR in the memo are
11 purposely limited in scope to serve the developer's interest,
12 not the residents. Impacts of traffic on residents are not
13 addressed. The project boundary includes several lots, but
14 the CTR measurements only look at Lot 807. Pedestrian safety
15 is mostly ignored.

16 A few references are made in terms of meeting
17 city-wide regulations but not in terms of specific safety
18 improvements to benefit the neighborhood. What about
19 pedestrian safety in the shopping center parking lot which
20 is within the project boundary and mentioned by ANC 3E
21 Commissioner Quinn on Tuesday? Vision Zero is not mentioned.
22 The HAWK light proposed for Massachusetts Avenue has no
23 supporting data in this plan.

24 The answer to simple questions like how much
25 traffic will increase or how much will traffic increase or

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1 decrease or either buried in a sea of numbers but mostly not
2 addressed. Where are the before and after traffic
3 comparisons and graphs? What little before data is presented
4 wrong and slanted toward the developer's interest. The CTR
5 compares future development conditions with a site containing
6 24,000 square feet of grocery store operation. This site has
7 never existed and no one has ever proposed such a grocery on
8 this site. These simply are not the current conditions.
9 It's a false comparison.

10 Thank you for your attention.

11 CHAIRMAN HOOD: Okay. Thank you all very much.
12 Let's see if we have any questions. Hold your seat for a
13 second. Any questions up here? Okay. Not seeing any. Does
14 the applicant have any cross? Okay.

15 Does ANC 3D have any cross? Does ANC 3E have any
16 cross? 3E? Okay. Ward 3 Vision? The Spring Valley
17 Neighborhood Association? Mr. Clarkson had to leave. So
18 noted. What about -- I shouldn't have said that. Spring
19 Valley Wesley Heights and Neighbors for a Livable Community,
20 do you have any cross? And CRD, do you have any cross?

21 Okay. You all can switch your seats. Okay.
22 Thank you all very much. We appreciate it.

23 Ms. Schellin, can you call the next eight?

24 MS. SCHELLIN: Yes. Keisha Hylton-Rodic, she has
25 come back in the room. Then we'll go on to Stephen Band.

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1 Did he come back? Yes. Actually, you are on the undeclared,
2 so I don't know why you're on this list. You're undeclared,
3 so sorry about that.

4 Doug Barnes. Laura Ivers. Okay. Francisco
5 Valentini. Childcare also? Is that what I heard? Frederico
6 Mordini. Eli Borek. Lauren Sun. Let's see how many we got
7 now.

8 CHAIRMAN HOOD: So we'll move kind of quickly.

9 MS. SCHELLIN: Okay. It looks like we still have
10 some more seats. Elizabeth Mitchell. Maybe for the last
11 person on the list, Dennis Williams.

12 CHAIRMAN HOOD: So is Mr. Williams here? We
13 actually have one more seat, I believe. Two more? Somebody
14 is coming, one. So we have one more seat. Is anybody else
15 --

16 MS. SCHELLIN: Yes, Mr. Williams. He's the last
17 person on the list.

18 CHAIRMAN HOOD: On the list. Okay. No, we have
19 a seat here. And the undeclared person. We have one
20 undeclared person, right?

21 MS. SCHELLIN: Yes.

22 CHAIRMAN HOOD: Okay. Why don't you sit -- Mr.
23 Williams, you sit right here and let the undeclared sit down
24 there, so we're distinctly identified. Is there anyone else
25 who would like to testify? Okay. We're going to close on

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1 this group. This is our last group for the evening, and then
2 we will be ready for rebuttal and closing, cross and then
3 closing.

4 Okay. You may begin.

5 MS. MITCHELL: From the start, this project has
6 always felt like it was pitting profits --

7 MS. SCHELLIN: Give your name.

8 MS. MITCHELL: -- against people and nowhere is
9 that more evident than in the current iteration of this
10 development.

11 MS. SCHELLIN: Name.

12 MS. MITCHELL: Oh, sorry. Elizabeth Mitchell.
13 Sorry. Take, for instance, the alleyway. As you walk
14 through, you see metal barriers and guardrails protecting all
15 of the valuable things: air conditioning units, stairwells,
16 even dumpsters. Despite repeatedly lobbying for the same
17 minor protections, Valor, our own ANC, and DDOT are
18 recommending against them, which I find highly unusual.

19 If we weren't willing to erect, if we're willing
20 to erect metal guards at the same space for dumpsters and air
21 conditioning units, why aren't we willing to afford the same
22 bare minimum protection for the most vulnerable members of
23 our community who are being asked to share this space with
24 tractor-trailers, delivery trucks, and unfamiliar drivers.
25 Metal barriers would also help prevent small children from

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1 running into the road and protect the elderly or disabled who
2 might slip and fall into the path of oncoming traffic.

3 It's not a big ask or a heavy lift, but it could
4 save lives and help us get to Vision Zero. If you don't want
5 people walking through alleyway, don't build a sidewalk there
6 at all. Otherwise, you're creating an attractive nuisance.

7 I'm also extremely troubled by the fact that I
8 haven't heard anything about lead. As I'm sure you're aware,
9 lead is a major threat to children living near construction
10 sites. There have already been three underground tank leaks
11 in the area, and yet I couldn't find the soil contamination
12 report or a plan to protect the grocery store, which they're
13 going to have to dig deep to build, from these pollutants.

14 Our neighborhood is a wonderful place to raise a
15 family. With rare exceptions, every house that is sold in
16 our neighborhood in recent history has gone to a family with
17 young children. On our block alone, six homes have sold in
18 the past four years. All were sold to families with at least
19 two children, and all of those children were under the age
20 of five. So imagine my surprise when I read the Deputy Mayor
21 of Education's letter. Somehow, in a building that could
22 accommodate 336 school-aged children, the Deputy Mayor
23 expects that only nine will be attending our elementary
24 school. What was even stranger still was to read the OP
25 suggestion that, based on this finding, the developer should

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1 put some play structures or play spaces for these nine
2 children out of a possible 906 possible residents.

3 The letter correctly states that all three DCPS
4 schools in our area are currently overutilized and are
5 projected to stay that way for the foreseeable future. What
6 the letter fails to capture is that we're projected to be
7 25-percent overcapacity in the near future.

8 Students at Alice Deal Middle School already can't
9 fit in the cafeteria, and if nothing is done about this we're
10 going to have a middle school with over 2,000 students.
11 Wilson will no longer be able to take students from other
12 parts of the city.

13 Overcrowding has very real consequences. Janney
14 has already had to scrap their pre-K - 3 program. And as
15 we're struggling to make space for students we have to
16 accommodate by law, we'll have to get rid of what's left of
17 our pre-K - 4 program. Not having access to free local pre-K
18 programs will further burden low and middle-income families
19 who are already struggling to afford to live in our
20 neighborhood. There is absolutely no plan by DCPS, the
21 Mayor, or the masters of facilities plan to address this.

22 The Mayor has called upon all of us to create
23 3,000 more units of housing in Ward 3, but she hasn't given
24 us any of the tools we need to accommodate those extra
25 students, commuters, or residents.

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1 I would urge you to pick people over profits and
2 reject this plan until we can find solutions to the myriad
3 of problems it presents.

4 CHAIRMAN HOOD: Thank you. Next. Let me go to
5 the next person, and we'll come back.

6 MR. WILLIAMS: My name is Dennis Williams. I'm
7 here representing the Tenleytown Neighbors Association. We
8 presented testimony which is in the public record, and I'll
9 just summarize briefly here.

10 This project consists of a four to six-story
11 apartment building with up to 219 residential units,
12 including approximately 24 units of affordable housing and
13 five townhouses. This mid-rise building is not located on
14 Massachusetts Avenue, that's an important point, which is
15 a major corridor. Rather -- and this is where you would
16 expect a building of this density. Rather, this building is
17 going to be situated behind the buildings facing
18 Massachusetts Avenue and will face the residential houses,
19 two-story houses, on Yuma Street and 48th Street. And it's
20 right across a residential road. It's a very narrow road.

21 Proposing to locate such a massive building within
22 a low-rise low-density residential community has stimulated
23 broadly-based and carefully-reasoned opposition from nearby
24 residents. Despite that opposition and despite the passage
25 of three years, this proposal has been on the table for three

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1 years, Valor has failed to engage in a serious discussion of
2 strategies to mitigate the effect of this six-story
3 development on the nearby single-family homes on Yuma. And
4 tonight I heard, as you heard, with the reduction of one
5 story, its opponents would look very differently at this
6 proposal. And it shouldn't have taken three years to get to
7 this point.

