

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA

2 Office of Zoning

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9 Zoning Commission Case 14-24 (1900 11th Street, NW,
10 LLC -- Map Amendment at Square 2848, Lots 39, 40, 72,
11 and 838 and Variance Relief from the Required Size of
12 Parking Spaces at Lots 39 and 40)

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6:32 p.m. to 9:00 p.m.

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Monday, December 7, 2015

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441 4th Street, N.W.

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Jerrily R. Kress Memorial Room

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Second Floor Hearing Room, Suite 220 South

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Washington, D.C. 20001

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1 Board Members:

2 ANTHONY HOOD, Chairperson

3 MARCIE COHEN, Commissioner

4 PETER MAY, Commissioner

5 ROBERT MILLER, Commissioner

6 MICHAEL TURNBULL, Commissioner

7 DONNA HANOUSEK, Acting Secretary

8

9 Office of Planning:

10 JENNIFER STEINGASSER

11 MAXINE BROWN-ROBERTS

12

13 Also Present:

14 PATRICK BROWN, ESQ.

15 DR. SAHR BOCKAI

16 DAN SNOOK

17 LOUISE HOWELLS

18 REVEREND GEORGE HOLMES

19 NICHOLAS MROCZKOWSKI

20 LUZMILA TIVEY

21 DARRYL FOSTER

22 JANET BERSCH

23

24

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

2 CHAIRPERSON HOOD: Good evening, ladies and
3 gentlemen. This is the Public Hearing of the Zoning
4 Commission for the District of Columbia. Today's
5 date is December 7th, 2015. My name is Anthony Hood.
6 Joining me are Vice Chair Cohen, Commissioners
7 Miller, May, and Turnbull. We're also joined by the
8 Office of Zoning staff Ms. Hanousek, the Office of
9 Planning staff Ms. Steingasser, and Ms. Brown-
10 Roberts.

11 This proceeding is being recorded by a court
12 reporter. It is also webcast live. Accordingly, we
13 must ask you to refrain from any disruptive noises or
14 actions in the hearing room, including a display of
15 signs or any objects. Notice of today's hearing was
16 published in the D.C. Register, and copies of that
17 announcement are available to my left on the wall
18 near the door.

19 The hearing will be conducted in accordance
20 with provisions of 11 D.C. MAR 3022, as follows:
21 preliminary matters, the Applicant's case, the report
22 of the Office of Planning, report of other government
23 agencies, the report of the ANC, organizations and
24 persons in support, organizations and persons in
25 opposition, rebuttal and closing by the Applicant.

1 The following time constraints will be
2 maintained in this meeting: The Applicant has up to
3 60 minutes; organizations, 5 minutes; individuals, 3
4 minutes. All persons appearing before the Commission
5 are to fill out two witness cards. These cards are
6 located to the left on the table near the door.

7 The decision of the Commission in this case
8 must be based exclusively on the public record. To
9 avoid any appearance to the contrary, the Commission
10 requests that persons present not engage the members
11 of the Commission in conversation during any recess
12 or at any time.

13 In addition, there will be no direct contact
14 whatsoever with any commissioner concerning this
15 matter, be it written, electronic, or phone call.
16 The staff will be available throughout the hearing to
17 discuss procedural questions.

18 Please turn off all beeper and cell phones at
19 this time so as not to disrupt the proceedings.

20 Would all individuals wishing to testify
21 please rise to take the oath?

22 Ms. Hanousek, would you please administer the
23 oath?

24 (The oath was administered.)

25 MS. HANOUSEK: Thank you. You may be seated.

1 CHAIRPERSON HOOD: Consider yourselves under
2 oath.

3 At this time, the Commission will consider
4 any preliminary matters. Ms. Hanousek, do we have
5 any preliminary matters other than the ones I already
6 know about?

7 MS. HANOUSEK: No.

8 CHAIRPERSON HOOD: Okay. Well, colleagues,
9 we do have a party status application. It's the
10 first preliminary matter. And once we deal with
11 that, we will go to the expert witnesses that are
12 being proffered. I think we have one, if I'm not
13 mistaken, and that is Dan Snook. Hopefully, I'm
14 pronouncing that right. Okay. But I'll let him
15 pronounce it when he comes to the table.

16 Let's deal with the party status application.
17 Mr. Brown, you can come to the table. And as we
18 discussed, just because I will come to you and ask
19 you a question, so I would ask you to just wait until
20 I come to you.

21 The party status application, colleagues, is
22 the Exhibit 31. And it's actually been updated for
23 some additional information. But we can start with
24 Exhibit 31; there's been an update. I don't believe
25 we need to accept the waiver. I'm under the

1 impression that we've already done this. I don't
2 know; maybe we did it at a meeting.

3 Or did I do it previously, Ms. Hanousek?

4 MS. HANOUSEK: I thought you just did it --

5 CHAIRPERSON HOOD: Okay.

6 MS. HANOUSEK: It was a minor matter of
7 submitting the name of the architect, right?

8 CHAIRPERSON HOOD: Oh, okay. Well, let's do
9 this. We do have an issue of asking for a waiver for
10 some additional filings. I totally think it's in
11 order. Let me see.

12 MS. HANOUSEK: I agree.

13 CHAIRPERSON HOOD: Any objections?

14 (No audible response.)

15 CHAIRPERSON HOOD: Not hearing any
16 objections, we'll go ahead and deal with that in that
17 case. Let's go with our Exhibit 31, also with the
18 additional exhibit that came in. This is the Yes We
19 Can Cooperative. It's a party status, and they
20 explain in their presentation or their submission to
21 us how they are affected, which goes towards our
22 standards.

23 And I would support this party status. But
24 let me see if anyone else objects.

25 MS. COHEN: I support it.

1 CHAIRPERSON HOOD: Would somebody like to
2 make a motion?

3 MS. COHEN: Yes, Mr. Chairman. I would move
4 that we accept Kenyon Street Yes We Can Cooperative
5 as a party of interest in this case number 14-24, and
6 ask for a second.

7 MR. MILLER: Second.

8 CHAIRPERSON HOOD: It's actually been moved
9 and proffered as second. But I'm going to ask Ms.
10 Schellin because -- I mean, Vice Chair Cohen. Would
11 you pull back the motion and then pull back the
12 second? Can we pull back the motion, but hold it in
13 readiness?

14 Mr. Brown, do you have any objection?

15 MR. BROWN: I have no objection. My
16 microphone isn't working.

17 CHAIRPERSON HOOD: Oh, okay. Could you say
18 it again into the mic now? It's working. Identify
19 yourself.

20 MR. BROWN: Patrick Brown from Greenstein
21 DeLorme and Luchs on behalf of the Applicant. I have
22 no objection to the request for party status by the
23 Kenyon Co-op.

24 CHAIRPERSON HOOD: Okay. Vice Chair, if you
25 could do that again; and I apologize.

1 MS. COHEN: I move to grant party status to
2 Kenyon Street Yes We Can Cooperative in zoning case
3 number 14-24 and ask for a second.

4 MR. MILLER: Second.

5 CHAIRPERSON HOOD: Okay. It's been moved and
6 properly second. Any further discussion?

7 (No audible response.)

