

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ZONING COMMISSION

VIRTUAL PUBLIC MEETING

VIA WEBEX

MEETING SESSION

MONDAY, JANUARY 8, 2024

The Public Meeting by the District of Columbia Zoning Commission convened via videoconference pursuant to notice at 4:00 p.m. EDT, Anthony Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson
ROBERT MILLER, Vice Chairperson
TAMMY STIDHAM, Commissioner
JOSEPH S. IMAMURA, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN, Secretary
PAUL YOUNG, Data Specialist

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

JACOB RITTING, Esquire

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, ACIP (Dep Dir DCOP)
JOEL LAWSON (DCOP)
DANIEL LYONS(DCOP)
JONATHAN KIRSCHENBAUM, AICP (DCOP)

Diversified Reporting Services, Inc.

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MEMBER OF THE PUBLIC PRESENT:

GREGORY ADAMS (Black Neighbors)

DEBORAH AKEL (Resident)

JACK EVANS (Resident)

ARLENE FESKANICH (Resident)

EDWARD HANLON (VP, Dupont Circle Citizens Assoc.)

SABEL HARRIS (Chairperson, DC ANC, 1B)

RANDY JONES (Resident)

The transcript serves as the minutes from the
Public Meeting held on January 8, 2024.

C O N T E N T S

Z.C. Case No. 23-02

Map Amendment Submitted by Office of Planning to rezone from the MU-4 zone to the MU-10 zone the contiguous properties at 1617 U Street, N.W. (Square 175, Lot 826) and at 1620 V Street, N.W. (Square 175, Lot 827), and to apply IZ Plus

P R O C E E D I N G S

(4:00 p.m.)

1
2
3 CHAIRPERSON HOOD: Okay. Good afternoon, everyone.
4 It's 4:00, if everybody can come on up. I am trying to work
5 with a new setup and this is the first time I'm doing this,
6 so I have some -- hopefully it doesn't take me three years
7 like it took to get other set up. So let me, first of all,
8 welcome everyone back. Hope you had a great holiday and a
9 happy new year with your family and friends. And we will
10 get started with our case for this evening.

11 Mr. Young, could you start recording, please.

12 Good afternoon, ladies and gentlemen. Today's
13 date is January the 8th, 2024. We are convening,
14 broadcasting this public hearing by videoconferencing. My
15 name is Anthony Hood and I'm joined by Vice Chair Miller,
16 Commissioner Stidham and Commissioner Imamura. We're also
17 joined by the Office of Zoning Staff, Ms. Sharon Schellin
18 and also, the Office of Zoning Legal Division, Mr. Jacob
19 Ritting.

20 I will ask others to introduce themselves at the
21 appropriate time. The virtual public hearing notice is
22 available on the Office of Zoning's website. This
23 proceeding is being recorded by a court reporter and the
24 platforms used are WebEx and YouTube Live. The video will
25 be available on the Office of Zoning's website after the

1 hearing.

2 All persons planning to testify should have signed
3 up in advance and will be called by name at the appropriate
4 time. At the time of sign up -- at the time of sign up -- I
5 lost my place, forgive me, all participants will complete
6 the oath or affirmation required by Subtitle Z48.7.
7 Accordingly, all those listening on WebEx or by phone will
8 be muted during the hearing and only those who have signed
9 up to participate or testify will be unmuted at the
10 appropriate time.

11 Roll call. Please state your name before
12 providing your testimony. When you are finished speaking,
13 please mute your audio. If you experience difficulty
14 accessing WebEx if you're a telephone call-in or have not
15 signed up, then please call our OZ hotline number, (202)
16 727-0789. If you wish to file written testimony or
17 additional supporting documents during the hearing, then
18 please be prepared to describe and discuss it at the time
19 your testimony. The hearing will be conducted in accordance
20 with provisions of 11C DDCMI Chapter 4, as follows:
21 Preliminary Matters, the Applicant's case. The Applicant
22 has up to 60 minutes, which was the Office of Planning. I
23 believe they're going to be -- I think this has been
24 decided. I'm going to make this announcement right now
25 before I forget.

1 They're going to take 20 to 30 minutes. It's
2 already been pre-agreed with the parties in opposition that
3 they collectively would have 40 minutes, and that will be
4 including, depending upon whether we have the party or not,
5 but all parties in opposition will have 40 minutes. The law
6 is really if they take 20, the parties in opposition in 20.
7 But we had a preagreement that I agreed to to give the
8 parties in opposition that additional time since we had a
9 number of them.

10 Report of other government agencies, report of the
11 Department of Transportation and the Office of Planning, the
12 report of the ANC. Testimony of organizations five minutes
13 and individuals three minutes. And we will hear in the
14 following order from those who are in support or opposition
15 and undeclared. Then we will have rebuttal and closing by
16 the Applicant.

17 Again, the OZ hotline number is (202) 727-0789 and
18 for any concerns during these proceedings. At this time,
19 the Commission will consider any preliminary matters. Does
20 the staff have any preliminary matters?

21 MS. SCHELLIN: There are quite a few preliminary
22 matters as far as motions. I know that you have a list of
23 those, and we have one party status request that was not
24 previously considered. As the Commission knows, they
25 granted party status in opposition to four other request

1 that were made and so there's only one outstanding party
2 status request and that's from the Rochelle Apartments and
3 so that is up for the Commission to consider. I don't know
4 if you want to go through the motions that you have before
5 you in the document that Mr. Ritting gave you with the list
6 of motions, if you want to do that first.

7 CHAIRPERSON HOOD: Yeah. I want to do that in an
8 organized manner. So let's (inaudible) first and I'm going
9 to go by how we have listed it. But let me just also
10 mention that we have ANC 1C and, correct me if I'm wrong,
11 ANC 1B and I think the ANC, let me make sure I acknowledge
12 all of the ANCs, is it 2B?

13 MS. SCHELLIN: 2B, yes. But 1C is not an affected
14 ANC.

15 CHAIRPERSON HOOD: 1C is not, but they will be
16 participating, correct?

17 MS. SCHELLIN: Right. Well, they can testify, but
18 they're not -- they can testify, but they are not given
19 great weight in this case.

20 CHAIRPERSON HOOD: Okay. All right. So I would
21 just ask my colleagues to help me with all of that because
22 we've got a number of moving pieces and I know I won't
23 remember that.

24 MS. SCHELLIN: Okay.

25 CHAIRPERSON HOOD: So I'll do my best. Okay. Let

1 me go to this outline. Let me just start off to my
2 colleagues and all, this application has an unusual
3 procedural history, as we all know. It was originally sent
4 down as a rulemaking case. Then the Commission resent it
5 down as a contested case at the beginning of what was to be
6 the public hearing on June 26, 2023.

7 A new hearing notice was published in August for a
8 contested case hearing to be held November the 20th. On
9 November the 20th, 2023, the Commission postponed the hearing
10 to January the 8th, today, 2024, with the 18th as the
11 overflow date, if needed. And also, while I remember -- I
12 plan on stopping at 9:00 a.m. -- I mean forget that. It's
13 been a long day, 9:00 p.m. So if we can push along to 9:00
14 p.m., we already have an overflow state and we will start
15 from there. I wanted to put that out there for everyone to
16 know that we're going to stop at 9:00 p.m., not 9:00 a.m.,
17 9:00 p.m.

18 The Commission postponed the hearing because the
19 public hearing notice did not include the correct language
20 regarding participation as a witness and how to apply the
21 party status. Thank you all for bringing that to our
22 attention. The Commission opened the hearing; then decided
23 to continue it to allow time for a corrected notice to be
24 mailed to the 200 footers and published in the DC Register
25 that states the correct information about participating as a

1 witness or party.

2 Because of the extensive previous notice of this
3 case and pursuant to 11Z DCMR 103.12, the Commission decided
4 not to require that the revised public hearing notice be
5 posted on the property. The revised public hearing notice
6 is in the record at Exhibit 496A, and remember, we're at
7 five something or whatever the number is at the last count,
8 and we have not even started the hearing.

9 I am mentioning these things because I want the
10 public to be aware that the Commission has taken already
11 many steps to listen to the opponents and to assure that it
12 has given the public ample opportunities to provide input,
13 some of which go beyond what is required. And that has been
14 the past practice of this commission.

15 Next, I want to provide some background on the
16 party status applications. At the public meeting on
17 December 14, 2023, the Commission granted advanced party
18 status in opposition to four groups: homeowners within 200
19 feet of Lots 826 and 827, Randall Jones, Black Neighbors of
20 1617 U Street Northwest and the Dupont Circle Citizens
21 Association.

22 I want to remind the parties that the Commission
23 rule states that the parties in opposition have the same
24 amount of time collectively as the applicant and parties in
25 support of the maximum 60 minutes, but remember the

1 announcement I made previously, because I know it's a lot,
2 we will -- that has already been arranged and the other
3 party, if we decide to make the other party a party, they
4 also will be included in that 40 minutes, which was
5 preagreed to. So I would just put the parties in opposition
6 on notice now so you all can work out your presentation.

7 There's one remaining party status request from
8 the Rochelle Apartments that was not considered in advance.
9 We will turn to preliminary matters before we begin the
10 hearing.

11 So Ms. Schellin, let's take up the Rochelle
12 Apartments. Were you going to tee it up more or are you
13 going to leave it at that?

14 MS. SCHELLIN: I think that we can -- this is a
15 party status request in opposition, and from my own notes
16 here, for the Commission to consider, they did file it on
17 time and so it is ready for the Commission to consider. I
18 was trying to find the exact exhibit because it's not
19 written in the notes here that I have. And I don't have my
20 previous notes. Deborah Akel, I believe it is, is the one
21 who submitted it, is representing this entity. So if the
22 Commission would consider this request.

23 MR. RITTING: I'll pipe up and add in addition
24 what Ms. Schellin said that if you want to look in your
25 hearing report, the party status request is Exhibit 344 and

1 344A and that it states, in part, that the apartment
2 building, the Rochelle Apartments directly about the subject
3 property. And there is witness information at 344B and a
4 petition at 344C. And then further, Ms. Akel submitted
5 comments that are at Exhibit 483, so that's the rest of the
6 information that I think Ms. Schellin had but just couldn't
7 put her finger on.

8 CHAIRPERSON HOOD: Great. Thank you both, Ms.
9 Schellin and Mr. Ritting. It is quite a -- this is a
10 voluminous record from the start of the hearing period. I
11 think that looking at Ms. Akel and I did see some other
12 correspondence, looking at this application, I don't have
13 any problems with letting her join the other four parties in
14 opposition. Again, they would all collectively work
15 together to come up with the 40 minutes. Ms. Akel says they
16 are directly impacted and I believe so. And I'll leave it
17 at that. Let me hear from others.

18 VICE CHAIRPERSON MILLER: Chairman, I support the
19 party status request because they are an abutting property
20 owner, but encourage, as you have, that parties in
21 opposition to, if possible, coordinate their collective
22 time, limited time that they have together.

23 CHAIRPERSON HOOD: Okay. Let's go to Commissioner
24 Imamura.

25 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

1 I'm in agreement with Vice Chair Miller, as well as your
2 support for the party status.

3 CHAIRPERSON HOOD: Okay.

4 And Commissioner Stidham, any comments?

5 Commissioner Stidham, do you have any comments on that or
6 are you good?

7 COMMISSIONER STIDHAM: I'm having technical issues
8 with my audio. No, I support it as well.

9 CHAIRPERSON HOOD: Okay. All right. So we will
10 make them a party, Ms. Schellin, and I will -- the Rochelle
11 Apartments. Let me make myself a note. Okay. All right.
12 Now, let's look at the motions for continuance. I want to
13 start, like I said, with motions and letters that we
14 received asking us to continue this hearing again. There
15 was a joint motion for a continuance submitted by Dupont
16 Circle Citizen's Association, homeowners within 200 feet,
17 Lots 826 and 827, and Randall Jones, Exhibits 519 and 520,
18 second joint motion for the continuance submitted by, I
19 believe, again, Dupont Citizen's Civic -- Citizen's
20 Association, forgive me. Maybe I'll just refer now to the
21 acronyms: DCCA, homeowners within 200 feet of lots 826 and
22 827 and Randall Jones, also filed as a supplement to the
23 first motion for continuance.

24 The reason for motion is alleged lack of notice to
25 owners within 200 feet. Let me just say this to all of the

1 parties, when I look at this record and I have 500 exhibits,
2 I don't know who the lack of notice was. Now, there may be
3 some people who missed it and this Commission will make sure
4 that everyone is heard. So I'm not going to buy that
5 argument. And let me just say, I would move that we deny
6 the motion. Let me hear from others first because to state
7 that there's lack of notice, I think we've done everything,
8 especially, I think, we canceled it two or three times to
9 postpone it. And I want the parties to know that even
10 beyond that, we will make sure that the public is heard, so
11 that argument with me doesn't fly.

12 The public will be heard. The courts have said
13 that we've done things too far over the years, but I had
14 planned on making sure the residents in this city are heard
15 in this forum. So any other comments from my commissioners?

16 VICE CHAIRPERSON MILLER: Mr. Chairman, it
17 concerns me that we continue to have a request for
18 continuance. We continued this at least once, but as you
19 said, there are over 500 exhibits. There are over 65
20 members of the public at the last time I looked who are
21 currently here to watch this proceeding and have presumably
22 scheduled their day to watch it. So I think that outweighs
23 -- plus, this is a very well-publicized case, not only
24 through the notice of procedures, but through just the
25 public information that's out there, obviously because of

1 the interest that's here tonight, so I have no objection to
2 your inclination to deny the motion to continuance, even
3 though I understand the concerns that have been addressed.

4 CHAIRPERSON HOOD: Okay. Anybody else? All
5 right. Okay. So let me see if I can go through this. No
6 notice for this. Okay. So I would move that we deny the
7 motion because no notice -- Mr. Ritting?

8 MR. RITTING: -- pipe up to supplement the
9 discussion with a citation to one of your rules. And it's
10 in 11Z, Subtitle Z. It's 402.12 and I think it speaks
11 directly to this situation and I'll just read it now so it's
12 in the record and so there's no dispute. "A technical
13 defect in the notice of public hearing that is minor in
14 nature shall not deprive the Commission of jurisdiction over
15 the case. If a defect in the notice is alleged and proven,
16 the Commission may determine whether to postpone, continue
17 or hold the hearing as scheduled based on the following
18 considerations," and it lists three. One of them is the
19 nature and extent of the actual notice received by the
20 parties and the public from all sources, which Mr. Miller
21 pretty eloquently raised already, the attendance or lack
22 thereof at the public hearing.

23 I'm looking at the participant tally. It's
24 currently at 74, I believe. So that indicates there's a lot
25 of attendance. And the nature and extent of the

1 construction and/or use involved in the application, this is
2 a map amendment. I just wanted to put that out there before
3 you made a decision. Thank you.

4 VICE CHAIRPERSON MILLER: And I would just add to
5 Council Ritting's comments that we also have set a date
6 already publicly for a continued hearing after this hearing
7 that ends at 9:00 p.m. tonight because we know that there is
8 a lot of interest and we're not going to be able to get to,
9 probably, everybody, so there's the other date that's been
10 set. I don't want to misstate that. Was it January 18th,
11 Ms. Schellin, as the secondary date if we need one, which we
12 probably will?

13 CHAIRPERSON HOOD: Yeah. January 18th is the date.

14 VICE CHAIRPERSON MILLER: January 18th, yes.
15 There's another notice provision that we provided previously
16 when we set this date and people know that that's going to
17 happen.

18 CHAIRPERSON HOOD: And let me just say this, I
19 want to also acknowledge that Mr. Hanlon also submitted an
20 email exchange with the Commission's secretary in which he
21 made additional comments about the motions in Exhibit 525.
22 The Commission should not treat it as a separate motion.
23 I've already asked others to weigh in on that if they'd
24 like. If the other commissioners have other ideas or want
25 to make a statement, let's discuss it now. If not, Mr.

1 Hanlon's motions, I read through them and I've decided on
2 them. It's Exhibits 531 and 535, two letters addressed to
3 me as raising the issues that individuals who were
4 attempting to sign up to testify were unable to sign up to
5 testify on Sunday through the website.

6 And then also, Exhibit 534, on Sunday or something
7 which was -- I believe -- I think he was talking about
8 yesterday or whenever these came in, he was talking about a
9 Sunday, whenever it was. But even beyond all that, I know
10 how I run hearings. I think it's sort of a known fact that
11 people will be heard. So I think I appreciate the intent of
12 Mr. Hanlon, but understand how we operate because we make
13 sure residents are going to get heard. I'm big on that, and
14 we will do that, as long as we're within our guidelines and
15 our regulations.

16 Okay. We decided on the party status. Let's see.
17 Again, as I stated, I plan on stopping at 9:00 p.m. I want
18 to remind the parties again, the Commission's rules taking
19 parties in opposition to have the same amount of time
20 collectively. I think I've said that enough. I want to
21 just make sure I cover everything. I'm hoping on the 18th I
22 don't get another late letter saying I didn't do something
23 right, but if I didn't, we will make it up. So that's where
24 we are. All right. Anything else?

25 Let me ask Mr. Ritting, did I miss anything of all

1 of those different moving parts? And I want to thank you
2 for helping me line those up. Did I miss anything that you
3 can think of?

4 MR. RITTING: No, I think you covered everything.
5 The only thing that isn't explicitly clear, and maybe we
6 could make it explicitly clear, is that the Commission is
7 going ahead with the hearing tonight by consensus and
8 because there's a consensus to go ahead, there's no need to
9 take a vote. But it's the Commission's decision whether to
10 go ahead or not. And I just wanted to put that on the
11 record and give everyone an opportunity to say that they
12 have -- you're in consensus to proceed tonight.

13 CHAIRPERSON HOOD: Anybody in objection to
14 proceeding tonight? Okay.

15 Not hearing any, did that satisfy that
16 requirement, Mr. Ritting?

17 MR. RITTING: Yes.

18 CHAIRPERSON HOOD: And thank you, again, for all
19 of your help.

20 Ms. Schellin, thank you as well. There's a lot of
21 moving parts. Ms. Schellin, can we bring everybody up so we
22 can go ahead and get started?

23 MS. SCHELLIN: The Jonathan Kirschenbaum from OP,
24 Jennifer and Joel, also.

25 CHAIRPERSON HOOD: And I know that there was a

1 request sent to the office from councilmembers, mayors,
2 former council members have always been allowed to -- I've
3 always tried to take them first. Not that everybody doesn't
4 matter, I know they have a lot of things going, so I think
5 we're expecting to be joined by former Councilmember Jack
6 Evans. So if you could let me know when he comes,
7 hopefully, we can get him right after Office of Planning if
8 he's there, okay?

9 MS. SCHELLIN: Yes. I would ask also, Mr.
10 Kirschenbaum, did you want Daniel Lyons to be pulled in,
11 also?

12 MR. KIRSCHENBAUM: I believe so. Yes, thank you.

13 MS. SCHELLIN: In case there are questions, sure.

14 MR. KIRSCHENBAUM: Sure. Yes, thank you.

15 MS. SCHELLIN: So if he could be pulled up. Okay,
16 great. Thank you.

17 CHAIRPERSON HOOD: Okay. So Mr. Kirschenbaum,
18 once you all get straight, you all may begin.

19 Ms. Schellin?

20 MS. SCHELLIN: One thing, former Councilmember
21 Jack Evans is on.

22 CHAIRPERSON HOOD: Okay. Can we find out if he
23 wants to go after the Office of Planning or does he want to
24 (crosstalk)?

25 MS. SCHELLIN: Unless we bring him on, if we could

1 bring him up.

2 CHAIRPERSON HOOD: Bring him up.

3 MS. SCHELLIN: Yeah. Because there's no way to
4 find out otherwise.

5 CHAIRPERSON HOOD: And if we have any other
6 council members -- sometimes we've had two mayors, anybody
7 that's a former mayor or anything, let's bring them up as
8 well.

9 MS. SCHELLIN: I'll check. Needs to unmute -- Mr.
10 Evans. Okay. He's unmuted now, so Chairman Hood, if you
11 want to talk to Mr. Evans now.

12 COUNCILMEMBER EVANS: Good afternoon. Oh, I can't
13 hear anybody.

14 MS. SCHELLIN: Chairman Hood, you're muted.

15 CHAIRPERSON HOOD: I was telling Councilmember
16 Evans he can go right ahead.

17 COUNCILMEMBER EVANS: Okay. Can you hear me?

18 CHAIRPERSON HOOD: Yes. We can hear you.

19 COUNCILMEMBER EVANS: Can you see me? I see my
20 name, but I don't see my picture. Okay. How do I get my
21 picture here?

22 CHAIRPERSON HOOD: Do you see a video button?

23 COUNCILMEMBER EVANS: There it is.

24 CHAIRPERSON HOOD: Okay.

25 COUNCILMEMBER EVANS: Start video?

1 CHAIRPERSON HOOD: Yeah. Start video.

2 COUNCILMEMBER EVANS: I did it (crosstalk).

3 CHAIRPERSON HOOD: It should come up shortly. Is
4 there a line going through your start video?

5 COUNCILMEMBER EVANS: Yes. Let me try it again.
6 Start video. I push it and it kind of goes dark or light on
7 me and then it says allow access to your camera. We
8 recommend you allow your browser to access your camera. Oh,
9 man. I hit an okay and it goes back to the line through my
10 video, so I'm doing something wrong here and I hate to hold
11 you up, but I don't know what I'm doing wrong.

12 CHAIRPERSON HOOD: That's okay. We know what you
13 look like, so you can go ahead.

14 COUNCILMEMBER EVANS: The technologically
15 challenged individuals are onboard. So first of all, thank
16 you very much, Mr. Chairman and all of the members for
17 allowing me to testify on this extremely important matter
18 for the Dupont Circle Neighborhood and for the city as a
19 whole. My name, again, is Jack Evans. I served on Council
20 of the District of Columbia for 30 years, from 1991 to 2020;
21 20 years as the chairman of the Finance and Revenue
22 Committee. And I'm here today to oppose the map amendment
23 that would essentially upzone the area where the police and
24 fire station currently are at 17th and U and V Street. It is
25 across the street from Ward 2, the ward that I mentioned I

1 represented for the last three years. So myself and others
2 have an enormous interest in this project.

3 I wanted to start by a little history. Before I
4 was on the council in the late 1980s and early 1990s, I was
5 chairman of the Advisory Neighborhood Commission in Dupont
6 Circle. And if any of you were around at that time, Rob,
7 you probably were with John Wilson, and remember, we were
8 challenged with an enormous issue. There were five planned
9 unit development projects proposed for the neighborhood and
10 I remember them well. One was at the Cosmos Club. One was
11 next to the Tavern Inn, down on N Street, I believe that
12 was. One was next to the Richmond Condominium on P Street
13 at 17th Street. One was at 23rd and N Street, and the final
14 one, which brought audible gasps to the ANC Commission when
15 it was unveiled was a 10-story building next to Rick's Bank
16 on Dupont Circle.

17 These development projects are very similar, if
18 not identical to what is being proposed here today. What is
19 being proposed is if the map amendment is granted, a 10-
20 story, 120-foot building in what I would absolutely flat
21 characterize as a residential neighborhood. It would be out
22 of character, to say the least, as were those five projects.
23 Very quickly along with DCCA at the time, RAC, Residential
24 Action Coalition and the 7th Street Merchants, we went to
25 then mayor, Marion Barry. Fred Green was the head of the

1 Office of Planning. They listened, understood our concerns
2 and actually reversed positions and came out against all
3 five projects. They were stopped and the character of the
4 Dupont Circle Neighborhood was preserved. We then -- I was
5 on the council by then -- we down zoned for all of the
6 property north of M Street in the Dupont Circle area, which
7 is why you don't have any large scale development projects
8 like that occurring.

9 I would strongly recommend the Zoning Commission -
10 - others will make the legal arguments better than I can.
11 Ed Hanlon and others were very good with this. But the
12 Zoning Commission, you have the ability to look at a
13 neighborhood and make a reason judgement. Does this make
14 sense? This is a diverse neighborhood. This is a
15 neighborhood that is vibrant, has small businesses, lots of
16 people, lots of activity that does not need a disruption
17 like this that would really change the character. It would
18 be like when the Cairo was built back before we had height
19 limits. It was like shocking to the neighborhood. It's
20 still there, but because of that, we have height limits so
21 nothing like that could happen again.

22 The police station and fire station are critically
23 important. Once you move them off the site, I can tell you
24 from my 30 years on the council, the chances of them coming
25 back are probably not that good. The fire station is in

1 good shape. If we need the police station renovated, we can
2 easily do that. And I want to also encourage the two
3 council members, Council Member Pinto and Council Member
4 Nadeau that represent these neighborhoods to strongly oppose
5 this. The statement that we all support the fire station
6 and the police station coming back is not a statement of
7 support.

8 That is allowing this large-scale development to
9 take place. So I know I only have three minutes, so I'll
10 wrap up, again, asking the Zoning Commission to strongly
11 consider what I'm saying as a council member, but more
12 importantly for the neighborhood. I don't want the
13 neighborhood to be disrupted with this kind of a
14 construction project. I just came this morning from a
15 downtown task force meeting, the mayor just convened it,
16 with the concern about in Chinatown, the two teams
17 considering leaving. Our downtown is struggling mightily.

18 I was part, along with Mayor Williams and many
19 others, with the creation of the downtown that we have that
20 is now almost deserted. We need to convert many of those
21 office buildings to residential. It's going to take money.
22 That is where this should be focused. We want luxury
23 housing, affordable housing. Our downtown really needs
24 that. And so I implore you to take a look at that and to
25 reject this map change. Thank you very much, Mr. Chairman

1 and the members of the Commission for your time.

2 CHAIRPERSON HOOD: Thank you, Councilmember Evans.

3 And we may have a few questions. I'm going to start it off.

4 You mentioned some names, Fred Green and Mr. Barry were

5 names that I first heard -- well, I knew Mr. Barry, but the

6 Mayor for Life and Fred Green who (crosstalk) were very

7 instrumental in (inaudible).

8 So let me just ask so -- and I'm getting some

9 feedback and if everybody could mute besides Councilmember

10 Evans and myself. Let me just ask this, so when you bring

11 the Mayor for Life and Fred Green's name up about what was

12 going on down in the area then and they pulled back, do you

13 feel like this project is revisiting that again? Are we

14 going back the same lines? I mean give me some history. Do

15 you feel like we are revisiting that?

16 COUNCILMEMBER EVANS: Yes, I do. I think,

17 again, back in the late 80s and early 90s, the idea of

18 building these large projects was supported by the

19 development community but strongly opposed by the

20 residential community because of the change in the character

21 of the neighborhood. When we did the overlays, though, and

22 studied at M Street and going all the way up to U Street,

23 the idea was to prevent any of this from happening again so

24 we didn't have to refight these battles all the time. The

25 fact that this is outside that overlay district but sitting

1 right in the Dupont Circle North, you know, with Abbott's
2 Ward (phonetic) and South Logan Circle North, whatever you
3 want to call this area, is revisiting that exact issue. We
4 would have opposed it then and we oppose it now.

5 CHAIRPERSON HOOD: Okay. Thank you. Let's see if
6 my other colleagues have any questions.

7 Commissioner Imamura, any questions or comments?

8 COMMISSIONER IMAMURA: No questions. Thank you,
9 Councilman Evans. Appreciate your input and the historic
10 history behind some of these projects.

11 CHAIRPERSON HOOD: Okay. And Commissioner
12 Stidham, any questions?

13 COMMISSIONER STIDHAM: No questions from me.
14 Thank you, Councilmember Evans for being here this evening.

15 COUNCILMEMBER EVANS: Thank you.

16 CHAIRPERSON HOOD: And Vice Chair Miller, any
17 questions?

18 VICE CHAIRPERSON MILLER: Thank you, Mr. Chairman,
19 and thank you Jack Evans for all of your long and
20 distinguished public service to the city and to Ward 2. And
21 you probably know more than most of us and most of the
22 public that our job with the map amendment is to -- is
23 primarily to see whether it's inconsistent with the
24 comprehensive plan adopted by the mayor and the council.
25 And I think the change -- the most recent change happened

1 after your tenure on the council to change the planned land
2 use map, future land use map density designation for this
3 site to a high-density residential designation. And I think
4 that happened in 2021, but I might be wrong and someone can
5 correct me.

6 So I guess my question to you is, do you think
7 that the proposed zoning, this is what's before us,
8 basically, the zoning of MU-10, and there's a related text
9 amendment that we all know about to try to mitigate the
10 height and setback and concerns with compatibility with the
11 neighborhood, but what's before us tonight is only the map
12 amendment and technically, what we are considering, whether
13 that is inconsistent with the comp plan adopted by the mayor
14 and the council, which has high-density residential. It
15 does have moderate density commercial, and it does have
16 neighborhood conversation area on the northern half of the
17 site, which is adjacent to the two-story residential
18 townhomes that we're all familiar with. And there are row
19 homes all over the place there.

20 So I guess I would ask you -- you don't have to
21 make a legal case, but just whatever you want to say that
22 would oppose -- this is inconsistent with the comprehensive
23 plan since that's primarily the standard that's before us
24 tonight, so I'll give you an opportunity to answer.

25 COUNCILMEMBER EVANS: No, thank you, Rob. I

1 really appreciate it because that is a great question. It
2 really is the crux of the matter. I mean, as you know, that
3 since I was on the council, I think we did three or four of
4 these comprehensive plans over the years and Ward 2, as you
5 know, was probably the busiest ward, more than any of the
6 other seven wards. There were always changes about that. I
7 wouldn't look at it quite as narrow. That's what I would
8 say to you as the Zoning Commission. In addition, you are
9 the stewards of our city. You can determine what happens
10 and what doesn't happen.