8 Although all members do not live in the immediate
9 vicinity of the project, we oppose the project as it is
10 proposed because we believe that it conflicts with the
11 general need to find a balance between the growth of mid-rise
12 developments along major corridors, such as Massachusetts
13 Avenue and Wisconsin Avenue and the vitality of adjacent
14 low-rise residential neighborhoods, a balance that is key to
15 the overall social and economic health of all D.C.
16 communities and a central principle of the comprehensive
17 plan.

18 Moreover, it is an essential factor for achieving
19 more rapid approval of affordable housing projects and for
20 meeting the Mayor's ambitious housing goals. And we bring
21 this to your attention because this is an issue which will
22 come up, has come up in the past and will continue to come
23 up until people learn to meet together and find a way to
24 balance development on the corridors with residential housing
25 nearby.

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1 Thank you, Mr. Chairman.

2 CHAIRMAN HOOD: Thank you. Are we ready for your
3 presentation? Okay. You may begin.

4 MR. BARNES: Doug Barnes. Good evening,
5 Commissioners. This neighborhood investment will last 30 for
6 more years, so it's important to get it right. The
7 neighborhood deserves a better building than this one.

8 This is the current view. Next. This is the
9 current view of the Spring Valley Shopping Center. Next.
10 The picture on the left is the proposed building towering six
11 to seven floors over the shopping center. On the right side,
12 is my Photoshop view of the building minus two stories. I
13 think you'll agree that the smaller version looks better than
14 the larger one.

15 Next. In the wide view of the neighborhood, you
16 can see that the height of the AU building makes it stick out
17 like a sore thumb. In the upper right-hand corner is a
18 rendering of the proposed Valor building. It shows that the
19 proposed building is even larger than the AU building.

20 Next. With the project, the alley widths in
21 yellow are unchanged at 20 feet. The traffic will increase
22 by more than ten times to levels of the nearby city streets,
23 which are in red. The new building wall actually narrows
24 rather than widens the alley wall-to-wall space from 50 to
25 35 feet. This will be less room for vehicles and pedestrians

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1 to maneuver.

2 Valor's rendering of the three-foot sidewalk shows
3 that it's being encroached by a parked car. The mirror hangs
4 over and compromises the narrow sidewalk.

5 Here is a picture of a three-foot sidewalk at the
6 PNC Bank adjacent to the new project. It is doubtful anyone
7 uses this sidewalk during peak times. One pedestrian every
8 minute will be using the north-south alley.

9 With a little imagination, the alleys could come
10 alive and keep pedestrians safe. Pictured are a Georgetown
11 alley where cars are and a pedestrian-only alley in Bethesda.

12 Next. We may lose Wagshal's because of this
13 development. Wagshal's proposed an urban market concept to
14 Valor Mill Creek, but it was rejected. It would be a shame
15 to use a popular local retail business.

16 I did a financial analysis of the finances of the
17 project and found that a smaller building will have a meager
18 impact on the financial rate of return. Lower revenue will
19 be balanced by lower cost.

20 Many neighbors are against the project. Each star
21 represents neighbors that signed a petition in 2016. Today,
22 nearby neighbors are still against this project.

23 In conclusion, this new building should be a
24 win-win for the neighborhood, meaning lower height, new, more
25 diverse retail, more affordable housing, a

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1 pedestrian-friendly and safe alley network, and a better fit
2 with the neighborhood. This neighborhood deserves a better
3 building. Thank you.

4 CHAIRMAN HOOD: Thank you. Next.

5 MS. HYLTON-RODIC: My apologies for being late.
6 The babysitter was late.

7 CHAIRMAN HOOD: Okay. No problem. Could you turn
8 your mike on and identify yourself?

9 MS. HYLTON-RODIC: Yes. My apologies. Sorry for
10 being late. I really wanted to be here, but the babysitter
11 was late. But I said I'm going to turn up, so thank you for
12 giving me the opportunity to speak.

13 My name is Keisha Hylton-Rodic. I live at 4712
14 Windom, which is directly across from the proposed
15 development, 200 feet. I have three small kids, like my
16 other neighbor who lives up the street, you know. I'm one
17 of the young families that actually just got here less than
18 a year ago, and, to my surprise, I heard about this going on.

19 But, you know, I would say I have many concerns.
20 I would say one of them is the traffic issue. I think it's
21 already unsafe on 48th right now, and I shudder to think
22 what's going to happen later because infrastructure that's
23 there right now is not adequate to deal with the traffic.

24 You know, the other issue that I have is the fact
25 that I think the building is just too big as it's proposed.

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1 You know, along with Doug, I would agree to maybe the
2 building being a little bit shorter, maybe two floors, and
3 maybe have a little bit more townhouses. That may be a
4 solution.

5 But, anyway, in the interest of time, I'll be
6 quick. I wanted to share with you a little bit about the
7 neighborhood from my perspective. This is a picture I took
8 out of my bedroom window, so this is what I see every day.
9 This is the AU building, and the proposed building is going
10 to be about the same height. So from where I will be
11 standing, I mean, I'll have two sore thumbs sticking out my
12 window, and I will no longer be able to see the horizon.
13 This is a beautiful afternoon last Friday. That will be
14 gone.

15 This is from my driveway. Again, you'll see how
16 the building dominates for the people who live across 48th
17 Street. This red circle is where the driveway for one of
18 Valor's driveway will be sitting. My driveway, as you see,
19 is at the bottom of the screen. So when I back out, I mean,
20 I have issue with AU right now exiting, so I don't know
21 what's going to happen there in terms of me being able to
22 exit the driveway when I have to drop my kids off and, you
23 know, get back in the evenings. So just the distance.

24 I just want to share with you this is what the
25 neighborhood looks like. This is on 48th Street again. This

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1 is on Yuma. These are the streets that are adjoining the
2 project, and this is up Window. Here is beautiful sunset
3 that will be gone I think about every time I look out the
4 window. This is a picture, I just happened to capture it at
5 dusk, off AU's building. I was surprised I could actually
6 see inside, the students. They were a night class. But, you
7 know, it makes me think about this other project and the fact
8 that they will be able to see me even more because they're
9 going to be closer.

10 I'm all for responsible development, so don't get
11 me wrong. I definitely think something needs to go there
12 because right now it's an eyesore. Nobody likes a parking
13 lot for their kids. This is what is on 48th around the
14 corner, so I think it's a smaller, as you can see, the
15 commercial corridor is definitely smaller. There's AU's
16 eyesore right there in the back above AU's PNC Bank, and now
17 you're going to have another one, as well.

18 So thank you for your time. I appreciate it.

19 CHAIRMAN HOOD: Can you stop the clock for a
20 minute. I want you to go back. Pull it back up, go back,
21 there was a picture that I needed to see again. Keep going
22 back. Right there. No, the one right there. The next one.
23 No, the next one, the house, the house. What's that coming
24 out the window? What's going on right there?

25 MS. HYLTON-RODIC: Well, that neighbor, which I

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1 have not been introduced to, has very colorful decorations.
2 I think it's a decoration for Halloween. It's not a person.

3 CHAIRMAN HOOD: I thought it was someone coming
4 out the window. Okay. I'm sorry. Okay, all right, thank
5 you. Next.

6 MR. MORDINI: My name is Fred Mordini. I live
7 within 200 feet of this development. I came here tonight to
8 protect the safety of my four-year-old child.

9 First, the corner of Mass and 48th is a dangerous
10 corner. I know this firsthand. In 2018, there was a
11 single-vehicle accident here. A driver, perhaps intoxicated,
12 went off the road, hit a steel parking sign, cutting it in
13 half, and then went into a tree that later had to be cut
14 down. The steel sign became a projectile and flew 20 yards
15 into my lawn. I could barely lift the steel sign. The force
16 to cut it in half must have been massive. Certainly, if I,
17 my wife, or my beautiful son would have been there, we would
18 have died. I fear that the next accident at this corner may
19 be fatal.

20 Unfortunately, traffic from this development will
21 stress this corner even more and I will lose personal safety.
22 Compare this to what is gained: a mere convenience, the
23 convenience of walkable groceries. In this comparison, my
24 loss is profound and the gain is very small.

25 Furthermore, from the letters of support, 33

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1 percent of supporters live one mile or more from the site and
2 66 percent live more than a half mile from the site. Thus,
3 it is uncertain if 33 to 60 percent of the supporters will
4 actually utilize this convenience.