8 CHAIRPERSON HOOD: All those in favor, Aye?

9 (Chorus of "Aye.")

10 CHAIRPERSON HOOD: Not hearing anyone
11 opposing, Ms. Hanousek, could you record the vote?

12 MS. HANOUSEK: Yes. The Commission voted to
13 grant party status to the Kenyon Street Yes We Can
14 Cooperative, with Vice Chairperson Cohen making the
15 motion and Commissioner Miller seconding, and
16 Commissioners May, Turnbull, and Miller in support.

17 MS. COHEN: Excuse me. It's Commissioner
18 Hood. He didn't make -- okay?

19 MS. HANOUSEK: Yes, sorry, correction.
20 Commissioner Hood, Chairman Hood in support.

21 CHAIRPERSON HOOD: Thank you, Vice Chair.
22 Yes, I did vote in support of that.

23 Let's go now to the -- Mr. Brown, if you can
24 have your presenters come forward. I think the next
25 preliminary matter we have is the proffering of the

1 architect, Mr. Snook. And his resume is in Exhibit
2 30E.

3 (Pause.)

4 CHAIRPERSON HOOD: Okay. Any objections,
5 anyone? Any objections?

6 MR. TURNBULL: I don't have any objection,
7 but it's kind of a minimal resume that we normally --
8 usually, we see a much more fuller resume, with
9 backgrounds. And this --

10 MR. MAY: Yeah, I share that. I actually do
11 have a concern about it, because we do see normally a
12 substantial list of relevant projects for this type.
13 And, you know, with all due respect to Mr. Snook,
14 he's not been in practice for very long. And
15 sometimes, we'll waive it when somebody has been
16 working 10 or 15 years and they, you know, just come
17 and talk about the projects that they've done.

18 But, you know, the mere fact that he has an
19 architecture degree is not sufficient. I don't see
20 any evidence of licensing. Do you have licensing?

21 MR. SNOOK: I do not have a license at this
22 time.

23 MR. MAY: Right. Right. So, I mean, you
24 know, but perfectly willing to hear his testimony,
25 and I'm sure he can bring a lot to the discussion.

1 But I honestly don't -- I'm not in support of
2 granting expert status based on what we have.

3 MR. TURNBULL: I would concur. Normally, to
4 give expert status, you should be a licensed
5 architect. I think we've always accepted that as the
6 precedent feature for --

7 MR. MAY: Well, it's usually sort of a
8 minimum qualification.

9 MR. TURNBULL: Minimum qualification.

10 MR. MAY: But in some cases, I think we've
11 granted it otherwise. We always want to see a
12 substantial list of projects.

13 MR. TURNBULL: Right.

14 MR. MAY: And, you know, I'm really thinking
15 10 years or more is what you need to get that expert,
16 professional --

17 MR. TURNBULL: Right. Right. I would concur
18 with you.

19 CHAIRPERSON HOOD: I would agree. And
20 actually, looking back at this resume, I don't know
21 what I was thinking when we were looking at it the
22 first time. But looking back at the resume, the
23 resume doesn't do him any good as far as helping him
24 to give us proper status. So he has a number of
25 things going against him.

1 Again, we will -- unless my other colleagues
2 have any different opinions, we will listen to his
3 testimony, but we will not give him expert status.
4 Okay?

5 So for the future, though, you might want to
6 spruce up some of that resume. And I'm talking to
7 you, Mr. Brown, and let your client know to bring
8 some resume of some other projects. And I think my
9 colleagues have well said it. So we'll move forward
10 with him, just listening to his testimony.

11 Do we have any other preliminary matters that
12 anybody knows of? I don't think we have any others.
13 Mr. Brown, you all may begin. You have 60 minutes.

14 MR. BROWN: If I could, again, Patrick Brown
15 from Greenstein, DeLorme and Luchs on behalf of the
16 Applicant. To the right, my right, your left, Dr.
17 Bockai, who is the property owner and a member of the
18 longstanding Columbia Heights community. And then to
19 my left, your right, Mr. Snook.

20 Before I let Dr. Bockai make a brief
21 statement, very briefly, this is a case to first
22 rezone these two vacant lots, long-vacant lots from
23 R-4 to R-5-B. And in conjunction with that, we
24 amended the application to include a variance from
25 the dimension requirements for parking to allow four

1 parking spaces, each slightly more than 8 feet wide,
2 but the requisite 19 feet in length, on account of
3 the narrowness of these two lots.

4 We'll discuss that in further detail, but
5 that's the nature of the application.

6 (Pause.)

7 MR. BROWN: And you can see in this picture
8 here, again, the green hashed property, the two
9 vacant lots. We drew the change in zone boundary
10 along the side boundary of the vacant lots and to
11 include the property to the west, the Kenyon Co-op,
12 and also the property to the south, the Irving Street
13 condominium.

14 This occurred after -- long before we filed
15 the application, in consultation with the Office of
16 Planning, to, one, provide a regularized boundary
17 line with the R-5-B to the north of Kenyon Street,
18 and proceed down to Irving Street. And that boundary
19 line made sense, and also to provide a transition
20 from the C-3-A on 14th Street to the east on Kenyon
21 Street and Irving Street.

22 And so, those are how the zone boundaries
23 were established originally.

24 Let's see. And we'll go through some of
25 this, Mr. Snook will. But if I could, as to the

1 rezoning, and I think I've laid it out in great
2 detail and supported by the Office of Planning, that
3 the rezoning from R-4 to R-5-B certainly falls within
4 the guidance of the future land use map and the
5 generalized policy map.

6 And then we've laid out in some detail, again
7 with the concurrence, I believe, of the Office of
8 Planning, compliance with the variance citywide
9 elements of the Comprehensive Plan and the specific
10 area elements to this area of Columbia Heights and
11 really less than a block from 14th Street and the
12 Columbia Heights Metro and all the higher-scale
13 development there.

14 I don't want to spend any more time than this
15 on these issues because I think, again, they're laid
16 out in full detail and we can certainly answer any
17 questions. But we'll move on from there. With that,
18 before I turn it back to Mr. Snook, I'd like Dr.
19 Bockai -- and I think some lights would be helpful,
20 because he has a written statement he would like to
21 read.

22 DR. BOCKAI: Good evening. My team and I are
23 pleased to present a creative design that reimagines
24 the lot at 1368, 1370 Kenyon Street, Northwest, as
25 part of my commitment to my community and the City of

1 Washington, D.C.

2 This is consistent with the devotion as a
3 local pharmacist of my many years here where I've
4 been a stakeholder in this community since I opened
5 my Columbia Heights Pharmacy on 14th Street in 1970.
6 In the early days before the neighborhood was where
7 it is today, my children would accompany me as I
8 walked Kenyon Street and others, delivering
9 prescriptions, especially to the senior citizens on
10 2800 block of 14th Street, 2801, 1325.

11 And at those periods of time I'm naming,
12 these are periods of times when the neighborhood was
13 in transition. There were mostly like, they were
14 working very hard to bring the train to the area.
15 And there was construction going on, and it was very,
16 very difficult for the seniors at that time to cross
17 those areas to go to seek aid to get their
18 prescriptions.