11 And the comprehensive plan, as you know, also is
12 broad in the sense there's language -- I don't have it in
13 front of me, unfortunately, that says, you know, the zoning
14 and the comprehensive plan wants to bring vibrancy to the
15 entire city. I mean I'm paraphrasing what language is in
16 the comprehensive plan. You, as the Zoning Commission, need
17 to look beyond the neighborhood to the whole city. And, as
18 such, what I'm saying, given the dynamics of our city today,
19 the struggles we're having, particularly in downtown and
20 some of the other neighborhoods, our resources need to be
21 put in those neighborhoods.

22 We don't need the city investing any city money or
23 even developers in a site in a neighborhood that is already
24 diverse and vibrant. We need to go to Chinatown, go to
25 areas where I was today that are largely deserted now, that

1 need our help. And the comprehensive plan, I think, gives
2 you the leeway to redirect this elsewhere. And as you
3 explained it, Rob, it's not quite as, you know, black and
4 white, this is how you have to do it. So there's room for
5 discussion and negotiation. And I think when it comes to
6 this project, I just harken back -- it reminds me so much of
7 1989 and what happened. And I think you were working for
8 John at the time -- when John was with us, John Wilson I'm
9 talking about. This can't be -- this can't stand. And with
10 Marion and Fred and everybody, all it took was us meeting,
11 explaining it. And the same criteria would have applied --
12 I think it might've been first a matter of right back in
13 those days, on those sites. And the position was no, we're
14 not going to allow this type of development that will change
15 the character of the neighborhood.

16 And there's always -- you know, I always worry
17 about (inaudible) once you grant this, you'll be marching
18 down U Street with tall buildings. And you just don't want
19 that to happened. We are a low-level city. We have a
20 height restriction that I fight, and all of you do, to keep.
21 And I don't want to see our downtown, nor our neighborhoods
22 find themselves a situation that destroys the character that
23 they have. So that's a long-winded answer, I know. but you
24 have the -- I know how the Zoning Commission works. You
25 have the ability to deny this as I see it right now, you

1 just do, based on the authority you have.

2 VICE CHAIRPERSON MILLER: Well, I appreciate your
3 answer, longwinded or not, and your comments. Let me just
4 ask you one quick other question. We have a lot of public
5 waiting to talk.

6 COUNCILMEMBER EVANS: Sure.

7 VICE CHAIRPERSON MILLER: And the agencies as
8 well. I mean I think we have at least two of the three ANCs
9 that have weighed in that are supportive with conditions
10 and, of course, one of the big conditions of the whole thing
11 is to renovate what I think it's almost obvious that
12 everyone needs to be renovated, the 1960s or early 70s era
13 police and fire stations. You've made the statement that
14 they're not coming back. I mean that's kind of what's
15 motivating the whole thing is to renovate and allow other
16 underutilized parts of the property, whether it's inner
17 space or land space or other needs in that neighborhood and
18 the city, affordable housing, one of them, why do you -- I
19 think you said that shouldn't be a factor or why do you
20 think they're not coming back there if they're temporarily -
21 - I assume they'd have to be temporarily relocated during
22 the construction and hopefully nearby to serve the
23 neighborhoods that they're designed to serve. That's what
24 our city is supposed to do.

25 COUNCILMEMBER EVANS: Right.

1 VICE CHAIRPERSON MILLER: But are they not coming
2 back? Why do you say that?

3 COUNCILMEMBER EVANS: I know these neighborhoods
4 like the back of my hand, and maybe you do as well. I can't
5 figure out a site to put even a temporary police station or
6 a fire station that's nearby. And the money that you're
7 going to spend to build a temporary fire station or police
8 station will turn into a permanent DC fire station wherever
9 you relocate them because that's what happens, that'll be
10 the argument. And if I'm the developer and I'm putting
11 luxury housing or whatever I'm putting there, I don't want a
12 police station and a fire station in my basement.

13 We looked at this over Foggy Bottom when we
14 relocated the fire station and, again, you can't -- we put a
15 squash pub on top of it, if you remember. Nobody -- even a
16 fire station -- I think the other kind of place where you
17 relocate a fire station is down in the southwest, by the
18 freeways or something. And, again, no one is going to build
19 luxury housing on top of a fire station and police station.
20 And so I know the fire station -- I think that that was
21 renovated about ten years ago. The fire station is not in
22 bad shape. It's the police station that needs a lot of
23 work. And we have -- I can assure you, I know the budget,
24 we have plenty of money in the capital budget to renovate a
25 police station. So the third district needs to be

1 significantly renovated, but that's a small amount. My God,
2 today, the city just committed \$500 million for the arena
3 downtown, so I can assure you we have enough money to do a
4 fire station or at least a police station.

5 And Rob, you raised a good point, because one of
6 the other things we always looked at was maybe building a
7 library on that site because, you know, there wasn't a
8 library in that neighborhood, you know, the first one may be
9 LaPetite Daniel. I think we renamed that Albert Shaw and
10 then you're out -- it's just nowhere. And so I would say if
11 you're going to really invest in that site, police station,
12 fire station, library, even affordable housing that's maybe
13 or two or three stories, max. And then that's the kind of
14 development we need there. And that's what the city should
15 be investing in to keep the character of the neighborhood as
16 it is and to have those amenities.

17 I can't tell you the number of people who have
18 called me up worried, because of the crime we're having in
19 this city, about moving that police station. And somebody
20 even talked about were they consolidating it into the second
21 district or something. I mean what a disaster that would
22 be. So again, I'm asking you, you're the Zoning Commission,
23 I got it. You have a mission. I got it. You have broader
24 powers than you think you do. And this is a moment in time
25 to use those broader powers. Imagine what can happen on

1 that site. And it's not a ten-story luxury condo facility.
2 I mean good Lord. Put that downtown. That's where it
3 belongs, downtown, not here. Not here.

4 VICE CHAIRPERSON MILLER: Okay. Thank you,
5 Councilmember Evans for your comments.

6 COUNCILMEMBER EVANS: Thank you.

7 CHAIRPERSON HOOD: Okay. I, too, Councilmember,
8 as I mentioned earlier (inaudible) getting a lot of
9 feedback. I'm not sure where it's coming from. But I, too,
10 wanted to thank you for all of the work that you've done in
11 this city. You've taken us in your position as
12 councilmember, you've taken us to a time in this city where
13 we (inaudible, feedback) and you were the go-to. So we
14 appreciate all you've done.

15 Let's see if others have any cross-examination.
16 Ms. Schellin has been trying to help me coordinate this. Do
17 we have anyone from ANC 1B who would like to ask the
18 councilmember questions? We're going to go through the
19 process. We have to do this. It's our process. Can we
20 bring the persons in the ANC, Ms. Schellin, from 1B and 2B?

21 MS. SCHELLIN: Two names that were listed in the
22 letter, neither of them are present.

23 CHAIRPERSON HOOD: Okay. All right. Let me go to
24 Mr. Hanlon.

25 Mr. Hanlon, do you have any cross-examination?

1 MS. SCHELLIN: I'm sorry. That was for 2B. 1B is
2 available.

3 CHAIRPERSON HOOD: Okay. Does 1B have any -- 1B
4 Chair -- is that Harris?

5 MS. SCHELLIN: Yes, Sabel Harris.

6 CHAIRPERSON HOOD: Yeah. Chair Harris, do you
7 have any cross-examination of Councilmember Evans?

8 CHAIR HARRIS: (Inaudible)

9 MS. SCHELLIN: -- be brought in, Sabel Harris, Mr.
10 Young.

11 CHAIRPERSON HOOD: Let's try to bring in all the
12 parties in opposition for now.

13 MS. SCHELLIN: Okay.

14 CHAIRPERSON HOOD: And I appreciate everybody's
15 indulgence. We (inaudible) typically go out of order. We
16 always do this for our council members. And make sure we
17 don't have any other council members, anyone else that wants
18 to --

19 MS. SCHELLIN: I did not see any.

20 CHAIRPERSON HOOD: Okay. All right.

21 Chair Harris, do you have any cross-examination
22 for Councilmember Evans?

23 CHAIR HARRIS: Yes, I do. I actually have a
24 question on that one development that was in Foggy Bottom, I
25 believe it was that Squash on Fire building. And I know you

1 mentioned it a little bit. I think it was down by East
2 Bank. Was the fire station relocated when that development
3 was happening? You're on mute, Councilmember Evans. Still
4 on mute.

5 CHAIRPERSON HOOD: Councilmember Evans, you need
6 to unmute. Unmute.

7 COUNCILMEMBER EVANS: Okay. Back again. What
8 happened to the person I was talking to (inaudible)? What I
9 was saying is the project in Foggy Bottom, we had the -- if
10 you can remember, there was the West End Library, which was
11 falling down, a bit of a mess. And then you had a vacant
12 police building that used to house the SOD, Special
13 Operations Division and then the fire station. But the
14 difference between that and this is you also had the Ritz
15 Carlton Hotel and a number of other high, you know, 10, 12,
16 120-foot buildings surrounding it. And so by building the
17 library and the condos that were above it, the police
18 station went away and then the fire station was put on M
19 Street.

20 We just changed the -- we didn't have the dynamic
21 of changing the neighborhood. It fit in with the character
22 immediately. So that's how I would completely differentiate
23 that project and this project. And frankly, when we did
24 that, the city was struggling for finance, so, you know, I
25 remember we had to get it so we'd get the library done and

1 get the fire station done. It's a different world here
2 today.

3 CHAIR HARRIS: Okay. That didn't really answer my
4 question because I was wondering if they were relocated and
5 if they came back.

6 COUNCILMEMBER EVANS: I think the fire station,
7 now that you remind me, was not -- came back.

8 CHAIR HARRIS: Okay.

9 COUNCILMEMBER EVANS: It moved off of there and
10 then came back to that site.

11 CHAIR HARRIS: Okay.

12 COUNCILMEMBER EVANS: That's my recollection.

13 CHAIR HARRIS: Okay. Well, that's a good thing.
14 So I think that probably, there's a possibility for them to
15 also come back and that is what's wanted in the community.
16 How tall is the building that is above the fire station. I
17 know, sorry, that might be too specific, but --

18 COUNCILMEMBER EVANS: It's as tall as the Ritz
19 Carlton Hotel across the street. That's (inaudible) that I
20 can tell you. I think that's a 10-story building, if I'm
21 not mistaken, you know, 120 feet or something, but that I
22 don't know. I just know it's in keeping with the
23 neighborhood.

24 CHAIR HARRIS: Okay. And then do you live on U
25 Street?

1 COUNCILMEMBER EVANS: Me, no, I live in
2 Georgetown.

3 CHAIR HARRIS: Oh, okay.

4 COUNCILMEMBER EVANS: I used to live in Dupont
5 Circle, though, for many years. And I was chairman of the
6 ANC there --

7 CHAIR HARRIS: Okay.

8 COUNCILMEMBER EVANS: -- back in the late 80s and
9 early 90s.

10 CHAIR HARRIS: Okay. Those are all the questions
11 I have. Thank you.

12 CHAIRPERSON HOOD: And thank you.

13 Ms. Schellin, did we get anybody from 2B? Thank
14 you (inaudible).

15 MS. SCHELLIN: I checked again did not see either
16 rep that was named.

17 CHAIRPERSON HOOD: Okay. All right. Let's go to
18 Mr. Hanlon.

19 Mr. Hanlon, do you have any cross-examination?

20 MR. HANLON: Thank you, Chair Hood. I don't have
21 any cross-examination. But I also would like to thank
22 Councilmember Evans for taking the time to be here today and
23 answering questions.

24 COUNCILMEMBER EVANS: Thank you.

25 CHAIRPERSON HOOD: Thank you. And the Black

1 Neighbors of U Street, Ms. Schellin, do we have that
2 representative?

3 MS. SCHELLIN: That's Gregory Adams.

4 CHAIRPERSON HOOD: Okay. Ms. Schellin, could you
5 do me a favor? As we're going through the names, could you
6 put the opposition and the names and send it to me, like you
7 did previously?

8 MS. SCHELLIN: Yes.

9 CHAIRPERSON HOOD: So I can -- thank you.

10 (Crosstalk)

11 MS. SCHELLIN: -- Gregory Adams?

12 MR. ADAMS: Yes, this is Gregory Adams here. I'd
13 like to ask Councilmember Evans if he's aware, in his
14 experience, of any (inaudible) to MU-10 that actually
15 benefited the surrounding black community?

16 COUNCILMEMBER EVANS: I'm guessing that most of
17 the MU-10 was done more in the downtown and surrounding
18 neighborhoods. But I don't want to answer that. I just
19 don't know the answer to that that either benefited or
20 didn't. I am not all that familiar with some of the other
21 (inaudible) that may have taken place. I can't help you on
22 that one. (Crosstalk) But I would say to you, in your
23 situation, to build, you know, a 10-story building across
24 from the townhouses is a real mistake for two reasons.
25 Number one, it just looks terrible and then, number two, you

1 always run into the problem of escalating the value of the
2 property and displacement and everything that comes along
3 with it.

4 And in the city right now, that is one of the
5 highest in the city for displacement, we need to do all we
6 can to keep our residents where they are and to keep the
7 taxes down. And so this would not help enable those
8 situations.

9 MR. ADAMS: Can you speak to your knowledge of the
10 displacements (inaudible, feedback)?

11 COUNCILMEMBER EVANS: Well, absolutely. You know,
12 there are neighborhoods in Ward 2 where I represented for
13 many years as a good example of that, where in the Shaw
14 Community when I first came on the council -- in other
15 words, the ward was much different (inaudible) Southwest,
16 you know, where 6th and Court is and Northwest 1 and you know
17 now as H Street. But Ward 2 was -- I think it was 52
18 percent African American and 48 percent white when I was
19 elected. John Wilson was the councilmember before me. And
20 over time, the ward just changed. It's now 80/20. And I
21 think in the Shaw community is where as different projects
22 were built, individuals left. Maybe they sold their houses
23 and made money or maybe they were renters and were forced
24 out. Hard to say, but yes, the black community has been
25 significantly impacted by the development that has taken

1 place. And it will --

2 MR. ADAMS: Thank you.

3 COUNCILMEMBER EVANS: -- it will happen here.

4 CHAIRPERSON HOOD: Any additional questions, Mr.
5 Adams?

6 MR. ADAMS: No, thank you.

7 CHAIRPERSON HOOD: Okay. Thank you. Let's go to
8 Mr. Randy Jones.

9 MR. JONES: Mr. Evans, thank you for joining us
10 tonight and thank you for your opposition on this case. I,
11 myself, kind going back to Jane Jacobs and just initial
12 principles with a case like this, the life and death of
13 cities, and would you say that it's fair to characterize
14 this as a potential cases where we're seeing broad brush
15 planning approaches being applied the way that they were,
16 even in the 50s and 60s in the urban renewal efforts, which,
17 you know, were very well-intentioned? Let's, you know, put
18 affordable housing up on a pedestal, beat that drum, you
19 know? Build as many units as we can but forget about the
20 neighborhood, you know? Let's not keep with the
21 neighborhood.

22 Would you say that this, you know, application
23 kind of exemplifies those efforts? And is that maybe what
24 you were getting at when you referenced, you know, 1989 and,
25 you know, some of those past potential failures in the

1 District?

2 COUNCILMEMBER EVANS: Yeah. Well, you're
3 absolutely on point. That's exactly right. I mean we have
4 -- Washington D.C. has low-scale neighborhoods that are
5 vibrant neighborhoods. And we need to maintain them. And
6 had those buildings been built in 1989, 90, Dupont Circle
7 would be vastly different than it is now. We would have a
8 10-story building next to the Tavern Inn. We'd have a 10-
9 story building behind the (inaudible). We'd have a 10-story
10 building next to the Richmond. It would have changed the
11 character of the neighborhood. And what followed may have
12 been even worse with larger development.

13 We need to maintain these neighborhoods. And
14 we're talking about a neighborhood that's up in Uster
15 (phonetic). We're not even down close to downtown. Those
16 neighborhoods were downtown. And the biggest fight that I
17 had as chairman of the (inaudible) was the Brookings
18 Project. I'm dating myself. This was, again, late 80s,
19 early 90s, where Brookings wanted to build the large
20 building and it would back up and front on P Street. And
21 our -- we drew the line in the sand that you cannot have
22 commercial on P Street, this is between 17th and 18th. And
23 we stopped it. And it tore the neighborhood apart, but we
24 stopped it. And it was the right decision when you look at
25 that neighborhood today and how it has progressed.

1 So this is a terrible idea. If this thing goes
2 through, we don't know what the next 10 years will bring,
3 but it won't be good. We need to maintain these
4 neighborhoods. We need to maintain the low scale of these
5 neighborhoods. And when everybody brings up -- off target
6 here, when you start talking about downtown and eliminating
7 the height restriction, we need to stop that. I went to
8 college in Philadelphia and there was a rule in Philadelphia
9 that nobody build a building higher than William Pence had.
10 He was on the top of city hall, right? And it was great.
11 And yet, then somebody did. And then somebody else did.
12 And now, the skyline in Philadelphia might as well be
13 Seattle. It might as well be anywhere. It just -- it
14 ruined it. And that's what we have to avoid happening here.

15 MR. JONES: Thank you, sir. I don't need any more
16 time, Chair Hood.

17 CHAIRPERSON HOOD: Okay. Thank you. All right.
18 Let's go to Rochelle. Ms. Schellin, do we have anyone from
19 Rochelle Apartments?

20 MS. SCHELLIN: That's Deborah Akel.

21 CHAIRPERSON HOOD: Yeah, Ms. Akel. Okay. And
22 we're going to get all the names straight.

23 Yes, Ms. Akel, we can hear you (crosstalk).

24 MS. AKEL: Hi.

25 CHAIRPERSON HOOD: Hi.

1 MS. AKEL: I'm not sure -- let me see if this
2 brings up my camera. There we go.

3 CHAIRPERSON HOOD: There you go.

4 MS. AKEL: Sorry. Hi, everyone. And I'm going to
5 try to be as brief as possible. I'm representing the
6 Rochelle tenants. We live in a rent stabilized legacy
7 apartment building right next to the fire station, I mean
8 within feet. And I have a comment for Councilman Evans
9 because he used to be my councilmember when I lived in Foggy
10 Bottom. And I think he will remember something that's
11 relevant to my testimony today. I used to live in a
12 building over there called the Tiverton, which was also rent
13 controlled. And it was the last rent controlled apartment
14 building in the West End.

15 And when East Bank came in and there was a
16 proposal to redevelop the West End Public Library, the
17 special ops police station and what happened was it sort of
18 triggered the sale of our building. I think our landlord
19 said hmm, good time to sell. And there were a lot of
20 dynamics that went on in that deal, but the bottom line is
21 the building ended up getting sold for market rate condos
22 and most of us had to move out. And this is part of my
23 testimony today about this particular upzoning proposal and
24 the risk of displacement because I lived through it.
25 Councilmember Evans knows very well about that project and,

1 unfortunately, we all lost our homes. And that deal got
2 postponed, but it eventually did happen, but it was too late
3 for us to keep that building.

4 So anyway, and the one last thing I want to --

5 CHAIRPERSON HOOD: Ms. Akel, let me ask you this,
6 and I'm doing this now, this is a portion where you can ask
7 the councilmember questions on his testimony.

8 MS. AKEL: Okay. Yes, sir. I will do that,
9 Chair.

10 CHAIRPERSON HOOD: Yes.

11 MS. AKEL: So Councilmember Evans, do you have
12 anything -- any observations or anything about that project
13 that you might want to share today relevant to this
14 proposal?

15 COUNCILMEMBER EVANS: The West End project?

16 MS. AKEL: Yes.

17 COUNCILMEMBER EVANS: I wanted to differentiate it
18 because this proposal is proposing to build a 10-story
19 building in a neighborhood that is townhouses that are to a
20 maximum of three stories. That proposal was to build a
21 luxury condominium, a new library and the fire station over
22 there in a neighborhood that already had many 10-story
23 buildings. As you remember, it was across from the Ritz
24 Carlton and there was another apartment building that was
25 located -- I can't remember the name of it -- to the south

1 of it.

2 And so when you're over there today, everything
3 looks -- everything is upscale, even everything on M Street
4 up there. Remember, there's three hotels at the corner of
5 24th and M and so that differentiates from this project where
6 this thing is going to stick out like a sore thumb. And
7 it's going to impact your building. Again, I think it will
8 increase the rent and there'll be a proposal at some point
9 in time to take down your building and put up a luxury
10 building. I can guarantee that that's what will happen. So
11 I hope we can avoid -- this is the place to stop it, right
12 now. If this is upzoned, there'll be -- as Rob or somebody
13 mentioned, there are other processes to get this thing built
14 and it will get built.

15 This is where you stop it. And I do regret losing
16 that apartment building, that rent controlled apartment
17 building. And with that, I remember trying to figure out
18 how to save it and we were unable to do that. And that was
19 a loss. And I'll take responsibility. I'm sorry it
20 happened because I wish that we had saved it.

21 MS. AKEL: Thank you.

22 COUNCILMEMBER EVANS: And it would have been an
23 addition to the West End.

24 MS. AKEL: Thank you. One more thing about
25 Councilmember Evans' testimony that I want to support, which

1 is he mentioned that the fire station is not a 1960s era
2 building, and I want to definitely let the council or,
3 excuse me, the Commission know that that fire station was
4 renovated in 2008 and the city spent \$2.2 million to
5 renovate Engine 9 in 2008. When I moved into this building,
6 it was down to the foundation. So although DMPED is putting
7 out that it's a 60s era building, it is not. And I have a
8 Washington Post article from the time --

9 CHAIRPERSON HOOD: Ms. Akel, are you testifying or
10 are you giving a question to Councilmember Evans? Because
11 here's what's going to happen. Let me explain what's going
12 to happen. I've already been given notice by legal counsel.
13 This is a good time for me to do this. I get this a lot.
14 When I say I'm going to make sure the residents are heard, I
15 want to make sure they're heard. But the issue basically
16 that we need to hear about is the MU-4 to the MU-10. All
17 the history -- and Councilmember Evans has some
18 institutional knowledge, (inaudible) on some of this, but I
19 already know from being here a while that if this goes to
20 court and a judge reads that, he's going to say Chair Hood
21 must've lost his mind because he's letting so much other
22 stuff into the record.

23 So I'm getting ready to condense that. This case
24 tonight is about a map amendment from MU-4 to MU-10 and I
25 did -- I let it go on for a while because I know

1 Councilmember Evans, like I said, had a lot of institutional
2 knowledge and a lot of wisdom. He's worked in this city for
3 years and helped put a lot of things together that we all
4 are benefiting from. So that's why I allowed that, but
5 going forward, we need to stick to the case.

6 So Ms. Akel, I'm going to let you finish your
7 question to Councilmember Evans and then we can continue to
8 move forward.

9 MS. AKEL: Councilmember Evans, do you recall the
10 city spending \$2.2 million to renovate Engine 9?

11 COUNCILMEMBER EVANS: Yes, that's what I
12 referenced in my earlier testimony, that the fire station
13 was actually in pretty good shape because that had been
14 recently done. The police station does need a lot of work.
15 So that's your (inaudible) variability. But, again, what
16 are we talking about, \$2 or \$3 million in the capital
17 budget. That's easily affordable.

18 MS. AKEL: Thank you.

19 CHAIRPERSON HOOD: Thank you, Ms. Akel. And I'm
20 sure you and I are going to work very good as we go through
21 this process, so thank you.

22 Councilmember Evans, thank you very much. We
23 appreciate your testimony and coming down to give us your
24 input. Thank you.

25 COUNCILMEMBER EVANS: Mr. Chairman and members of

1 the Commission, thank you very much for having me. I really
2 appreciate your giving me the time to talk and good luck.
3 Thank you for (crosstalk).

4 MS. FESKANICH: Commissioners, there's -- I'm
5 sorry, there was one more party, the neighbors within 200
6 feet of this site.

7 CHAIRPERSON HOOD: Oh, did I leave -- oh, I'm
8 sorry. Hold on, Councilmember Evans.

9 MS. FESKANICH: That's okay.

10 CHAIRPERSON HOOD: I am so sorry. I'm going to
11 get it together. The neighbors within 200 feet. Thank you,
12 Ms. Feskanich.

13 MS. FESKANICH: Yeah. Thank you. Homeowners, not
14 just neighbors but homeowners.

15 CHAIRPERSON HOOD: Homeowners, okay.

16 MS. FESKANICH: But that's good. Yeah. I know
17 you said there's a lot of moving parts, so I appreciate your
18 trying to juggle everything.

19 CHAIRPERSON HOOD: You can go right ahead, Ms.
20 Feskanich.

21 MS. FESKANICH: Feskanich.

22 CHAIRPERSON HOOD: Feskanich.

23 MS. FESKANICH: Yes, thank you.

24 CHAIRPERSON HOOD: Okay. Go right ahead.

25 MS. FESKANICH: Yeah. Councilmember Evans, I

1 appreciate all of your testimony and your support of in
2 opposition to this proposal. And I wanted to ask you from
3 your testimony, it sounds like you're suggesting that the
4 fire station and police station remain stand alone and be
5 renovated. Is that correct?

6 COUNCILMEMBER EVANS: Yes.

7 MS. FESKANICH: Yes, good. And so would mean that
8 a portion of the site that would be buildable upon would
9 maybe be the underutilized parking garage?

10 COUNCILMEMBER EVANS: You could do that or build a
11 library.

12 MS. FESKANICH: Ah, okay. I was going to ask you
13 about that. It sounds like the parking garage might be the
14 only usable space for redevelopment if the police and fire
15 remain there or just are renovated. So couldn't there be a
16 mix of zoning on this site to address your idea of
17 standalone public facilities and a new zone where the
18 parking garage is for construction? Take a mixed zoning
19 approach?

20 COUNCILMEMBER EVANS: My belief is this is now in
21 MU-4 and that would allow everything we talked about,
22 libraries, et cetera, to be built on that site.

23 MS. FESKANICH: Okay. Under the MU-4 zoning?

24 COUNCILMEMBER EVANS: Yes.

25 MS. FESKANICH: Okay. That sounds good. And I

1 think that's what wanted to ask and thank you for your
2 answers.

3 COUNCILMEMBER EVANS: But I think, yeah, that the
4 neighbors support this and I hope Office of Planning when
5 they make their presentation can also support that type of a
6 development on that site because that's the (inaudible) so
7 hopefully, they do that.

8 MS. FESKANICH: Yeah. I know the neighbors do
9 support the public facilities, especially fire and police
10 remaining where they are.

11 COUNCILMEMBER EVANS: Yes.

12 MS. FESKANICH: And the property remaining under
13 public control, DC control. Thank you, Councilmember Evans.

14 COUNCILMEMBER EVANS: Thank you.

15 CHAIRPERSON HOOD: Okay. All right. Thank you,
16 again, Councilmember Evans. We appreciate you coming out to
17 provide your testimony.

18 COUNCILMEMBER EVANS: Thank you, Chairman and
19 members and thank you for your service.

20 CHAIRPERSON HOOD: Okay. Thank you. Ms.
21 Schellin, if you could help me with our list of all the
22 parties so I won't leave out the homeowners within 200 feet,
23 okay. Thank you.

24 All right. Now, again, I'm going to thank
25 everyone for allowing all of that. So let us make sure we

1 stick to the case, MU-4 to MU-10. Let's cross-examine on
2 testimony. That was out of the ordinary. If you have any
3 problem with what we've done, we do that for all
4 councilmembers and former councilmembers. That's been my
5 practice for over 20 some odd years. So let's bring up the
6 OP, Ms. Schellin, and all of their team. And let's go ahead
7 and do the presentation and we will try to move as
8 expeditiously as possible.

9 MR. KIRSCHENBAUM: Paul, if you could bring up the
10 presentation. So good evening, Chair Hood and members of
11 the Zoning Commission. I am Jonathan Kirschenbaum with the
12 Office of Planning. On behalf of the Deputy Mayor's Office
13 for Planning and Economic Development, we recommend approval
14 of the proposed rezoning from MU-4 to MU-10 and find that
15 the proposal would be appropriate for IZ Plus.

16 On balance when viewed through a racial equity
17 lens, the proposed map amendment is not inconsistent with
18 the policies and goals of the comprehensive plan. The
19 property to be rezoned is shaded in blue and is located in
20 Square 175 on Lots 826 and 827. And the pink dash line
21 shows the area of the proposed zoning to MU-10. Next slide,
22 please.

23 So the property to be rezoned is a large quarter
24 lot abutting U Street, 17th Street and V Street Northwest.
25 The site is located at the upper end of Dupont Circle and

1 just below the beginning of Adams Morgan. It is also
2 located adjacent to the Shriver Section Historic District
3 and the 16th Street Historic District to the east. While the
4 proposed MU-10 zone would permit taller buildings, in the
5 current MU-4 zone, as you can see in this image, there is a
6 variety of building types and building heights proximate to
7 the subject property.

8 The property is currently improved with MTDs 3rd
9 District Police Station at the corner of 17th Street and V
10 Street. There's also an above grade parking garage located
11 on the corner of 17th Street and U Street. And the FDMS
12 Engine Company No. 9 is located on U Street along the
13 interior of the property.

14 Next slide, please. So this is a comparison of
15 the development standards of the existing MU-4 zone and the
16 proposed MU-10 zone. The MU-10 zone is applied to areas
17 where a mixture of uses and densities are intended to carry
18 out goals in employment, population, transportation,
19 housing, public facilities and environment quality. And the
20 MU-10 zone also requires the provision of a public plaza at
21 the ground level of the property.

22 The proposed MU-10 zone would permit increased
23 density and height that is consistent with the future land
24 use map, and we'll discuss that in a little while. As the
25 Commission also knows, OP is proposing a separate text

1 amendment case under Case No. 23-26, that created building
2 height transition setback that will limit the base height of
3 the building to 60 feet.