5 No corner is safe, and I accept that. But I see
6 no point in maximizing the risk with such high density. We
7 are already failing at Vision Zero.

8 I am not here to block development but, rather,
9 to make it more modest. Three words: make it smaller, make
10 it smaller. In the name of safety for all, especially the
11 new people coming in.

12 Next, the grocery store is completely superfluous
13 in the setting of multiple supermarkets and mail order. I
14 pass by three grocery stores as I commute. To Bethesda, one
15 would pass by four. To Georgetown, one would pass by three.
16 Double these numbers in their round trips. So I ask you, so
17 I ask you how valuable is a redundant resource? If this were
18 a phone, what is the value of your third, fourth, or fifth
19 phone? What is the value of a third, fourth, or fifth car?
20 The answer is redundant resources are nearly useless.

21 Finally, the word unnecessary has become
22 important. This development and the downstream problems are
23 all unnecessary. A better plan exists. We do not have to
24 go forward with this one.

25 What is also unnecessary is the ANC representative

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1 using the word unnecessary against us. This representative
2 accused the opposition of having conversations referring to
3 potential neighbors as unnecessary people. These
4 conversations exist only in his imagination. Rest assured
5 that such conversations never took place. The idea is
6 ludicrous. This is clearly an attempt to mischaracterize the
7 opposition.

8 He alleges that we are exclusionary. Let me be
9 clear: that is a fabrication. This is fake news. In fact,
10 we welcome new people. In fact, I'm concerned for their
11 children as much as mine. Ironically, there's nothing more
12 exclusionary than luxury housing. This development is, on
13 a practical level, is economically exclusionary.

14 Again, the opposition has never denigrated other
15 people. A poor plan and oversized building,
16 over-development, have been criticized profusely. Speaking
17 for myself, I have dedicated my life caring for people, many
18 of them that are vulnerable populations. The implication
19 that I or the opposition do not respect individuals is
20 inappropriate and dangerous. I urge you to vote this down.

21 CHAIRMAN HOOD: Thank you. Next.

22 MS. SUN: Hi, my name is Lauren Sun. I live at
23 4301 48th Street next to Keisha, and I am also a 200-footer.
24 And before I start, Laura Ivers asked me to relate to you,
25 she's also a 200-footer, that she could not be here because

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1 of childcare. And I think the three-day notice for this
2 hearing prevented other 200-footers from attending, too.

3 I did have some prepared remarks, but I also, I
4 was not here on Monday and I was very troubled by what has
5 been mentioned by others but the implication or the overt
6 accusation that we, the neighbors, are opposed to affordable
7 housing. And I don't know all the details about what you've
8 discussed in terms of rent-controlled versus affordable, but
9 I would say that none of our oppositions have anything to do
10 with the amount of affordable housing. And I would
11 wholeheartedly endorse what others have said in welcoming
12 more, and I think that, should the grocery store, 18,000
13 square feet, be converted to affordable housing, I think that
14 would be a great development for this project.

15 I'm a 200-footer and I live directly across the
16 street from the site. All of the cars that are going to be
17 routed through the east-west alley and the trucks will pass
18 in front of my house on their way in and out. I also have
19 two young children, five and seven, and we moved to the
20 neighborhood to have space for them to play and freedom to
21 run around and have some ability to cross the street safely,
22 learn responsibility, play with neighborhood children. And
23 I am very afraid that, having so much traffic pass through
24 what is already an unsafe kind of amalgamation of a bus stop,
25 an alley, a weird corner with no stop signs, and our two

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1 driveways, which are directly across the street from the
2 entrance to the east-west alley, is going to be very unsafe
3 not just for the children but also for drivers. Every
4 morning when we pull out, there are cars speeding down 48th
5 Street and they can't see us because of the bus, and the same
6 is true for people coming out of the east-west alley.

7 So in addition to the traffic safety, I think
8 there's pollution concerns, noise concerns in terms of trucks
9 backing up. That is one thing that will wake me up in the
10 morning, and my children, too, is that sound of trucks
11 backing out of the AU loading dock, and they're not supposed
12 to be there but they are. And with this development and the
13 massive amount of trucks that they're routing through a very
14 tight alleyway space, I don't see that improving at all.

15 So from our perspective, the retail, the grocery
16 store, which will be the driver of all this traffic and this
17 truck traffic, I would love to see that replaced with
18 affordable housing.

19 And I'll just finally note that, in the traffic
20 study, Valor has 13 truck deliveries. It's eight for the
21 grocery store, a larger grocery store than last time which
22 was 16 for a smaller grocery store.

23 CHAIRMAN HOOD: Thank you. Next.

24 MR. BOREK: Good evening. My name is Eli Borek.
25 I'd like to start out by saying that affordable housing and

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1 zoning has lasting and historic impact and access to it is
2 quite possibly the major civil rights and social justice
3 issue of our generation. We should all be major proponents
4 of inclusionary zoning and the expansion of access to
5 affordable housing in our city.

6 The Mayor's goal of 12,000 new affordable dwelling
7 units by 2025 is admirable and must be achieved if we are
8 committed to creating and supporting an equitable and
9 inclusive city, as stated in the most recent addendum to the
10 comprehensive plan. The proposed development, however, does
11 not represent the proper way to do so.

12 There seems to be confusion over this so-called
13 affordable housing benefit being offered by the developer
14 here. Valor has represented that the 11 percent of their
15 project set aside for inclusionary zoning is a benefit.
16 However, 10 percent would already be required, leaving just
17 a one-percent increase in affordable housing over that
18 requirement. This one percent is the benefit being offered
19 and represents a negligible total.

20 It is shameful for a developer to present a plan
21 that asks for relief in an area so desperately in need of
22 affordable housing that includes less than 25 - 30 percent
23 of any future unit count dedicated to inclusionary zoning.
24 If this plan is approved as it exists, it will represent a
25 massive and irreversible loss of one of the few remaining

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1 opportunities in our area to truly make this commitment
2 towards housing equity. If the Mayor's plan and the
3 council's resolution are to be taken seriously, we cannot let
4 opportunities go by with simply one percent offered above the
5 requirement.

6 Speaking of benefits offered in this case, many
7 others, besides the IZ misrepresentation, are truly not
8 benefits. Reorganizing and cleaning up a public alley. This
9 is a commitment to abandoning existing illegal use of public
10 space and is already a requirement placed on the current
11 property owner. Upgrading substandard curb ramps and
12 re-striping crosswalks. DDOT is already doing just this at
13 taxpayer cost. How is it a benefit if the city is paying for
14 it and performing the work?

15 Many others, such as designating a loading zone,
16 adhering to standard construction hours, and providing bike
17 storage, these are already required, while still others, like
18 committing to working with rideshare companies and committing
19 to working with DDOT. These don't actually require the
20 developer to do anything. These are meaningless and
21 certainly have no quantifiable benefit.

22 Lastly, quoting again from the most recent
23 addendum to the comp plan, we should encourage collaborative
24 community-led processes that bring together diverse
25 perspectives. These processes should be clear, open, and

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1 transparent. Notification procedures should be timely,
2 providing appropriate information, and allow adequate time
3 to respond. Our ANC has repeatedly presented us with their
4 memorandums of understanding, including the one signed
5 several weeks ago, at absolutely the last possible instance.

6 For at least the last three agreements they have
7 presented to us, neighbors have had as little as ten minutes
8 to review said agreements, although they had been negotiated
9 for months prior. This is not clear, open, or transparent.
10 These were not timely. They did not provide appropriate
11 information. Please reject this application.

12 CHAIRMAN HOOD: Thank you. Next.

13 MR. BAND: Good evening, Chairman Hood,
14 Commissioners. My name is Stephen Band. I live about a
15 block and a half and about a two or three-minute walk from
16 this site. I've lived there over 30 years. I want to make
17 four points this evening.

18 We are in a mess with this project, and I want to
19 say a word about we and a word about the projects and a word
20 about the mess, and then have a fourth point which is an
21 invitation to you.

22 The we is, yes, we're a privileged community.
23 Yes, we're lucky. Yes, we live in a nice place. But it's
24 totally untrue that we don't want to see affordable housing
25 on this project. My problem with the project in large part

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1 is there's not enough affordable housing. I think it's
2 shameful that they should come forward and say 11 percent is
3 great. It's not enough. So this is not about NIMBY-ism.
4 It's not about opposition to affordable housing. It's about
5 this particular project and this particular site.