19 When even the CVS, which is one of the major
20 drugstores in the City, moved out because they had an
21 event, that there was a fire that destroyed the
22 building where it was. But I think at that time, the
23 biggest stakeholders in the area, especially major
24 businesspeople, were mostly out of that area.

25 Why I had the heart and the courage because I

1 came to this country as a student in 1970. And this
2 is Columbia Heights that I stayed, and I walked
3 across Georgia Avenue to Howard University to go to
4 school. And this is how I really developed the love
5 and the desire for the community.

6 I walked there, and I worked through this
7 effort. I took buses. And I walked, and I went to
8 school. And I had a degree at the College of
9 Pharmacy, graduated, worked at National Institutes of
10 Health, worked at Suburban Hospital, and later on
11 worked for People's Drugstore. It was then called
12 People's Drugstore.

13 Making short, I had the zeal that when I came
14 to this country, I came with -- I entered into this
15 country with just a passport and nothing else. Not a
16 briefcase, nothing. With a passport and an X-ray.
17 That was required to enter into this country. I had
18 nothing. But I worked my way up. But I had the
19 heart. I live in Columbia Heights, and I had the
20 zeal and the motive to do whatever it takes to help
21 my neighborhood.

22 There is a lady that I met at Columbia
23 Heights, and she was very, very, very involved with
24 the community, Ms. Rollins. Ms. Rollins was very,
25 very involved to help people who are sick, to seek

1 jobs for them, and also to do everything that they
2 can do to help the neighborhood. The neighborhood
3 was very bad. But we had the heart and the courage
4 to do the best what we can.

5 And we did. I opened up the store in -- I
6 think it was 1990. Yes, because that year I had the
7 occupancy permit, 1990. And I did what I could.

8 Over the years, I've developed a rapport with
9 the people and operated in the neighborhood as a
10 trusted vehicle, investing my time and my own money,
11 which is how I came across this property. For a long
12 time, I witnessed how many residents in the area that
13 the property was prone to be a haven of trash, crime,
14 and illegal activities.

15 So, after the District sold the property, the
16 vacant lot, to a private developer on May 8, 2003, I
17 then foreclosed on the property on February 26, 2013,
18 and I bought the lot in March of the same year.
19 Since then, I took interim steps to take control of
20 what was happening, and I put up a privacy fence,
21 bought as how proposing to develop the vacant parcel
22 as an eight-unit residential building.

23 This property, we primarily benefit the
24 neighborhood by filling in this void on the street to
25 both remove and block unwanted activity, re-create

1 the street walls that have been missing, improving
2 the overall quality and experience of this street.
3 The proposed development does this wide protected and
4 enhancing the existing character, the architect, the
5 density, the height of the building in the area.

6 A development of moderate height and density,
7 it fits nicely into the current physical development
8 pattern.

9 Please know that, along the way, we have
10 reached out to the community for their input and
11 believe that the current design reflects our
12 willingness to use their feedback regarding the new
13 building areas of influence.

14 In, for instance, 2003, 2013, we have had at
15 least seven formal community meetings, presentations
16 with various community groups, one of the results of
17 which has been the consensual implementation of the
18 series of setbacks that, combined, will reduce glare
19 side view for the proposed development through to the
20 windows of some of our neighbors.

21 Additionally, the terrace of the units, which
22 are in the court area, are angled so that direct view
23 to the windows on the adjacent building are
24 minimized.

25 In conclusion, I am part of this community.

1 And I talk about this project with the neighbors all
2 the time. I'm constantly being asked when something
3 would be built, and about how we will be improving
4 the site.

5 We have presented at multiple ANC meetings
6 over the past several years, and I have been able to
7 answer many questions and asked by the people in the
8 community as part of the current rezoning
9 application. We met with representatives of the
10 neighboring properties of the site. And we are able
11 to walk through the project with them and answer
12 questions they have.

13 We have also had several meetings with the
14 representatives of the Kenyon Co-op Building to the
15 west of our sites. Our design has been working with
16 them to find ways of minimizing perceived negative
17 effects of our building, like carving out an open
18 area on the west side of the building.

19 All said and told, I believe that the Kenyon
20 Condos would be a high-quality transit or rented
21 development that, as a building, have been designed
22 for successful integration into the community along
23 Kenyon Street, and as part of Columbia Heights.

24 To this end, we are also pleased to have been
25 able to obtain favorable opinions from Office of

1 Planning and the Development (sic) of Transportation
2 for this project in general.

3 I want to conclude that not only I have a
4 strong belief that we can work with my neighbors. I
5 want to really be part of -- I want them to be part
6 of what we are trying to put in there. It is
7 something that I dreamt of, that if we develop -- if
8 they give me a chance and I develop that property, if
9 we really improve the community, because right now
10 what we are facing, we are facing a lot of tests. We
11 are facing a lot of break-ins, a lot of cars,
12 especially the back of that building, going down.

13 Every day, they come to me into the store,
14 telling me that the car's doors have been broken
15 because of people from areas that come and hover
16 around that area. I fenced the whole property to
17 avoid problems. I have a feeling for that
18 neighborhood. I want to make a change. I want them
19 to help me to, for us all, to make a joint venture to
20 make that change. I cannot do it by myself; it has
21 to be a cooperation.

22 I'm willing, officers, I'm willing to
23 cooperate with them. Whatever they say that they
24 want, I made sure I talk to my architect to do
25 everything possible. I want us to make that change.

1 And when we make that change, it will be to benefit
2 not only for me per se, but it will be a benefit for
3 the City and for the people who will be living in
4 there.

5 And when they live in there, they will pay
6 tax. District of Columbia will gain. And I also, my
7 taxes will be increased. So I'm appealing to you all
8 to see what we can do in cooperation to allow me to
9 bring this project and also for us to come a peaceful
10 way to resolve it. Thank you all for your time. And
11 I hope that we can work together. Thank you, sirs.

12 CHAIRPERSON HOOD: Thank you. Mr. Brown, let
13 me help you a little bit. This is a map amendment
14 case with a variance. This is not -- we're not
15 talking about a specific project. I noticed the
16 materials had a lot of it. Unless my colleagues
17 otherwise disagree, whenever we do a map amendment,
18 we don't talk about what's being built. We talk
19 about the rezoning. This is a rezoning case for us.
20 This is not a PUD.

21 So we don't really need to hear about up
22 building, the density, or how you have it built, or
23 anything of that nature. So, you might want to
24 advise your clients to talk about land use as far as
25 a map amendment. Okay? So let's kind of gear it

1 back towards a rezoning.

2 And I think you all asked for a variance on
3 parking.

4 Those are the issues that we want to hear
5 tonight. We're not going to treat this like a PUD,
6 because it's not. So, you know, design issue is not
7 really properly before us, unless my colleagues
8 disagree.

9 (Chorus of "No.")

10 CHAIRPERSON HOOD: Okay. So, looks like I
11 got a majority. And it's sometimes hard up here to
12 get a majority.

13 MR. BROWN: Well, and I think the -- why
14 don't we start at what I think is the easiest, the
15 variance aspect of this case? And we had to put in
16 some context to lay that out, and I think it was
17 important in dealing with our neighbors.