4 After 60 feet, the maximum height of the zone
5 could only be achieved after providing a 40-foot setback.
6 And this is proposed along the northern portion of the
7 property. OP also proposed as requiring a 12-foot side yard
8 along U Street. That would be adjacent to 1603 U Street
9 Northwest. And as a reminder, the Zoning Commission set
10 down this separate (inaudible 09:33 tape 2) zoning case on
11 November 30th of last year. And the case is scheduled for
12 public hearing on March 21st of this year.

13 Next slide, please. So OP finds the proposal will
14 be appropriate for IZ Plus, which could require up to an 18
15 percent set aside requirement for a steel and concrete
16 building. As the Commission knows, the IZ program requires
17 the units to be reserved for households earning up to 60
18 percent MFI for rental units and 80 percent MFI for
19 ownership units. And the comprehensive plan considers this
20 type of affordable housing as low-income housing. And you
21 can see the table at the bottom from the comprehensive plan
22 that shows how different MFI levels are defined.

23 However, because this is a property owned by the
24 District, any disposition and redevelopment of the property
25 would be subject to the affordability requirements of

1 District Law 10-801. This law requires a minimum, and it's
2 a minimum 30 percent set-aside requirement of affordable
3 housing, which is significantly higher than IZ Plus. The
4 law requires that a quarter of affordable rental units be
5 reserved for households earning no more than 30 percent MFI
6 and that is considered extremely low-income housing. And
7 the remainder of rental units for the set aside are no more
8 than 50 percent MFI, which is very low-income housing.

9 If the property was to be redeveloped with a condo
10 building, half of the units would have to be reserved --
11 half of the affordable units would have to be reserved at 50
12 percent MFI and the other half at 80 percent MFI.

13 Next slide, please. So on the subject of
14 affordable housing, this chart shows the status of both
15 total housing and affordable housing production in the mid
16 city planning area since 2019, and it shows that the
17 planning area has already exceeded its 2025 housing
18 production goals by 18.5 percent. So some might wonder why
19 creating new opportunities for affordable housing here might
20 be necessary if the planning area has already achieved its
21 2025 goal. So to sort of answer that question, you have to
22 look at the state of the existing affordable housing within
23 the planning area and the District.

24 So dedicated affordable housing combined with what
25 we call naturally occurring affordable housing currently

1 represents 21 percent of all housing in the District.
2 However, it is estimated that over the next 10 to 20 years
3 that all existing naturally occurring affording housing will
4 no longer be affordable to lower income households. So to
5 account for this, the District has to raise its overall
6 dedicated housing goal to 21 percent by 2050. In addition,
7 to achieve racial equity, the comprehensive plan also sets a
8 goal that each planning area will be 15 percent affordable
9 by 2050. So to achieve both of these goals, it's very
10 important to add additional affordable housing, whether it's
11 newly built or converted, be created to keep up with the
12 pace of newly created market rate housing.

13 Next slide, please. And then moving along to
14 community engagement, our engagement log can be found at
15 Exhibit 58 in our public hearing report and also an updated
16 engagement log can be found at Exhibit 358 in our
17 supplemental report, detailing meetings DMPED and OP had
18 with ANC 1B, 1C and 2B, as well as community residents. And
19 as I will discuss in the next several slides, the proposal
20 has been modified as a result of the community engagement
21 process.

22 Next slide, please. So we've been listening to
23 the community about concerns over the potential impact a
24 future building may have on surrounding residential uses.
25 To address these concerns, we proposed to create a building

1 height transition set back on the northern side of the
2 property. This will require that a building be set back 40
3 feet after 60 feet of building feet, as shown in the blue
4 shaded areas on the slide.

5 As I stated earlier, this will be achieved through
6 a text amendment proposed under Case No. 23-26 and that
7 would prescribe new rules in Subtitle G of the zoning
8 regulations for an MU-10 zone that is mapped in this square.
9 The public hearing for this text zoning case is scheduled
10 for March 21st.

11 Next slide, please. And as I will -- as we'll
12 sort of discuss in more detail at that March 21st hearing for
13 Case 23-26, this is an example of a building actually built
14 under a very similar building height transition requirement
15 along M Street Northwest between 9th and 10th Streets, just
16 west of the convention center, using a 40-foot setback. The
17 images show a building -- sorry, the images show a front
18 building wall built to 60 feet, shaded in blue and 100 feet
19 of building height shaded in yellow. And the 40-foot
20 required setback makes it difficult to view the upper
21 stories of the building from most angles along the street.

22 Next slide, please. We also propose to require a
23 12-foot side yard as shown in the orange shaded area.
24 Generally speaking no MU zones require a side yard, however,
25 based on community comments, we felt that it was necessary

1 to require a setback from the residential building located
2 at 1603 U Street. So in total, there would be 16 feet of
3 separation between 1603 U Street and any proposed building
4 at the subject property. And, again, this will be discussed
5 in more detail at the March 21st public hearing for Case 23-
6 26.

7 Next slide, please. So shifting gears to the
8 comprehensive plan analysis. As a reminder, this is a
9 comprehensive plan consistency map amendment. The proposed
10 zone would implement the updated 2021 future land use map
11 that changed the property's destination under No. 8050 that
12 was approved by the council. That amendment revised the
13 site's designation from local public facilities to a mixture
14 of local public facilities, high density residential and
15 moderate density commercial.

16 The top table shows the typical density ranges for
17 each of the properties -- sorry, for each of the properties
18 final destinations, while the bottom table shows the
19 proposed MU-10s maximum permitted FAR for both residential
20 and nonresidential uses. As you can see, the proposed MU-10
21 zone prescribes FARs that are directly in range of what is
22 anticipated by the comprehensive plan, particularly for high
23 density residential zones, which are typically provided FARs
24 ranging from 6 to 7.2 for the inclusion of IZ units.

25 Next slide, please. So the map amendment would

1 not be inconsistent with the policy map destination of a
2 Main Street mixed use corridor along U Street and a
3 neighborhood conservation area along V Street. And as the
4 Commission is well aware, the neighborhood conversation area
5 designation is not intended to preclude development,
6 especially when addressing city-wide housing needs.

7 As discussed earlier, any disposition of the
8 property would be subject to a minimum 30 percent affordable
9 housing requirement under DC Law 10-801. And the
10 comprehensive plan states that densities in the neighborhood
11 conversation areas are guided by the future land use map and
12 comprehensive plan policies. So again, the proposed MU-10
13 zone is not inconsistent with the FLUM and there are many
14 policies in the comp plan regarding the need for more
15 housing, particularly affordable housing.

16 Next slide, please. And so the amendment -- the
17 map amendment would further several written policies in the
18 comprehensive plan, particularly Mid-City Element Policy
19 2.3.7, which, as you can see in the slide, it states that
20 Land Engine 9 in the Third District they used to create
21 mixed use neighborhoods with added density to create
22 significant affordable housing and to provide additional
23 public facilities. The policy calls for design strategies
24 to visually reduce building height in bulk from adjacent
25 lower density areas and, again, to address this part of the

1 policy, we have brought forward text amendment case 23-26 to
2 require setbacks on the northern and eastern sides of the
3 property.

4 Next slide, please. So we've reviewed the
5 proposed map amendment through a racial equity lens as part
6 of the comprehensive plan consistency analysis. As of 2021
7 in the mid-city planning area, white residents make up the
8 largest share of the population, followed by black or
9 African American residents and then residents who identify
10 as Hispanic or Latino. Between 2012 and 2021, the racial
11 and ethnic composition remained relatively the same. There
12 was a modest decrease in both the white and black
13 populations, while there were modest increases in the Asian,
14 some other race and two or more races populations.

15 Next slide, please. So as of 2021, white residents
16 have the highest median household income, while black or
17 African American residents have the lowest median household
18 income. While the median household income rose for all
19 racial and ethnic groups between 2012 and 2021, white and
20 Hispanic households saw the largest increase in median
21 household income.

22 Next slide, please. And as of 2021, the planning
23 area is majority renter and the largest shares of renters by
24 race or ethnicity is some other race, followed by black or
25 African American residents and Hispanic or Latino residents.

1 Between 2012 and 2021, the percentage of renters increased
2 for the black or African American and Asian households and
3 conversely, white and two or more race households account
4 for the highest share of owner-occupied households.

5 Next slide, please. So the comprehensive plan
6 analysis for racial equity lens indicates that the map
7 amendment proposal, on balance, will not be inconsistent
8 with the comprehensive plan. The proposed map amendment
9 could allow for significantly more housing overall on a
10 property where currently no affordable housing exists and
11 would help achieve a goal of the comprehensive plan that
12 each planning area be 15 percent affordable by 2025.
13 Redevelopment of the site would not result in displacement
14 as there are currently no residential uses at the property.

15 Increasing residential density creates more
16 housing options and the comprehensive plan recognizes that
17 without increased housing, the imbalance between supply and
18 demand drives up housing prices that particularly impact
19 low-income residents. And, again, any disposition and
20 redevelopment of the property for residential use would
21 require that, at a minimum, 30 percent of the units be
22 affordable under DC Law 10-801. There should be no negative
23 physical impacts because the primary uses allowed by the MU-
24 10 zone are residential and neighborhood serving uses.

25 There would also be a requirement to provide a

1 public plaza and the proposed building setbacks would help
2 reduce any negative physical impact. And finally, the
3 proposal would be located near many neighborhood
4 opportunities, including schools, retail, supermarkets,
5 recreational opportunities, several bus lines and the U
6 Street Metro Station. And in addition, the property is also
7 in proximity to a broad range of employment opportunities.

8 Next slide, please. So in summary, OP finds that
9 the proposed map amendment to MU-10 would not be
10 inconsistent with the comprehensive plan's policies and
11 maps. And with that, we are available for questions. Thank
12 you.

13 CHAIRPERSON HOOD: Thank you very much, Mr.
14 Kirschenbaum. We appreciate your straight to the point
15 presentation to us and we're going to see if we have any
16 questions or comments. We're going to start with Vice Chair
17 Miller.

18 VICE CHAIRPERSON MILLER: Thank you, Mr. Chairman,
19 and thank you, Mr. Kirschenbaum for your testimony here
20 tonight and your, I think, multiple reports on this case. I
21 guess my first question would be did the Office of Planning
22 consider other zones, other than MU-10, this is a
23 Commissioner Imamura standard question. I'm sorry,
24 Commissioner Imamura, but you can follow-up with what I
25 miss, which I'm sure I will miss some point. But were there

1 other zones that you might have considered, other than MU-
2 10, which is like the highest density that would be arguably
3 not inconsistent with the comprehensive plan, but are there
4 other less intense zones that would've been also not
5 inconsistent with the comprehensive plan land use map
6 designation? Did you consider those? Or did you consider -
7 - I need to make this a multipart question or follow-up.
8 I'll make it a multipart, just to get it all out of the way.

9 Did you consider split zoning the property as some
10 have suggested due to the comprehensive plan designation
11 that kind of talks about the northern half being a
12 conversation area and all of the compatibility with lower
13 density adjacent neighborhoods language that's elsewhere in
14 the comp plan? You're proposing a text amendment that is
15 not before us tonight but you've referenced that tries to
16 mitigate or address that, but did you consider for this map
17 amendment case or for this case -- this site generally, a
18 split zoning, a lesser intense zoning? And what would be
19 the -- I'm curious to know just because I don't know of the
20 top of my head, but you may know off the top of your head,
21 maybe, what the next lower one or two intense zones would be
22 and what the difference would be in terms of production of
23 the affordable housing, which is kind of driving this map
24 amendment?

25 MR. KIRSCHENBAUM: Thank you. So MU-10 was chosen

1 because it's actually not the highest density zone that
2 could be suitable for the site based on the FLUM
3 designations. That would be MU9. So we already do feel
4 that this zone is a bit less intense than a zone that would
5 also be consistent with the future land use map.

6 VICE CHAIRPERSON MILLER: What would MU9 be that
7 you said would be not inconsistent, also?

8 MR. KIRSCHENBAUM: MU9 allows up to a 7.8 FAR and
9 it also (crosstalk) -- so it allows a little bit of a --

10 VICE CHAIRPERSON MILLER: 7.8 FAR --

11 MR. KIRSCHENBAUM: -- a little bit of a bulkier
12 building and it has the same -- it does have the same height
13 maximum as the MU-10.

14 VICE CHAIRPERSON MILLER: Sorry to interrupt
15 (inaudible). Thank you.

16 MR. KIRSCHENBAUM: So that's one of the reasons.
17 Another reason why MU-10 is appropriate for the property is
18 that, again, this property had its FLUM designations
19 purposely changed during the last comprehensive plan
20 amendment round to provide flexibility to create significant
21 affordable housing at the site and we believe that this zone
22 will help fulfill those policies of the comprehensive plan.

23 And regarding split zoning, we really -- we did
24 think about that and we came up instead with doing the
25 building height transition setbacks because split zoning is

1 often difficult to administer at the Department of
2 Buildings. And having an MU-10 zone with concrete specific
3 development standards and setbacks will provide the utmost
4 certainty of what could be built on the property. And, you
5 know, there are also rules within the zoning regulations for
6 split zoning that allow portions of a higher density zone to
7 be moved over the entire part of the lot anyway. So really,
8 MU-10 with the building transition setbacks will provide the
9 most certainty for sort of the maximum building that could
10 be built at this property.

11 VICE CHAIRPERSON MILLER: And just what would've
12 been the next lowest intense zone? And what would that have
13 provided in terms of FAR and height (inaudible) just I'd
14 like to know that?

15 MR. KIRSCHENBAUM: Sure. So the next one, I
16 believe, would be MU6. And that would allow an FAR --
17 sorry, MU6 is also the same. Part of our MU zoning is that
18 there's a really huge jump between sort of our MU6, 9 and 10
19 zoning and then going down to MU-4. There's really not too
20 much zoning that is in between. But MU-8 probably would've
21 been the next one that would've been (crosstalk) --

22 VICE CHAIRPERSON MILLER: And that would allow for
23 the same height or a lesser height and less density?

24 MR. KIRSCHENBAUM: MU-8 would've allowed for 70
25 feet and then it would've allowed for a maximum of six FAR.

1 VICE CHAIRPERSON MILLER: And would that have been
2 considered by the Office of Planning not inconsistent with
3 the comprehensive plan designation?

4 MR. KIRSCHENBAUM: Well, no. I mean we feel like
5 that really would not have been consistent with the current
6 FLUM designations, which call for high density residential
7 uses for this property.

8 VICE CHAIRPERSON MILLER: And moderate density
9 commercial?

10 MR. KIRSCHENBAUM: Moderate density commercial,
11 yes.

12 VICE CHAIRPERSON MILLER: And neighborhood
13 conservation area. So you said that they would not -- they
14 would not be consistent with the designation in the Office
15 of Planning's view or would they be inconsistent? There is
16 a distinction.

17 MR. KIRSCHENBAUM: Not inconsistent. Would be --
18 sorry, would be inconsistent.

19 VICE CHAIRPERSON MILLER: Okay.

20 MR. KIRSCHENBAUM: And it would also result in a
21 lot less affordable housing being, you know, provided
22 (crosstalk).

23 VICE CHAIRPERSON MILLER: Yes. So if you're able
24 to provide -- not off the top of your head -- maybe in a
25 post-hearing or pre-hearing before the next continued

1 hearing a submission of what those levels of housing would
2 be under those next housing and affordable housing with IZ
3 Plus and with it being a public land disposition which has a
4 higher percentage of required, as we know, affordable
5 housing required, what would those numbers be, if you're
6 able to provide that in a post -- before we -- at some point
7 subsequent to this hearing, if you don't have that, there's
8 no reason why you would have that off the top of your head.

9 Can you respond to -- so could you provide that?

10 MR. KIRSCHENBAUM: Absolutely.

11 VICE CHAIRPERSON MILLER: Okay. Thank you. Can
12 you respond to the argument that I think one of the parties
13 in opposition made that this is spot zoning?

14 MR. KIRSCHENBAUM: Oh. Well, again, it's not spot
15 zoning because this is following the future land use map and
16 policy map. It's not inconsistent with either of those
17 maps.

18 VICE CHAIRPERSON MILLER: And it's a large enough
19 contiguous area to justify a different designation than the
20 surrounding areas?

21 MR. KIRSCHENBAUM: You know, I'm not a 100 percent
22 expert on that, but I don't believe it's based on land area.
23 I believe that it's been established that as so long as the
24 rezoning is not inconsistent with the future land use map
25 and policies under the comprehensive plan, it's not

1 considered spot zoning.

2 VICE CHAIRPERSON MILLER: I think I might want
3 something in writing on that from the Office of Planning as
4 well. And then finally --

5 MR. KIRSCHENBAUM: I would also -- for that
6 question, I really would defer to your legal counsel for
7 that. You know, that's really more of a legal question.

8 VICE CHAIRPERSON MILLER: Okay. Well (crosstalk).

9 MR. RITTING: This is Jacob Ritting. I'm legal
10 counsel, and I'd be happy to provide that information to
11 Commissioner Miller as an attorney-client privileged
12 response some time between now and when you take action.

13 VICE CHAIRPERSON MILLER: Thank you, Mr. Ritting.
14 The other thing I think we need -- one of the other things I
15 think we also need more written information from the Office
16 of Planning is the -- under the racial equity analysis that
17 we're required to do -- that you're required to do and we're
18 required to do when we consider these comp plan consistency
19 cases, I think we need more information on the whole
20 question of indirect displacement. We know that there's no
21 housing currently on the site, so nobody's being displaced
22 from the site, but we know that the racial equity
23 displacement analysis is supposed to -- at least our
24 analysis is supposed to address indirect displacement in the
25 neighborhood.

1 And we all know that that's a very complicated
2 issue that involves a lot of market issues that would -- may
3 be happening in the city regardless of a particular zoning
4 case being before the Zoning Commission, but I think we need
5 more information about the indirect displacement that this
6 project might potentially cause. I mean there was some
7 references, which I had not heard of before, to a
8 displacement risk -- indirect -- I don't know if it was
9 indirect, but a displacement risk analysis assessment. I
10 don't know if that's a term of art in the planning world or
11 not.

12 But I just think we need more discussion or
13 analysis from our planners about the indirect displacement,
14 which we know market forces in this neighborhood has -- and
15 all throughout the city -- have caused for existing --
16 preexisting residents who live nearby so I think it would be
17 helpful to have that information.

18 VICE CHAIRPERSON MILLER: Absolutely. And those
19 are all very, you know, important and valid points. Just
20 given sort of the complexity of that, I'm not sure if we'll
21 be able to have that by next week, but that, you know -- but
22 we'll certainly be able to get something that is
23 comprehensive for the Commission to consider before taking
24 any sort of action.

25 VICE CHAIRPERSON MILLER: Thank you, and I

1 appreciate that. That would be helpful. I think that's it
2 for now, Mr. Chairman. I know this is a long night and
3 fellow commissioners are waiting. The public's waiting, so
4 thank you very much. Thank you, Mr. Kirschenbaum.

5 CHAIRPERSON HOOD: Sure. Thank you.

6 Commissioner Stidham, do you have any questions or
7 comments?

8 COMMISSIONER STIDHAM: I have a couple. So I
9 think the first question I have is if you could elaborate a
10 little bit more on the public housing need. I believe in
11 your testimony, and correct me if I'm wrong, you said that
12 this area of the city is already 18 percent over the goal of
13 public housing; yet, you state that part of the need for
14 this change is to accommodate more public housing?

15 MR. KIRSCHENBAUM: Sure. So it's not just public
16 housing. It's affordable housing as a whole. Sorry, I'm
17 just hearing a little feedback. So dedicated affordable
18 housing combined with what we call naturally occurring
19 affording housing. Naturally occurring affordable housing
20 is you look at base rents that are affordable to low and
21 moderate income households. So that's typically between 60
22 percent MFI up to 100, 120 percent MFI.

23 And so dedicated affordable housing is dedicated
24 and it has, you know, funding streams, but then there's just
25 of this other bucket of housing of naturally occurring

1 affordable housing. And, as I said, it's technically market
2 rate but it is affordable enough to lower income households.
3 And so it's estimated that over the next 10 to 20 years that
4 all of that naturally occurring affordable housing is going
5 to no longer be affordable, like at all, to residents in the
6 District. So that's going to account for a really large
7 number of units that have no sort of dedicated affordable
8 housing funding and no sort of affordable housing
9 protection.

10 So to sort of account for this loss, the District
11 has sort of set a goal and it has a equity report that it
12 must raise the overall dedicated affordable housing to 21
13 percent by 2050 in order to account for this huge loss of
14 naturally occurring affordable housing that's going to
15 exist. So in the context of this map amendment, we know
16 that this is a District-owned property. It will likely have
17 a land disposition through an RFP. And because it's, again,
18 a disposition, it will have an affordable housing
19 requirement that, at a minimum, will be 30 percent, but it
20 could be much higher than that. And so, you know, this type
21 of property represents a significant opportunity for the
22 district to provide more dedicated affordable housing.

23 And it's also particularly important to note that
24 there are truly not a lot of affordable housing east of 16th
25 Street in this area of the District. You're on mute

1 (crosstalk).

2 COMMISSIONER STIDHAM: Sorry about that. This
3 follows along the lines of Commissioner Miller's question
4 related to driving out the naturally occurring affordable
5 housing with this development, which you stated is already
6 at risk, and I think that we do need a bit more information
7 to help understand that sort of indirect displacement that
8 could occur because of the development of this property in
9 this area.

10 MR. KIRSCHENBAUM: Absolutely. And I (inaudible,
11 feedback).

12 COMMISSIONER STIDHAM: So thank you for that. You
13 know, the FLUM is to be generalized guidance. Looking at
14 MU-8, and this follows along Commissioner Miller's
15 conversation, looking at MU-8, while it is not high density,
16 it is sort of the middle of the road between MU-4, which it
17 is now and MU-10, what you're seeking. So it's a bit lower,
18 but not quite as low as MU-4. So from your testimony, it
19 did not sound like DCOP looked into that very hard to see if
20 that would actually accommodate and meet your affordable
21 housing goals that you're looking for because it seems if
22 this development is really about affordable housing and this
23 is a potential place for it to happen with some
24 rehabilitation to the fire station and the police station,
25 which could happen outside of any need for affordable

1 housing in this area.

2 MR. KIRSCHENBAUM: You know what? Again, we don't
3 feel like that would be an appropriate zone for this
4 property, but we're happy to respond more in writing about
5 that issue.

6 COMMISSIONER STIDHAM: Okay. I think that we're
7 going to need to understand that because it is quite a jump
8 to MU-10 from much of the existing neighborhood. The other
9 question I had related to, I think, one of -- in your
10 report, the mid city element, that the subject site should
11 accommodate government use and continue the history of use
12 as a black business corridor. I'm curious how you see
13 that MU-10 will help accomplish that.

14 MR. KIRSCHENBAUM: Again, it will help provide the
15 opportunity to provide many public uses of the -- excuse me,
16 provide many public uses, public (inaudible, feedback) you
17 know, providing significant affordable housing, you know?
18 There's only so much historic zoning you can do. Zoning
19 doesn't dictate the type of, you know, building that would
20 be built there. It just sort of dictates the maximum
21 (crosstalk).

22 CHAIRPERSON HOOD: Let me just interrupt. We are
23 getting a lot of feedback. So I think, Commissioner
24 Stidham, when you ask a question, you're going to have to --
25 I hate to do this, but you're going to have to mute and go

1 back and forth because we're getting so much feedback and I
2 want to make sure the public is able to understand what's
3 going on, so let's do it that way. Thanks.

4 MR. KIRSCHENBAUM: And just to add that, again,
5 that's an important point and again, because this is a
6 public disposition, there will be an RFP and that will be
7 something that, you know, could be considered through the
8 RFP process since that is the police in the comprehensive
9 plan.

10 COMMISSIONER STIDHAM: Okay. And apologies,
11 Chairman Hood. Hopefully I can fix things so there's not so
12 much feedback. I think that's all my questions at this
13 point. Thank you for your report.

14 MR. KIRSCHENBAUM: Thank you.

15 CHAIRPERSON HOOD: MS. Stidham, no need to
16 apologize. We all have things going on, but I wanted to
17 make sure the public was able to hear because it was echoing
18 and as Mr. Kirschenbaum is like me, if I say something, I
19 don't want to hear myself keep talking over and over again.
20 So all right, okay.

21 Commissioner Imamura?

22 COMMISSIONER IMAMURA: Mr. Kirschenbaum, thank you
23 for, as Vice Chair Miller had stated, I think several
24 reports that you've added to the record. And I know you
25 probably feel like you're on the hotseat, so I just have a

1 few more questions. And I want to thank Vice Chair Miller
2 for his questions about the different zones that OP might've
3 considered because at the MU-10 -- and the whole point about
4 asking those questions about what are the other zones,
5 right, that's in order to get the Zoning Commission a more
6 complete picture, right? And that seems fair and
7 reasonable. This is what happens if we went down this path;
8 this is what happens if we went down this path. So at least
9 we understand, okay, which rabbit hole do we want to go
10 down.

11 So agree with Vice Chair Miller, I'd like to see a
12 supplemental record added, too, about the levels of housing
13 that this would generate if there were (inaudible) at 70
14 feet, at six FAR, as well as it's kind of about indirect
15 displacement, too, I think is worthwhile to look into, also.
16 And I know Mr. Kirschenbaum, you mentioned that OP doesn't
17 believe that perhaps maybe MU-8 would be consistent with the
18 FLUM. And as Commissioner Stidham mentioned, the FLUM sort
19 of sets our guidelines here, but it's difficult for me to
20 take a look at what you put in the record in terms of the
21 map, the FLUM map there, where this becomes sort of an
22 island surrounded by modest density and commercial low
23 density.

24 And so then now we have this MU-10 sort of on an
25 island, and that's what I wrote in my notes here as I take a

1 look at that. And then I thought one of the other slides
2 you put up there, too, Slide 10, I believe -- I thought --
3 and I've seen it before, it's an effective slide where you
4 showed the height of 60 feet with the setback and then
5 another 100 feet. Although, I don't know -- I wasn't fully
6 convinced that the proportion or the ratio was right on
7 that, I do understand your intent, that the view from the
8 street and with the setback makes it difficult to see the
9 additional height.

10 So my question is -- there are a couple, actually.
11 One is about the 40-foot setback, the proposed text
12 amendment. I know we're talking about a map amendment here,
13 but you introduced the potential text amendment here about
14 the 40-foot setback after 60 feet of height. My question is
15 where did those -- how did OP come up with those? Is it
16 because of the angle of the view at six feet high on the
17 street at 60 feet high and then 40 feet back, we wouldn't
18 see what 100 feet would be or where did those figures come
19 from? And then in addition to that, the 12-foot side yard,
20 why 12? Why not much larger? I know that you said with the
21 four-foot alley, that gives you 16 feet.

22 So I'm just trying to understand, at least in this
23 question, how those numbers were generated, what was driving
24 that?

25 MR. KIRSCHENBAUM: Sure. So regarding the

1 building height, you know, streets typically -- wide streets
2 typically are about 100 feet, sometimes they're 110. So the
3 40-foot setback -- V Street is 80 feet wide, so the 40-foot
4 setback would create the equivalent of 120 feet setback. So
5 that's sort of the logic between that. And then, also,
6 after 60 feet, going up to 100 feet, it's like sort of a
7 clean one-to-one setback as well, which is sort of
8 consistent with how a lot of our zoning influences setbacks
9 like that.

10 And then regarding the 12-foot side yard, we got
11 to 12 feet because there's a four-foot drainage alley
12 already existing between the subject property and 1603 U
13 Street. And so when you -- most -- I just can't remember
14 offhand -- most MU zones require, I believe it's -- let me
15 pull it up -- there was a logic to the side yard as well.

16 COMMISSIONER IMAMURA: I'm sure there was.

17 MR. KIRSCHENBAUM: Yes.

18 COMMISSIONER IMAMURA: And I wanted you to have an
19 opportunity to mention that (inaudible) to do that.

20 MR. KIRSCHENBAUM: Sure. So in most of the MU
21 zones, including MU-4 and MU-10, it requires two inches per
22 one foot of building height. So that equates to, I believe,
23 just a little over 16 feet if you're building a 100-foot
24 building. So we decided to, instead, just make the
25 calculation easy by saying we'd provide a 12-foot side yard

1 because of the drainage alley next door, it's four feet and
2 that provides you with the 16 feet of separation. And,
3 again, it was to provide just a little bit more clarity to
4 when, you know, this ever goes -- you know, whenever a
5 building may eventually get built and goes for review at the
6 Department of Buildings that this can be administered as
7 sort of easily as possible.

8 COMMISSIONER IMAMURA: Okay, great.

9 MR. KIRSCHENBAUM: (Inaudible)

10 COMMISSIONER IMAMURA: I appreciate the clarity on
11 that. I often mention, you know, planning is both art and
12 science and so I wanted people to understand about the
13 building height as well as the side yard setback, that it's
14 not Mr. Kirschenbaum and a bunch of planners around the
15 table just thinking about ah, this might be a great number;
16 let's just put it down. So there's some logic behind it, so
17 I appreciate the additional clarity behind that.

18 If I could come back to the affordable housing
19 driver here for this particular property and your comment
20 about naturally occurring affordable housing, the 21 percent
21 sort of offset that in the next 10 to 12 years, I guess, as
22 you described, because there isn't any affordable housing on
23 there now, I would argue that or I would posit that, you
24 know, 10, 15, 20, even 15 minutes would be a significant
25 amount of more affordable housing than what's there now.

1 And as Commissioner Stidham had pointed out and as you
2 mentioned, Mr. Kirschenbaum that this area of the city has
3 achieved 18 percent more than its affordable housing goal.
4 And there are other cases where, in other parts of the city
5 that have also achieved their housing goal and OP has made
6 the statement that IZ -- I understand this is, you know,
7 government-owned property there, so we're talking about 30
8 percent, which is significant, and that's IZ Plus here and
9 even more.