6 That brings me to the project. I'm not a
7 commercial real estate guru, but you only have to go to this
8 site to see there are two big drawbacks. One, it's not that
9 big. It's 1.9 acres. And number two, there are huge access
10 problems. Vice Chair Miller has pointed out several times.
11 It's not on Massachusetts Avenue, it's accessed by alleys
12 and by two residential streets. These issues have been swept
13 aside or obfuscated or ignored.

14 A lot can be said about them. I want to just
15 reiterate what's been said about the safety issues. I would
16 love to be with Commissioner Shapiro and think that people
17 are logical all the time. They're not. I do stupid things
18 all the time. Pedestrians are going to wander all over this
19 place. People are going to be biking, scootering. There are
20 going to be trash trucks. It's dangerous. And let's be
21 blunt. I don't want the finger pointing at me when there's
22 an accident, and I don't think you want the finger pointing
23 at you either.

24 So, finally, the mess. I agree that our
25 commissioners have tried hard, but they haven't succeeded.

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1 Here's the mess. We are a divided community, and I'm going
2 to go so far as to say we're an angrily and bitterly divided
3 community. What does that mean? Well, that means if you
4 vote this up or down tonight, I can't say about if you vote
5 it down, but if you vote it up I think we're off to the
6 courthouse. Nobody wants that. It would be stupid.

7 So let me get to my fourth point. I invite you,
8 Commissioners, this evening to lean over your bench and knock
9 our heads together and send us away and say go away and
10 settle it. I think we could do it in three to four months.
11 We need a different kind of discussion. We need a
12 negotiation. We've had tons of informational meetings,
13 questions answered. We haven't had a proper negotiation with
14 the right people at the table. Hire a facilitator, get an
15 agenda, do these things.

16 I'm undecided because I think that could succeed
17 in about a three to four-month time scale. After three or
18 four years, three or four months is not much. Let's try,
19 let's run the final lap and try to get an agreement on this.
20 Thank you.

21 CHAIRMAN HOOD: I want to thank you all. I
22 appreciate it. I'm just going to make a comment on your last
23 point. I am not inclined to be necessarily afraid of someone
24 who does their due process. Whatever decisions that we make
25 down here, if you don't like it, there are other venues you

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1 can go to. You can go to court. You know, that's what it's
2 all about. But we're going to do our due diligence, as we've
3 had.

4 I didn't take that as, oh, we're going to take you
5 to court. I didn't take it like that. But I can tell you
6 some people have come down here and done that, and I always
7 make sure I make it a point that I always say I defend the
8 decision we make because we do the best decision we can for
9 the best interest of the city. So that's why it's a process.
10 Come here, if you don't like it here, you can always take it
11 somewhere else. But we're going to do our job which is
12 before us, and that's land use and zoning issues. So I just
13 wanted to make that note.

14 Are there any other questions or comments? Okay.
15 I did have one. Okay. I'm not going to hold us up. I can't
16 think of what it was.

17 Okay. Let me do cross. Does the applicant have
18 any cross? Does ANC 3D have any cross? Does ANC 3E have any
19 cross? Ward 3 Vision, do you have any cross? Okay. Spring
20 Valley Neighborhood Association representative has left.
21 Spring Valley Wesley Heights and Neighbors for a Livable
22 Community? And CRD, do you have any cross? No? Okay, all
23 right.

24 Thank you all very much. We appreciate it.

25 All right. Mr. Glasgow, if you can come up and

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1 let us know how much cross-examination you have. I mean
2 rebuttal. I'm sorry. How much rebuttal you have and about
3 how much time you're going to need.

4 MR. GLASGOW: Mr. Chairman, I think we'll probably
5 need 15 minutes or so.

6 CHAIRMAN HOOD: Okay.

7 MR. GLASGOW: Maybe 20.

8 CHAIRMAN HOOD: Okay. So 15 to 20 minutes. And
9 we'll see how the cross goes, cross on rebuttal goes. You
10 may begin.

11 MR. GLASGOW: Pardon me?

12 CHAIRMAN HOOD: You may begin.

13 MR. GLASGOW: All right. Thank you. First, Mr.
14 Glatfelter, would you please discuss very briefly to make
15 sure we --

16 CHAIRMAN HOOD: Excuse me one second. For those
17 who are leaving and for those of us who have to stay, I ask
18 those who are leaving, if you're going to have a
19 conversation, you can carry it outside. Okay, you may begin.

20 MR. GLASGOW: All right. Thank you. Would you
21 please discuss very briefly building height measuring point,
22 and I want to make sure that we get those slides into the
23 record.

24 MR. GLATFELTER: Yes, sir. We looked at the site
25 elevation as the question came up what is actually the curb

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1 elevation? Is it on an embankment? Is it on in situ soil?
2 And we went back through historical maps starting first in
3 1900. This is 20-foot contour lines. It's the best
4 available information that we have to work with, and, using
5 these contours, I roughly estimated site elevation at that
6 time where the street would be around 265.

7 Again, another map is available in 1945. These
8 are ten-foot contours. You get a little bit closer, and,
9 once again, it's approximately 265. In the 2015 existing
10 conditions survey, the point of measurement in the mid-block
11 there puts the surface of the road at 265.18.

12 As we tried to solve the question of embankment,
13 we started to look at aerial photographs, and this is in
14 1962. You can see an at-grade entrance which is directly
15 across from the intersection there at Windhom, and it is on
16 grade.

17 In 1964, we actually get a snapshot of the
18 construction of the subterranean level for the parking
19 garage. What you see there, that thick line, is sheeting and
20 shoring application, which shows the excavation and the
21 retaining of 48th Street.

22 Here is the completed 1970 site aerial photograph.
23 That now shows the entrance that we all come to know right
24 there. That is a ramp that goes down into the parking deck
25 away from 48th Street.

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1 We also had the opportunity to measure some
2 existing trees to see. As they were planted in a grid
3 pattern, it wouldn't be natural. They were put there as a
4 street landscaping, and we were able to measure the diameter
5 and also one was cut down that had grown over the existing
6 curb and became a hazard, and we were able to count the rings
7 on the trees to try to ID it, or not ID it but to date it,
8 and it is roughly 75 years old, which means the curb line has
9 not changed in the past 75 years.

10 MR. GLASGOW: Thank you. Next, Mr. Dettman, would
11 you please address the consistency with the future land use
12 map and the low-density commercial designation?

13 MR. DETTMAN: Certainly. As I testified on Monday
14 in addressing the comprehensive plan, you see before you,
15 it's an excerpt of the comprehensive plan future land use map
16 showing the subject property and showing that it is
17 designated as low-density commercial. In my testimony on
18 Monday, I talked about how the MU4 zone or the former C2A
19 zone is expressly stated as being a zone that is consistent
20 with the low-density commercial designation in the
21 comprehensive plan.

22 Also, there was some testimony about how the
23 applicant was mischaracterizing or misinterpreting the
24 Cathedral Commons case, and we've included some testimony in
25 the record as to that case. In that case, there was a PUD

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1 map amendment to take a site and zone it C2A, and that site
2 was designated low-density commercial, just as this one. In
3 the order for that case, the Cathedral Commons case, the
4 Commission went to great length to make a determination of
5 whether or not a map amendment to C2A or MU4 today is
6 consistent with the low-density commercial and also went to
7 great length to determine whether or not a building that was
8 more than one to two stories was consistent with the
9 low-density commercial.

10 And I'll just read a couple findings from that
11 order. It says the Commission finds that the proposed map
12 amendment to C2A is not inconsistent with the comprehensive
13 plan or the character of the surrounding area. The
14 Commission notes that the C2A zone is noted as one that
15 comports with low-density commercial designation. Further,
16 the comprehensive plan designates the low-density commercial
17 category as primarily one to three stories with retail,
18 office, and service businesses use as predominant use. The
19 plan does not require, however, that each block strictly
20 correspond to the general description. The plan also
21 specifically states that housing is explicitly permitted in
22 the commercial land use categories and permits heightened
23 densities beyond the typical ranges of one to three stories.

24 Further, the proposed five-story building on the north
25 parcel and two-story building on the south parcel will not

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1 be inconsistent with the low-density commercial land use
2 category. The commercial area will continue to be primarily
3 two and three-story buildings.