18 But the variance case, if I could -- and
19 again, the record is complete. But I think you'll
20 see that the three-part variance test for the
21 parking, there's a unique condition of the property.
22 Its narrowness -- whether you're talking about two
23 lots or one, you don't produce widths large enough to
24 accommodate the four nine-foot-wide spaces.

25 The variance is minor. And the hardship that

1 would be created as a result of having to comply
2 would be rather significant, given as we've heard in
3 the community that the provision of parking, where
4 just about all the other properties don't have
5 parking, is important.

6 And certainly, I think this variance, which
7 involves parking spaces that are still larger than a
8 compact space, they're full-length and slightly
9 narrow, meets the three-part variance test. And I
10 don't think -- unless you have specific questions,
11 the record is complete on that issue.

12 If I could, moving to the rezoning. As I've
13 mentioned and Mr. Snook can provide some more detail,
14 that certainly the future land use map, which calls
15 it going in the moderate density category, which goes
16 from R-4 to R-5-B.

17 If you look at the context of the site,
18 you've got C-3-A at 14th Street, and then the Kenyon
19 Co-op Building, which is the next building, is
20 developed really as essentially R-5-C. Again, that
21 building has been there since the early 1900s. And
22 then you come to the vacant lots.

23 And then you look at the property further to
24 the west, which is developed certainly well above the
25 R-4 level, and probably close to the R-5 as far as

1 height and density and lot occupancy.

2 So it makes sense in the context, and Mr.
3 Snook will take you through the pictures he has and
4 the diagram, that it makes sense for this site to not
5 be in a valley, either R-4, R-5-A, or something less
6 than the R-5-B, but make a smooth transition.

7 If you think about it, R-5-A, you have 40
8 feet of height and --

9 MR. TURNBULL: Well, excuse me, Mr. Brown. I
10 wonder, could you pull up a map and maybe point to
11 some of these things as you're talking about them?

12 MR. BROWN: Let's see. If you look here, and
13 orienting you to my left, the left of the X is the
14 Kenyon Co-op Building, built early 1900s. That
15 building is developed at somewhere about 2.7 FAR, and
16 a lot occupancy in excess of 70 percent. No parking,
17 18 units.

18 If you go further to the east, you'll see
19 across the alley on the 14th Street, those properties
20 developed the C-3-A level.

21 CHAIRPERSON HOOD: Mr. Turnbull asked you to
22 point. Can you take your cursor and point? Or if
23 you are, I can't see it. Maybe I need to wear my
24 other glasses, because I don't see the cursor. Does
25 anybody else see it?

1 MR. TURNBULL: It does not seem to be showing
2 itself.

3 (Pause.)

4 MR. BROWN: Sorry. My finger doesn't work as
5 fast as my mouth.

6 You see there, the X is the two vacant lots
7 right there. I'm putting on correct -- is the Kenyon
8 Co-op Building, built in the early 1900s, 18 units,
9 about 2.7 FAR, 70-plus-or-minus percent lot
10 occupancy. So, developed above the R-5-B level. No
11 parking. And it's actually closer to what you would
12 find in the R-5-C level, which would be 60 feet, 3
13 FAR, 75 percent lot occupancy.

14 If you go further here, those are the mixed-
15 use buildings fronting either on Kenyon or on 14th
16 Street in the C-3-A zone. And they're obviously
17 developed at that level.

18 Then you have down here another building in
19 the C-3-A zone at a higher height, appropriate for
20 that level.

21 Here you have the Irving Street condominium,
22 1361 Irving Street, again an early 1900s building
23 built, I think it's 18 units or something along -- 16
24 units, built about 2.7 FAR, as we put in the papers,
25 and I think 65 percent lot occupancy, and higher

1 than, as we can see in other photographs, than what
2 we're proposing in the R-5-B.

3 You go next door to the west, immediate
4 building, 1366 Kenyon, again an early 1900s. It's a
5 row building. It's multiple-family, and again, as we
6 can see in later photographs, certainly developed
7 well in excess of R-4 and R-5-A in height and FAR and
8 lot occupancy.

9 If we could, Dan, I want to go to the front
10 pictures.

11 (Pause.)

12 MR. BROWN: Well, you can see in this picture
13 -- yeah. These pictures, to the right looking, you
14 have the vacant lot in the middle. To the right is
15 the Kenyon Co-op building. And to the left is 1366
16 Kenyon, which would remain in the R-4 zone.

17 But an R-4 building, which would be less in
18 height and density, lot occupancy than either the
19 building at 1366 or 1372, would in effect be a small
20 building in the midst of taller, denser buildings and
21 be inappropriate both in the context of those
22 buildings or in the context of the overall area and
23 transition to C-3-A in, you know, walking, easy
24 walking distance of a metro station.

25 So again, it's an appropriate in-fill

1 development of a rather unique two vacant lots that
2 have been vacant since 2003, at least since 2003,
3 when the government ended up taking them and then
4 selling them to a developer.

5 If I could -- I think I've gone through the
6 significant elements of how it fits in. I would add
7 that -- and again, we put this out in some detail and
8 the Office of Planning has, I think, paralleled their
9 recommendations on it. But it creates housing in a
10 place where housing belongs. It creates in-fill
11 housing. It creates units that, as Mr. Snook can
12 say, are of bearing size, but some larger units which
13 are part of having the mix.

14 And it utilizes a site that is a void that
15 needs to be filled in the community for a variety of
16 reasons that Dr. Bockai mentioned. And I think it's
17 appropriate to Columbia Heights and where they are
18 from the metro and the development that has occurred
19 there. It fills, really, the last gap in that
20 streetscape.

21 (Pause.)

22 MR. BROWN: And in the PowerPoint, we've
23 listed -- and if you can see on this drawing, to the
24 right here is the Kenyon Co-op. In the middle is an
25 R-5-B development, height and density that would be

1 permitted there.

2 And then to the left you'll see that 1366
3 existing Kenyon building, which again, while it's a
4 row dwelling, it's a multi-family use. And it's, in
5 height and density it's consistent with the row, but
6 would be certainly significantly larger and denser
7 and overwhelm an R-4 or even an R-5-A project at that
8 site, so that I think the appropriateness of the
9 scale of R-5-B --

10 CHAIRPERSON HOOD: Turn your microphone
11 around so you're talking -- yeah, there you go.

12 MR. BROWN: Sorry. Okay.

13 MR. SNOOK: Thank you, Commissioners. Dan
14 Snook with McAllister Architects here. If I can
15 speak to a couple of aspects, particularly regarding
16 the site location here. I also wanted to point out,
17 as I'm sure you're aware of our proximity here to the
18 metro station, and that's, I think, relevant both for
19 the density that we're proposing, as well as for the
20 importance to the community here.

21 I also wanted to point out, right here in
22 this location where my cursor is, is location of Dr.
23 Bockai's pharmacy. You can see it with, aside for
24 some trees in the way, he has a direct line of sight
25 to this property. He's right there in the midst of

1 the community. And as far as the actual location of
2 it, I think that is significant.