10 But in other zoning cases, OP has said, well, this
11 part of the area has already achieved its goal so IZ would
12 not be appropriate because it would oversaturate. So what
13 is this saturation point? What is OP's standard for what
14 the saturation point is in there?

15 MR. KIRSCHENBAUM: I think it would be best for me
16 to provide that in writing because I don't want to give you
17 incorrect numbers sort of on the record here.

18 COMMISSIONER IMAMURA: Okay.

19 MR. KIRSCHENBAUM: But it's a great question, and
20 generally speaking, you know, we tend to not recommend IZ
21 Plus in areas east of the Anacostia River because there are
22 ANCs where, you know, 60 percent of the ANC is affordable
23 housing. That's not the case here. It's much lower. I
24 don't have the numbers off the top of my head, and I can get
25 that to you in writing. But that's generally sort of the

1 reason behind that, that there are parts of the district
2 where it's so overconcentrated with affordable housing that,
3 you know, the idea of IZ Plus was not to overconcentrate
4 more affordable housing in those areas.

5 COMMISSIONER IMAMURA: Okay. If you could include
6 that in your additional submission, that would be great,
7 that reasoning there. I certainly understand it. I can
8 appreciate it, so I'm curious if there is a saturation
9 point, so what is that percentage? And certainly, you know,
10 you said the Anacostia, that makes sense, just I'd like to
11 understand that logic better. My last question because I
12 know we do have a very long night ahead of us, Councilmember
13 Evans had made a comment about, you know, a temporary space
14 for the fire station and the police station and it would
15 eventually become a permanent space in his opinion. So that
16 temporary space, and I call that swing space, I think most
17 people do.

18 So and I'm guessing that there hasn't or maybe I
19 shouldn't guess, I should ask, has there been any
20 discussions by DMPED or any other agencies to find or to
21 know where that swing space might be?
22 Because typically, temporary swing space can often times
23 become permanent space. So has swing space been identified
24 for either the police station or the fire station nearby
25 within that neighborhood?

1 MR. KIRSCHENBAUM: Sure. I'm not the expert on
2 that. I'm not sure Mr. Lyons, if he would like to sort of
3 speak to that now. If not, we can certainly provide more
4 information about that in the record.

5 COMMISSIONER IMAMURA: Okay. I'm satisfied with
6 that answer, Mr. Kirschenbaum. I certainly understand your
7 role and your position and what you're able to provide. But
8 I would be interested if a swing space has been part of the
9 conversation. Otherwise, then it's just, you know, a map
10 amendment from MU-4 to MU-10 with sort of some hanging
11 chads, so I want to avoid any hanging chads. So with that,
12 Mr. Chairman, thank you, Mr. Kirschenbaum for your responses
13 and Mr. Chairman, I yield back.

14 CHAIRPERSON HOOD: Okay. I'm going to thank all
15 of my colleagues for their questions, but before I ask mine,
16 we are going to take a 6:00 break for about five or ten
17 minutes -- no, five minutes because I want to -- and then --
18 because that was requested so I want to -- if we can -- and
19 if someone has something to do, you can just keep your
20 camera off and listen like all of us do because I know how
21 things work. Let me just ask, is Mr. Lyons available, Mr.
22 Kirschenbaum?

23 MR. KIRSCHENBAUM: Mr. Lyons -- yes, Mr. Lyons is
24 available for questions.

25 CHAIRPERSON HOOD: Can we bring Mr. Lyons up?

1 Because I have some questions and I want him to answer and
2 response to Commissioner Imamura's last question, and then I
3 have some as we move forward, probably for either one of
4 you. We'll see how it goes. Okay. I see Mr. Lyons is up.

5 Mr. Lyons, when you're ready, if you'd unmute
6 yourself and identify yourself. We have a few questions for
7 you.

8 MR. LYONS: Yes, hi. For the record, my name is
9 Daniel Lyons. I'm with the Office of the Deputy Mayor for
10 Planning and Economic Development, also known as DMPED. And
11 I appreciate the opportunity to answer questions. I don't
12 see myself on screen, but I'm assuming you can see me and
13 hear me.

14 CHAIRPERSON HOOD: Are you using your telephone?

15 MR. LYONS: I'm using both my computer and phone,
16 yeah. And when I joined, I had connected them, so I assumed
17 that they were synced.

18 CHAIRPERSON HOOD: Okay. All I see is your phone.
19 But either way, unless you can get that, that's fine. We
20 can work with that. So thank you, Mr. Lyons for coming up.

21 Commissioner Imamura, if you want to ask your last
22 question of Mr. Lyons and I have a few that I want to ask as
23 well.

24 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
25 Thank you, Mr. Lyons. I appreciate you being here tonight.

1 A lot of questions will come up or have already come up
2 about the fire station, the police station; obviously, the
3 condition assessment to both. And my question is if we're
4 talking about a map amendment here, inevitably, the police
5 station and fire station will need to go somewhere. And I'm
6 curious if swing space has already been identified. And if
7 not, why not?

8 MR. LYONS: So there have been a lot of questions.
9 I've heard them tonight and before tonight. And I guess --
10 and there's a been questions about continuity of operations,
11 whether the station might go and not come back. And I'll
12 just start off by saying that if the site is redeveloped
13 pursuant to a DMPED RP, the civic uses of the public
14 facilities as existing on the site now will be rebuilt.
15 That includes the police and fire stations, both District 3
16 for the Metropolitan Police Department and Engine 9 for the
17 Fire and Emergency Medical Services Department.

18 We recognize the police and fire departments
19 provide critical emergency and live safety services and they
20 must be able to carry out their missions, whether or not the
21 site is redeveloped and before, during and after any period
22 of construction. So I just want to make that clear that
23 District 3 and Engine 9 will continue to serve the community
24 throughout any RFP process DMPED might conduct. Having said
25 that, I think you know the -- we have not yet issued an RFP.

1 No date has been set yet for that to happen. You know, the
2 idea behind an RFP is it's a competition of ideas. We hope
3 to have multiple respondents and multiple proposals with the
4 expertise behind them to bring different ideas to the
5 community. And those ideas might include potential areas
6 for swing states. I think, frankly, the police station has
7 such a large footprint, the parking and the staff and the
8 particular functions that are on that facility, that it
9 would be difficult to relocate that.

10 And as people have suggested and I think
11 Councilmember Evans may have stated, you know, this is a
12 dense area of the city and land is scarce. We would
13 certainly be looking at parcels of land that the District
14 already owns as potential sites for swing states. It's more
15 likely that the fire station would swing than the police
16 station. And again, the RFP would hopefully generate
17 different ideas and I remain open to what those might be,
18 but, you know, one possibility might be to relocate the fire
19 station and then build a new facility where that currently
20 is located and only move the police station after that new
21 facility has been built. So there would be no need for
22 swing space for the police station. I'm not saying that's
23 the way it would happen, but that is just one possibility.

24 COMMISSIONER IMAMURA: Okay. Thanks, Mr. Lyons,
25 for that explanation. I noticed you carefully stated the

1 police station and fire station will remain in operations
2 during the RFP process. And obviously, the RFP hasn't gone
3 out, but I think what -- and that makes complete sense
4 while, you know, the RFP is out there that they remain
5 operational. I think what people are interested in is that
6 it remain a permanent fixture there on the property, so not
7 while the RFP is going on or during the RFP process but --
8 and as you said, the RFP is a competition of ideas and I
9 think that there could be some really creative ideas out
10 there.

11 And there's some precedents out there, New York
12 City is one of them. There's some great examples there
13 where fire stations, police stations in this kind of a
14 project environment or project type -- I would only say that
15 -- and I'm sure your office is on this, but this could --
16 you know, ripe for rumors here, so I certainly hope that you
17 stay ahead of -- because there's still so many unknowns
18 about where that fire station and police station -- what
19 might happen, I certainly hope that -- I think maybe the
20 RFP, whatever you decide to put in there would help solidify
21 that a bit more. But just, you know, the fact that it will
22 remain in place and operational during the RFP, I don't
23 think is enough.

24 So but I appreciate your response and will look
25 forward to other questions that might tease out other issues

1 tonight. So thank you, Mr. Lyons for you response.

2 MR. LYONS: Thank you, Commissioner, for the
3 questions.

4 CHAIRPERSON HOOD: Okay. Thank you. Mr. Lyons, I
5 wanted to bring you up because I have a few and Mr.
6 Kirschenbaum, you can chime in as well, because I know you
7 all did a lot of the work probably together or however you
8 did it. Let me ask, the community input, I get the meetings
9 that DMPED has had. What community input did the applicant
10 or what community input did DMPED receive? Because I'm sure
11 -- I see support in opposition, but -- and with that input,
12 how did you put this into practice in coming from MU-4 to
13 MU-18 -- I was going to say 14 -- to MU -- what is it, 10?
14 So how did you -- explain that -- take me down that journey.
15 How did we evolve to get here with input from the community,
16 either Mr. Lyons or --

17 MR. LYONS: I think that's a question for OP. you
18 know, I'm the project manager for the RFP process, the
19 service and disposition process, not the zoning case. The
20 Office of Planning is the expert in planning and zoning
21 matters and the applicant in this case.

22 CHAIRPERSON HOOD: Okay. All right.

23 Mr. Kirschenbaum?

24 MR. KIRSCHENBAUM: Thank you for the question. So
25 again, on Slide 6, it sort of details the public engagement

1 process, which was primarily done by DMPED. They attended
2 my ANC meetings discussing the map amendment proposal and
3 also the process for the RFP and most recently, OP, along
4 with DMPED, attended ANC 1B's Economic Development Committee
5 on several occasions, where we heard sort of again concern
6 about the sort of impact of the proposed MU-10 zone adjacent
7 residential properties, which is why we brought forward
8 separate -- not -- sorry, text amendment case to provide the
9 building height transition setbacks. And I was not the
10 original project manager for this case, but I do believe
11 that OP also did meet with a group of community residents,
12 led by Deborah Akel, as well, to discuss the proposal.

13 CHAIRPERSON HOOD: Okay. Thank you, Mr.
14 Kirschenbaum. One of the things that I always look at in
15 these projects is a community and applicant coordination.
16 Not saying we're going to all hold hands and agree, but I
17 like to see when the community plays a part and even if it's
18 a prior development, whoever it is, I always like to see
19 when the community plays a part. Let me ask another
20 question. How would or could approval of a zoning action
21 possibly impact the race or ethnicity trends? Can you help
22 me with that, Mr. Kirschenbaum? And then how would or could
23 approval of a zoning action negatively impact the race of
24 the ethnicity trends? And I saw your slide, but I just want
25 to go into a little bit of more -- now, here's the thing,

1 we're not necessarily talking about a specific project,
2 everybody. I'm just talking about going from the MU-4 to
3 the MU-10.

4 MR. KIRSCHENBAUM: So again, sort of just to
5 recap, you know, both white and black residents decreased
6 between 2012 and 2021 in the planning area, while there were
7 modest increases in Asian and some other race and two or
8 more race residents. And also during this time period, the
9 median household income rose for all racial groups.
10 However, black residents in the planning area still have the
11 lowest median household income. And we also know that
12 residents who identify as black, some other race and
13 Hispanic all have the highest rates of being in rent or
14 owner-occupied housing. So this map amendment will provide,
15 you know, new opportunities to build significantly more
16 housing and affordable housing under the MU-10 zone and what
17 could be provided under the MU-4 zone.

18 And again, you know, the comprehensive plan states
19 that residents of color are a majority of our lower income
20 households in the district and, therefore, they face a
21 disproportionate share of problems caused by housing
22 insecurity and displacement. So again, this text amendment
23 will create many more housing opportunities in a very well-
24 resourced area where there are many employment
25 opportunities, good schools, supermarkets, recreation,

1 access to high-quality transit.

2 CHAIRPERSON HOOD: Okay. Thank you, Mr.
3 Kirschenbaum. One of the things that I will just say right
4 now that I always grapple with and especially grappled with
5 in this case is we want affordable housing and you mentioned
6 the ethnicity trends. We want those black residents, like
7 myself, we want to be included, but then on the other hand,
8 if we don't increase what we're doing, then sometime, from
9 what I hear -- what I've been hearing is that it's not
10 viable, it's not a project we can do. If we keep it MU-4,
11 then we leave out the people that we're trying to capture.
12 But then I understand -- and this is something I'm saying to
13 the parties, but I also understand that then we think that
14 it's too humungous or, you know, the zoning, you know? This
15 shouldn't be here, but yet, we want to balance it.

16 So that's some of the things that I'm just saying
17 this for everybody, this is what I grapple with and I'm sure
18 others do as well, how do we strike that balance? How do we
19 make it so we all can coexist? There are a number of
20 questions I have in this case and I'm just trying to -- I'm
21 probably rambling right now, but I want to hear more from
22 the public so I can try to pull this together for myself and
23 I'm sure others as well. I do have a question, Mr. Lyons
24 for you. Now, today, I'm sure the mayor has something at
25 12:00 where we're still trying to revive downtown. With a

1 project like this, is that -- and I know this is a way from
2 where you all -- where she was, I don't know if you were
3 there, but where she was today -- is a project like this
4 still in the -- I guess it's in front of her, sure, but is
5 it still something that the administration is looking at to
6 try to move forward with all the technical changes that have
7 been made in trying to bring downtown back as far as the
8 work and what people are doing downtown? I don't even know
9 if that question -- do you understand my question?

10 MR. LYONS: There may be a nuance that I'm not
11 clear on, but I'll just say that there is a downtown
12 revitalization plan, a come back plan, as you have stated.
13 And that is clearly a high priority of the current
14 administration and the plan actually has a map, if you will,
15 or a boundary outline in the downtown area with which it is
16 concerned. This project is not within that boundary, so
17 it's separate. That, I think, might answer part of your
18 question, but I think you were going somewhere else with a
19 second part.

20 CHAIRPERSON HOOD: Yeah. Thank you, Mr. Lyons.
21 What I'm trying to understand is everything's changing, and
22 I know this has probably been in the pipeline long before we
23 got to where we are now, and I agree with trying to bring
24 back downtown and flourish and I get that. But this project
25 has already been -- does this project fit into that mode,

1 even though it's outside the area? But is this the type of
2 project efficient to that mode of trying to revive what
3 we're doing in these areas?

4 MR. LYONS: Yeah. I mean from DMPED's
5 perspective, the site is underutilized. It's almost two
6 acres in the heart of the city. It's on a main arterial in
7 the city. It's very close to multiple, many transit
8 options. It has much more potential than it is currently
9 being used. And, you know, it's no surprise that the
10 district has certain goals, including housing goals. Those
11 have been well-publicized that the mayor is pursuing a
12 36,000 housing units by 2025 program that she has, you know,
13 campaigned on. And so when there is a site that is
14 underutilized, we look at it to try to put more utility on
15 it. You know, there's a need for new facilities, that's
16 number one, to replace the existing facilities, as we
17 already talked about. And then there's additional potential
18 to put down other uses, which could include neighborhood-
19 serving retail or housing, every DMPED RFP housing is
20 fundamental to any of our RFPs.

21 So this is another opportunity to reach certain
22 district goals and that's the -- and to your point, that
23 predates the downtown plan and initiative.

24 CHAIRPERSON HOOD: Okay. And my last question,
25 and I'm just going to say it point blank and I think the way

1 I heard it, is it safe for us to take the fire station and
2 the police station off the table, about relocation, not
3 coming back? Is it safe for us to just take that off the
4 table?

5 MR. LYONS: To take it off the table?

6 CHAIRPERSON HOOD: Yeah. To --

7 MR. LYONS: I mean, as I said before, both the
8 police station and fire station are critical life and
9 emergency services that will need to continue and the
10 community will continue to be served by both District 3 and
11 Engine 9.

12 CHAIRPERSON HOOD: Okay. So --

13 MR. LYONS: And that's been stated at pretty much
14 every meeting I've attended for the past year. It's stated
15 on the project website for this project.

16 CHAIRPERSON HOOD: And I'll tell you, the reason I
17 asked that, Mr. Lyons, is because the rest of this meeting
18 and -- I mean the rest of this hearing and on the 18th, we're
19 going to be hearing it. So I was trying to condense some of
20 our time and let's just take that off the table. We already
21 know what's going to happen with that and that will save us
22 from -- that'll be one less thing that has to be brought to
23 our attention and we can get with the other issues that some
24 of the community has, but I'll leave it at that for now and
25 see how we can move forward. All right. Thank you both. I

1 don't have any further questions.

2 Any follow-up questions from anybody? And then I
3 want to take a break. I was asked to give a break at 6:00,
4 so I want to make sure I adhere to that.

5 Commissioner Imamura?

6 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

7 Mr. Lyons, just so that I'm clear, the fact that
8 the police station and the fire station will be in the RFP
9 and will remain in place upon the completion of whatever
10 project materializes?

11 MR. LYONS: Yes, they will be part of the RFP and
12 they will need to be redeveloped as part of any DMPED
13 project.

14 CHAIRPERSON HOOD: Commissioner Stidham?

15 COMMISSIONER STIDHAM: Additional question along
16 those same lines because it sort of sounds like the
17 narrative is being parsed as this community will continue to
18 be served by these two units. I think the question at hand
19 is will these two continue to be located where they are
20 today in the end of the project?

21 MR. LYONS: To my point before, if and when we
22 issue an RFP, we will be open to ideas and those would be
23 brought to the community, so it's hard for me to see a
24 possibility where the police station could fit anywhere else
25 and but I -- again, the RFP has not been released. We have

1 not even begun the process, so --

2 COMMISSIONER STIDHAM: Well, I guess what I would
3 ask is, if you're in charge of the RFP and your RFP says
4 that these will -- any proposals will require that these two
5 remain onsite in whatever form that takes, it's very
6 different than an RFP that asks proposals to come back and
7 redevelop the site and put these two entities somewhere
8 else.

9 MR. LYONS: Yeah, I understand your point,
10 Commissioner. And, you know, at this point, as I've said,
11 the RFP is not complete. It's not final. It hasn't been
12 released, so I can't say with certainty right now what it
13 will state. It's just not there yet. We're not at that
14 point in time. So I don't want to make a statement that may
15 not be correct when one is, in fact, released. What I can
16 say with certainty is that, as I have said, both the police
17 station and the fire station will continue to serve the
18 community throughout the process, not just the RFP process
19 but through any period of construction and then will need to
20 be rebuilt as part of the project.

21 COMMISSIONER STIDHAM: Okay. You're just not
22 really saying if they will serve this community after the
23 project.

24 MR. LYONS: I think I -- I thought I did say that.
25 District 3 and Engine 9 will continue to serve the community

1 throughout the RFP process. They will need to serve before,
2 during and after any period of construction. I mean if
3 you're asking -- I think you're asking if they -- if new
4 stations will be built on the very same site. I can't say
5 that right now because the RFP is not complete. It's not
6 final and it won't be until it's released. So I can't say
7 that --

8 COMMISSIONER STIDHAM: (Crosstalk) I think
9 Commissioner Imamura has a follow-up, so I'll yield to him.

10 COMMISSIONER IMAMURA: Sorry. Thank you,
11 Commissioner Stidham. I'm in alignment with you. Mr.
12 Lyons, when will the RFP be finalized? Because clearly,
13 that's part -- that's a sticky issue here, right? So I
14 think everybody here understands this, that Engine 9 and
15 District 3 will serve the community, from where, and that
16 you have the creative agency on the RFP to say that they
17 will continue to serve the community at this location. I
18 understand that you're trying to achieve a creative outcome
19 here, but you're the author of the RFP so you could put that
20 in the RFP.

21 As Commissioner Stidham stated, it could take any
22 range of forms onsite, but that -- I think the community is
23 probably looking for that certainty from DMPED.

24 MR. LYONS: I would say you are correct and we
25 could write that into the RFP. We may write that into the

1 RFP. I'm just stating right now, we are not at that point.
2 We haven't released the RFP. Until it's final, I can't
3 really make any commitment stating that this is definitively
4 going to happen. Practically speaking, it's hard for me to
5 see a possibility where the police station would go anywhere
6 else, for the reasons I've already explained. But I have to
7 allow for the possibility there might be another option that
8 we don't see now and that somebody might bring to us.

9 COMMISSIONER IMAMURA: I certainly think you've
10 made your point, Mr. Lyons about your point-of-view, it
11 would be difficult to find another, you know, location for
12 it. And I think you can see from our point-of-view, from
13 the Commission, as well as from the community, that they're
14 just looking for a little more certainty. So I understand
15 in your role that it's difficult to put it out there. And
16 I'm not sure we're going to resolve it in this minute, but
17 that's going to be a recurring theme, so hopefully, that
18 goes into your decision making as you write your RFP.

19 MR. LYONS: Yeah.

20 COMMISSIONER IMAMURA: And how close are we to
21 releasing the RFP?

22 MR. LYONS: That is not my decision to make when
23 it gets released. It's based on a variety of documents I
24 just don't know. I do not have a date for you.

25 COMMISSIONER IMAMURA: Okay. All right.

1 (Crosstalk)

2 MR. LYONS: -- you know, as others have stated,
3 this hearing likely will continue. I can go back to our
4 team and see if I can provide any more clarity than I can
5 right now. And if I can, I will provide something in
6 writing.

7 CHAIRPERSON HOOD: Okay. Let me just echo, Mr.
8 Lyons, I appreciate your response about servicing the area.
9 And I was just trying to take some of that conversation
10 away. I get it, having been heavily involved with the Rocks
11 years ago when we broke up into Rocks in the city, I know
12 how it goes. And I know I'm going to leave that up to the
13 experts when you talk about response time, I don't think
14 we're -- I'm not pressing for that type of -- I'm just
15 pressing to make sure exactly what you said, it's going to
16 service those areas. Now, where it's going to be, I know
17 there are other factors. And I don't know if you're a
18 subject matter expert. I know I'm not when it comes to
19 response times, when it comes to the ambulance response
20 time, when it comes to fire -- I mean the police department.
21 I know all of those things go into equations, at least it
22 did when we did The Rock. And I'm sure we haven't varied
23 away from a lot of that 20 years later.

24 So I'm satisfied with that answer. I'm just
25 hoping that the public understands, as you said, those --

1 MPD and the Engine will continue to service the area. But I
2 know that the response time is going to be a key factor in
3 the location, so I would just leave it at that. Others may
4 want more, but I'm fine with that. Any other questions or
5 comments?

6 Vice Chair Miller?

7 VICE CHAIRPERSON MILLER: Sorry to delay your 6:00
8 p.m. five-minute break, but I didn't get to ask Mr. Lyons
9 any questions yet, but I assume he'll be here throughout the
10 hearing and we may come back to him and Mr. Kirschenbaum.
11 So I don't want to repeat the same question over and over
12 again, but is it fair to say, do you have a timeline and
13 status -- what is the status of the RFP and do you have a
14 timeline? Is it waiting for this commission -- it might
15 seem logical to wait for this commission to make a decision
16 on what the map amendment and text amendment will be, which
17 also planning in there recommendation for the text
18 amendment, which I think -- I haven't talked to my
19 colleagues, but I think we would agree we would not make a
20 decision on the map amendment until we -- we wouldn't make a
21 decision on the map amendment until we get to the point
22 where we're ready to make a final decision on the text
23 amendment because they go hand-in-hand.

24 The text amendment is designed to be a mitigation
25 of the map amendment. I mean that's an oversimplification,

1 but are you waiting for us before you issue an RFP? Is
2 there a status of the RFP? Is there a timeline for the RFP?

3 MR. LYONS: Thank you for your question,
4 Commissioner. As I stated, there is no date set right now.
5 I will say, to your point, that the ANCs and the community
6 as that an RFP wait until after the Zoning Commission could
7 discuss and vote on the application presently before it and
8 we heard that request and opted to not release an RFP before
9 this hearing. But I don't have a -- as I said there are a
10 variety of factors that go into the actual decision as to
11 when to release it. I don't have any definite date for you.
12 No date has --

13 VICE CHAIRPERSON MILLER: And you don't want to
14 share with us and the public what the variety of factors
15 are?

16 MR. LYONS: That's a decision that would be made
17 by the deputy mayor and mayor. I mean that's for
18 (inaudible), so --

19 VICE CHAIRPERSON MILLER: Yeah. Just out of
20 curiosity, since it's been mentioned by the only public
21 witness we had, former Councilmember Evans, I have to ask,
22 is the Second District Police Station, which is in my
23 neighborhood, in Cleveland Park, Cathedral Heights, being
24 considered as a swing space for the entire or temporary
25 space for serving the entire 3D?

1 MR. LYONS: No.

2 VICE CHAIRPERSON MILLER: I mean, okay. So that's
3 good to take that off the table, then because that's pretty
4 far west of where 3D extends to and that police station also
5 needs a lot of renovation and probably affordable housing on
6 top of it. The only other question I have, just it kind of
7 begs the question since it's been raised about there aren't
8 a lot of other public sites nearby, there is a public site
9 three blocks away, the Reeves Center, which has been talked
10 about being redeveloped. What is the status of the
11 redevelopment or RFP for the Reeves Center at 14th and U?
12 And is that a possible site for temporary or permanent
13 police and fire and public library or other facilities to
14 serve this and nearby neighborhoods?

15 MR. LYONS: I don't know the status of that RFP.
16 That is being handled by a colleague of mine.

17 VICE CHAIRPERSON MILLER: Are you the project
18 manager for that?

19 MR. LYONS: No. No, I'm not. If you'd like, I
20 can inquire and, you know, respond in writing after this
21 meeting.

22 VICE CHAIRPERSON MILLER: I think that would be
23 helpful. I mean there aren't a lot of public sites and it's
24 been publicly discussed I think by the major and others that
25 that's going to be redeveloped. And so that would be -- it

1 would be useful to know whether that's a possibility. Thank
2 you.

3 CHAIRPERSON HOOD: All right. Thank you, Mr.
4 Lyons for willing to be the project manager for everything
5 that we talked about. But we understand exactly where
6 you're the project manager. We may have -- we get it. We
7 get it. At least I get it. I'm sure I get it. Let's do
8 this, let's take our 6:00 break. It's 6:25. And let's come
9 back at 6:31. That way it'll be five minutes. And we're
10 going to start with cross-examination. So I'm going to ask
11 all of those who've testified for the applicant, Office of
12 Planning, DMPED, everyone to stay tuned because we may have
13 some questions from the public. So with that, we'll come
14 back at 6:31. Thanks.

15 (Whereupon, at 6:25 p.m., a brief recess was
16 taken.)

17 CHAIRPERSON HOOD: Okay. My clock has 6:31, if we
18 can come back, rather be on time.

19 COMMISSIONER IMAMURA: I'm here, Mr. Chairman, but
20 just going to go off camera for a minute.

21 CHAIRPERSON HOOD: Okay, okay. Just waiting on
22 Vice Chair Miller. So to the public, if we have our cameras
23 off, know that we are listening. We're right here listening
24 and it is the dinner hour. Stomachs started grumbling and
25 they get mad with us. Okay. Mr. Ritting, I see you.

1 Something wrong?

2 MR. RITTING: I just wanted -- before we started
3 cross-examination, I just wanted to remind everybody
4 including Commissioners and the public about the
5 Commission's rule about cross-examination and the Chair's
6 role in it. And I'll just read the rule now so everyone
7 hears it at the same time. Sorry, I'm looking somewhere
8 else because I'm trying to read it off my screen. And it's
9 in Subtitle Z 408.6, "A party may cross-examine any other
10 party, individual or organization, representative, except
11 provided that the presiding officer," and this is the
12 important part, may rule a question out of order when it is
13 irrelevant, immaterial or unduly repetitious or otherwise
14 outside the scope of cross-examination."

15 I just wanted to bring that up because it's, you
16 know, going to be a long night. There's five parties and
17 Mr. Hood is going to have a role in limiting the scope of
18 cross-examination if it exceeds those boundaries. And I
19 should say also that usually in a map amendment case, I
20 would advise the Commission that discussion about a
21 particular project or, in this case, sort of the follow-on
22 effects of a particular project are outside of the relevant
23 scope of the map amendment hearing. However, this is a very
24 unusual case. And as we've heard already this evening,
25 there's been extensive direct testimony about that, so it is

1 appropriate for the parties to ask questions about that, but
2 there's also the role for the Chairman to limit the scope of
3 that to prevent unduly repetitious testimony and testimony
4 that's outside of the scope of cross-examination, which is
5 intended to be just limited to clarifying questions about
6 the direct testimony and not n opportunity to make
7 additional arguments that could be made in the party's
8 presentation in chief. That ends my speech. Sorry to be
9 longwinded. If you have any questions, I'm eager or
10 available to answer them.

11 CHAIRPERSON HOOD: Well, I want to first of all
12 thank you, Mr. Ritting. That has never been done. I just
13 go ahead and get the sound bytes from my legal counsel and
14 then the public beats on me and says I didn't let them
15 speak, but there is some legal -- and I know the courts
16 probably say it -- and like I said earlier, what is wrong
17 with him, he's letting all of that in. So Mr. Ritting is
18 exactly correct. We'd like to hear -- you know, that's been
19 my practice, but make sure it's germane to the topic, you
20 know? But I've always relaxed that. If you want to spend
21 your three minutes talking off topic, that's your three
22 minutes or whatever time you have. But Mr. Ritting, I
23 appreciate you bringing that up so they know that I have
24 some legal ground on when I do those kind of things, so
25 thank you very much.

1 All right. Ms. Schellin, let's see if we can --
2 okay. I want to thank you, Ms. Schellin, for sending this
3 to me. Let's go with Ms. Chair Harris, any cross-
4 examination?

5 CHAIR HARRIS: Yes, I have a few questions. One,
6 so I know you mentioned -- this is for Mr. Kirschenbaum,
7 that MU-10 requires a public plaza. Do any of the other
8 zones require that?

9 MR. KIRSCHENBAUM: Regular MU zones require a
10 public plaza.

11 CHAIR HARRIS: Okay. Thank you. And then
12 wouldn't you agree that more residents in a neighborhood
13 immediately proximate to downtown would aid in downtown
14 recovery?