4 That case, as you know, Commissioners, was
5 appealed in Wisconsin, New York, Neighborhood Coalition, and
6 D.C. Zoning Commission and was upheld. The court in that
7 case stated petitioner's argument that Giant's proposal is
8 inconsistent with the plan because the proposed apartment
9 building is neither low-density, nor commercial, is
10 unpersuasive. The Commission explicitly rejected
11 petitioner's argument that the absence of a mixed-use
12 designation on the FLUM precludes mixed-use development, as
13 the text of the plan is clear that housing is permitted in
14 all commercial areas.

15 Additionally, the Commission noted that the plan
16 states that housing is explicitly permitted in the commercial
17 land use categories. It goes on to talk about the typical
18 ranges of one to three stories. And then it goes on to say
19 that the Court agreed with the Commission's findings in that
20 case relative to whether or not MU4 is consistent with the
21 low-density commercial designation.

22 MR. GLASGOW: Next, I want to just quickly hit one
23 of the items that was mentioned in the opposition document
24 because they talked about the, and it was one of the
25 witnesses that talked about it, that the project harms the

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1 neighborhood by removing important benefit conveyed by terms
2 on the existing declaration of easement and agreement. And
3 they cite the agreement, and they cite a case of Citizens
4 Association v. Burka which is about this property, and they
5 state that that opinion opined that the beneficiaries of the
6 easement were intended to be nearby property owners.

7 So I just want to mention very quickly in that
8 court opinion, and this would be at page 739 in the court
9 opinion, and we'll get that into the record. It says after
10 a public hearing on March 26, 1973, the Council adopted a
11 resolution on April 17th ordering that the requested portion
12 of the alley be closed, that's the portion between AU Lots
13 806 and 807, be closed subject to a deed of easement for
14 vehicular and pedestrian access.

15 There has been, I would say, a misreading of that
16 by the opposition, and they take that and they say, they end
17 up saying that the nearby property owners are a beneficiary
18 of that easement, which they're not. And we'll get a copy
19 of the easement into the record because I don't want to take
20 too much time on it, but I want this in the record.

21 Then at page 746 the committee feels -- that's at
22 the court opinion again, 745 - 746. The committee feels that
23 the Zoning Commission should give careful consideration to
24 the implications in the future of alley closings which have
25 significant effect on allowable floor area ratio. The

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1 council nevertheless did not find reason to solicit the
2 Zoning Authority's views in this case, nor did it attempt to
3 impose restrictions beyond the filing of an easement over the
4 alley primarily for the benefit of nearby property owners.
5 It had nothing to do with the allocation of FAR, which it
6 also happens is in the same covenant. So I would say that
7 there's a complete misreading of that Court of Appeals
8 decision. And when you look at the covenant itself in
9 paragraph seven with regard to the easements and then it goes
10 down through, and it says with regard to the easements in
11 paragraph three that they can be terminated on December 20th,
12 2077, unless sooner terminated by consent of the owners. And
13 there's a reason why I'm going through that. I just want to
14 make sure that that is in the record.

15 Now I want to get back to the others. With
16 respect to traffic in the alley and compared to traffic today
17 in the future, Erwin, would you please address that?

18 MR. ANDRES: Good evening, Chairman Hood, members
19 of the Commission. For the record, Erwin Andres with
20 Gorove/Slade Associates.

21 So there's been discussion that CRD brought up
22 regarding comparison of traffic in the alley with respect to
23 what's out there today versus what's projected. And the
24 difference is stark, and we don't dispute that. I think
25 what's important, though, is that to put it in the context

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1 with what was there previously. And what we had asserted and
2 what I presented on Monday was that the proposed, the
3 existing use, which was on the site before which consisted
4 of 44,000 square-foot combined retail and grocery, we
5 specifically used 24,000 square-foot grocery store and a
6 20,000 square feet of retail space because those were the
7 previous uses. And we compare that using the same
8 methodology that CRD cited with our proposed project, and
9 it's very clear in all of our filings that during the evening
10 peak hour and a Saturday peak hour, our proposed development
11 generates less than what had been previously there. And the
12 reason for it, as I continually try to confirm and reaffirm
13 is that retail per square-foot generates more traffic than
14 residential. And that is pretty clear across the entire
15 industry that I work in. So it's important that I just
16 wanted to confirm that.

17 In addition to that, you know, there's been
18 discussion about a lot of neighbors talking about the grocery
19 stores that they currently go to. I think it's important to
20 put that in context because what people don't understand is
21 that in a neighborhood there might not be a grocery store
22 today, but grocery store trips are happening because people
23 are going in their cars and driving to other grocery stores
24 in other neighborhoods. And that traffic is actually on the
25 network.

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1 So by locating something, a grocery store, within
2 a neighborhood, those trips are shorter. And in many
3 instances, those trips can be walked to or biked to, as
4 opposed to some of these other grocery stores that are
5 anywhere between a mile and three miles away. And even
6 worse, some of these grocery stores are actually in
7 Montgomery County.

8 So it's important that, even though the traffic
9 calculations don't take that into account because it's
10 layered into baseline traffic, people are going to grocery
11 stores today in that neighborhood. Unfortunately, they're
12 not going in their neighborhood, they're going outside of
13 their neighborhood to go to grocery stores. So it's
14 important that I highlight that for the Commission.

15 In addition to that, I don't mean to belabor the
16 point, I know some of the commissioner's questions related
17 to the loading video. Some things I just wanted to highlight
18 so I can get through it relatively quickly is that the alley
19 configuration that they showed in the video isn't consistent
20 with where all the walls are going to be with the proposed
21 plan. And one other thing I wanted to identify is that --
22 Shane, can you show the circulation?

23 So it's important that you see that red line. Is
24 there any way to maximize that screen? That red line
25 essentially shows, with respect to the projects loading

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1 vehicles are coming in and out on Massachusetts Avenue. So
2 it's important to note that this circulation plan, which is
3 in our CTR, essentially identifies how vehicles get in and
4 out for loading. So we're trying to localize the loading
5 traffic coming in and out of the site.

6 And the last point is --

7 MR. GLASGOW: Erwin, I think, unless it's a
8 critical one, we're running low on time. I want to turn it
9 over to Mr. Dettman.

10 MR. DETTMAN: Sure. Just one quick point, as
11 someone had mentioned it in their testimony, with respect to
12 public safety and that there was no mitigation being proposed
13 in the alley. Just a note, probably a point that Erwin
14 should be making, he's the transportation expert, but I'll
15 just note that in the report DDOT did not indicate that there
16 was any mitigation required for the alley. There were some
17 intersections around the site, but, despite that, the
18 applicant, as benefits to the project, are proposing several
19 improvements to the north-south public alley in order to
20 improve public safety in the alley. It's not mitigation.
21 Because it's not mitigation, we proffered it as benefits in
22 the alley.

23 In terms of what can be a benefit and what is not,
24 there's been testimony that the design of the building cannot
25 be proffered as a benefit. It's clear in the PUD regulations

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1 that superior architecture and urban design and landscaping
2 can be proffered as a matter of right. The architect could
3 have designed a building that was a straight facade straight
4 along the property line all along 48th and all along 49th.
5 The fact is that, because this is a design review and one of
6 the standards is superior design is why you have the design
7 before you today.

8 The grocery store. It is a benefit. We did not
9 proffer it on the provision that talks about the three-mile
10 radius. We proffered it as a use of special value because
11 we heard from the neighborhood that it is a use of special
12 value to the nearby residents. The grocery stores that were
13 identified in the opposition slide all were at least a mile
14 and a half from the subject property. That's not walkable.
15 This is intended to be a neighborhood-serving grocery store
16 that people will walk to, so that's why we provided it as a
17 use of special value.

18 Housing. Housing just in general is a benefit
19 under the PUD regulations. Setting aside affordable,
20 housing, in general, is a benefit, and we'll have 219 new
21 dwelling units on this site.

22 There's been a lot of talk about affordable
23 housing. We never proffered that 11 percent is the benefit.
24 Under the PUD regulations, affordable housing is only a
25 benefit to the extent that it exceeds IZ. And so that's why

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1 we've consistently said that, because this is a project that
2 does not require any PUD-related density, we are providing,
3 we have committed to 11 percent, which exceeds the minimum
4 required under IZ. And so that is actually the benefit.

5 MR. GLASGOW: All right. And, Mr. Andres, I
6 wanted you to state that, with respect to the traffic
7 generation by the project, I noticed that the mode split that
8 was used in your report was 90/10 and the mode split that was
9 accepted by the DDOT was 70/30. And, therefore, there is
10 even additional capacity there.