3 You're not particularly interested in hearing
4 about the building itself. But I just do think it's
5 important to state that we are not proposing this
6 rezoning in a vacuum, but we are putting forward a
7 proposal, a viable proposal to build on this site.
8 And we are -- I'm glad to answer questions about our
9 proposed design.

10 But our design is intentioned partially to
11 show that we have something we are putting forward,
12 and we can bring up our discussions we've had with
13 the neighboring properties in the ways that we've put
14 together the design to minimize any negative impact
15 upon the neighboring property.

16 And we came before the -- as part of also
17 what we've been moving forward with this is the -- we
18 attempted to put something on this site earlier, last
19 year, working through the BZA process. And then
20 that's why we moved here to the rezoning at this
21 point, largely due to the limitations of the site
22 within the R-4 zone. So that's, I think, significant
23 for where we are today and in pursuing this rezoning
24 process.

25 MR. BROWN: If you could, and again, without

1 getting too building-specific, the R-5-B -- and I'm
2 asking Mr. Snook the question. The R-5-B zone gave
3 you more flexibility, gives you more flexibility in
4 design?

5 MR. SNOOK: Correct. Correct. It gives
6 considerably more flexibility from the fact that we
7 can design this concept where we do have the scheme
8 where we have larger units here in the front, smaller
9 units in the back, with the larger courtyard in the
10 middle in an attempt to both bring light and air into
11 our proposed units, as well as into the adjacent
12 property.

13 And not designing a building that is just
14 landing in from on high, but something that will be
15 part of the community from the very beginning of the
16 design process, trying to take into consideration
17 what it is that we can do to fit in here.

18 As far as speaking directly towards the --
19 I'm sure you'll hear from them the concerns of the
20 neighboring building about the potential loss of
21 light and air here. I think it's important to state
22 that we have been trying to work with their concerns
23 and trying to create a building that will not have as
24 significant of an impact.

25 We don't deny that there will be an impact,

1 but that there will be something that particularly
2 will not have as dramatic a decrease of light as
3 could be, particularly under our existing R-4. So,
4 due to the flexibility that we have under the R-5-B
5 zone, we have the ability to create this courtyard
6 which will allow, as you can see in this sunlight
7 diagram here, to allow more light and air to come
8 into the space.

9 There's a chart here on this side you can
10 see. It's a little bit hard to read, I imagine. But
11 you can see, the blue bar here would be, is showing
12 the percentage of the facade that would be receiving
13 500 hours of sunlight per year under a 35-foot-tall
14 wall built along the site, which would be a likely
15 construction under an R-4 construction.

16 Whereas the reddish bar you see here was our
17 initial proposal. In conversations even today, with
18 the co-op building, we were able to revise our scheme
19 and come up with a development that would allow
20 additional light and air down into their space.

21 So I think it's important to note that we are
22 intending to move forward with this property as a
23 member of the community and work with the neighbors.
24 We're not trying to just build something that doesn't
25 fit in. And we want to work with the community and

1 create something that will be beneficial for all of
2 the parties involved.

3 MR. BROWN: I think, for now, we'd like to
4 stop there and answer any questions you may have, and
5 then reserve any time necessary for closing remarks
6 and rebuttal.

7 CHAIRPERSON HOOD: Okay. So your
8 presentation was a little over 30 minutes. And, Ms.
9 Hanousek, help me record that because the party will
10 have the same exact time. And you do have time for
11 rebuttal, and then some time, we'll have cross and
12 rebuttal. And then you have a closing remark.

13 So, let me open it up, colleagues, for any
14 questions about the rezoning or the variance that's
15 being requested. And we went a little bit beyond
16 that, talking about a different -- talking about a
17 project. And typically, we don't do that. But let's
18 open it up for any questions or comments.

19 Commissioner May.

20 MR. MAY: Yeah. And I don't want to get too
21 far into the specifics of this project. But can you
22 bring up the site plan that has all those dimensions
23 on it?

24 MR. SNOOK: The site plan by itself?

25 MR. MAY: Yeah. I mean, you had a diagram

1 that sort of showed the layout. It says "Plat with
2 proposed improvements" on your presentation.

3 MR. SNOOK: Yes.

4 MR. MAY: Right there.

5 MR. SNOOK: There?

6 MR. MAY: Yeah. Leave it there. Yeah.

7 Okay. So, can you actually make that full-size? I
8 don't think we need to --

9 MR. SNOOK: Yes.

10 MR. MAY: If anybody needs to point, it will
11 be me, and I have my own pointer.

12 MR. SNOOK: Okay.

13 MR. MAY: So, what is this space here?

14 MR. SNOOK: It's a three-foot-wide, three-
15 foot-six-inch-wide space located between our building
16 and the property line. Its purpose is to help allow
17 for egress from the open court and to provide
18 additional light and air to the neighboring building.

19 MR. MAY: Okay. So, Mr. Brown, what is that
20 space, from a zoning perspective? What is it?

21 MR. BROWN: The Zoning Administrator
22 determined it was part of an open court, and in
23 compliance. It's not a side yard.

24 MR. MAY: I don't understand how that's
25 possible. I thought a court had to have minimum

1 dimensions. Does it have the minimum dimension of
2 the open court?

3 MR. SNOOK: We provided the dimension there
4 on the drawing. And again, we were concerned about
5 that, too, and the Zoning Administrator, we went to
6 him. And he indicated that the whole opening from --
7 and again, from the public alley along the three-and-
8 a-half-foot into the open court formed entirely an
9 open court that complied with the regulations. You'd
10 used the phrase in there "regularly shaped open
11 court."

12 MR. MAY: I think I completely disagree with
13 that interpretation, but I'm not the Zoning
14 Administrator, I guess. Because it's -- I mean,
15 essentially, you're creating a three-foot-six side
16 yard, which is really not desirable for a variety of
17 reasons. And I think it should be a minimum
18 dimension of eight feet.

19 Let me ask you this. In your attempts to try
20 to resolve, you know, how to lay everything out in
21 the site, did you look at something that was a more
22 traditional L-shape, you know, with a dog-legged kind
23 of approach?

24 MR. SNOOK: We did fairly early on in the
25 project. The issue was with how we could actually

1 lay out the units within. As well as the additional
2 height that that would require, we felt that it would
3 be a more viable building in terms of the market for
4 being able to have the additional light and windows
5 by using the central courtyard scheme instead of the
6 dog-legged scheme.

7 MR. MAY: Okay. I guess another thing I
8 disagree with. But we're not really here to talk
9 about this design. It just seems to me that you're
10 jumping through hoops to try to make, to create this
11 courtyard. And then you wind up with really
12 strangely laid-out interiors on the units themselves.

13 But that's, again, you know, we're not really
14 talking about your design. I just happened to think
15 that it could have been done a lot better.

16 And did you make any attempt to try to fit in
17 four legal parking spaces on the site?

18 MR. SNOOK: Yes. Yes.

19 MR. MAY: So what did you look at?

20 MR. SNOOK: We looked at angling them at
21 various different positions. We looked at the idea
22 of having them all -- excuse me if I exit here -- to
23 have them aligned facing east-west as opposed to
24 north-south. Project north would be, as you can see
25 there, it's off to the side.