15 MR. KIRSCHENBAUM: I would agree with that
16 statement. It's a holistic approach.

17 CHAIR HARRIS: Okay. And then do you know if
18 there's a comparison of the surplus of DC public land in
19 wards/areas? I know you mentioned mid city has reached its
20 goal of affordable housing, but is it because mid city has
21 had more available land/public parcels here than in other
22 parts of DC?

23 MR. KIRSCHENBAUM: Unfortunately, I do not know
24 the answer to that.

25 CHAIR HARRIS: Okay. Thank you. That's it.

1 CHAIRPERSON HOOD: Okay. Thank you, Chair Harris.
2 Let's go to ANC 2B. I think Commissioner Adams or
3 Wagonshack (phonetic).

4 MS. SCHELLIN: Neither are online.

5 CHAIRPERSON HOOD: Okay. Let's go to DCCA, Mr.
6 Hanlon, any questions of the petitioners?

7 MR. HANLON: Chair Hood, I was going to ask if you
8 could pass me for cross-examination and allow the immediate
9 neighbors to ask questions first because I don't want to ask
10 redundant questions or step on their feet for issues that
11 are important to them and I know that Black Neighbors of 16,
12 17 U and the immediate neighbors within 200 feet have -- and
13 Mr. Jones have a number of questions. And I would not want
14 to preempt, you know, on grounds of redundancy their ability
15 to do that.

16 CHAIRPERSON HOOD: Okay. No problem. What I'm
17 going to do, Ms. Schellin, besides the 2 ANC commissioner --
18 I mean the 2 ANCs, I want to start the list you sent me from
19 the bottom up, so we'll go in that order. Let's go with
20 homeowners within 200 feet.

21 MS. FESKANICH: Thank you.

22 CHAIRPERSON HOOD: Yes. Go right ahead.

23 MS. FESKANICH: Okay. Thank you, commissioners.
24 And thank you for giving me the opportunity to examine with
25 you the Office of Planning's proposal to rezone this square,

1 175, Lots 826 and 827 from MU-4 to MU-10. I represent the
2 homeowners within 200 feet of this property. And so it's
3 obviously a very important issue to the neighboring
4 community and to the residents of the district at large
5 since it houses police and fire emergency services. A
6 decision on this rezoning will potentially transform the
7 entire nature of the community in which this resides, our
8 community.

9 So I'd like first to talk about Exhibit 58, the
10 Office of Planning's final report to the Zoning Commission,
11 dated June 16, 2023 and start with Figure 5 on Page 5 of
12 this report, titled Zone Districts and Historic Districts,
13 if you could turn to that page. It's at the bottom of Page
14 5. Is everyone at that page?

15 CHAIRPERSON HOOD: Yes, we're with you.

16 MS. FESKANICH: Yes. Okay, sorry. OP, can you
17 explain this map and what it's illustrating?

18 MR. KIRSCHENBAUM: This map shows the subject
19 property, the MU-4 zone in relation to surrounding historic
20 districts.

21 MS. FESKANICH: Okay. And what exactly are the
22 boundaries of the subject site that you're proposing for
23 rezoning?

24 MR. KIRSCHENBAUM: That is on Slide 1 of our
25 PowerPoint presentation. Generally speaking, it's Lots 826

1 and 827, but the way the Office of Zoning maps zones, they
2 bring it to the center line of the street.

3 MS. FESKANICH: Okay. But can you describe the
4 boundaries of this particular site?

5 MR. KIRSCHENBAUM: I don't think I understand your
6 question.

7 MS. FESKANICH: If you're looking at the map and
8 the north side, west side, south side, east side, what
9 exactly are the boundaries of this map in relationship to
10 the historic zones and zone districts?

11 MR. KIRSCHENBAUM: This map does not contain the
12 boundaries of the proposed rezoning. It's not drawn on the
13 map.

14 MS. FESKANICH: I'm sorry. I don't -- I thought
15 it does. Are you looking Figure 5, Zone Districts and
16 Historic Districts and the site is actually pictured there?

17 MR. KIRSCHENBAUM: I don't believe this is showing
18 the entire -- I don't -- like I said, I don't believe this
19 is showing the complete outline of the property.

20 MS. FESKANICH: Are the other -- do the
21 Commissioners see that property line?

22 CHAIRPERSON HOOD: So what we really need -- this
23 is a cross-examination, by law --

24 MS. FESKANICH: Okay.

25 CHAIRPERSON HOOD: -- let me explain what needs to

1 happen, you need to ask specific questions to his previous
2 testimony, specific questions about things that he's
3 discussed and talked about, either in his report, but the
4 map that you're talking about, you need to be more specific
5 on what you're trying to ask him and, you know, we follow
6 you. I know you're trying to take us down a course, but we
7 need to get to specific questions about his testimony.

8 MS. FESKANICH: Okay. And the final report --
9 OP's final report is considered part of that testimony,
10 correct?

11 CHAIRPERSON HOOD: It is, but the question you're
12 asking about do we see the map on Page 5, what is it
13 specifically you're trying -- pertaining to the case, the
14 MU-4 versus the MU-10, what is it specifically you're asking
15 Office of Planning?

16 MS. FESKANICH: Yeah. I'm trying to confirm that
17 the boundaries of the subject site, what they are in
18 relationship to the historic districts and the zone
19 districts surrounding that. So let me just say that OP, do
20 you agree that the subject site sits squarely in an MU-4
21 zone?

22 MR. KIRSCHENBAUM: That I agree with, correct.

23 MS. FESKANICH: Okay. You agree with that, okay.

24 MR. KIRSCHENBAUM: Right.

25 MS. FESKANICH: So you presume that if you win

1 approval for your application to rezone the site to MU-10,
2 it would mean that just the subject site is rezoned to MU-
3 10, correct?

4 MR. KIRSCHENBAUM: Well, as I said, generally
5 speaking, yes. But the way the Office of Zoning maps --
6 does the rezonings is it will go to the center line of the
7 adjacent streets.

8 MS. FESKANICH: Okay. And the MU-4 zone that is
9 currently zoned actually extends south of U Street, correct?

10 MR. KIRSCHENBAUM: That would be correct.

11 MS. FESKANICH: So there will be a slice of an MU-
12 4 zone just south of the subject site along U Street after
13 the MU-10 rezoning if it is rezoned?

14 MR. KIRSCHENBAUM: Correct, if it's rezoned.

15 MS. FESKANICH: Okay. And there will also be part
16 of this slice of MU-4 zone extending from U Street north on
17 17th Street as far as Seaton Street, correct?

18 MR. KIRSCHENBAUM: Correct, yes.

19 MS. FESKANICH: Okay, okay. So after the rezoning
20 of the subject site to MU-10, if approved, there will be an
21 MU-10 district just south and just west of the subject site,
22 correct?

23 MR. KIRSCHENBAUM: That would be correct.

24 MS. FESKANICH: Okay. So continuing to walk
25 around this site, I just want to make sure we're clear on

1 how -- on where this site is and all of the boundaries,
2 continuing to walk around this site, there will be an RI2
3 zone, also on the west side, as well as directly north of
4 the subject site, correct?

5 MR. KIRSCHENBAUM: That would be correct.

6 MS. FESKANICH: Okay. And an RI2 zone on the
7 northeast corner of the site as well, correct? That's that
8 little --

9 MR. KIRSCHENBAUM: (Crosstalk) part.

10 MS. FESKANICH: That's that little cutout piece on
11 the northeast side?

12 MR. KIRSCHENBAUM: Correct.

13 MS. FESKANICH: Okay. And only for a very small
14 portion of the east side of the subject side will it abut in
15 RA-4 District, correct?

16 MR. KIRSCHENBAUM: It will also abut an RA-4
17 District on the east side as well.

18 MS. FESKANICH: Right. And that accounts for just
19 a small portion of that east side, correct?

20 MR. KIRSCHENBAUM: Well, it appears that it will
21 abut about at least half of the RA -- half of the property
22 will abut the RA-4.

23 MS. FESKANICH: Only on the east side, okay.

24 MR. KIRSCHENBAUM: Correct.

25 MS. FESKANICH: So isn't it the case then that in

1 three of the four directions around this site, there are
2 moderate density zone districts?

3 MR. KIRSCHENBAUM: That is correct.

4 MS. FESKANICH: Okay. Doesn't the comp plan,
5 future land use map designation define moderate density
6 zones as those that have a floor to area ratio, FAR, up to
7 1.8?

8 MR. KIRSCHENBAUM: I do not have the framework
9 element in front of me.

10 MS. FESKANICH: I believe that that's true. The
11 citation is the DCMR10A, DCMR227.6.

12 MR. KIRSCHENBAUM: Okay.

13 CHAIRPERSON HOOD: So what you can do -- what I
14 would suggest is when you ask Mr. Kirschenbaum a question,
15 he didn't have it in front of us, when you get ready to do
16 your testimony, you just mention that to us then. That'll
17 be helpful. Right now, we just want to get the questions
18 out, but the where it's at and all of that and present it to
19 us, that'll be good if you do it in your testimony.

20 MS. FESKANICH: Oh, that the actual FLUM
21 designation -- how they describe moderate density, is that
22 what you're saying?

23 CHAIRPERSON HOOD: Whatever you have to present
24 when you asked Mr. Kirschenbaum a question just now
25 (inaudible), you came back with the answer. It'd be better

1 for you to give most -- give us the answer when you do your
2 testimony.

3 MS. FESKANICH: Okay, okay. All right.

4 Continuing, isn't the FAR for RA-2 maxed out at 1.8, making
5 it moderate density according to the comprehensive plan?

6 MR. KIRSCHENBAUM: I'm sorry. You asked that for
7 RA-2?

8 MS. FESKANICH: This is, yes, for RA-2.

9 MR. KIRSCHENBAUM: I believe it's 1.8 IZ and if
10 you give me a second, I can confirm the zoning. So it is
11 1.8, except for public libraries, it's 1.8 and then a
12 building that includes inclusionary zoning and it can go up
13 to 2.16 FAR.

14 MS. FESKANICH: 2.74 -- okay, I see.

15 MR. KIRSCHENBAUM: 2.16.

16 MS. FESKANICH: I'm sorry, 2.16, okay.

17 MR. KIRSCHENBAUM: Correct.

18 MS. FESKANICH: And according to the DC Zoning
19 Handbook, the FAR for the MU-4 zone on the southwest sides
20 of the project is 1.5, putting it well within the comp
21 plan's definition of moderate density.

22 MR. KIRSCHENBAUM: I would disagree with that
23 statement.

24 MS. FESKANICH: Can you elaborate?

25 MR. KIRSCHENBAUM: Sure. For sure. The zoning

1 handbook is not the official zoning regulations. MU-4
2 allows up to a 3.0 FAR for buildings that have inclusionary
3 zoning units. For buildings -- for uses that are non-
4 residential, the MU-4 when it's non-residential use is still
5 1.5 FAR, but the overall FAR for MU-4 is three for a mixed-
6 use building with residential and IZ units.

7 MS. FESKANICH: So that's the overall, right?

8 MR. KIRSCHENBAUM: Correct.

9 MS. FESKANICH: For mixed use?

10 MR. KIRSCHENBAUM: For mixed use, correct.

11 MS. FESKANICH: Okay. Okay. So three of the four
12 sides of the subject site abut existing moderate density
13 zones. I think we agreed on that, correct?

14 MR. KIRSCHENBAUM: Correct.

15 MS. FESKANICH: Okay. So isn't it inaccurate in
16 your final report, Exhibit 58, on Page 6, when you say, "The
17 area is a predominately moderate to high density residential
18 neighborhood"?

19 MR. KIRSCHENBAUM: You know, again, for the
20 record, I was not the case manager that wrote this report,
21 so if -- I don't want to 100 percent speak for the case
22 manager that wrote this report. I believe they were
23 referring to higher density residential uses that are
24 improved east of the property, along 16th Street.

25 MS. FESKANICH: Okay. I think what I was trying

1 to understand there is the description of this site is being
2 presented as predominately moderate to high density
3 residential when, in fact, it's moderate. There is no high
4 density residential and --

5 CHAIRPERSON HOOD: So I know you're trying to get
6 to a point, but actually when you keep going like that,
7 you're testifying, so --

8 MS. FESKANICH: Okay. Sorry.

9 CHAIRPERSON HOOD: -- anything that you need to do
10 -- and I'm -- we're going to get through it so we can save
11 all this time and do what's in the best interest for this
12 commission.

13 MS. FESKANICH: Okay. I'm sorry.

14 CHAIRPERSON HOOD: When you have a point to
15 counteract, do it on your testimony.

16 MS. FESKANICH: Okay. Thank you. So OP, where
17 are the high-density residential buildings in this
18 community?

19 MR. KIRSCHENBAUM: There are high-density
20 residential buildings along 16th Street and New Hampshire
21 Avenue.

22 MS. FESKANICH: 16th Street and New Hampshire.
23 Okay. Continuing with the site and area description on
24 Pages 4 through 6 of your final report, the report lists
25 four bullets on what is proximate to the site's boundaries.

1 That's on Page 5.

2 MR. KIRSCHENBAUM: Okay.

3 MS. FESKANICH: Okay. On the north, across V
4 Street Northwest, it sites two-story rowhouses, correct?

5 MR. KIRSCHENBAUM: I do -- yes, it does, correct.

6 MS. FESKANICH: The west side across 17th Street,
7 there are primarily residential two and three-story row
8 buildings with ground floor retail at the corner of 17th and
9 U, correct?

10 MR. KIRSCHENBAUM: That's that it says, correct.

11 MS. FESKANICH: And on the south, across U Street,
12 there's a mix of three and four-story buildings with ground
13 floor retail.

14 MR. KIRSCHENBAUM: That's what it says, correct.

15 MS. FESKANICH: Okay. But the report also says
16 that there is one five-story commercial building across U
17 Street, the south side. Can you show me where it is and
18 which building the report is calling five stories?

19 MR. KIRSCHENBAUM: You know, again, I did not
20 write this, so I cannot immediately recall. I won't be able
21 to immediately recall for you what that is referring to.

22 MS. FESKANICH: Okay. Is that an accurate
23 depiction, then, do you think, of the site and the building?
24 Oh, you don't really know the building, so is it actually
25 four stories, not five?

1 MR. KIRSCHENBAUM: You know, I can respond to that
2 in writing.

3 MS. FESKANICH: Okay. Finally. On the east side,
4 the report says that across the public alley, there's a
5 combination of three and four-story rowhouses and the four-
6 story apartment building with ground floor retail on U
7 Street, also cites five to eight story apartment buildings
8 along 16th Street, correct?

9 MR. KIRSCHENBAUM: That would be correct.

10 MS. FESKANICH: So given that all the buildings
11 and houses cited were in immediate proximity to the subject
12 site, isn't it misleading to cite higher buildings along 16th
13 Street when they aren't in immediate proximity to the
14 subject site?

15 MR. KIRSCHENBAUM: No, it's a general description
16 of the surrounding area.

17 MS. FESKANICH: You don't feel that that gives a
18 misleading depiction of what is abutting this property, what
19 it's directly abutting to?

20 MR. KIRSCHENBAUM: I believe the bullet points are
21 trying to demonstrate that there's a range of different
22 typologies and building heights.

23 MS. FESKANICH: And it doesn't really give a
24 distance on those other buildings, correct?

25 MR. KIRSCHENBAUM: There are -- there's no

1 distance referenced in the bullet points.

2 MS. FESKANICH: Okay. Isn't there only one seven-
3 story building, the Balfour on the east side of the subject
4 site? And isn't it actually separated from the subject site
5 by a four-story apartment building, the Rochelle apartments?

6 MR. KIRSCHENBAUM: I do see that building, yes, in
7 the street view.

8 MS. FESKANICH: So it is separated. It's seven
9 stories and separated. And then citing other five to eight-
10 story apartment buildings farther away on 16th Street gives a
11 somewhat misleading characterization of the area around the
12 subject site, would you agree?

13 MR. KIRSCHENBAUM: I don't agree. Again, it's a
14 general description of the general surrounding area.

15 MS. FESKANICH: Okay. Before going on, looking at
16 Figure 5, Page 5 map again, the one that we've been looking
17 at, what is the zone further to the south and east in the
18 16th Street Historic District, RA-8? Is that correct?

19 MR. KIRSCHENBAUM: That is -- I believe that's an
20 old zone term that no longer exists. That is now called an
21 RA-2 zone with a Dupont Circle overlay on top of it.

22 MS. FESKANICH: So where did the source of this
23 map come from?

24 MR. KIRSCHENBAUM: This map was -- this report is
25 dated June 16, 2023 and the zoning reorganization, which

1 changed the zoning names was enacted on August 24th, so this
2 is a map that was created prior to the zoning changes.

3 MS. FESKANICH: August 24, 2023?

4 MR. KIRSCHENBAUM: Correct.

5 MS. FESKANICH: Okay. I wanted just to make sure
6 that the map wasn't somehow in error. And you're saying
7 that it is not in error, correct?

8 MR. KIRSCHENBAUM: Well, right. You're looking --
9 I mean you're looking at the RA-8 label that is just south
10 of the 16th Street Historic District label?

11 MS. FESKANICH: Yeah. Uh-huh.

12 MR. KIRSCHENBAUM: That appears, to me, looking on
13 the fly right now, on the official Office of Zoning zoning
14 map, it appears to be RA-2 with a Dupont Circle overlay.

15 MS. FESKANICH: Okay. So that has been corrected.
16 Is RA-8 a moderate density zone?

17 MR. KIRSCHENBAUM: Well, again, the RA-8 has been
18 renamed -- RA-8 was always based on the RA-2, so the name
19 was just changed to reflect that it has a Dupont Circle
20 overlay on top of it.

21 MS. FESKANICH: Okay. So that is moderate,
22 correct?

23 MR. KIRSCHENBAUM: Correct, right. It's the same
24 as a base RA-2 zone.

25 MS. FESKANICH: Okay. Thank you. Going to

1 another map in your Exhibit 58, on Page 7 -- I'm sorry,
2 Figure 7 on Page 12, the policy map.

3 MR. KIRSCHENBAUM: Okay.

4 CHAIRPERSON HOOD: Let me just say that the
5 questions are unduly broad. I would ask you to narrow your
6 questions down specific. We're going through a map, which
7 you already had. And I get what you're trying to do. I
8 guess you're trying to discredit the report, so let's be
9 specific.

10 (Crosstalk)

11 MS. FESKANICH: I'm trying -- yeah. I'm trying to
12 make sure that this is an accurate description, a site
13 description and area description of this proposed site.

14 CHAIRPERSON HOOD: Ms. -- how do you pronounce
15 your last name?

16 MS. FESKANICH: Feskanich.

17 CHAIRPERSON HOOD: Ms. Feskanich, I appreciate
18 what you're trying to do to help us, but we got that 15
19 minutes ago, so help us move on forward to something. And
20 I'm not trying to cut your cross-examination, but we got
21 what you were trying to do, especially when you mentioned
22 about some of the flaws that may be in this map, so we get
23 that.

24 MS. FESKANICH: Okay.

25 CHAIRPERSON HOOD: You've nailed that home, so

1 let's move on to something else.

2 MS. FESKANICH: Okay. Thank you. All right. So
3 turning to the Policy Map, Page 12, Figure 7. Here, you're
4 reviewing the generalized policy map, correct?

5 MR. KIRSCHENBAUM: Correct.

6 MS. FESKANICH: Okay. And you're acknowledging
7 that the whole northern half of the subject site, which
8 includes some of 17th Street on the west and half of the
9 eastern side of the site is designated as a neighborhood
10 conservation area, correct?

11 MR. KIRSCHENBAUM: That would be correct.

12 MS. FESKANICH: Okay. So and then on Page 13, you
13 suggest that neighborhood conservation areas don't preclude
14 development and shouldn't freeze a neighborhood at a point
15 in time, I think, were the words you used, correct?

16 MR. KIRSCHENBAUM: Those are the words. And I did
17 not write this, but those are the words in the report.

18 MS. FESKANICH: Okay. An the report goes on to
19 say that a neighborhood conservation area should not be
20 compromised by incompatible development, correct? That's
21 also in that same paragraph, correct?

22 MR. KIRSCHENBAUM: Could you point me to which
23 paragraph?

24 MS. FESKANICH: Yeah. Page 13, Paragraph 2.

25 MR. KIRSCHENBAUM: Okay.

1 MS. FESKANICH: Second line. That the
2 neighborhood concentration area should not be compromised by
3 incompatible development.

4 MR. KIRSCHENBAUM: It does. The report does say
5 that.

6 MS. FESKANICH: Okay. Then how did you reconcile
7 the neighborhood conservation area requirement for
8 neighborhood compatibility with your proposal for rezoning
9 the subject site to MU-10?

10 MR. KIRSCHENBAUM: So, you know, again, as I said
11 in my presentation, there are policies in the comp plan that
12 say that neighborhood conservation areas, development that's
13 in them are guided by what the future land use map
14 designations are, as well as the comprehensive plan
15 policies. And the comprehensive plan says that it's not to
16 preclude development in these areas. So again, in this
17 case, the proposed map amendment is consistent with the FLUM
18 designations and the comprehensive plan says that, in
19 particular, the neighborhood conservation plan -- excuse me,
20 neighborhood conservation areas, where there's affordable
21 housing, it is important to support that.

22 MS. FESKANICH: Okay. Does the comprehensive plan
23 also say that these neighborhood conservation areas should
24 not be compromised by incompatible development? What
25 measures did you use to determine compatibility?

1 MR. KIRSCHENBAUM: So I do not know offhand if
2 there is language that actually speaks to that specific
3 terminology. And, again, regarding compatibility, again,
4 map amendments are reviewed against consistency with the
5 future land use map, the policy map and the policies of the
6 comprehensive plan.

7 MS. FESKANICH: Okay. So how is an MU-10 building
8 that may max out at 10 stories, plus two stories for a
9 penthouse, how is that compatible in our proximate
10 neighborhood?

11 MR. KIRSCHENBAUM: Well, again, I don't want to
12 repeat myself, but a map amendment, the review process is
13 that it has to not be inconsistent with the future land use
14 map, the policy map and the comprehensive plan policies.
15 And there are many policies that support any sort of tool,
16 like op zoning, to produce more housing and, in particular,
17 affordable housing. And so this is a map amendment where
18 we're recommending it be mapped with IZ Plus, which would
19 require more affordable housing than what regular IZ would
20 require. However, since this is a disposition, there would
21 be a much higher affordability requirement than IZ Plus.

22 So again, this would -- this map amendment would
23 facilitate new opportunities to provide additional
24 affordable housing and more housing overall.

25 MS. FESKANICH: Does that take precedence over

1 considerations of compatibility in neighbors, such as the
2 historic district in which we live?

3 MR. KIRSCHENBAUM: Well, again, you know, this
4 property is not in the historic district.

5 MS. FESKANICH: The property -- I think we
6 established and you agreed in that Page 5 of Figure 5 that
7 it is surrounded by historic districts.

8 MR. KIRSCHENBAUM: That I agree with, but the
9 subject property itself is not in the historic district.

10 MS. FESKANICH: Compatibility with the
11 neighborhood conservation area, does your affordability and
12 other policies in the comprehensive plan precede or overrule
13 the compatibility with neighborhood conservation areas?

14 MR. KIRSCHENBAUM: Well, again, the comprehensive
15 plan says affordable housing is one of the most important
16 goals of the comprehensive plan.

17 MS. FESKANICH: Okay. All right. I'd like to go
18 to the suggested -- your suggested text amendment, which is
19 part of Exhibit 358, the supplemental report.

20 MR. KIRSCHENBAUM: Okay. Give me one second so I
21 can open that up.

22 MS. FESKANICH: Okay. Thank you.

23 CHAIRPERSON HOOD: You're talking about the text
24 amendment that's come before us in a previous case?

25 MS. FESKANICH: No, this is Exhibit 358 in our

1 case. It was called the Supplemental Public Hearing Report
2 No. 2, issued on November 8th.

3 MR. KIRSCHENBAUM: I have that open.

4 MS. FESKANICH: Okay.

5 MS. SCHELLIN: Jonathan, is that not for the new
6 case, 23-26?

7 MR. KIRSCHENBAUM: The information in this report
8 is related to the next text amendment case (crosstalk).

9 CHAIRPERSON HOOD: So we're not entertaining.
10 Save that question for the whatever the date is, so --

11 MS. SCHELLIN: The 21st.

12 CHAIRPERSON HOOD: -- you can't go over the text
13 amendment. That's not before us tonight.

14 MS. FESKANICH: This document is part of the case
15 records, case documents for our case, correct? So we can't
16 reference them?

17 CHAIRPERSON HOOD: We have a text amendment, which
18 we're going to hear -- this is a two-part case. This is a
19 map amendment tonight, and then we have a text amendment, a
20 rulemaking, two different proceedings. We chose not to put
21 them together. Two different proceedings because it's
22 already confusing, just by this one, so we couldn't -- I
23 couldn't do two different procedural hearings in the same
24 matter. That question that you have about that rulemaking,
25 we can ask that when we do the text amendment and we'll give

1 those dates out, if they are not already out there.

2 MS. FESKANICH: Okay. I had a lot of questions
3 about that one (laughter).

4 CHAIRPERSON HOOD: Well, we'll see you the night
5 that we have the rulemaking.

6 MS. FESKANICH: Okay. I'm sure. Okay. Let's
7 see. Give me one minute to find my place after that.

8 CHAIRPERSON HOOD: And let me rephrase that. The
9 questions you ask, you want to put in your testimony because
10 a rulemaking procedure is totally different from a contested
11 case.

12 MS. FESKANICH: And you said the upcoming case is
13 going to be a rulemaking case?

14 CHAIRPERSON HOOD: Yeah. What date is that, Ms.
15 Schellin?

16 MS. SCHELLIN: It's March 21st.

17 CHAIRPERSON HOOD: March 21st.

18 MS. SCHELLIN: And there are no parties to a
19 rulemaking case.

20 CHAIRPERSON HOOD: Right, right. So all your
21 questions need to be in your testimony that you're going to
22 be presenting to us.

23 MS. FESKANICH: Okay. So that's your rulemaking
24 case, okay. Then let me go back to -- this is to the final
25 report, Exhibit 58.

1 CHAIRPERSON HOOD: MS. Schellin, start looking for
2 the third night for this case, please.

3 MS. FESKANICH: (Laughter) I'm sorry.

4 CHAIRPERSON HOOD: No problem.

5 MS. FESKANICH: Yeah. It's just it's really
6 important to us, the neighbors.

7 CHAIRPERSON HOOD: I get that, but I want to make
8 sure you're helping us who's going to make the decision,
9 make sure this is germane specific to help us.

10 MS. FESKANICH: Yeah. I appreciate that. I --
11 yeah, I appreciate that. Okay. Going back to the final
12 report, which is Exhibit 58, and I wanted to bring up also
13 Exhibit 57, the DDOT Supplemental Report. (Crosstalk)

14 MR. KIRSCHENBAUM: You know, I can bring up the
15 report, but I probably won't be able to speak to DDOT's
16 work.

17 MS. FESKANICH: Okay.

18 MR. KIRSCHENBAUM: But please give me one moment.
19 Okay. I have both exhibits open.

20 MS. FESKANICH: Okay. Thank you. All right. In
21 Exhibit 58, the final report, can you read what you wrote on
22 Page 2, Paragraph 4, starting with, "Depending on the
23 ultimate development plan"?

24 MR. KIRSCHENBAUM: Say that last part.

25 MS. FESKANICH: Can you read the part that you

1 wrote on Page 2, Paragraph 4? I believe that's the second
2 paragraph from the last -- third paragraph from the bottom
3 of Page 4.

4 MR. KIRSCHENBAUM: Okay.

5 MS. FESKANICH: Starting with, "Depending on the
6 ultimate development plan."

7 MR. KIRSCHENBAUM: Sure. And, again, just for the
8 record, I just want to make sure the record's clear, I did
9 not write this. "Depending on the ultimate development
10 plan, the MU-10 zone extends to the height maximums could
11 permit construction of newer MPD and FEMS facilities, over
12 200 affordable housing units and a larger garage for many
13 public and employee vehicles that will spill over onto
14 neighborhood streets."

15 MS. FESKANICH: Okay. Thank you. So is this
16 saying that all of these together could be achieved on this
17 1.88 acre site?

18 MR. KIRSCHENBAUM: This is saying that the zoning
19 could provide new opportunities to build new public
20 facilities as well as new housing and significant affordable
21 housing.

22 MS. FESKANICH: Does that mean that these can
23 coexist or would one of these estimates or goals have to be
24 decreased or dropped in order to accommodate the other?

25 MR. KIRSCHENBAUM: Well, none of this is supposed

1 -- none of that is, you know, finite. Again, this is
2 establishing zoning for the site. That is mixed use zoning.
3 That could allow for a mixing of these different uses.

4 MS. FESKANICH: Okay. And then let me ask you,
5 how was the number of over 200 affordable units determined?

6 MR. KIRSCHENBAUM: I am not -- I really am sorry,
7 I don't know how that was determined.

8 MS. FESKANICH: I mean was there some kind of a
9 formula used or do you use a certain -- does OP use a
10 certain --

11 CHAIRPERSON HOOD: I forgot, I'm going to get your
12 name messed up. So he's already -- he answered the question
13 once and that question's been asked, so we need to move on
14 about the formula. He already answered that, so he -- the
15 question he answered -- answered the questions about the
16 formula or anything else.

17 MS. FESKANICH: Okay.

18 CHAIRPERSON HOOD: Okay. Thank you.

19 MS. FESKANICH: Yeah. Do you know if this number
20 includes the type of units? Does it include multibedroom
21 units where families could reside or just single-person
22 efficiencies and one bedrooms?

23 MR. KIRSCHENBAUM: I do not know.

24 MS. FESKANICH: Okay. And in that same area, the
25 OP report doesn't really mention how many market rate units

1 could be constructed.