11 MR. ANDRES: Yes, that's correct. So what we've
12 identified in our CTR is that we've done essentially two
13 trip-generation analyses, one that identifies a higher trip
14 mode which is 90 percent and a lower one which is more
15 reasonable at 70 percent. And based on DDOT's review letter,
16 they suggested that the 70 percent is more in line with what
17 they anticipate. And in that, I believe that the difference
18 in the 70 percent and 90 percent are dozens of trips that can
19 lend itself to flexibility.

20 MR. GLASGOW: Thank you. We would also like to
21 get into the record a letter from Regency who was the owner
22 that says what the benefit is of the funds that they would
23 get by this. But that's with the shopping center. And then
24 I'd like to turn it over to Mr. Lansing to discuss the work
25 that's been done over the past 48 hours, given the, I'll call

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1 it the challenge that the Commission gave us on Monday to get
2 from 11 percent to 12 percent.

3 MR. LANSING: Mr. Chair, Will Lansing, applicant,
4 on the development team here. You'd think by listening to
5 the opponents that we're not offering anything on this
6 application, but, much to the contrary, you know, we've
7 listened quite often for the past four years and I think, in
8 addition to what we consider to be quite a robust amenity
9 package, we heard the Commission loud and clear and we did
10 spend the past two days since Monday looking pretty hard to
11 find if we can get to a higher percentage of affordable
12 housing. And we can commit to the 12 percent. We will do
13 it in the current height and density. Again, we're not
14 asking for any additional height or density benefits here,
15 so we'll do it in the current envelope that's been proposed.

16 We will need confirmation that we will have the
17 typical and standard flexibility language of the plus or
18 minus 10 percent on the residential. But, again, we're happy
19 to make that commitment to the community and to the city on
20 upping that to 12 percent.

21 MR. GLASGOW: And do we have anything else, Shane?
22 We have one item here with respect to the historic
23 preservation.

24 MR. DETTMAN: One thing, there was a comment from
25 the Commission on Monday about the penthouses and the town

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1 homes and the sloping roof and all that. And the architect
2 has taken a look at that, and we can commit to removing those
3 and doing some sort of a hatch. There are several different
4 types of hatches that are out there, and these are some
5 precedent examples. This is not what's being proposed, but
6 there are a lot of examples of different types of hatches
7 that you can do on a roof.

8 And so what we would commit to is removing the
9 town homes, the 10-foot town homes, as being proposed, doing
10 some sort of a hatch --

11 MR. GLASGOW: Ten 10-foot penthouse --

12 MR. DETTMAN: Ten-foot penthouses. Removing that,
13 doing a hatch, and setting a maximum height of that hatch
14 because you can see some of these examples do have a little
15 bit of height to them. You know, setting a maximum height
16 of, say, five feet, it would all be set back, as required,
17 five feet so that the architect can continue the design
18 process and pick something that's sort of representative to
19 this.

20 We would still require, we think we need the
21 special exception for a penthouse because the regulations say
22 that a penthouse less than four feet has to be set back, but
23 it's not subject to the penthouse reg -- but, nonetheless,
24 it's still a penthouse. If you do a penthouse and a
25 townhouse, you still need the special exception. Here, we

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1 believe that we meet the criteria for special exception and
2 the condition would be that the penthouse and the town homes
3 would be no more than five feet. We think that that could
4 work.

5 The Hansen report or the Preservation Matters
6 report has a couple of statements about no one knows really
7 what's being sold and what's being bought. We showed a
8 graphic on Monday that showed exactly what's being allocated
9 from the regency site to Lot 807. It's approximately 50,115
10 square feet.

11 There was also mention about how there's no
12 preservation benefit here. We would argue that the permanent
13 reduction of GFA from other map site is the preservation
14 benefit, and that has been specifically stated as being a
15 preservation benefit in the Heurich Mansion case Zoning
16 Commission Order 101.

17 I can leave it there.

18 MR. GLASGOW: That concludes our rebuttal.

19 CHAIRMAN HOOD: Thank you for your rebuttal.
20 Commissioners, questions on rebuttal? Vice Chairman?

21 VICE CHAIR MILLER: I don't want to prolong this
22 at this hour, but I just wanted to comment and maybe ask a
23 couple of questions. Thank you for being responsive in terms
24 of upping the affordable housing to 12 percent of the square
25 footage. I would just point out for the record that the 11

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1 percent, although it's one percentage point, that actually
2 is 10 percent above the amount. And now at 12 percent,
3 you're at 20 percent above the minimum required amount in
4 terms of square footage of affordable housing.

5 I hope you will be still proffering the same two
6 and three-bedroom unit sizes because I think that's part of
7 the affordable housing public benefit that was there to begin
8 with because that's beyond any requirement that's in the
9 inclusionary zoning, as well.

10 MR. GLASGOW: Commissioner Miller, I'd only add
11 into that that, with respect to the 10 percent flexibility
12 that we have, we can't --

13 VICE CHAIR MILLER: That was there previously in
14 terms of what you were requesting. I'm not sure where we are
15 on that, but, yes, I understand that.

16 Also, I guess I needed a response to, I realize
17 the pedestrian, I appreciate the reiteration of pedestrian
18 improvements that are being made in the alley system and
19 throughout the project and in neighboring adjacent sidewalks,
20 as well. And I see that there is delineated pathways.
21 There's some delineation that is going to be a sidewalk.
22 There was some opposition testimony that we just received and
23 maybe DDOT can comment on, as well, that they were requesting
24 some kind of metal barrier to separate, I guess, pedestrian
25 pathway from the -- and I just wanted to hear what that, I

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1 don't know if that is safer or not. I just wanted to know
2 if that was considered or is it just, it is shared space
3 between pedestrian and vehicles, I mean, like a lot of
4 developments. Certainly, the Wharf --

5 MR. GLASGOW: The Wharf. It's all shared space.

6 VICE CHAIR MILLER: Yes.

7 MR. ANDRES: Commissioner Miller, again, Erwin
8 Andres. So, yes, the intent is for it to be shared space so
9 that, as if you would be walking in the alley today, the only
10 difference is that you would be walking on the side of the
11 alley adjacent to the building.

12 VICE CHAIR MILLER: But there will be a
13 delineation of some kind of structural paving or --

14 MR. ANDRES: Yes.

15 VICE CHAIR MILLER: -- of that pedestrian space.

16 MR. ANDRES: Yes, similar to there was a
17 representative graphic of Cady's Alley in Georgetown. So
18 it's, you know, maybe not, it's -- you will be able to tell
19 where you should be walking and where you should be driving.

20 VICE CHAIR MILLER: Okay. And, finally, there was
21 opposition, party in opposition testimony tonight, and I'm
22 not sure I'd seen that in previous filings, that they would
23 support, one of them would support, a building that was one
24 floor less. I realize that that top floor is set back
25 considerably at different points. What would be the effect

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1 on your project? How many units would you lose? Would it
2 be a viable project? Have you considered that opposition
3 argument part of the discussion?

4 MR. LANSING: So we've actually had quite a number
5 of discussions with the opposition around this topic, and,
6 through the years, they keep raising their hands saying, you
7 know, no negotiation and a fair deal, and we believe we've
8 reached pretty far and as far as we can to do that by, I
9 think, the move under a different application was we actually
10 lost a significant amount of density, and that hurt us pretty
11 well.

12 So I think any further cuts or loss of square
13 footage, it renders this project unfinanceable and untenable,
14 unfortunately. So to the tune of losing a floor would be,
15 you know, 30 or 40 units, which is significant economics to
16 support this project.

17 So we've looked at it. We found it very, very
18 hard, and we've carved it as best as we can.

19 MR. GLASGOW: And I think with the now 12 percent,
20 that would be about, it's about 47,000 square foot for a
21 floor and there would be 5,640 square feet of affordable
22 housing lost.

23 VICE CHAIR MILLER: Thank you very much.

24 CHAIRMAN HOOD: Any other questions or comments?
25 Okay. Quickly, Mr. Kraskin has a submission, and I want you

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1 to respond to me of why on page one and half of his page two
2 talks about affordable housing. I heard that whole
3 conversation. I want a response from you all in writing.
4 I want a sound bite response. Let me do this: a one-pager.
5 That's what my boss tells me, I want a one-pager. I'm not
6 the boss, but I do want one page so it will help me make a
7 decision of why some of these things are not looked at.