1 MR. MAY: Um-hm.

2 MR. SNOOK: Or angling the other way. The
3 difficulty there is that there's not appropriate
4 aisle passageway for the traffic going in and out.
5 So in that case, we were really limited to orienting
6 in this way in order to fit the number that was how
7 we were required to reduce the width of the spaces.

8 MR. MAY: Okay. And then one last question.
9 Is there -- you know, I noticed that there's a
10 stairway in the adjacent condo building, an existing
11 stair into their court.

12 MR. SNOOK: Yes. Um-hm.

13 MR. MAY: Does that actually exit then
14 through the building out the back or something like
15 that?

16 MR. SNOOK: My understanding is that there is
17 an open passageway between the bottom of the ground
18 of their court.

19 MR. MAY: Yeah.

20 MR. SNOOK: That extends to the rear of their
21 space.

22 MR. MAY: Okay.

23 MR. SNOOK: Their property.

24 MR. MAY: All right. Thanks. That's it for
25 my questions.

1 CHAIRPERSON HOOD: Okay. Vice Chair Cohen?

2 MS. COHEN: Thank you, Mr. Chairman. I just
3 have a few questions. This has been vacant property
4 for 10 years. There was something there that was
5 demolished by the City. Do you know the history of
6 that site at all?

7 MR. BROWN: I don't know all the details. I
8 can tell you -- and maybe Dr. Bockai can add
9 something. But in 2003, the District had title to
10 the property. And they sold it to a developer. At
11 that point, it was vacant land. My understanding was
12 that there was a structure there, similar to what was
13 next door at 1366, and that burned down or was
14 partially destroyed. And then it eventually had to
15 be demolished by the District as a health-safety
16 hazard.

17 But so, certainly since 2003, it's been -- or
18 before, been a vacant lot. And the developer, you
19 know, held it for 10 years without any progress and
20 actually ended up losing it in foreclosure by virtue
21 of default.

22 MS. COHEN: But probably, or maybe gaining
23 the fire proceeds.

24 So it's been used for parking by some -- you
25 know, I saw one of the photos, you know, a van

1 sitting on it or --

2 DR. BOCKAI: It was not really like -- it was
3 not really like officially like for any parking like
4 we take in money for outside people to park. I
5 closed the -- I enclose, I put a gate on all the
6 surrounding to prevent, because there were a lot of
7 problems with the neighborhood. And also, they were
8 throwing trash into the neighborhood. I had to fence
9 it.

10 And in doing that, I have a store across the
11 street. My delivery truck driver, we only park the
12 car there just for a short period of time, only to go
13 do deliveries. But other than that, it was not for
14 any street parking for any -- except like I had a few
15 of the tenants from the building next door ask me to
16 offer them, to see if I can offer for them to park
17 temporarily. I did for some time when I had the
18 property.

19 And I really didn't ask them for -- I didn't
20 ask them for any money to pay for parking or
21 something like that. But when I allowed them, I
22 fenced the whole unit, and I would not allow anybody
23 else to park inside there, because some of them
24 needed help. And I helped them.

25 MS. COHEN: Okay. Thank you. That's my

1 question.

2 CHAIRPERSON HOOD: Any other questions?

3 Mr. Turnbull.

4 MR. TURNBULL: Thank you, Mr. Chairman.

5 I guess I would go with Commissioner May's
6 concern about the three-foot-six gangway. I'm not
7 sure that the Zoning Administrator is right on those.
8 I can go over this with the Office of Planning. But
9 I think we're creating -- this looks like it's a non-
10 conforming condition. It just seems awkward. I just
11 find that kind of a strange thing to have in the way
12 it's not at least eight feet.

13 I think you've got some room to play with
14 this floor plan to make it work. It may be, I guess,
15 you get to the question of, are you trying to put too
16 much into this site that it just doesn't work by the
17 floor plans?

18 So I think somehow that there's just some
19 awkward conditions with this plan and the way it
20 works, and the separation and the creation of the
21 outdoor spaces and how it meets -- I'm just -- I
22 guess, again, I'll ask the Office of Planning. But
23 I'm just concerned that some of these spaces are just
24 rather strange. The three-foot-six is troubling.

25 I guess the only other -- again, we don't

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1 comment architecturally, meaning aesthetically, but
2 on proposed projects for this, as the Chair said.
3 But since it's out there, I think architecturally,
4 the elevation of the front is an impact on the
5 neighborhood.

6 If this was -- and I don't want to be cruel
7 or unnecessary. But if this was post-World War
8 Europe, and we were putting in-fill housing in, I
9 might see something like this. But you have a
10 beautiful building on the one side, which has got
11 quoins and brick and everything else. And you've got
12 a Dutch-faced row house on the one side. This just
13 looks very harsh, with the I-beams sticking out of
14 it. I think that's an impact, a visual impact.

15 But again, we can't -- that's not part of
16 what we're looking at. We're looking at a zoning
17 amendment. But as the doctor says, I want to fit in
18 with the neighborhood. This, I don't think,
19 architecturally fits in. But that's not before us.

20 I just think I have some -- I echo
21 Commissioner May's concern about the three-foot-six
22 gangway. I'm a little bit troubled by that.

23 CHAIRPERSON HOOD: Okay. Any other
24 questions?

25 Commissioner Miller.

1 MR. MILLER: Thank you, Mr. Chairman. And
2 thank you for your presentation.

3 So, you said, Mr. Snook, you said that they
4 have made another revision to the design that we see
5 today to try to further address the Kenyon Co-op's
6 concerns and add more light and air, I suppose. Can
7 you just briefly speak to that?

8 MR. SNOOK: That's correct. So, distinct
9 from the plans that we had initially submitted, the
10 primary change that we made is the reconfiguring of
11 unit number 8, where previously there was the
12 exterior of the building on the fourth floor followed
13 -- sorry, here -- followed this line at this point.

14 We moved the exterior wall back into this
15 space and put what essentially was the master bedroom
16 here onto the floor above, into this space, allowing
17 this to, essentially in the upper floor, to turn into
18 more of the dog-legged type scheme and allow more
19 light and air fall into the courtyard space as a
20 benefit to the neighboring building.

21 MR. TURNBULL: Can you also just speak to the
22 statement briefly in your prehearing submission that
23 there will be more light and air under this proposed
24 scheme, or maybe even alternative proposed R-5-B
25 schemes, than there would be with the matter-of-right

1 R-4 project, that there's more sunlight, just
2 briefly?

3 MR. SNOOK: Um-hm. Let me go to that page
4 here. This would be the primary diagram I'd point to
5 in support of that. So, this upper diagram here is
6 illustrating what would be a likely construction
7 under the existing R-4 zone. This would be, if
8 there's a 35-foot wall essentially along the property
9 line on this site. This does not include any sort of
10 penthouse or rooftop structure, which would likely
11 extend above that.

12 So, you can see we would get a lot of light
13 here on the upper portion of the building, with
14 little in the lower and essentially no light making
15 its way to the lower portion of the structure. The
16 red here was our initial, the distinction here. We
17 have a total summary on this column. This is
18 breaking up by the fourth, third, second, first, and
19 so on floors.