2 MR. KIRSCHENBAUM: Correct.

3 MS. FESKANICH: If you use the 70 percent rule,
4 where 30 percent would be --

5 CHAIRPERSON HOOD: I'm going to rule that question
6 out of order. I'm going to rule that question out of order
7 because we're not talking about a specific project, so next
8 question, please.

9 MS. FESKANICH: Okay. What would the -- in the
10 Page 33 of the framework element chapter of the
11 comprehensive plan, Chapter 2, the average size of a
12 household in the District is 2.1 persons. So applying that
13 to the -- well, the 650 total new housing units that would
14 be projected based on that figure of 200 affordable units
15 and I would assume there would be some market rates unit as
16 well, that would mean about 1,365 new residents in the
17 neighborhood on this site; is that correct?

18 MR. KIRSCHENBAUM: You know, again, this is just a
19 map amendment that doesn't consider a project so, you know,
20 I cannot answer that question (inaudible).

21 MS. FESKANICH: Okay. So if there's no project,
22 then how can we estimate that upzoning to MU-10 will provide
23 over 200 affordable housing units? And aren't we just
24 guesstimating that by-right MU-10 building will give us over
25 200 affordable housing units?

1 MR. KIRSCHENBAUM: It isn't -- it is an estimate.
2 And as the vice chair asked of me earlier, we will be
3 providing in writing to the commission basically estimates -
4 - sort of revised estimates of how many total units and
5 affordable units might be able to be built under an MU-10
6 zone or an MU-8 zone, but again, these are all estimates
7 because there's no project before the Zoning Commission for
8 their consideration. It's just like a pure map amendment
9 process.

10 MS. FESKANICH: Okay. So given that there will be
11 quite a few new housing units, affordable and market rate,
12 and a build that will produce quite a few number of new
13 residents, isn't that something that we should be concerned
14 about as well as being a negative, the number of new
15 residents?

16 MR. KIRSCHENBAUM: You know, again, that's not
17 part of the map amendment review process.

18 MS. FESKANICH: Has the Office of planning done
19 any impact studies to show that this site can actually
20 accommodate such an increase in population that an MU-10
21 build out would potentially provide?

22 MR. KIRSCHENBAUM: You know, again, that's not
23 part of the map amendment review process.

24 MS. FESKANICH: Section 2007.3 -- oh, can I just
25 take a minute. Give me 30 seconds before I continue? Chair

1 Hood, is that okay?

2 CHAIRPERSON HOOD: Sure, 30 seconds, sure.

3 MS. FESKANICH: Thank you. Thank you.

4 (Pause)

5 MS. FESKANICH: Okay. I'm back. Office of
6 Planning, then, is it your testimony that in a map amendment
7 case like this, no impact studies are required?

8 MR. KIRSCHENBAUM: No. Can you please define what
9 an impact study is?

10 MS. FESKANICH: For example on the question I just
11 asked about the impact of a drastic increase in the number
12 of housing units and the population that would be -- the
13 population increase at that site?

14 MR. KIRSCHENBAUM: Through the map amendment
15 process at the Zoning Commission, that is not required, that
16 is not part of the review process.

17 MS. FESKANICH: Can you cite where it says that?

18 MR. KIRSCHENBAUM: I don't have that citation
19 offhand.

20 CHAIRPERSON HOOD: You mean where it says where
21 our process is?

22 MS. FESKANICH: That no impact studies are
23 required during a map amendment case.

24 MR. KIRSCHENBAUM: You know, that's really more of
25 a legal question, but there is nothing to my knowledge in

1 the zoning regulations that requires such an impact study.

2 MS. FESKANICH: So is it OP's testimony that no
3 impact studies have been done?

4 MR. KIRSCHENBAUM: That would be correct, in the
5 context of the way you defined impact study.

6 MS. FESKANICH: One minute, please.

7 CHAIRPERSON HOOD: Ms. Feskanich, I will tell you,
8 I am getting nailed by my counsel for allowing this line of
9 questioning. I am really getting nailed and I've gotten
10 nailed for about the last 15 minutes because I've allowed
11 it. But you want to do what's being helpful to us and I
12 appreciate my counsel making sure I stay on legal grounds.
13 I am getting nailed, so I would ask you to cross-examine him
14 on his testimony and on his report, please, and on the map
15 amendment, please.

16 MS. FESKANICH: Okay. Will you be --

17 MR. RITTING: This is Jacob Ritting. I'm the co-
18 counsel and I wanted to add one other thing to Mr. Hood's
19 statement, which is the contents of the zoning regulations,
20 the zoning maps and the text of the reports, they speak for
21 themselves and to question Mr. Kirschenbaum about what the
22 text of the regulation, the maps and the reports say is not
23 helpful to the Commission and is really not the appropriate
24 subject of cross-examination questioning. It's -- what it
25 should be is getting at what the contents of the report are

1 saying, not the text or the words themselves. (Crosstalk)

2 MS. FESKANICH: I understand. I appreciate that.

3 MR. RITTING: Okay. I'm sorry. I'll stop my
4 video now and I'll allow Mr. Hood to continue. I just
5 wanted to say something else.

6 MS. FESKANICH: Yeah.

7 CHAIRPERSON HOOD: So let me just say this, the
8 Commission does -- we do what we want to do in this case.
9 And I appreciate the counsel. Sometimes I agree with my
10 counsel; sometimes I don't. But I will tell you that when
11 it comes to -- I can't argue this case. I'm going to go to
12 Mr. Ritting to argue this case for me. So he wants me to
13 make sure that this commission is on legal ground. And I
14 also go back to my earlier statement, we like to hear from
15 the public, so I'm not trying to cut people off and not hear
16 them, but make it germane to the topic. Make it germane and
17 help us to help you to get to where you are. And you may
18 continue.

19 MS. FESKANICH: Okay. Thank you. The MU-10 is a
20 big step from what we have now and it will really impact the
21 neighborhood. And I'm trying to understand, are you saying
22 that we can't ask questions about what OP has testified to
23 in writing?

24 CHAIRPERSON HOOD: Anything they have submitted,
25 you can ask questions. The form -- it's the way you're

1 asking questions. You're asking (crosstalk) and we can see
2 -- we can see what's on the page. We understand if the map
3 says MU-4 or MU-10, we can see that. When it said RA2, we
4 know about that. We're the ones who did it, so we get that,
5 but the text you'll be able to use, the rezoning, what are
6 the impacts, what is it going to cost to your neighbor? And
7 guess what? A lot of the stuff that you're trying to get
8 to, we've already got. We know it's a big jump. I think
9 Commissioner Stidham mentioned that earlier. I even noticed
10 a big jump. So help us to help you. You've made -- you've
11 made -- we've got your -- I've gotten your point, I'm sure
12 others have as well. But help us to help you. That's all
13 I'm saying.

14 MS. FESKANICH: Okay. I wanted to get some input
15 on impact studies that may or may not have been done. And
16 now OP just testified that no, they did not do any impact
17 statements. So OP, your presentation that you spoke from
18 today, it was just submitted today, correct?

19 MR. KIRSCHENBAUM: Our presentation that you saw
20 earlier was submitted today, correct.

21 MS. FESKANICH: Okay. So I had no way of seeing
22 that ahead of time. How much different is your presentation
23 today from the final OP report, Exhibit 58?

24 MR. KIRSCHENBAUM: I don't think I understand your
25 question.

1 MS. FESKANICH: Your presentation, your slide that
2 you presented earlier in the hearing --

3 MR. KIRSCHENBAUM: Right.

4 MS. FESKANICH: How much different is it from the
5 final report that was issued on June 16th, Exhibit 58?

6 MR. KIRSCHENBAUM: I still don't quite -- I'm
7 sorry, I don't understand your question.

8 CHAIRPERSON HOOD: What she's saying is you
9 submitted a report in June that she has reviewed, what are
10 some of the differences in the report that was submitted
11 today and the presentation that was submitted today which
12 she has not reviewed? What are the changes? Or what is the
13 difference?

14 MR. KIRSCHENBAUM: well, there's been two
15 supplemental reports since the final report. So the
16 presentation includes both information from the final report
17 and the two supplemental reports that were submitted
18 afterwards.

19 MS. FESKANICH: And the one supplemental report I
20 can't ask questions about, correct? Exhibit 358,
21 Supplemental Public Hearing Report No. 2.

22 CHAIRPERSON HOOD: Why can't you ask questions
23 about it?

24 MS. FESKANICH: I believe you said that that's the
25 text amendment.

1 CHAIRPERSON HOOD: Is that the text amendment?

2 MS. FESKANICH: Yes.

3 CHAIRPERSON HOOD: I don't know. We've got 500
4 exhibits and nobody knows this case is going on. What was
5 that 350?

6 MS. FESKANICH: 358.

7 CHAIRPERSON HOOD: Okay, yeah. The one about the
8 text amendment, no. That's March the 21st or whatever the
9 date is.

10 MS. FESKANICH: The hearing will be held, right.
11 But the exhibit or that supplemental hearing report was
12 dated November 8th, just a little before our last scheduled
13 hearing.

14 CHAIRPERSON HOOD: When they were asked for a
15 continuance on more than one occasion, yes.

16 MS. FESKANICH: Right.

17 CHAIRPERSON HOOD: That's (crosstalk).

18 MS. FESKANICH: And OP suggested changes that
19 would be coming and you earlier said I can't ask questions
20 about that, right, technically?

21 CHAIRPERSON HOOD: Because we're just dealing with
22 the map amendment tonight.

23 MS. FESKANICH: Okay.

24 CHAIRPERSON HOOD: The text amendment case is
25 coming up in March and we did that so we couldn't confuse

1 the issue because --

2 MS. FESKANICH: Okay.

3 CHAIRPERSON HOOD: -- imaging me running one
4 procedural case and another procedural case. I'm having
5 enough problems just dealing with the questions that are
6 here.

7 MS. FESKANICH: I know. So the difference between
8 --

9 CHAIRPERSON HOOD: Hold on for a second. Ms.
10 Schellin?

11 MS. SCHELLIN: Maybe this will help any confusion
12 about that exhibit. I believe that the Office of Planning
13 submitted a copy of that report or that text amendment into
14 the record in hopes that it would eliminate some of the
15 concerns regarding I believe it was height. And so they
16 wanted to put that into the record to let the community know
17 that they had submitted a text amendment that would manage
18 the height on any buildings on that lot. And so they wanted
19 those who may not know about the text amendment to know that
20 one had been filed and it would restrict the height limits
21 on that lot. And so that's what was put in the record. So
22 it is not part of this case, it was just put in there for
23 those to be -- to know about it because otherwise, they
24 wouldn't know -- necessarily know about the text amendment.

25 So that's why it was put in there. It's my

1 understanding from the Office of Planning why they did it,
2 to hopefully eliminate some of the concerns about the
3 height. But as you stated, it is a separate case scheduled
4 for March 21st. Hopefully, that help resolves that issue.

5 MS. FESKANICH: Okay. I'd like to continue then
6 with -- okay -- continue with the final report, Exhibit 58.
7 And on Page 2, you reference Amendment 8050 to the
8 generalized future land use map, which changed the site's
9 land use designation from local public facilities to a mix
10 of local public facilities, high-density residential and
11 moderate density commercial, correct? That's on -- that's
12 Exhibit 58, the final report, Page 2.

13 MR. KIRSCHENBAUM: That is correct. I see that.

14 MS. FESKANICH: Okay. And doesn't the FLUM mean
15 the future land use map?

16 MR. KIRSCHENBAUM: That would be correct.

17 MS. FESKANICH: And then because on that page, it
18 says generalized, what does generalized FLUM mean? Was that
19 a misstatement?

20 MR. KIRSCHENBAUM: I believe that, you know, we've
21 referred to it as the future land use map. It might be
22 technically called the generalized future land use map in
23 the comprehensive plan. I don't have the comprehensive plan
24 open, but it's supposed to be in reference to what the
25 future land use map is.

1 MS. FESKANICH: Okay. And Amendment 8050
2 fundamentally is OP's basis to support the rezoning of MU-4
3 to MU-10 at this site, correct?

4 MR. KIRSCHENBAUM: Correct.

5 MS. FESKANICH: There's only --

6 MR. KIRSCHENBAUM: In addition to the other
7 policies of the comprehensive plan.

8 MS. FESKANICH: Right. It seems that that was
9 fundamentally the -- because the map -- I think that was the
10 map amendment that changed it to high density residential
11 moderate density commercial. Does this map amendment
12 specifically reference this site? And for all intents and
13 purposes, doesn't this fit the definition of spot zoning?

14 MR. KIRSCHENBAUM: Not -- that question was
15 already addressed earlier.

16 MS. FESKANICH: I think spot zoning -- the classic
17 definition -- oh, I can't testify. Okay. Can you just
18 elaborate on how Amendment 850 came about then? Do you know
19 when it was proposed and who proposed it?

20 MR. KIRSCHENBAUM: I do not know the legislative
21 history of that, no.

22 MS. FESKANICH: Didn't OP suggest the amendment to
23 the counsel? Wasn't it OP that did?

24 CHAIRPERSON HOOD: He just said -- he just said he
25 didn't know.

1 MS. FESKANICH: He doesn't know, okay.

2 CHAIRPERSON HOOD: He said he did not know and
3 then you came back with didn't OP -- now, he works with OP
4 and he said he did not know.

5 MS. FESKANICH: Okay. Sorry.

6 CHAIRPERSON HOOD: No, I just want you to hear
7 your questions, how it sounds to me and how it sounds to the
8 public.

9 MS. FESKANICH: Okay. (Laughter) I know that the
10 map amendment, 8050, was signed by the mayor. To your
11 recollection or knowledge, are you aware of any public
12 hearings or forums, whereby Amendment 8050 was discussed
13 with the public before being signed into law?

14 CHAIRPERSON HOOD: Did he testify -- did you
15 testify to that, Mr. Kirschenbaum? If you did, I missed it
16 because I do miss things.

17 MR. KIRSCHENBAUM: You know, I really don't know
18 the legislative history. Of course, this amendment, along
19 with all future land use map amendments were reviewed by the
20 DC counsel and public hearings were held on it and it was
21 ultimately approved by the counsel.

22 MS. FESKANICH: Okay. Well, let me move on from
23 that, then. OP understands that there are real impacts from
24 construction, changing this to an MU-10 site, correct? Like
25 noise, dust, shaking?

1 MR. KIRSCHENBAUM: I believe that's, you know, a
2 pretty leading question. What I will say is that any sort
3 of project has normal construction, you know, nuisances and
4 that will be mitigated through, you know, the appropriate
5 processes of the Department of Buildings.

6 MS. FESKANICH: And going from MU-4 to MU-10, is
7 it fair to say that the construction noise nuisance and
8 during that construction would be far longer --

9 CHAIRPERSON HOOD: I'm going to rule that -- I'm
10 going to rule that out of order. Next question, please.

11 MS. FESKANICH: Do you have any sense of the
12 difference in timelines for new construction, MU-10 versus
13 MU-4?

14 MR. KIRSCHENBAUM: Again, this is not a project
15 specific review.

16 MS. FESKANICH: Okay.

17 MR. KIRSCHENBAUM: And it's a question outside of
18 the bounds of zoning.

19 MS. FESKANICH: In Exhibit 58, your final report,
20 the bottom of Page 5, it talks about how the site is
21 surrounded by historic districts and some of your photos in
22 this report show numerous historic homes, correct?

23 MR. KIRSCHENBAUM: Correct.

24 MS. FESKANICH: So are you aware of the age of
25 these historic rowhouses and when they were built?

1 MR. KIRSCHENBAUM: I have a, you know, a general
2 idea. I've not looked at the individual years these
3 properties were built.

4 MS. FESKANICH: Would it be fair to say that a by-
5 right MU-10 building with its corresponding demolition and
6 construction will likely affect the structural foundations
7 of these historic buildings far more than an MU-4 or 5
8 construction timeline, for example?

9 MR. KIRSCHENBAUM: No.

10 MS. FESKANICH: How is that? Can you elaborate?

11 CHAIRPERSON HOOD: He's said no, unless he wants
12 to elaborate. I think we get it, Ms. Feskanich. And you
13 have asked the question; he's given the answer. Let's go to
14 the next question, please.

15 MS. FESKANICH: Okay. Is there anything in the
16 rezoning application that mentions compensation from the
17 city or even the Zoning Commissioners themselves in case MU-
18 10 by-right construction substantially damages the community
19 historic assets and homes?

20 MR. KIRSCHENBAUM: No.

21 MS. FESKANICH: And has OP conducted a study or
22 any evaluation of impacts of this increase in population on
23 the capacity of existing public services we now rely on,
24 like schools, parks, clinics, streets, public services?

25 MR. KIRSCHENBAUM: Again, that's not part of the

1 map amendment process at the Zoning Commission.

2 MS. FESKANICH: Doesn't the comp plan say, "The
3 development review process provides a means of evaluating
4 the impacts of major projects on public services and the
5 natural environment consistency with policies relating to
6 the achieving of resilience in equity, including racial
7 equity and assessing the compatibility of proposed design
8 and adjacent uses and neighborhood character, Comp Plan
9 Policy IM1.1, Development Review"?

10 MR. KIRSCHENBAUM: You know, again, that's policy
11 of the comprehensive plan. That's not a retirement. But,
12 again, this is not a development proposal. This is just a
13 map amendment to change the zoning on the property.

14 MS. FESKANICH: Correct. And would you agree that
15 changing MU -- changing the zone from MU-4 to MU-10 is going
16 to require a major development project?

17 MR. KIRSCHENBAUM: I'm sorry. These are all
18 redundant questions. My answer is no different than what I
19 just said, no.

20 MS. FESKANICH: If this is the case, then is your
21 application to rezone to MU-10 inconsistent with the
22 comprehensive plan in the zoning regulations because no real
23 impact studies have been done at all?

24 MR. KIRSCHENBAUM: No, and that's a repeated
25 question. I've already answered that.

1 MS. FESKANICH: Just one more thing about the
2 comprehensive plan, IM 1.1.1, it does say that there that to
3 the greatest extent feasible, use the development review
4 process to ensure the potential positive impacts are
5 maximized; the potential negative impacts on neighborhoods,
6 transportation network, parking, environmental quality and
7 other issues, including construction impacts are assessed
8 and adequately mitigated, consistent with the guidance in
9 the comprehensive plan and applicable requirements.

10 MR. KIRSCHENBAUM: You know, to repeat myself
11 again, that's not part of the map amendment process.
12 There's no development proposal being considered here. Any
13 future development of the property will be reviewed by the
14 appropriate District agency.

15 MS. FESKANICH: Isn't it true that if the MU-10
16 zoning is approved, that will be a by-right construction and
17 all of these things will become very important, impact
18 studies and possible issue with the structural integrity of
19 our houses that sit nearby?

20 MR. KIRSCHENBAUM: Well, again, this is just a map
21 amendment process, so again, there's no development
22 proposal.

23 MS. FESKANICH: Back to Exhibit 58, in your image
24 under site and area description on Page 4, to the west of
25 17th Street, that's one lane, one-way street, correct?

1 MR. KIRSCHENBAUM: That is correct.

2 MS. FESKANICH: And V Street on the north side is
3 also a narrow one lane, one-way street, correct?

4 MR. KIRSCHENBAUM: I'm sorry. Can you repeat the
5 first part of your question about 17th Street?

6 MS. FESKANICH: Yeah, 17th Street to the west of
7 this site is a one lane, one-way street, correct?

8 MR. KIRSCHENBAUM: It is one-way and one lane,
9 correct.

10 MS. FESKANICH: Yeah. And V Street on the north
11 is also narrow one lane, one-way, correct?

12 MR. KIRSCHENBAUM: Well, you're asking the
13 question a little differently. So you're saying that it's
14 also narrow, which suggests that I said that 17th Street was
15 narrow, so I want -- please clarify.

16 MS. FESKANICH: Okay. 17th Street is not
17 necessarily narrow because of the setbacks, but V Street,
18 would you consider it a narrow one lane, one-way street?

19 MR. KIRSCHENBAUM: V Street is a narrower street
20 than other streets in the District, but it's not
21 exceptionally narrow and it's one way.

22 MS. FESKANICH: Okay. Thank you. And in the comp
23 plan, doesn't the comp plan --

24 CHAIRPERSON HOOD: Let me just say this, and I'm
25 not cutting off your testimony --

1 MS. FESKANICH: Okay.

2 CHAIRPERSON HOOD: -- but you have gotten three
3 major factors in the past 45 minutes to an hour of your
4 questioning, three issues that you've made very clear.
5 That's it. I've got it. I've got three issues that you
6 have made clear about this project, some which are our
7 concern, too. So these questions you're asking now, as far
8 as the Commission's concerned in helping us are very
9 immaterial. They're not helpful. And if I ask my -- I've
10 done this years ago. I asked my colleagues, is this being
11 helpful. And if I ask them that, you might not like the
12 answer, so I've just been trying to get you to get to the
13 point. We get it. We get it. I heard you. I know that
14 there's a problem (inaudible). I know about the impacts. I
15 get it. I know it's going to change the character of the
16 neighborhood, but you've done that now and I'm going to be
17 respectful to the other parties as well. And these
18 questions that you're asking now, which some are redundant
19 are very immaterial. They're not helping us at all, But you
20 may continue.

21 MS. FESKANICH: Okay. Again, turning to Exhibit
22 58, Page 2, your testimony says, "The MU-10 zone's density
23 and height maximums could permit construction of newer
24 police and fire facilities," correct?

25 MR. KIRSCHENBAUM: That (crosstalk) --

1 CHAIRPERSON HOOD: I'm going to rule that out of
2 order. We've talked to DMPED already. That is already on
3 the record of how we're going to deal with that. We talked
4 about the RFP. We have flushed that out and I'm sure --

5 MS. FESKANICH: Okay.

6 CHAIRPERSON HOOD: -- did you not hear that or
7 were you not on? Maybe that --

8 MS. FESKANICH: I was, I was.

9 CHAIRPERSON HOOD: We flushed that out. Next
10 question, please.

11 MS. FESKANICH: Okay. I'm very -- I apologize,
12 Commissioner Hood, I'm very new to this. In the case of the
13 comp plan, the community services and facilities, 4.2.A,
14 isn't it the case that the level of servicing and
15 monitoring, whereby, there are no regular evaluations and
16 response times for fire and emergency medical calls, the
17 need to for additional services equipment. We can't find
18 anything on the zoning record, any analysis of current
19 response times for either the existing police or fire
20 facilities. Can you point us to that?

21 MR. KIRSCHENBAUM: Again, it's not in the report
22 because it's not part of the (crosstalk).

23 CHAIRPERSON HOOD: I brought that up myself
24 specifically about response time. That's on a different
25 subject. Nobody here is a subject matter expert about

1 response time, but we did it. We got that an hour ago
2 because I mentioned it. We got it.

3 MS. FESKANICH: Okay.

4 CHAIRPERSON HOOD: We're good. Next question.

5 MS. FESKANICH: I don't know. Yeah, I am a little
6 -- I just --

7 CHAIRPERSON HOOD: Can I help you? You've made
8 your point.

9 MR. KIRSCHENBAUM: Yeah. I wanted to bring up the
10 point about the public safety because that was not clearly
11 or very explicitly flushed out in this map amendment case.
12 Housing was a priority, it seems, but there wasn't very much
13 listed for community safety, the impact on our narrow
14 streets, the safety of pedestrians. We have a lot of older
15 folks in the neighborhood. Commissioner Hood, that's what I
16 was trying to get at through all my questioning. And I
17 apologize if I --

18

19 CHAIRPERSON HOOD: No, no, you don't have to
20 apologize, but those last two sentences you just made were
21 more helpful than the last 45 minutes.

22 MS. FESKANICH: Oh (laughter).

23 CHAIRPERSON HOOD: That's last two sentences.
24 That's where I'm trying to get you to, exactly what you were
25 just saying. That was more helpful than the last 45

1 minutes.

2 MS. FESKANICH: Okay. Well, my understanding was
3 I couldn't really testify, but I wanted to make sure that --
4 I needed to -- I needed link it to this final report and
5 that was my humble effort at doing so.

6 CHAIRPERSON HOOD: So let me just say this, let me
7 help you. Let me just help you. When you mentioned from
8 the MU-4 to -- the intensity of use from MU-4 to MU-10 and
9 your neighbors, that's the kind of stuff we need to hear,
10 about what's on Page 5, which we can plainly see, we don't
11 need to get to that because we can all see it. Mr. Ritting
12 has turned his light on.

13 MR. RITTING: I wanted to clarify the point that
14 Ms. Feskanich raised. You will have an opportunity to
15 testify. If it's not tonight, it will be at a continuation
16 of this hearing. The purpose of the cross-examination
17 questions are to ask questions about Mr. Kirschenbaum's
18 testimony. He doesn't have an obligation to repeat contents
19 of the zoning regulations, the maps or the reports
20 themselves. You're going to have an opportunity to make
21 your case when you make your case-in-chief. And I just
22 wanted to clarify that point. Thank you.

23 MS. FESKANICH: Okay.

24 CHAIRPERSON HOOD: Thank you, Mr. Ritting.

25 Ms. Feskanich, you obviously have a counsel in

1 your room, just like I have a counsel on here, so --

2 MS. FESKANICH: (Laughter)

3 CHAIRPERSON HOOD: -- let's work together and we
4 get it, trust me.

5 MS. FESKANICH: Okay. So the safety issues, they
6 are actually -- they are actually spelled out in the comp
7 plan. I wanted to make that plain because the OP report did
8 consistently refer back to the comp plan. They're not
9 inconsistent with the comp plan, and I wanted to point out
10 that there were several sections in the comp plan, including
11 safety regulations, development impacts --

12 CHAIRPERSON HOOD: Are you testifying? Are you
13 testifying?

14 MS. FESKANICH: No, I'm not -- that's why I --
15 this is very confusing. If I have to -- yeah, I guess I
16 just have to say that (inaudible).

17 CHAIRPERSON HOOD: In cross-examination, Ms.
18 Feskanich -- let me say this, okay?

19 MS. FESKANICH: Okay, okay.

20 CHAIRPERSON HOOD: Cross-examination is just
21 asking questions about what you've heard --

22 MS. FESKANICH: Okay.

23 CHAIRPERSON HOOD: -- and typically what people
24 have done in the past, if I say something or Mr.
25 Kirschenbaum says something that you disagree with, you make

1 yourself a note. And when we come back, as Mr. Ritting
2 said, when you come back for your testimony, then you can go
3 down those points. This is what Office of Planning says,
4 but I know this is what the issue is. This is what the
5 (crosstalk) --

6 MS. FESKANICH: Okay, okay. Then I think I've
7 asked all the questions that specifically relate to his
8 prior presentation, which we hadn't seen before, and the
9 final report, which was issued June 16th. Let me just take a
10 quick look at that presentation again. Oh, there was --
11 yeah, there was one more issue that I wanted to bring up
12 from the presentation. I believe Mr. Kirschenbaum said that
13 building more units would help keep down housing costs. And
14 what are the data or the analyses to support that? Where --
15 can you cite any analyses or reports that support that
16 statement?

17 MR. KIRSCHENBAUM: It was a general statement
18 based on policies in the comprehensive plan.

19 MS. FESKANICH: But there are no specific analyses
20 you can point to or data studies done to support that?

21 MR. KIRSCHENBAUM: There was not an economic
22 analysis done for this map amendment.

23 MS. FESKANICH: That was my -- I think that was my
24 last question, then. Thank you for your time.

25 CHAIRPERSON HOOD: Let me just -- sure, thank you.

1 Let me just correct one thing. You keep saying you haven't
2 seen the report. That report -- this report here has been
3 in this record since we first started hearing this case a
4 year ago. It's just been updated. So I think that's
5 important to understand. It's not like -- if you're just
6 seeing it, you just looked at it because it's been in the
7 case file for over a year -- well, whenever we first started
8 dealing with this case. So I wanted to make sure I put that
9 on the record.

10 MS. FESKANICH: Okay.

11 CHAIRPERSON HOOD: It's not new information. It
12 came from the previous report submitted. There's no new
13 information. It's all in those previous reports.

14 MS. FESKANICH: Oh, in -- okay. Even about that
15 more units means more affordability?

16 CHAIRPERSON HOOD: Everything that he talked about
17 is in previous reports.

18 MS. FESKANICH: Okay. Thank you.

19 CHAIRPERSON HOOD: Okay. All right. Thank you.
20 Okay. You can mute your mic because your counsel is
21 speaking to you. Okay. Let's go to the Rochelle
22 Apartments, Ms. Akel.

23 Ms. Akel, please ask questions.

24 MS. AKEL: Yes, sir. I plan to.

25 CHAIRPERSON HOOD: Thank you.

1 MS. AKEL: And I'm going to be brief. I have
2 three questions for OP. I'm going to preface them with a
3 policy in the comp plan, in the housing element of the comp
4 plan that says one of the -- Protecting Affordable Rental
5 Housing, Policy H2.1.1, "recognize the importance of
6 preserving rental housing affordability to the wellbeing of
7 the District of Columbia and the diversity of its
8 neighborhoods. Undertake programs to protect the supply of
9 subsidized rental units and low-cost market rate units."

10 So I am in that and that's the basis of my
11 questions. So I have three questions for OP, please. First
12 of all, it's about the anti-displacement risk mapping and I
13 want to thank Commissioner Miller for noticing that. You
14 probably saw it in my online testimony because I've been
15 beating the drum on that. Seattle, Boston, New York and
16 soon Salt Lake City all use anti-displacement risk mapping.
17 As far as I understand, is it Jacob, I'm so sorry, is that,
18 right?