8 I heard the discussion just now, but I think I
9 would like for us to put some of what his comments were in
10 this equation, and also I want you to go back and look at how
11 Commissioner Smith articulated when I asked him that
12 question. I meant to say at that time ditto, I just can't
13 remember all of it. I don't think I can articulate it again
14 like he did, but I don't want to take any words out of his
15 mouth, so I want you to go back and look at that on the video
16 and I want you to respond to those two things for me.

17 Okay. Any other questions up here? All right.
18 Let's go to cross. ANC 3? Okay. Commissioner McHugh?
19 Okay. Spring Valley has departed.

20 Ward 3 Vision? Okay. Spring Valley Wesley
21 Heights and Neighbors for a Livable Community? Okay. CRD,
22 do you have any questions? And could you let me know about
23 how many you have? Okay, come right on and have a seat. So
24 I don't think we'll need a third night. I think we're going
25 to finish.

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1 MR. REPP: With respect to the one, the
2 negotiation you referred to, Mr. Lansing, you referred to in
3 many negotiations with the opposition, particularly us, with
4 respect to a lower building. Frankly, I only remember, there
5 were presentations made where you discussed the project, but,
6 as far as I remember, there was only one negotiation with
7 respect to the issues that we were talking about, that was
8 last November. Is that correct?

9 MR. LANSING: Can you clarify the question? I
10 recall a series of discussions around height and mass with
11 your group at various touchpoints throughout the history of
12 this, and I think the point I made to the Commission was that
13 we did react to that in the way of reducing significant mass
14 of the building and height, which, again, I think, in a fair
15 negotiation, was a big move on our part.

16 MR. REPP: Well, I think the record is different.
17 But you said that you had reduced the density considerably.
18 The fact is that most of that density has been pushed into
19 the cellar units, hasn't it?

20 MR. LANSING: That's incorrect.

21 MR. REPP: From the design review until now, there
22 is considerable reduction in density that's not in addition
23 to the 50,000 square feet that's in the penthouse. Actually,
24 the penthouse got expanded and there's now a cellar, right?
25 That was not there before, and that's 57,000 square feet of

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1 density that's not part of GFA, correct?

2 MR. LANSING: We have made significant cuts along
3 the way of the project dating back to the very first
4 application all the way through up until the most recent, so
5 I don't know what your definition of significant is. To me,
6 it's, you know, the 10, the 20, the 30 to 40,000-foot cuts
7 that we've made along the way, those are significant.

8 MR. REPP: And I wasn't referring to that original
9 2015 proposal, which I think, everybody, including yourself,
10 viewed as unrealistic.

11 As far as pedestrian safety, you talk about the
12 shared, the pedestrian path will be shared with, did I hear
13 you right? It's going to be shared between the vehicles and
14 the vehicles and the trucks?

15 MR. ANDRES: So the term shared means it's going
16 to be on the same plane so that there's no curb separation
17 so that, if you are in the alley and you're right next to the
18 alley but on private space, there will be a pedestrian path.
19 So that's the term that we use when we talk about it shared.
20 But it also means that people can actually walk in the alley
21 if they prefer.

22 MR. REPP: I wonder how safe that is.

23 CHAIRMAN HOOD: Well, here's what I'm getting
24 ready to do. I've listened to it for a minute. You ask a
25 question, he gives you an answer --

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1 MR. REPP: I understand perfectly. If trucks can,
2 you mentioned in your testimony that trucks will be, I heard
3 you saying that the trucks will be exiting through
4 Massachusetts Avenue through the Massachusetts Avenue exit.
5 Isn't it true that most of the trucks will actually be coming
6 back through the 48th Street entrance?

7 MR. ANDRES: So what I said was that that trucks
8 will be directed to and from Massachusetts Avenue.

9 MR. REPP: Okay. So not --

10 MR. ANDRES: Not specifically to the Massachusetts
11 Avenue exit, given some of the turning radius constraints.

12 MR. REPP: That's the only questions I have.

13 CHAIRMAN HOOD: Okay. Thank you. Commissioner
14 Smith?

15 MR. SMITH: I only have actually three questions.

16 CHAIRMAN HOOD: Okay, thank you.

17 MR. SMITH: Can you help us understand what does
18 the one-percent addition for affordable housing under the
19 inclusionary zoning rules mean in terms of additional units?

20 MR. GLASGOW: The computation under the
21 regulations is in the term of gross floor area that Mr.
22 Dettman --

23 MR. SMITH: I understand that, but that wasn't my
24 question. You've indicated 29 units, so I'm trying to equate
25 that one percent to what that means in terms of numbers of

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1 units, numbers of families that might, additional numbers of
2 people or families that might be able to live there. Any
3 idea? If you don't have any idea, just say it. I mean --

4 MR. DETTMAN: Not at this time. We're committing
5 to 12 percent, which translates to a gross floor area that
6 you have to set aside. When you start to lay out the
7 building, you have to meet a proportionality test under the
8 IZ regulations, and so that additional one percent, which
9 translates to a certain amount of GFA, in order to meet the
10 proportionality test, that additional one percent GFA might
11 end up being a three bedroom, it might end up being a one
12 bedroom and a two bedroom. We just don't know.

13 MR. SMITH: So does that mean also that that 29
14 units you've talked about, that there's some uncertainty
15 about that number, too?

16 MR. DETTMAN: No. So there is an IZ unit plan in
17 the record. We've committed to an additional one percent,
18 which increases the GFA up to 12 percent. We have reiterated
19 that, because this is a matter of right height building and
20 we are below the 3.0 as a matter of right, we really need,
21 in order to make this 12 percent work, which, typically, when
22 you're in a PUD and you're asking for additional density,
23 typically, if you're a ten-percent project, you proffer 12
24 percent, but you're asking for additional PUD density here.
25 We're not.

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1 So in order to make that 12 percent work, it is
2 critical that we have a little bit of flexibility in order
3 to meet the proportionality test and figure out what the
4 layout of the building is going to be. But the important
5 point there is that you're required to set aside a specific
6 set aside GFA, and you have to meet the proportionality test
7 in terms of a distribution of one, two, and three bedrooms.

8 MR. SMITH: Understood. But the additional, the
9 additional amount of affordable housing is still, you're
10 still looking at that as a public benefit under the PUD
11 rules, correct?

12 MR. DETTMAN: Under the PUD regulations,
13 affordable housing provided in excess of what would be
14 required under IZ is a public benefit.

15 MR. SMITH: Okay. The second question, have you
16 made any changes in this proposal at all in terms of the
17 density of the project since the PUD application was filed?

18 MR. DETTMAN: We lost some gross floor area, we
19 lost some floor area, I should say, because of the DCRA
20 guidance on how to properly calculate bay projections when
21 we revised the plans and submitted them on our 20-day filing.
22 It was a slight decrease in residential floor area.

23 MR. SMITH: I'm talking about from when you filed
24 the original PUD application --

25 MR. DETTMAN: That's the change.

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1 MR. SMITH: And you lost how much?

2 MR. DETTMAN: A thousand square feet.

3 MR. SMITH: That's it?

4 MR. DETTMAN: It's a thousand square feet that
5 gets taken out of the IZ --

6 MR. SMITH: I understand, I understand. I mean,
7 I understand, but we're talking about that's the change.
8 And, again, it was for what reason?

9 MR. DETTMAN: DCRA guidance for how to properly
10 calculate bay projection, multiple bay projections --

11 MR. SMITH: So it wasn't as part of any kind of
12 discussion with neighbors?

13 MR. DETTMAN: No, but I would say that, while the
14 design changed because of the DCRA guidance, we did increase
15 our amenity package since filing the application.

16 MR. SMITH: Thank you. My last question, and I
17 almost am reluctant to ask this because of the lateness of
18 the hour, but I just need some clarification on this from Mr.
19 Andres. You were talking, you started off in the rebuttal
20 here talking about traffic in the alley, and then you went
21 into a discussion of trip generation, and I just want to be
22 clear on what the trip generation numbers have to do with
23 traffic in the alley. You were comparing old versus new,
24 okay?

25 And if I could just preface so just to kind of

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1 direct it a little bit, I'm trying to understand that the
2 uses of the alley are different under your new project versus
3 the way the alley had been used when the Super Fresh
4 operated. So that's why I'm trying to understand what the
5 traffic counts have to do with traffic in the alley. I
6 understand the traffic counts and the number of cars going
7 to the site, but I'm talking specifically about the traffic
8 in the alley. You seem to suggest that the traffic counts
9 indicated that the traffic in the alley would be less than
10 what it was before, and that's what I'm trying to understand.
11 Am I misunderstanding you? And if I am, please clarify.