20 You can see the blue bar illustrates that
21 under the R-4, likely R-4 construction there is no
22 sunlight reaching the lower cellar and first floor.
23 Under our initial proposal, it reached up to just
24 under 40 percent on the first floor. Under the
25 revised plan for now up above just about 50 percent

1 on the first floor receiving those 500 hours of
2 sunlight per year.

3 MR. MILLER: Thank you. And you said you --
4 did you -- you worked with the Office of Planning on
5 where the line should be for this R-5-B, for this new
6 proposed R-5-B line?

7 MR. SNOOK: Yes.

8 MR. MILLER: Or how did you come up with the
9 boundaries?

10 MR. BROWN: Well, before we filed the
11 application, I met with Mr. Lawson. And I don't know
12 if Ms. Steingasser was at the meeting, but certainly
13 Mr. Lawson. And we discussed it in the context of
14 the Comprehensive Plan, and also in the context of
15 the existing zoning.

16 And he suggested and I agreed to draw the
17 boundaries the way we did in the application for
18 consistency purposes, and also not to leave kind of
19 an odd space between our property and the higher C-3-
20 A zone at 14th Street. So it just seemed to make
21 sense, and to extend it the entire length of that
22 square, going beyond our property. So that's how.

23 MR. MILLER: And this doesn't really have any
24 relevance for our decision here. But if I could ask
25 Dr. Bockai, what was the acquisition price for the

1 property at foreclosure 12 years ago, almost 13 years
2 ago? Just curious.

3 MR. BROWN: It was \$1,600,000.

4 MR. MILLER: Okay. Thank you.

5 CHAIRPERSON HOOD: Mr. Brown or Mr. Snook, if
6 you could put back up the surrounding zones around
7 this area again? Because when I look at this, if you
8 could put -- I think you had a diagram. It was in
9 brown.

10 MR. SNOOK: Is this what you're looking for?

11 CHAIRPERSON HOOD: Yeah, that's it. Now,
12 what is the zone to -- your green stripes, what is
13 the zone to the right?

14 MR. BROWN: To the right of the green is R-4,
15 existing R-4.

16 CHAIRPERSON HOOD: R-4. And help me
17 understand. And I could look at it up here, but I
18 can't find it. What is the zone to the west of that?

19 MR. SNOOK: Well, currently, it's R-4 until
20 you get to the --

21 CHAIRPERSON HOOD: Where the cursor, where
22 the mouse is, to the left right there. What is that?

23 MR. SNOOK: This is currently an R-4.

24 CHAIRPERSON HOOD: And what is that to the
25 south?

1 MR. SNOOK: It is also an R-4. So our
2 proposal is to rezone the place, the site that is
3 outlined in red here.

4 CHAIRPERSON HOOD: Um-hm.

5 MR. SNOOK: Dr. Bockai owns the site in green
6 where we have C-3-A here, further to the west, and we
7 have existing R-4-B here across the street.

8 MR. BROWN: And as I mentioned, Chairman
9 Hood, both the Kenyon Co-op Building, which is here,
10 and the 1361 Irving Street condominium are both --
11 while they're currently in the R-4 zone, they're
12 developed almost at the R-5-C level, certainly well
13 above R-4.

14 CHAIRPERSON HOOD: So let me just say this.
15 If this was approved as a rezoning, and I always get
16 nervous about this, because I know you've got a plan
17 which is not in front of us. You could really do all
18 of what's prescribed in R-5-B. You don't even have
19 to come back and see anybody. It then becomes a
20 matter of right.

21 What controls that encroachment of continuing
22 going down Kenyon Street? What's going to control
23 that?

24 MR. BROWN: Well, in the first instance, I
25 think it's the Comprehensive Plan. I don't think the

1 Comprehensive Plan supports going further down Kenyon
2 Street beyond, and I think in our earlier filings.
3 But the future land use map doesn't support going
4 further east on Kenyon.

5 CHAIRPERSON HOOD: Okay.

6 MR. BROWN: Now, that may change in the next
7 Comp Plan, but I'm going with that.

8 CHAIRPERSON HOOD: Okay. I probably could
9 find something in there where it does. And I'm not
10 being argumentative. I'm just trying to figure out.
11 These rezonings, they become a matter of right. You
12 don't have to see the neighbors. You don't have to
13 see me. You don't have to see anybody else when it
14 comes to that. And the issue is always encroachment.

15 I appreciate your answer. I don't
16 necessarily buy it. But I appreciate your answer. I
17 don't have any other questions. Any other questions
18 up here?

19 Commissioner Miller.

20 MR. MILLER: The proposed height of the
21 current scheme is what, and is it less than -- one of
22 the diagrams that we had showed it being less than on
23 what's on either side of it. But I don't know. I
24 just wanted you to confirm that or say that that's
25 what the case is.

1 MR. SNOOK: Yes. The front edge of the
2 building varies in height. The primary height of the
3 building along the front edge is 40 feet. It does
4 extend up to a 42-foot parapet along one portion
5 within a railing above that extends to 44 feet. The
6 neighboring buildings are the Kenyon Co-op building
7 to our west is just over 50 feet at the front. And
8 the building to the east is around 45.

9 So our building is slightly lower in height.
10 Our proposed building is slightly lower in height
11 than the neighbors'.

12 MR. MILLER: Do you have a proposed rooftop
13 penthouse with mechanical --

14 MR. SNOOK: We have. The proposed rooftop
15 penthouse area is primarily in the front portion of
16 the building, is for mechanical space. And it is set
17 back at least 10 feet from the front edge of the
18 building.

19 MR. MILLER: So it's no taller than 10 feet?

20 MR. SNOOK: Correct. Correct.

21 MR. MILLER: Thank you.

22 CHAIRPERSON HOOD: Okay. Any other questions
23 up here?

24 (No audible response.)

25 CHAIRPERSON HOOD: Do we have anyone here

1 representing the ANC 1-A for any cross examination?
2 Let's go to Yes We Can Cooperative. Do you have any
3 cross examination? This is the time when you can
4 come and cross whoever is representing -- let me see
5 who that is.

6 (Pause.)

7 CHAIRPERSON HOOD: I think it's Ms. Howells.
8 Can you come forward and identify yourself? And you
9 can turn the mic on, and you can have a seat, unless
10 you don't have anything.

11 MS. HOWELLS: No, Actually --

12 CHAIRPERSON HOOD: Could you identify
13 yourself first?

14 MS. HOWELLS: Louise Howells, counsel for --
15 I'm with the University of the District of Columbia
16 Community Development Law Clinic. And we're counsel
17 for the Kenyon Street Yes We Can Cooperative.

18 CHAIRPERSON HOOD: Okay.

19 MS. HOWELLS: Actually, I think we can let
20 Mr. Mroczkowski handle some of the issues that arose
21 with respect to the design issues and the placement
22 and height and such of the buildings.

23 CHAIRPERSON HOOD: Ms. Howells, let me
24 explain like I explained to Mr. Brown. Typically --
25 and I'm not going to mess up your presentation. But

1 typically in a rezoning, we don't get into design
2 issues.