19 MR. KIRSCHENBAUM: Jonathan Kirschenbaum.

20 MS. AKEL: Okay. Sorry. Oh, Jonathan. I'm so
21 sorry. Okay.

22 MR. KIRSCHENBAUM: Mr. Kirschenbaum.

23 MS. AKEL: So I'm sorry, Mr. Kirschenbaum, okay.
24 My understanding is OP provides disaggregated data already
25 to the Office of Zoning and the Zoning Commission so they

1 can use it in decision making. My question is, why isn't OP
2 using anti-displacement mapping and putting it in the comp
3 plan? Because if they did, my building would probably --
4 and this maybe this whole area, this whole U Street corridor
5 would show up as being high-risk for displacement. So my
6 question is, why are you not using it?

7 MR. KIRSCHENBAUM: You know, again, I completely
8 understand your question. It's just I can't answer that on
9 behalf of the, you know, the Office of Planning as an
10 agency. It's just -- it's not relevant to this case.

11 MS. AKEL: Okay. Well, I'm just going to put in a
12 plug for that. Question number two, in your testimony, you
13 said NOAHs will no longer be affordable in 10 to 20 years.
14 I live in a NOAH, naturally occurring affordable housing,
15 legacy affordable housing, which the U Street corridor is
16 full of. I'd like to ask why you're saying that they will
17 no longer be affordable in 10 to 20 years, and is that a
18 function of our weak rent control laws? Are our rent
19 control laws failing? Is that the reason why you're saying
20 that they won't be affordable?

21 MR. KIRSCHENBAUM: Well, I can certainly answer
22 the first part. That information is contained in the OP --
23 oh, I'm sorry. I shouldn't say it's just the OP. It's the
24 DHC NOP Housing Equity Report, Creating Goals for Areas in
25 Our City from October 2019. And so that's where -- and that

1 report contains more information about naturally occurring
2 affordable housing and why, you know, it was estimated that
3 most of it is going to be going away. I cannot speak to the
4 second part of your question.

5 MS. AKEL: So even though the comp plan, the
6 section I cited at the beginning, even though the policy is
7 to protect the supply of subsidized rental units, you are
8 not really doing that. You're not really -- and this -- I
9 would argue, as an extension to that that this upzoning
10 right smack in the dab of this whole area, low rise area is
11 going to exacerbate the problem and not really follow what
12 the comp plan says, so okay. And then the last question is
13 about IZ Plus, which was part of your -- part of your
14 testimony, there are 40,000 people on the public housing
15 waitlist right now and the model that the city is using to
16 have private development fund a fraction of affordable
17 housing is not working. It's not solving our affordable
18 housing crisis. And this lot next door to us, from all I
19 can tell, and, of course, none of us has seen the RFP, but
20 it seems to me that this isn't going to help either.

21 IZ Plus sounds really good. It sounds like oh,
22 wow, we're getting a bonus, but if you really read the IZ
23 Plus language, it's very vague and it depends on a lot of
24 different factors, a lot of different mathematical formula,
25 you know? It's on a sliding scale. It's, you know, this

1 and that and it's how many units total. So, you know, now
2 they're going to throw out this IZ Plus, but I don't think
3 that's really going to get us where we need to be, so my
4 last question is, has OP or anyone, to your knowledge, ever
5 looked at this project, and I know this says project, but I
6 think it relates to the upzoning, have you ever looked at
7 this project as a social housing or like more affordable
8 housing than just 10 to 20 percent?

9 And especially if the fire station doesn't come
10 back, that takes that financial burden off of the developer
11 because right now, they've got to pay for a new fire
12 station, which is going to be really expensive and a new
13 police station. If the fire station doesn't come back,
14 wouldn't that leave more leeway for more affordable housing?

15 MR. KIRSCHENBAUM: Well, again, you know, this is
16 just a map amendment application before the Zoning
17 Commission. There's no concrete development project being
18 considered or discussed at the present time, but, you know,
19 those would be germane questions to ask during the RFP
20 process.

21 MS. AKEL: And you don't have anything more to say
22 about IZ Plus, like how you're defining it, how many -- you
23 know --

24 MR. KIRSCHENBAUM: Well, IZ Plus is a requirement
25 to provide affordable housing. And as I stated in my

1 testimony, the rezoning could require up to 18 percent -- an
2 18 percent affordable housing set aside requirement if this
3 is a building built of steel of concrete.

4 MS. AKEL: If it's built in steel and concrete,
5 okay.

6 MR. KIRSCHENBAUM: It would be higher if it's
7 stick built, but because you can only build stick built up
8 to 75 feet -- sorry, 85 feet, it most likely would be, you
9 know, a steel and concrete building if this is approved.

10 MS. AKEL: Okay. And that's my last question, and
11 I'm only trying to make the point to the commissioners that
12 upzoning to MU-10, a lot of it has been promoted that oh,
13 we're going to have all this new affordable housing and I am
14 trying to illustrate that it's -- you know, we're
15 sacrificing a lot to get a little. And I conclude my cross-
16 examination. Thank you very much.

17 CHAIRPERSON HOOD: Thank you, Ms. Akel.

18 MS. AKEL: Thank you.

19 CHAIRPERSON HOOD: I will tell you, that last part
20 will be good when we hear it in your testimony. But I do
21 want to ask you one question. Are you a proponent for
22 social housing?

23 MS. AKEL: I am. And I want to be clear, I'm
24 representing our building, but we are not -- what do they
25 call them, Nimbies (phonetic). If this building was 100

1 percent social housing, public housing, I wouldn't be here
2 tonight. And the smart growth people, a lot of whom are in
3 the ANCs here, who believe in density and height at all
4 costs because they think that's going to solve the problem
5 and they want to abolish historic districts for that reason,
6 they never show up when it comes to saving existing
7 affordable housing like my building. They're silent. So
8 it's kind of like, you know, they want height and density,
9 but they want it to be brand new and they have no interest
10 in this.

11 CHAIRPERSON HOOD: So (crosstalk) --

12 MS. AKEL: Okay.

13 CHAIRPERSON HOOD: I will just tell you this, I
14 have been having conversations with Councilmember Lewis
15 George, I'm trying to --

16 MS. AKEL: Oh, yeah.

17 CHAIRPERSON HOOD: -- I'm learning more about
18 social housing.

19 MS. AKEL: Yeah.

20 CHAIRPERSON HOOD: I may have mentioned this to
21 them. I will tell you that we don't just sit around and not
22 do anything and come here and try to cut people off when
23 they cross-examine. She and I are in discussions. I'm
24 trying to see and work with Office of Planning and the OIG -
25 - I mean our Office of Zoning, Legal Division and see how

1 that can be implemented in the zoning process. It may not
2 happen -- I may gone when it happens, but I just want you to
3 know we don't just sit here and cut people off when they're
4 doing cross-examination. So I'm glad you brought that up
5 and thank you, so stay tuned.

6 MS. AKEL: Thank you. We need more tools in the
7 toolbox (inaudible).

8 CHAIRPERSON HOOD: I agree, so stay tuned.

9 MS. AKEL: Thank you. Thank you.

10 CHAIRPERSON HOOD: Stay tuned. Thank you.

11 Let's go to Randy Jones.

12 MR. JONES: I'll keep this as brief as I can. I
13 just wanted to understand more about, you know, how often
14 this happens, Mr. Kirschenbaum. Where are there other sites
15 that have been upzoned, apologize, my notes are over here --
16 where are there other sites that have been upzoned from MU-4
17 to MU-10?

18 MR. KIRSCHENBAUM: You know, off the fly, I can't
19 answer that question.

20 MR. JONES: Where are there other sites that have
21 been upzoned from a 50-foot height to a 100-foot height?

22 MR. KIRSCHENBAUM: You know, again, I can't answer
23 this just off the cuff.

24 MR. JONES: Okay. Where are there other sites
25 that have been upzoned from a 2.5 to a 7.2?

1 MR. KIRSCHENBAUM: My answer is the same. I just
2 can't answer that off the cuff.

3 MR. JONES: Okay. Do you think that would've been
4 relevant for OP to understand whether they're applying for
5 something that has precedent?

6 MR. KIRSCHENBAUM: No, that's not the way map
7 amendment -- you know, excuse me. That's not the way map
8 amendment reviews at the Zoning Commission are dealt with.
9 They're dealt with consistency of the comprehensive plan and
10 policies and its maps.

11 MR. JONES: Yeah. And I think we already heard
12 enough about the comp plan tonight, so I'll try to steer
13 elsewhere. What is a PUD and how does that get used to
14 rezone properties?

15 MR. KIRSCHENBAUM: Well, a planning and
16 development is a project specific development proposal.

17 MR. JONES: And why are they used?

18 MR. KIRSCHENBAUM: Well, they're used when a
19 developer wants to exceed what zoning would allow, generally
20 speaking.

21 MR. JONES: Okay. And being that there's no
22 project here, that's irrelevant?

23 MR. KIRSCHENBAUM: There's no project being
24 considered tonight, no.

25 MR. JONES: Right. Yeah. Do you feel like that

1 may be putting the cart before the horse for such a large
2 parcel owned by the District?

3 MR. KIRSCHENBAUM: I do not, no.

4 MR. JONES: Could you explain, you know, by-right
5 as a matter of right development, just as a principle?

6 MR. KIRSCHENBAUM: Sure. You can build matter of
7 right when you conform to the development standards of the -
8 - the development standards and the use permissions of the
9 zoning regulations. So what that means is you don't have to
10 either go to the Board of Zoning Adjustment for a special
11 exception or a zoning variance. And you don't have to go to
12 the Zoning Commission for any discretionary approval. You
13 can take your project and go straight to the Department of
14 Buildings for permitting.

15 MR. JONES: And my next question is for DMPED that
16 kind of stems into that is, is it all right if Mr. Lyons --
17 if I address Mr. Lyons?

18 CHAIRPERSON HOOD: Sure. Mr. Lyons -- go right
19 ahead, Mr. Jones.

20 MR. JONES: Mr. Lyons, is it, you know -- do you
21 view it as putting the cart before the horse without having
22 an RFP to assess in line with this petition to upzone the
23 property? All right.

24 MR. LYONS: (No response)

25 MR. JONES: Mr. Kirschenbaum, can you explain what

1 proffers and conditions are?

2 MR. KIRSCHENBAUM: Proffers and conditions are
3 related to a planned unit development process and, you know,
4 generally speaking, that's when a developer profits certain
5 benefits to the community and, you know, it can relate to
6 the design of the building. It's very sort of broad and,
7 you know, project specific to a planned unit development.

8 MR. JONES: Is the OAG going to be presenting
9 tonight or I wasn't sure what that document that was
10 submitted was getting after.

11 CHAIRPERSON HOOD: Yeah. They will be presenting
12 if we get to them tonight because I plan on stopping at
13 9:00, but if we get to them, yeah.

14 MR. JONES: Okay, great. Thank you so much. They
15 brought up the point of, you know, potentially including
16 conditions for approval with this application, for a
17 specific nuance, you know, having to do with the transition
18 setback -- I'm sorry, the height transition setbacks that
19 have been proposed, are any other conditions for approval
20 being considered by OP that could adequately get at the
21 nuances of the comprehensive plan for this site?

22 MR. KIRSCHENBAUM: We don't have any additional
23 proposals for conditions, other than the building height
24 setbacks.

25 MR. JONES: Okay. My main note about the

1 comprehensive plan is just that I found it odd that -- how
2 often -- is it common for a comp plan to have a specific
3 policy that is geared towards a site in particular or is
4 this --

5 MR. KIRSCHENBAUM: From time-to-time it is. It's
6 not -- this is not the only site that has that.

7 MR. JONES: Being that there is a specific policy
8 about that site, is that probably, you know, the most
9 important policy in the comp plan when the council or the
10 commission is trying to parse out, you know, millions of
11 different policies within the plan that often contradict
12 themselves? I mean how does OP view the prioritization, you
13 know, within the comp plan with competing policies?

14 MR. KIRSCHENBAUM: Sure. So that -- you know,
15 that policy you're speaking about, I believe, is you're
16 referring to the mid-city element, Policy 2.3.7 and, you
17 know, that certainly does carry, you know, a lot of weight,
18 but again, you know, it's a balancing act with all of the
19 different policies of the comprehensive plan as well its
20 maps. And, again, the comprehensive plan makes clear that
21 using, you know, any sort of tools to provide more housing
22 and affordable housing really are sort of the central piece
23 of what, you know, it's trying to strive for.

24 MR. JONES: What I'm struggling with is we're kind
25 of being asked to take DMPED at their word that this RFP is

1 going to get at the comp plan goals. You know, that very
2 first sentence says that these -- this land should be
3 utilized to create landmarks that acknowledge and continue
4 the history of U Street as a black business corridor. And
5 what OP's proposal is saying is we're going to use these
6 sites to get as much damn like affordable housing as
7 possible and just take our word for it that the rest of that
8 is going to be in there.

9 Is there a way that OP could modify their proposal
10 to include conditions that better address the comp plan
11 policies that were specifically written for this site and
12 voted into law by the city council?

13 MR. KIRSCHENBAUM: You know, again, this is a map
14 amendment process to just change the zoning on the property.

15 MR. JONES: Yeah, okay. I'm asking is there a
16 condition that can be placed on that map amendment approval
17 that would more adequately address the comp plan?

18 CHAIRPERSON HOOD: Well, let me just interject,
19 Mr. Jones. What I would suggest, instead of asking Mr.
20 Kirschenbaum, when you do your testimony or you do your --
21 you want to ask the Commission, you want to ask us.

22 MR. JONES: Oh, I see.

23 CHAIRPERSON HOOD: Yeah. You want to ask us.

24 MR. JONES: Sorry. I'm more familiar with Prince
25 George's, my bad.

1 CHAIRPERSON HOOD: Well, those are my friends over
2 in Prince George's, too. They ask us and we ask them, so
3 yeah, yeah. Okay. Any further questions?

4 MR. JONES: My last line of questioning is just
5 regarding community engagement. And Mr. Kirschenbaum, I
6 understand you weren't here and I know you have a thankless
7 job here trying to explain someone else's report and this
8 one in particular goes -- the application goes back to
9 January of last year. Are you aware of any community
10 engagement that preceded the application to upzone the
11 property?

12 MR. KIRSCHENBAUM: I am not, you know, not from
13 the OP side. There might have been -- DMPED really did
14 outreach, but I am not -- I can't answer to that.

15 MR. JONES: Right. In your presentation, maybe --
16 are you able to pull your presentation up to just cite where
17 those outreaches were and the timing of those outreaches?

18 MR. KIRSCHENBAUM: That would be at the pleasure
19 of the Zoning Commission to bring that up.

20 MR. JONES: I live, you know, 85 feet from the
21 site and I really found out about this after the application
22 was made. I'm super engaged. All of our neighbors are very
23 engaged and can you elaborate on why we wouldn't have known
24 about this prior to the application going in? I don't know,
25 it's a tough question. I'll withdraw it. Sorry.

1 Could you summarize the community feedback that
2 was received?

3 MR. KIRSCHENBAUM: I can summarize the community
4 feedback that, you know, I -- the past couple meetings at
5 ANC 1B, their Economic Development Committee, there was --
6 you know, again, there was concern about the impact of
7 height on the property. There was a lot of questions about
8 why housing was needed here and why affordable housing was
9 needed here. You know, there was concerns that this was
10 just sort of a giveaway to developers and a lot of questions
11 sort of related to the RFP process.

12 MR. JONES: Okay. No detailed notes on that?
13 That's not something that OP does.

14 MR. KIRSCHENBAUM: Well, there's no -- you know,
15 we were invited to ANC 1B's Economic Development Committee.
16 I'm not sure if they keep notes or not.

17 MR. JONES: Okay. I'm just trying to understand
18 how, you know, you went about community engagement. As a
19 private developer, you know, most places, you know, the foot
20 would be on the other shoe. Most Office of Planning would
21 be really putting the screws to us on how did you engage,
22 how did you incorporate that in your application and what
23 are we seeing here.

24 CHAIRPERSON HOOD: Mr. Jones, let me ask you this.

25 MR. JONES: Yes.

1 CHAIRPERSON HOOD: I have a question for you. So
2 is that what they do in Prince George's County? Now, I know
3 the answer to it. So is that what they do in Prince
4 George's County? Because I deal with them. So is that what
5 they do in Prince George's County?

6 MR. JONES: Heck yeah. (Laughter) On every
7 little level, I mean yeah, you're talking councilmember.
8 You're talking little hamlets, towns, cities. They've got
9 layer after layer and it works because the community --

10 CHAIRPERSON HOOD: So it's your testimony to me
11 that that's what they do in Prince George's County?

12 MR. JONES: Yes, yes, I have to -- we have to take
13 notes as the developer and submit it as evidence and we make
14 concessions based on that largely. And that's what's
15 missing here, in my opinion, because you've got city trying
16 to get their -- trying to be a developer and then sell it to
17 the developer. That's why I say cart before horse. They're
18 trying to do the hard part and fall on the sword and say
19 we're the city, we want to upzone it for you and then market
20 it to the developer so they can develop by-right and not
21 have to face tough questioning.

22 CHAIRPERSON HOOD: I got you, Mr. Jones. Let me
23 just say this, I want you (inaudible) Prince George's County
24 reached out to us about this when they rewrote their zoning
25 code, I just want you to know that.

1 And also, Mr. Kirschenbaum, if you could, I do
2 want to know an example where we went from MU-4 to MU-10, if
3 you all could just give me one or two examples of where
4 we've done that.

5 Okay. Mr. Jones, you can continue.

6 MR. JONES: Yeah. Along that line, are you aware
7 of any areas within the District where MU-10 borders RA-2,
8 the row homes we're all concerned about?

9 MR. KIRSCHENBAUM: You know, I don't want to talk
10 off the cuff without looking detailed at the zoning map.

11 MR. JONES: Okay.

12 MR. KIRSCHENBAUM: There are probably areas in the
13 West End, but I don't want to answer that conclusively.

14 MR. JONES: Okay. Obviously, we touched on
15 affordable housing. If affordable housing is of such
16 importance, which I couldn't agree more, I'm a big proponent
17 for social. I think Montgomery County's got a nice pilot
18 program. I'm actually trying to get a job with that agency
19 as we speak, but if it's of such importance and that's why
20 we're upzoning -- why you're trying to upzone, why does this
21 application not offer conditions that restrict development
22 to a higher percentage of affordable units as a matter of
23 right?

24 MR. KIRSCHENBAUM: Well, you know, again, this is
25 just a map amendment process, so there's no building being

1 considered and this is not a planned unit development. As a
2 matter of sort of affordable housing zoning history, the
3 Zoning Commission created IZ Plus and that was enacted into
4 law in 2021 to require higher affordable housing set aside
5 requirements than the regular IZ program and IZ Plus comes
6 into play through map amendment applications such as this.
7 So if this is approved, in theory, and I'm saying that
8 because there's going to be even more stricter housing
9 requirements, but if this is approved, this would be
10 approved with an IZ Plus requirement, which would be higher
11 than anything that could be built -- excuse me, it would
12 require more affordable housing than what could be built
13 matter of right.

14 And then because this is a land disposition
15 project, this will have a higher affordable housing
16 requirement, so IZ Plus sort of becomes a moot point anyway.

17 MR. JONES: If all you care about is that, why not
18 establish a new condition for this land with -- via text
19 amendment, like you're proposing for the transition height
20 setback?

21 MR. KIRSCHENBAUM: You know, part of this map
22 amendment is to increase the density allowed on the property
23 to build more housing and affordable housing.

24 MR. JONES: To increase the land value.

25 MR. KIRSCHENBAUM: That was not part of my

1 testimony.

2 MR. JONES: Yeah, no, I'm sorry. Reading between
3 the lines, I think. Is sustainability important to the OP?

4 MR. KIRSCHENBAUM: Sustainability is one of many
5 goals important to the Office of Planning.

6 MR. JONES: Okay. So other than just needing to
7 conform with green building standards, by-right development
8 will not have any higher aims for sustainability?

9 MR. KIRSCHENBAUM: You know, again, that's
10 addressed through the Department of Building permitting
11 process. But on top of that, you know, the RFP disposition
12 process may also take that into account when they review the
13 request for proposals.

14 MR. JONES: Right. I really need to get a hold of
15 Mr. Lyons on that one if he's available. That RFP is a big
16 consideration and, again, I see cart before the horse if
17 you're not going to propose a PUD on this, then, you know,
18 it's just leaving so many things open ended on a large,
19 large track of publicly owned land. Will the large track
20 review process be part of this in any way, shape or form,
21 future development?

22 MR. KIRSCHENBAUM: Can you give me one second to -
23 - no, it will not because this -- can you give me one
24 second?

25 MR. JONES: Okay. It wasn't clear to me in

1 reading the code whether it would or wouldn't. Gosh, if
2 this isn't a large track that needs large track review, I
3 don't know what the point of the program is. Should I move
4 on?

5 MR. KIRSCHENBAUM: I'm sorry. I just had to
6 refresh my memory. We don't see too many LTRs. No, because
7 this is a property that's less than three acres.

8 MR. JONES: Are you sure that's the requirement?
9 Three acres?

10 MR. KIRSCHENBAUM: It's three acres or a
11 development with 50,000 square feet or more of commercial
12 space.

13 MR. JONES: Ah, commercial space. So as long as
14 the developer keeps this under 50,000 square feet of
15 commercial space, no -- got it, no large track review
16 required, truly by-right.

17 MR. KIRSCHENBAUM: But again, this is -- there's
18 no development project being considered here.

19 MR. JONES: Oh, no, but this would clear the door
20 for by-right development. That's what the commissioners are
21 being asked to weigh in, whether it's to make it an MU-10, a
22 substantial upzone. Okay. There's no more bites at the
23 apple. Is DMPED on or no?

24 CHAIRPERSON HOOD: Is Mr. Lyons available?

25 MR. JONES: Okay.

1 CHAIRPERSON HOOD: Hold one second, Mr. Jones.
2 Can somebody -- staff, somebody see if we can get Mr. Lyons?
3 Okay. He's still on.

4 MS. SCHELLIN: Mr. Young, if you could bring him
5 on.

6 CHAIRPERSON HOOD: Okay.

7 MS. SCHELLIN: He's on.

8 MR. JONES: Hey, Mr. Lyons, if you can hear me, I
9 wanted to ask if you were -- if DMPED was consulted prior to
10 the introduction of the FLUM amendment, the comp plan
11 amendment? Okay.

12 CHAIRPERSON HOOD: Is Mr. Lyons available? Okay.
13 We'll get that -- let's get that asked. I'm going to ask
14 Office of Planning (crosstalk).

15 MR. LYONS: I'm here. I had -- if you can hear me
16 now, I was actually responding, but apparently, I was not
17 being heard. The robot lady just told me I had to hit the
18 *6 to get through.

19 MR. JONES: Got to watch out for those robot
20 ladies (laughter).

21 MR. LYONS: Yeah. So if you didn't hear me
22 before, I was just saying that I was not involved in the
23 project at the time the comp plan was being considered or
24 reviewed but also that the comp plan itself is not in our
25 bailiwick, it's not in the DMPED wheelhouse. As I said

1 earlier, it is -- that is OP's jurisdiction, so --

2 MR. JONES: Okay. Yeah, I don't think I have
3 anything else, Mr. Lyons. Thanks so much, man.

4 And Mr. Kirschenbaum, yeah, all good. Appreciate
5 you all joining us tonight. And I really wish we had had
6 more of an opportunity to spend time with you guys ahead of
7 the hearing to maybe get to, you know, something that makes
8 more sense for everyone and maybe a little less contentious.

9 CHAIRPERSON HOOD: Mr. Jones, I appreciate that,
10 but that ain't the time right now. You'll have time in your
11 testimony if you want to get together or whatever, but I
12 appreciate that. Right now, it's just cross-examination and
13 you're complete, correct?

14 MR. JONES: Yes, sir. Thank you.

15 CHAIRPERSON HOOD: Okay. Thank you. All right.

16 Mr. Hanlon, who has yielded to everyone else, now
17 is your time. Mr. Hanlon, let me ask, do you have a lot of
18 questions?

19 MR. HANLON: -- and I don't believe Black
20 Neighbors, the 16, 17 --

21 CHAIRPERSON HOOD: Oh, you know what? I'm sorry.
22 I'm getting ready to get in trouble. Let me go to the Black
23 Neighbors.

24 MR. HANLON: I do have a lot of questions.

25 CHAIRPERSON HOOD: Let me just say this. It looks

1 like we're going to have -- just through this cross-
2 examining, it looks like we're going to stop here once we
3 finish with Mr. Hanlon, but I'm going to go to the Black
4 Neighbors, so I just want everyone to know after we finish
5 cross-examination, if it goes like it's been going, we
6 probably will -- it will probably come right up on 9:00, so
7 let's go to the Black Neighbors.

8 MR. ADAMS: Good evening, Chairman Hood. My first
9 question, I don't know if I should be addressing it to Mr.
10 Lyons or Mr. Kirschenbaum, but it involves the community
11 outreach log, DMPED's community outreach log. It says that
12 information was collected and shared and incorporated into
13 the rezoning proposal. And I'd like someone to explain just
14 how that was incorporated into the proposal, if they can.

15 MR. KIRSCHENBAUM: Yes. We heard from -- we
16 attended several ANC 1B economic development community
17 meetings as there were concerns about the impacts on the
18 height of the proposed MU-10 zone surrounding residential
19 uses, so to address that, we have proposed a separate text
20 amendment for reducing height setbacks to reduce the bulk of
21 any proposed building -- sorry, any potential building that
22 might be built under the proposed zone.

23 CHAIRPERSON HOOD: Okay. Mr. Lyons, have you got
24 anything to add to that?

25 MR. LYONS: DMPED did not write the zoning

1 applications to that and Mr. Kirschenbaum's testimony is on
2 point for regarding the actual application itself and the
3 reports that OP has written, so I can't comment on how they
4 wrote those reports. I'm not the author. I was not
5 involved in the preparation and I did not see them before
6 they became public.

7 MR. ADAMS: Okay. Mr. Kirschenbaum, do you know
8 if there was any door-to-door outreach conducted by the
9 Office of Planning in this community, in the black community
10 adjacent to the project?

11 MR. KIRSCHENBAUM: You said the term door-to-door,
12 I just want to make sure I heard you correctly.

13 MR. ADAMS: Yes, door-to-door outreach.

14 MR. KIRSCHENBAUM: There was not door-to-door
15 outreach, no.

16 MR. ADAMS: Okay. Is it safe to say that you
17 based your proposal to upzone based on DMPED told you about
18 community outreach?

19 MR. KIRSCHENBAUM: Again, this is a proposal being
20 brought on behalf of DMPED with OP as the applicant and MU-
21 10 was selected based on what the future land use map
22 designations prescribed for the property as long -- excuse
23 me -- in addition to varying policies of the comprehensive
24 plan.

25 MR. ADAMS: Okay. DO you know of any particular

1 outreach that was done by the ANCs to the impacted black
2 residents? Do you know if the ANCs surveyed any of the
3 black residents at all?

4 MR. KIRSCHENBAUM: I, unfortunately, can't speak
5 to the ANCs.

6 MR. ADAMS: Okay. Looking at Exhibit 58, Pages
7 39, 40 and 41, it looks as if some of the same names appear
8 over and over again for people who were contacted. For
9 instance, Deborah Akel, but isn't it true that she arranged
10 the meeting herself for her building and it wasn't outreach
11 on the part of OP?

12 MR. KIRSCHENBAUM: You know, again, I was not the
13 project manager at the time, so I can't 100 percent speak to
14 that, but I'm sorry, I don't know offhand.

15 MR. ADAMS: Okay. Well, were there other events
16 or meetings not arranged by residents or the ANC where a
17 proposed map amendment was announced and residents could
18 speak with the OP staff about it?

19 MR. KIRSCHENBAUM: There were no -- there were no
20 OP initiated meetings held, yes.

21 MR. ADAMS: Okay. Well, it seems to me that --
22 did you -- was there any outreach to any of the black
23 businesses in this area?

24 MR. KIRSCHENBAUM: There were not any -- in
25 general, there was no outreach to the business community.

1 MR. ADAMS: Okay.

2 MR. KIRSCHENBAUM: Other than through the normal
3 course of, you know, required public noticing and
4 communication for the project required by the zoning
5 regulations.

6 MR. ADAMS: Did you survey or, at the very least,
7 speak with any of the historic black churches or black civic
8 organizations in the area around 16, 17 U Street?

9 MR. KIRSCHENBAUM: Not that I'm aware of.

10 MR. ADAMS: Okay. So let me ask you this, it
11 seems that you have proposed the most intensive mixed-use
12 zones possible, going from MU-4 to MU-10, while not engaging
13 at all with the community, Black Neighbors, can you explain
14 why that would be the case?

15 MR. KIRSCHENBAUM: Well, again, this is a comp
16 plan map amendment consistency application, so we brought
17 forward a zone that's consistent with the future land use
18 map and policy map and policies of the comprehensive plan.

19 MR. ADAMS: Okay. Well, is it fair to say that
20 OP's lack of engagement with the impacted black community
21 around this area demonstrates that this rezoning application
22 fails the comp plan?

23 MR. KIRSCHENBAUM: I don't believe it does. I
24 believe I provided in my presentation that this not -- that
25 we believe that this is not inconsistent with the

1 comprehensive plan.

2 MR. ADAMS: Okay. I'd like to ask you something
3 about the -- you mentioned in your testimony earlier about
4 affordable housing. Can we go to Exhibit 58, Page 2 of the
5 final report, dated June 16, 2023?

6 MR. KIRSCHENBAUM: I'm on Page 2.

7 MR. ADAMS: Okay. You mentioned affordable
8 housing and on Page 2, it says that you expect maybe 200
9 affordable units. Would you say that if you expect 200
10 affordable units, would it be fair to say that there'd be
11 400 market rate units in that building or anything built
12 there?

13 MR. KIRSCHENBAUM: Again, that was an estimate.
14 And as I testified earlier, I'm not 100 percent sure how the
15 prior case manager came to that number, but as was requested
16 by the vice chair earlier, we will be providing updated sort
17 of estimates for market rate and affordable units based on
18 MU-10 zoning and MU-8 zoning.