12 MR. ANDRES: So the short answer is, you know,
13 there was a preexisting use with the Super Fresh of, roughly,
14 24,000 square feet and ancillary retail is 20,000 square
15 feet. If you take the amount of traffic that's generated by
16 that and you compare it to our proposed project, we generate
17 less in the evenings and on Saturdays and over the course of
18 a day, primarily because of the fact that retail per square
19 foot generates more traffic than residential per square foot.
20 So that was the corollary.

21 MR. SMITH: Okay. I understand that, so now help
22 me understand this. This is my question. Under the old
23 system -- basically, there's a parking lot in front of Super
24 Fresh. Those cars would be accessing the parking lot in
25 front of Super Fresh. So then what is the relevance of that

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1 to the amount of traffic in the alley? The cars weren't
2 accessing this Super Fresh through the alley. They were
3 accessing it off of 48th Street through the entrance and also
4 off Yuma Street through that entrance.

5 MR. ANDRES: Understood, understood.

6 MR. SMITH: So what does one have to do with the
7 other?

8 MR. ANDRES: Well, I wanted to provide a relative
9 comparison of the impacts overall between what was there
10 previously and what we are currently proposing. With respect
11 to the previous access and circulation scheme which you
12 highlight for the Super Fresh, our driveways that essentially
13 would not have been, would not be compliant with DDOT's
14 current driveway design policy. So in that instance, that
15 traffic would have been in the alley if it were developed
16 today.

17 MR. SMITH: Okay. Were the alleys, from your
18 understanding, were the alleys used for consumer traffic to
19 the Super Fresh site?

20 MR. ANDRES: Some of it potentially.

21 MR. SMITH: How would you have entered, how would
22 you have accessed the Super Fresh site from the alleys? How?
23 There's no way.

24 MR. ANDRES: The site goes through the block, so,
25 in essence, there are opportunities for people to exit the

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1 driveways and --

2 MR. SMITH: Have you ever seen the graphics of --
3 I mean, where is the entranceway to the Super Fresh off the
4 alleys? Where?

5 MR. ANDRES: There isn't, but it doesn't preclude
6 people from leaving those entrances and going into the alley
7 to get to Massachusetts Avenue.

8 MR. SMITH: All right. Thank you very much.

9 CHAIRMAN HOOD: Thank you. Vice Chair Miller.

10 VICE CHAIR MILLER: Thank you, Mr. Chairman. Just
11 following up on my previous question. If you can, I think
12 the Chairman is going to be asking for you to submit
13 something, and I'm asking you to submit something, as well,
14 on the inclusionary zoning. If you can submit a revised G09
15 sheet, that's the inclusionary zoning unit mix that shows the
16 number of units, recognizing that you have the ten-percent
17 plus or minus flexibility, but it shows the number of units,
18 it shows where they are. We just need a revised to reflect
19 your additional public benefit proffer, which I appreciate.

20 CHAIRMAN HOOD: Okay. In consultation with legal
21 counsel and as we get ready to deliberate, I would like for
22 you to provide in one place, and this is to all parties, not
23 just for the applicant, for all parties if you choose to,
24 contested issues of the fact, contested conclusions of law
25 and evaluation of the request of special exception relief,

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1 an evaluation of the proposed PUD against the PUD standards
2 of Subtitle X, Chapter 3, including balancing a requested
3 flexibility against the proffered public benefits and
4 amenities, reviewing any adverse impacts and determine
5 whether they have been outweighed or mitigated, determining
6 whether the proposed PUD is not inconsistent with the comp
7 plan as it's taken as a whole.

8 And I would ask that you do that. I know it's in
9 here, but, when we get ready to deliberate, all parties, if
10 you could just put that in one place for us as we get ready
11 to deliberate. We don't want to miss any issues. And if you
12 think anything else should be in there, try to keep it as
13 sound bite-specific as possible.

14 Anything else, Commissioners? Mr. Turnbull?

15 COMMISSIONER TURNBULL: Well, we already talked
16 about it on Monday, but I think the applicant is going to
17 submit a more complete landscape plan that we can analyze
18 because they're looking for flexibility, so they've got to
19 develop it a bit more so that we can have some idea of what
20 they're really trying to do.

21 MR. GLASGOW: Mr. Chairman, Mr. Turnbull, it's --

22 CHAIRMAN HOOD: That's all right. He's a
23 chairman, too. All of us are chairmen.

24 MR. GLASGOW: Species, caliper, all of that.

25 COMMISSIONER TURNBULL: All that kind of stuff,

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1 yes. Thank you.

2 MR. DETTMAN: Mr. Chairman, just a couple of
3 things. The Office of Planning in the report asked for some
4 additional details on the long-term and short-term bike
5 parking. We showed it in our presentation. We'll submit
6 those sheets, as well as the sheet that we showed this
7 evening showing the precedent for the types of hatches for
8 the access to the roof on the town homes. We'll submit that,
9 as well.

10 CHAIRMAN HOOD: Okay. And I'm sure Ms. Schellin
11 is going to ask for the draft order, so I'll leave that to
12 her. So anything else, Commissioners?

13 All right. Ms. Schellin, you have --

14 MS. SCHELLIN: Well, I think they need to do their
15 closing if cross is over.

16 CHAIRMAN HOOD: Oh, yes. How long is your
17 closing?

18 MR. GLASGOW: I think we've done our closing.

19 CHAIRMAN HOOD: Okay. Good answer. Okay. Ms.
20 Schellin.

21 MS. SCHELLIN: Then in that case, can you provide
22 those additional documents in a week, two weeks?

23 MR. GLASGOW: Two weeks.

24 MS. SCHELLIN: Okay. So if the additional documents
25 can be provided by all of the parties, so the list that

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1 Chairman Hood read off, Mr. Smith, or Dr. Kraskin actually,
2 I guess, will be submitting that. If all of those documents
3 could be submitted by all of the parties by 3:00 p.m. on the
4 24th of October, and then all of the parties get to respond
5 to each other's documents by 3:00 p.m. on October 31st,
6 October 31st. And then the applicant needs to go through the
7 proffer and condition process, so your first submission would
8 be due in seven days. So that process will start October
9 17th, so your first draft would be due on the 17th and you'll
10 work with OAG. Your final list would be due on the 31st in
11 which you will serve all of the parties. The parties can,
12 if they choose to do so, respond to that list of proffers and
13 conditions on the 7th of November, everything due by 3:00
14 p.m.

15 And then all of the parties have an opportunity
16 to provide draft findings of facts, conclusions of law that
17 will be due by 3 p.m. on the 12th of November. And then we
18 will put this on the 18th of November for the Commission to
19 consider final action. This is a one-vote case. And that's
20 it.

21 CHAIRMAN HOOD: Okay. We have a question. Mr.
22 Repp, you can come to the mike. You can come to the mike
23 right quick so we can put that question on the record.

24 MR. REPP: When do you think the transcript is
25 going to be ready?

1 MS. SCHELLIN: They're usually ready in ten days,
2 but you can listen to this hearing tomorrow morning.
3 Actually, later this evening it will be ready.

4 MR. REPP: Yes, I'm aware. It's a lot easier to
5 follow what's going on when you can see it in writing.

6 MS. SCHELLIN: Yes.

7 MR. REPP: And I thought we were, I mean, I assume
8 that by the, we'll have sufficient time before the 12th.

9 MS. SCHELLIN: Oh, yes.

10 MR. REPP: Yes, to review the written record.

11 MS. SCHELLIN: Yes. You can always ask for, if you
12 choose to do so, you can always request an advanced copy or
13 an expedited copy. I don't know what the cost involved is
14 but --

15 MR. REPP: Yes, I hear it's, I mean, I hear that's
16 a practice but to avoid that.

17 MS. SCHELLIN: But usually within ten days,
18 sometimes shorter, but usually within ten days.

19 CHAIRMAN HOOD: Okay. Do we have anything else
20 tonight?

21 MS. SCHELLIN: No, sir.

22 CHAIRMAN HOOD: All right. I want to thank
23 everyone for their participation. This hearing is adjourned.

24 (Whereupon, the above-entitled matter went off the
25 record at 10:47 p.m.)

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C E R T I F I C A T E

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In the matter of: Public Hearing

Before: DCZC

Date: 10-10-19

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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Court Reporter

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