19 MR. ADAMS: Okay. Do you show any studies that
20 would talk about what class or race of residents who would
21 benefit from this affordable housing?

22 MR. KIRSCHENBAUM: Well, again, we reviewed this
23 through a racial equity lens and again, there's no project
24 that is -- there's no defined project right now. This is
25 just to create zoning to set the perimeters of the project.

1 And that would -- zoning would apply IZ Plus, which would
2 have a higher affordable housing set aside requirement and
3 if the property were not rezoned and it also is part of the
4 land disposition, which would have a much higher set aside
5 requirement than IZ Plus and, you know, the comprehensive
6 plan recognizes that residents of color are a majority of
7 lower income households in the District and they, therefore,
8 face a disproportionate share of problems caused by housing
9 insecurity and displacement.

10 So this map amendment will certainly facilitate
11 the ability to provide more affordable housing options to
12 District residents.

13 MR. ADAMS: Okay. So you are aware of the immense
14 racial wealth gap and income gap in DC between black and
15 white households. So are you aware that for black residents
16 in Ward 1 an affordable rent is less than \$1,250 a month?

17 MR. KIRSCHENBAUM: I am generally aware of
18 disparities, I can't comment on those exact figures based on
19 Ward 1.

20 MR. ADAMS: Based on what we know about income
21 gaps in the city, would it be fair to say that most black DC
22 residents wouldn't be able to afford the monthly housing
23 cost of an MU-10 project built at this site after rezoning?

24 MR. KIRSCHENBAUM: I would not agree with that. I
25 mean, again, MU-10 sets the perimeters for how large a

1 building can be built. It doesn't set the actual building
2 program. And as I discussed, this would have a much higher
3 affordable housing requirement than if nothing happened at
4 this property.

5 MR. ADAMS: Okay. So affordable housing would
6 just still be a minority under IZ, is that what I can
7 understand you're saying?

8 MR. KIRSCHENBAUM: I'm sorry. Could you just
9 clarify the question? I want to make sure I answer it
10 appropriately.

11 MR. ADAMS: Okay. Affordable housing would still
12 be the minority in the IZ?

13 MR. KIRSCHENBAUM: I really am sorry, I just don't
14 understand the question.

15 MR. ADAMS: Well, let me move on then. The Office
16 of Planning report on Exhibit 58 speaks about a racial
17 equity analysis. Are you aware of any analysis being done
18 or has been done in order to recommend this upzoning?

19 MR. KIRSCHENBAUM: Well, that report provided a
20 racial equity analysis starting on Page 18, I believe. And
21 our presentation provided additional data regarding racial
22 equity.

23 MR. ADAMS: Okay. I only have a few more
24 questions. Yes. Doesn't racial equity ask applicants to
25 consider how the zoning application repairs past and present

1 racial discrimination and harm to a community?

2 MR. KIRSCHENBAUM: It does, correct.

3 MR. ADAMS: In fairness, would you say that your
4 recommendation took that into account?

5 MR. KIRSCHENBAUM: I believe there was some brief
6 discussion on that in the report.

7 MR. ADAMS: Well, I mean if we have wealth gaps,
8 would affordable housing units still be the minority for the
9 IZ requirements? (Crosstalk) Okay. If OP understands that
10 the so-called affordable housing that maybe built after
11 rezoning isn't affordable for most black DC residents, how
12 can you say that the MU-10 rezoning application
13 intentionally corrects past and present harms of
14 displacement of black residents?

15 MR. KIRSCHENBAUM: Well, again, this is just a map
16 amendment application. There is no defined project. And
17 there would be a higher affordable housing requirement
18 required for this property than if this property weren't
19 rezoned.

20 MR. ADAMS: Okay. Can you turn to Exhibit 58,
21 Table 9 on Page 25, if you have that in front of you?

22 MR. KIRSCHENBAUM: I have that in front of me,
23 yes.

24 MR. ADAMS: It says that the proposed rezoning
25 application for this site at 16, 17 U Street would not

1 result in the displacement of existing populations because
2 the site is not currently in residential use; is that
3 correct?

4 MR. KIRSCHENBAUM: That's what it says, correct.

5 MR. ADAMS: Okay. But the Commission's racial
6 equity tool also talks about analysis of indirect
7 displacement, which is a consideration of existing more
8 vulnerable populations in the immediate vicinity of the
9 site; is that correct?

10 MR. KIRSCHENBAUM: The racial equity tool
11 promulgated by the Commission does ask about indirect
12 displacement, yes.

13 MR. ADAMS: So you would think that the Office of
14 Zoning would want you to have that information available to
15 them; is that correct?

16 MR. KIRSCHENBAUM: Correct.

17 MR. ADAMS: Okay. Do you intend to provide that
18 information to OZ?

19 MR. KIRSCHENBAUM: Yes, as requested by the
20 Commission. There was several comments from Commissioners
21 requesting additional information on indirect displacement
22 that we will be providing in a supplemental report to the
23 Commission and for the public for review.

24 MR. ADAMS: Okay. And as far as you're aware,
25 there's no racial equity analysis of the impacts of MU-10

1 rezoning and how this type of high-density land use change
2 may impact existing residents nearby, including increased
3 indirect displacement pressure?

4 MR. KIRSCHENBAUM: I don't have any additional
5 comments on that question based on previous comments that I
6 said.

7 MR. ADAMS: Okay. Have you, by chance, looked at
8 how specifically black DC residents are being displaced from
9 MU-10 areas round the city over time?

10 MR. KIRSCHENBAUM: I would say that it's a much
11 larger issue than just MU-10 zoning and that's something
12 that the Office of Planning is looking at holistically.

13 MR. ADAMS: Can you describe the boundaries of the
14 mid-city area or point us to a map showing the mid-city
15 area?

16 MR. KIRSCHENBAUM: The mid-city area boundaries
17 are located in the comprehensive plan. If you give me one
18 minute, I can tell you.

19 MR. ADAMS: Okay. I'm just going to move on. To
20 be clear, Office of Planning's demographic analysis does not
21 specifically tune into the area around the subject site.
22 It's about the entire mid-city area; is that correct?

23 MR. KIRSCHENBAUM: That would be correct.

24 MR. ADAMS: Okay. Maybe we're missing it, but did
25 the Office of Planning conduct the demographic analysis of

1 the area around the site, evaluating what residents or
2 families might already be housing cost burdened at all?

3 MR. KIRSCHENBAUM: We did not, based on the
4 information we have readily available to us to conduct the
5 racial equity analysis.

6 MR. ADAMS: Okay. How about any health index
7 analysis of the people living now around the site?

8 MR. KIRSCHENBAUM: That was not conducted -- I'm
9 sorry, you said health analysis?

10 MR. ADAMS: Yes, health index analysis.

11 MR. KIRSCHENBAUM: That was not conducted as
12 that's not related to zoning.

13 MR. ADAMS: Okay. And wouldn't also kick up
14 substantial construction dust and noise such that more
15 vulnerable people nearby would have to leave? I'm talking
16 about the elderly black population around the site.

17 MR. KIRSCHENBAUM: As I testified earlier from a
18 similar question, you know, all types of development create
19 nuisances and that type of construction nuisance would be
20 dealt with through the permitting process at the Department
21 of Buildings.

22 MR. ADAMS: Okay. I want to go back to something
23 I asked you before about the black businesses. The existing
24 small black businesses in this area, can Office of Planning
25 point to any consideration of the impacts of the upzoning on

1 those businesses? For example, rising property taxes that
2 they will have to unduly and unexpectedly bear?

3 MR. KIRSCHENBAUM: You know, again, this is not
4 related to the zoning application that's before the Zoning
5 Commission. I don't have any comments on that.

6 MR. ADAMS: So all of these questions about
7 planning impacts, isn't it fair to say that OP is relying on
8 no actual evidence to conclude in Table 9 of Exhibit 58,
9 your final report, that you don't anticipate displacement
10 from the proposal?

11 MR. KIRSCHENBAUM: I'm not sure if I fully
12 understood what the question was.

13 MR. ADAMS: You said that you don't anticipate
14 displacement from the proposed rezoning.

15 MR. KIRSCHENBAUM: Right.

16 MR. ADAMS: Based on what we're hearing, is it
17 fair to say that the lack of evidence does not support that?

18 MR. KIRSCHENBAUM: Well, as I previously
19 testified, the Commission has requested OP to provide
20 additional analysis on indirect displacement, so that will
21 be forthcoming.

22 MR. ADAMS: Okay. I think that's it. Thank you
23 very much.

24 CHAIRPERSON HOOD: Thank you, Mr. Adams, and thank
25 you for -- most of your questions were around our racial

1 equity tool and I appreciate you sticking -- some may have
2 got off a little bit, but I appreciate you sticking to the
3 subject matter before us and that's part of what we're
4 looking at in this jurisdiction, so thank you.

5 Now, Mr. Hanlon, it looks like you're going to
6 close us out. You said you had, what, two questions?

7 MR. HANLON: A few.

8 CHAIRPERSON HOOD: Oh, okay. Mr. Kirschenbaum?

9 MR. HANLON: I have more than a few.

10 MR. KIRSCHENBAUM: If it would -- could I just
11 have one minute to get a glass of water?

12 CHAIRPERSON HOOD: Sure. Take five minutes.

13 MR. KIRSCHENBAUM: I apologize. I was talking a
14 lot.

15 CHAIRPERSON HOOD: Let's all take five minutes.

16 MR. KIRSCHENBAUM: Thank you. I appreciate it.

17 (Whereupon, at 8:31 p.m., a brief recess was
18 taken.)

19 CHAIRPERSON HOOD: So others are probably
20 listening, so we're going to go ahead. Mr. Hanlon, are you
21 ready?

22 MR. HANLON: Can you hear me okay?

23 CHAIRPERSON HOOD: Yes. You can go right ahead.

24 MR. HANLON: Thank you, Mr. Kirschenbaum. I'm Ed
25 Hanlon. I'm the vice president for the Dupont Circle

1 Citizens Association, the oldest civic organization in
2 Dupont Circle. And I have a few questions, perhaps more
3 than a few questions for you, as vice president for the
4 organization. And I have to let the Chair know that these
5 questions could easily go past 9:00 tonight. So with that,
6 I would like to begin.

7 If we could first go, if you don't mind, to
8 Exhibit 58.

9 MR. KIRSCHENBAUM: I have Exhibit 58. What page
10 would you like me to go to?

11 MR. HANLON: And if we could go to -- oops, one
12 second. If we go to Exhibit 58, Page 3. Do you see the
13 application brief for Table 1 and Table 2?

14 MR. KIRSCHENBAUM: I do, yes.

15 MR. HANLON: All right. Correct me if I'm wrong,
16 but isn't it true that if the property area is 81,981 square
17 feet, so just under 82,000 square feet and the proposed FAR
18 is 7.2, that would mean the gross floor area that would be
19 allowed as a matter of right would be nearly 600,000 square
20 feet if this map amendment took place?

21 MR. KIRSCHENBAUM: You know, excuse me, in theory,
22 it could. But again, this is -- there's not a development
23 project.

24 MR. HANLON: Right. But we're talking about
25 upzoning to MU-10. We're talking about a builder being able

1 to do it as a matter of right. We haven't seen any RFP. We
2 haven't seen any proposal. This Commission is being asked
3 to upzone to MU-10. And MU-10 would allow 600,000 square
4 feet of floor space on this site; is that correct?

5 MR. KIRSCHENBAUM: In theory, that is correct,
6 yes.

7 MR. HANLON: Now, can we go, please, to Exhibit
8 465, Page 11? Can we pull up 465, Page 11?

9 MR. KIRSCHENBAUM: Please give me a moment. Well,
10 exhibit --

11 MR. HANLON: One moment. One moment. I
12 apologize. Yes, it is 465, Page 11.

13 MR. KIRSCHENBAUM: Okay. So not any of the
14 letters or numbers, right? Lettered exhibits.

15 MR. HANLON: That's correct.

16 MR. KIRSCHENBAUM: Okay. I'm on Page 11.

17 MR. HANLON: All right. This is a report that you
18 authored; is that correct?

19 MR. KIRSCHENBAUM: Correct.

20 MR. HANLON: All right. So let's look at Page 11
21 and Chair Hood and members of the Commission, if you need a
22 moment to pull up Page 11, authored by Mr. Kirschenbaum, I
23 think it would be helpful because this, I think,
24 encapsulates what this project would look like if you do
25 approve this map amendment.

1 CHAIRPERSON HOOD: Which exhibit are we on?

2 MR. HANLON: I apologize. We're on Exhibit 465.

3 CHAIRPERSON HOOD: Okay.

4 MR. HANLON: Page 11.

5 CHAIRPERSON HOOD: Thank you.

6 MR. HANLON: Not 465A or B but Page 465 -- Page
7 11. You can see it has the Office of Planning stamp up
8 there in the right corner and the witness's name is on the
9 report on the last page as one of the authors. So I would
10 like to ask you, the rowhouse -- you have existing rowhouses
11 on the left here and that would be an existing rowhouse on V
12 Street, right?

13 MR. KIRSCHENBAUM: Correct.

14 MR. HANLON: And that rowhouse is about 25 feet
15 high, correct?

16 MR. KIRSCHENBAUM: Most likely, I believe they are
17 two stories, yes.

18 MR. HANLON: All right. And your proposal is to
19 build 100 -- is to allow the building of a 120-foot building
20 across the street from the 25-foot rowhouse, correct?

21 MR. KIRSCHENBAUM: We are proposing zoning that
22 would allow a building up to 100 feet of building height.

23 MR. HANLON: Well, building height is 100 feet,
24 but then MU-10 would also allow a 20-foot penthouse as shown
25 in this Page 11 that you authored, right?

1 MR. KIRSCHENBAUM: Like all zoning, penthouses are
2 not part of the maximum building height. And the penthouse
3 would be required to further be set back.

4 MR. HANLON: Okay, but --

5 MR. KIRSCHENBAUM: (Inaudible) MU-10.

6 MR. HANLON: -- for an ordinary human being
7 looking at it, it would be a 120-foot building, right?

8 MR. KIRSCHENBAUM: We are showing the maximum
9 building envelope potential.

10 MR. HANLON: Right, right. And the rowhouses, all
11 of the rowhouses on V Street across the street from this
12 building are only two stories, aren't they?

13 MR. KIRSCHENBAUM: They are two stories in height,
14 correct.

15 MR. HANLON: And the rowhouses on V Street next to
16 this building on the east side are also only two stories,
17 aren't they?

18 MR. KIRSCHENBAUM: I'm sorry, the rowhouses that
19 are just east of the police station?

20 MR. HANLON: Yes.

21 MR. KIRSCHENBAUM: Correct.

22 MR. HANLON: Okay. And the rowhouses across the
23 street from this building on 17th Street are two-story and
24 three-story rowhouses, correct?

25 MR. KIRSCHENBAUM: That would be correct, yes.

1 MR. HANLON: So we're talking about on 17th Street
2 of rowhouses maybe 35 feet high, maybe, and across the
3 street, you would propose to upzone this to allow a building
4 120 feet high, correct?

5 MR. KIRSCHENBAUM: Well, again, it would be a
6 building built to a maximum height of 100 feet, plus
7 additional penthouse at 20 feet, which would be
8 significantly set back and smaller in size than the general
9 building area, the main building.

10 MR. HANLON: And --

11 MR. KIRSCHENBAUM: So it's a little misleading to
12 say that, you know, the entire building is going to be 120
13 feet because there are significant setbacks involved and the
14 penthouse would be much smaller in area than the majority of
15 the building.

16 MR. HANLON: Well, I guess it depends, in part,
17 whether you live across the street and are looking up at it,
18 right?

19 MR. KIRSCHENBAUM: Yeah. There's a significant
20 setback that would be required.

21 MR. HANLON: Now -- well, wait a minute. Let's
22 talk about V Street for the moment. I know the Chair has
23 said that he wishes to take up your proposed text amendment
24 in March and I would suggest to you it's not a text
25 amendment, it's a map amendment in March. But you don't

1 propose, at any point -- OP doesn't propose at any point to
2 step back the building across the street on 17th from these
3 two and three-story rowhouses, right?

4 MR. KIRSCHENBAUM: No, and that's because 17th
5 Street has a right-of-way width of already 110 feet. It's
6 already an extremely wide street.

7 MR. HANLON: So the building along 17th Street
8 could be 120 feet high without the 40-foot setback shown in
9 this diagram, correct?

10 MR. KIRSCHENBAUM: Well, as we've discussed, we're
11 not in agreement on your characterization of the height of
12 the building. It would be 100 feet building height and then
13 there could be an additional 20-foot penthouse on top of
14 that that would have to be set back one for one. So if it's
15 20 feet in height, it would have to be set back 20 feet from
16 the roof lining the building. So in the case of 17th Street,
17 that penthouse would be set back at least 130 feet from the
18 properties across the street that you're talking about.

19 MR. HANLON: All right. And 20 feet back from the
20 edge of the building, right?

21 MR. KIRSCHENBAUM: Correct.

22 MR. HANLON: Okay. And the sight line from the
23 front yards on those little rowhouses on 17th, the entire
24 building, including the penthouse would be visible; isn't
25 that correct?

1 MR. KIRSCHENBAUM: No, that probably would not be
2 correct.

3 MR. HANLON: Have you done any study or have you
4 gamed it out what the site lines would be from these front
5 yards of these little rowhouses on 17th Street?

6 MR. KIRSCHENBAUM: We have not, but generally
7 speaking, given the height and the setbacks, it should not
8 be overly visible.

9 MR. HANLON: As I understand it, correct me if I'm
10 wrong, you've done no shadow studies of how this building --
11 how upzoning to MU-10 -- what shadows it would create along
12 V Street; is that correct?

13 MR. KIRSCHENBAUM: Correct. As I testified
14 earlier, that is not part of the map amendment process.

15 MR. HANLON: And even though one of the ANCs or
16 more than one of the ANCs asked you to do those shadow
17 studies, you haven't done them, correct?

18 MR. KIRSCHENBAUM: We have not done shadow
19 studies.

20 MR. HANLON: All right.

21 MR. KIRSCHENBAUM: I am not aware of any ANC
22 request personally.

23 MR. HANLON: Well, we can take a look at that in a
24 moment. And so it would also be correct that you've done no
25 shadow study of this building with respect to shadow

1 patterns, I have an accent. There's an R in that word,
2 pattern, shadow patterns as they may affect the little
3 rowhouses on 17th Street either, correct?

4 MR. KIRSCHENBAUM: Correct. My testimony is
5 unchanged.

6 MR. HANLON: Okay. All right. So when I'm
7 looking at this building, this building could be, as we just
8 agreed a few moment ago, approximate -- if it was built to
9 the limits of MU-10, which is what you're asking for the
10 upzoning, this building could be 600,000 square feet of
11 floor space, 100-foot plus a 20-foot penthouse or 120 feet
12 in height next to these little rowhouses, correct?

13 MR. KIRSCHENBAUM: You know, again, I don't have
14 any additional testimony for that.

15 MR. HANLON: Okay. Now, I'm curious, when you do
16 this setback of 40 feet here in this diagram, do you say --
17 correct me if I'm wrong, I want to make sure I understand
18 this, the building across the street from these little
19 rowhouses on V Street would have a building, say, 60 feet
20 high. Then you propose to indent it 40 feet and then up
21 again another 20, then up again, a penthouse, right?

22 MR. KIRSCHENBAUM: Again, that would be the extent
23 of the potential building envelope. But again, I just want
24 to clarify that, again, you're questioning is about a
25 proposed text amendment that is separate from this map

1 amendment case.

2 MR. HANLON: Right. But it's all very confusing,
3 right? Because the OP report from June -- the OP report
4 from November, they have pictures. They have diagrams.
5 They talk about this and how am I not supposed to talk about
6 this or ask you questions about it when it's obviously
7 relevant to how this impacts these little rowhouses on V
8 Street and 17th Street? How can I do that? We need to look
9 at the comp plan provisions for the mid-city element, right?
10 And look about the preservation about row street
11 neighborhoods as a unique feature and ask how this huge
12 proposal of 600,000 square feet, 120 feet high is consistent
13 with those comp plan provisions, right?

14 CHAIRPERSON HOOD: Mr. Hanlon, let me just
15 interrupt.

16 MR. HANLON: Okay.

17 CHAIRPERSON HOOD: Again, I'm going to go back to
18 what I told my first friend who was doing cross, we can see
19 it. And I appreciate you bringing it to our attention to
20 make sure we focus on this, so we get it. These pictures
21 are what they are. I would not get into a spat or a
22 discussion about what we can see, you know? A picture is
23 worth 1,000 words, so I would encourage you to move on. I
24 can see it, okay? We can see it, trust me.

25 MR. HANLON: I take your advice to heart, Chair

1 Hood, and we'll see what we can do about moving on. I would
2 like to go back to Page 1 of the June 16th report. I think
3 it's Exhibit 58, if we could take a look at that. Bring me
4 a moment to bring it up myself. I was -- if you look at the
5 first dot on Page 1 of this June 16th report, it says,
6 "Accommodate new facilities for the Third District Police
7 and Fire Engine Company 9 and related services, including a
8 larger parking facility to shelter police cars and employee
9 vehicles that now park on neighborhood streets and grassy
10 parking strips."

11 You talk about a larger parking facility. How
12 large is the present parking facility?

13 MR. KIRSCHENBAUM: I am not aware.

14 MR. HANLON: Well, that's what bothered me because
15 if you're talking about it's going to accommodate a larger
16 parking facility, I was wondering how big the existing one
17 is and you don't know, correct?

18 MR. KIRSCHENBAUM: That's correct, yes.

19 MR. HANLON: All right. When I look at Page 4, if
20 you go to Page 4 for a moment. That is an aerial shot of
21 the site, correct?

22 MR. KIRSCHENBAUM: That would be correct.

23 MR. HANLON: And what I see in the lower left of
24 the site is the parking garage, correct?

25 MR. KIRSCHENBAUM: Correct.

1 MR. HANLON: And I'm not going to ask you to
2 count, but would you agree with me that that's the upper
3 level of the parking garage, I guess, because we're looking
4 down from the sky, right?

5 MR. KIRSCHENBAUM: That would be most likely
6 correct.

7 MR. HANLON: And it's a two-level parking garage,
8 correct?

9 MR. KIRSCHENBAUM: I believe it is, correct.

10 MR. HANLON: And I count about 75 spaces in that
11 top level, would that be wrong?

12 MR. KIRSCHENBAUM: I have not counted the cars.

13 MR. HANLON: Well, there's a lot of them there.

14 MR. KIRSCHENBAUM: Okay.

15 MR. HANLON: All right. So I guess if the
16 existing parking garage has at least 150 and maybe 200
17 vehicles, parking spaces, how big a parking garage would you
18 say upzoning to MU10 would accommodate?

19 MR. KIRSCHENBAUM: You know, I don't know that
20 offhand. Zoning -- parking -- excuse me. Above-grade
21 parking counts towards for area ratio. So I'm not -- you
22 know, that would be a factor in any sort of redevelopment
23 proposal.

24 MR. HANLON: Throughout your report, you talk
25 about more affordable housing, more market rate housing or

1 some of us call it luxury housing and I'm wondering where
2 you think the parking garage is going to go or where you
3 anticipate it's going when you talk about how we're going to
4 have new facilities, new housing on this site. Are you
5 talking about an underground parking garage?

6 CHAIRPERSON HOOD: Mr. Hanlon, I need you to help
7 me understand. I think we went down a line about what this
8 is, a map amendment, as you know. We went down that line
9 about placement and we went down that line that we have not
10 had a finalized project before us. So I really think that
11 that question -- help me understand where you're trying to
12 go with that question, especially asking OP, who has nothing
13 to do with the RFP? So I'm trying to understand the
14 relevance.

15 MR. HANLON: When I go -- thank you, Chair Hood.
16 If I go to Page 7 of the report --

17 CHAIRPERSON HOOD: Okay.

18 MR. HANLON: -- it talks about required vehicle
19 parking spaces. And it talks about MU-4 and MU-10. And it
20 says in MU-10, it will be the same. Local government is one
21 half of a parking space per 1,000 square feet over the first
22 2,000. And I'm trying to understand how MU-10 is consistent
23 with a police facility and a parking garage on this site
24 because there isn't a record, Chair Hood. We're talking
25 about a large number of police vehicles, private vehicles, a

1 two-level parking garage. Yet, the development standards
2 for MU-10 would talk about only half a parking space per
3 1,000 square feet of public facilities. If I had an 8,000
4 square foot police station, that's only 40 parking spaces.
5 So I'm trying to understand how maybe a special zone
6 should've been created for this entire site, okay? But I'm
7 trying to understand if you want to map it to MU-10, how do
8 you map it to MU-10 and still provide the number of parking
9 spaces that are required for the police?

10 It seems to me, Chair Hood, that perhaps a special
11 zone for the entire site would've been more appropriate than
12 trying to map part of it to MU-10 when clearly you need much
13 more parking than MU-10 requires.

14 CHAIRPERSON HOOD: Okay. I get the gist of it.
15 I'm not sure. I'll let Mr. Kirschenbaum be able to respond
16 overall generally. If not, it maybe be something we need to
17 get back, but I think I'm going to rule that question in
18 order, so it's actually a good question, anyway. All right.
19 (Crosstalk) If you can't answer it, then if you could
20 submit it, but see if you can answer, if you can.

21 MR. KIRSCHENBAUM: You know, again, this is a map
22 amendment case. There's no development project that is
23 being proposed and those are -- that's a germane question
24 for the RFP process.

25 CHAIRPERSON HOOD: So now, I have a -- well, you

1 know what? This is not my time. I'll do mine at my time.

2 Go ahead, Mr. Hanlon.

3 MR. HANLON: Chair Hood, I have a lot of questions
4 about the comp plan and I don't know whether this would be a
5 convenient place to stop because it's going to go on for a
6 while. I need to go through the rest of the report, but I
7 also want to go through the mid-city elements of the comp
8 plan one-by-one and ask the witness why this is not
9 inconsistent with the comp plan.

10 CHAIRPERSON HOOD: Okay. Let me take a poll of my
11 colleagues. Is anybody tired or you all want to go for
12 another three hours? I know I don't. That was actually a
13 joke. So what I would like to do, Mr. Hanlon probably has
14 about another hour's worth of questions, it sounds like?

15 MR. HANLON: At least.

16 CHAIRPERSON HOOD: So all right. And I know we're
17 getting kind of tired. We've been doing this now about five
18 hours.

19 So Ms. Schellin, did we come up with a third date?
20 Because the 18th, obviously, we're not going to finish then
21 either.

22 MS. SCHELLIN: No, I thought that we would do that
23 on the 18th.

24 CHAIRPERSON HOOD: Okay, okay.

25 MS. SCHELLIN: See how we go at that time.

1 CHAIRPERSON HOOD: Okay.

2 MS. SCHELLIN: See how things, you know, end on
3 the 18th.

4 CHAIRPERSON HOOD: Okay. Well, why don't we take
5 this --

6 MS. SCHELLIN: We have the 22nd open. We can go
7 ahead and use the 22nd if you'd like. We have the 22nd open.
8 We have the 29th open.

9 CHAIRPERSON HOOD: 22nd. Does anybody -- well.
10 Does any of my colleagues have a problem with the 22nd? I'd
11 just like for all of us to be here. Any issues with the
12 22nd? All right. So why don't we do this, Ms. Schellin, why
13 don't we wait until the 18th, like you said at first because
14 anything could happen between now and the 18th. And somebody
15 may not be able to make it. When we're closer to it, we'll
16 be able to nail it down. So with that, Mr. Hanlon and Mr.
17 Kirschenbaum, thank you all. We're going to start with you,
18 Mr. Hanlon. And Mr. Hanlon, I hope you remember the
19 questions you asked so you won't ask them again.

20 MR. HANLON: I promise you, Chair Hood, that I
21 will -- I have new topics to go onto.

22 CHAIRPERSON HOOD: Okay. We're looking forward to
23 it. All right. And I mean that seriously because what
24 we're trying to do is pull all that we can out of this case
25 and I appreciate even the cross-examination, but I would

1 just ask, and I know Mr. Hanlon is going to do it and
2 others, let's stay on topic. Let's stay on the issue. We
3 can see. If you make your point, we get that, too. Okay.
4 So you don't have to make your point four and five times.
5 We get it. We've been doing this -- we've been doing this a
6 while and it's not our first case. All right.

7 So with that, we're going to start, Ms. Schellin,
8 on the 18th at 4:00 p.m. on these same platforms and we will
9 start with Mr. Hanlon cross-examining Mr. Kirschenbaum,
10 Office of Planning and then we'll move on.

11 Ms. Schellin, you want to add anything else?

12 MS. SCHELLIN: Just to state that there we some
13 people who made submissions today and, as you know, the regs
14 say they need to submit at least 24 hours prior to the
15 hearing, so anyone who made a submission and got an email
16 from my assistant that returned it, we will go ahead and
17 I'll have staff submit those to the record, since the record
18 will continue to be open, so those documents that were
19 returned, we'll go ahead and put those in the record. So if
20 anyone's listening and worried about resubmitting, we'll
21 just go ahead and put those in.

22 CHAIRPERSON HOOD: Okay. Anybody else? My
23 colleagues have anything? All right. I want to thank
24 everyone tonight for their participation and staff as well.
25 And with that, we will see you all on the 18th and we will

1 begin where we left off. Good night, everyone. See you
2 next time.

3 (Whereupon, at 9:07 p.m., the above-entitled
4 meeting was adjourned.)

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REPORTER CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: DCZC

Date: 01-8-2024

Place: Virtual via Webex

was duly recorded and accurately transcribed under my
direction; further, that said transcript is a true and
accurate record of the proceedings.

Lee Ann Tardieu

Reporter Name