3 MS. HOWELLS: Well, the questions are
4 actually appropriate, I think, to the zoning
5 question. Because the factors relate to the zoning,
6 that the zoning designation.

7 CHAIRPERSON HOOD: Okay. As long as we keep
8 it germane to rezoning, because -- well.

9 MS. HOWELLS: Right.

10 CHAIRPERSON HOOD: Just keep it germane to
11 rezoning.

12 MS. HOWELLS: I understand. I did want to
13 ask, re-ask the question about the purchase price of
14 the property, of vacant property. I believe there
15 was a slight misstatement. Dr. Bockai answered, I
16 believe, with respect to his purchase price, but not
17 the price in 2003.

18 DR. BOCKAI: No, this, the price I don't know
19 what the purchase price of the previous people. I am
20 talking about the price I paid to the District. I
21 paid the District \$1,060,000. This is excluding the
22 property or has been vacant and the taxes and all the
23 other services have been rendered. This is just the
24 price that I paid the District.

25 CHAIRPERSON HOOD: Let me help with that

1 question. Commissioner Miller just confirmed that he
2 answered his question exactly the way he asked it.
3 So that was the answer asked. His ask was exactly
4 what he answered.

5 MS. HOWELLS: Right, right. I just wanted to
6 clarify the fact of the history of the property. And
7 do you have any other information about the history
8 of the property?

9 DR. BOCKAI: It was, looked like they
10 presented the history. It was just the way I
11 purchased the property was at a tax sale. The
12 District gave it to a company that was offering it
13 for tax sale. And among was a whole lot of
14 developers.

15 MS. HOWELLS: Right.

16 DR. BOCKAI: But my key interest was Columbia
17 Heights. And I didn't care what they were asking. I
18 just wanted to be part of Columbia Heights.

19 MS. HOWELLS: Thank you. I just wanted to
20 clarify that issue with respect to the property.

21 CHAIRPERSON HOOD: Okay. Do you have any
22 other cross examination questions on which you --

23 MS. HOWELLS: No, no.

24 CHAIRPERSON HOOD: All right. Thank you.
25 Let's go to the Office of Planning. Ms. Brown-

1 Roberts.

2 MS. BROWN-ROBERTS: Good evening, Mr.
3 Chairman and members of the Commission.

4 The Comprehensive Plan designates the
5 properties for a mix of moderate density residential
6 and commercial uses, similar to properties to the
7 west and north. The proposed R-5-B zone is not
8 inconsistent with this designation and would serve as
9 a buffer between the lower-density residential
10 neighborhood to the east and the higher-density
11 development to the west.

12 The R-5-A designation was not chosen, as it
13 would have introduced a zone category that is not
14 within the immediate area, unlike the R-5-B zone,
15 which is on properties to the north. The developed
16 properties will also be more consistent with the
17 parameters of the R-5-B zone.

18 The probability exists that R-4 development
19 could have the same light and privacy impacts which
20 the proposal has tried to minimize. Regarding the
21 variance for the width of the four parking spaces
22 zone, an exceptional situation exists in the width of
23 the lot that cannot be increased and would not be
24 practical to place the parking beneath the building
25 or have all spaces having direct access from the

1 alley.

2 The reduced dimension would not negatively
3 impact the neighborhood or the zone plan and will
4 allow for four parking spaces on the side. The
5 building would also be in close proximity to the
6 Columbia Heights Metro Station, which some residents
7 may utilize.

8 OP therefore recommends approval of the
9 requested map amendment from the R-5-A (sic) zone to
10 the R-5-B zone and the variance from the parking
11 space dimension.

12 You also mentioned about the court dimension.
13 That was something we asked the question that was
14 told to us by the Applicant. And so I think we will
15 reconfirm with the Zoning Administrator as to how
16 this meets the requirements. Thank you, Mr.
17 Chairman.

18 MS. STEINGASSER: I would just like to
19 clarify. We meant to rezone from the R-4 to the R-5-
20 B.

21 MS. BROWN-ROBERTS: Oh, I'm sorry.

22 MS. STEINGASSER: And when we evaluated the
23 rezoning, one of the issues that we looked at is, was
24 there a physical impact between the R-4 and the R-5
25 zones that would have an adverse impact on the

1 existing neighboring building? And that physical
2 impact, which had to do with yards and courts, would
3 remain the same between the two zones.

4 So looking then at the Comp Plan, we
5 recommended, we felt the zoning was not inconsistent.

6 CHAIRPERSON HOOD: Okay. Let's see. Any
7 questions up here of the Office of Planning? We've
8 got Mr. Turnbull.

9 MR. TURNBULL: Thank you, Mr. Chairman.
10 Did you talk with the other owners in the
11 proposed area about the rezoning?

12 MS. BROWN-ROBERTS: No, we did not. But I
13 think one of the first things that we did was to
14 advise the Applicant that they should speak to the
15 adjacent neighbors -- well, the properties that were
16 going to be included in the application.

17 MR. TURNBULL: Do we normally bring that up?
18 Is that the only way we advise them is that there's
19 going to be a change in the zoning? I remember when
20 we did Georgia Avenue. And we rezoned a very
21 similar, the front areas bordering on Georgia Avenue
22 and the streets. And we were changing some of this.

23 So we had a lot of significant input from a
24 lot of people that are really close to where the
25 change was going to be. And I'm just concerned that

1 we really reached out and made everybody aware of
2 what the change was.

3 MS. BROWN-ROBERTS: The difference this
4 application, I think under the Georgia Avenue -- I'm
5 not sure if you're talking about the overlay when we
6 did the overlay.

7 MR. TURNBULL: Well, it was basically a lot
8 of the streets along Georgia Avenue and a lot of the
9 buildings along Georgia Avenue were either R-4 or
10 something, and we had changed them, I think, to
11 either C-2-A or C-3-A.

12 MS. BROWN-ROBERTS: Right.

13 MR. TURNBULL: I'm trying to recall that.

14 MS. BROWN-ROBERTS: And I think in that case,
15 that was an application by the Office of Planning.

16 MR. TURNBULL: Right.

17 MS. BROWN-ROBERTS: Which is different in
18 this case. This application is --

19 MR. TURNBULL: Well, I'm just concerned that
20 you have one property owner coming, and it's
21 affecting other property owners. And you would think
22 that there would have been a more open sharing of
23 what the implications would have been.

24 I'm not saying it's right or wrong. I'm just
25 saying that I just feel that the process may not have

1 been as inclusive as it could have been.

2 MS. STEINGASSER: Well, when the Office of
3 Planning was approached about rezoning these two
4 particular old row house lots --

5 MR. TURNBULL: Right.

6 MS. STEINGASSER: -- we looked at the pattern
7 up and down 14th Street. And you could see that
8 there is a pattern of these small apartment buildings
9 serving to truncate the end of a row house
10 development. And the Comp Plan, in many cases,
11 identified those for a land use category other than
12 R-4 for a mixed use.

13 Rather, we felt it was inappropriate to
14 rezone only the 30 feet of this particular property
15 when the apartment building to the west was left R-4
16 when it was clearly a mixed-use building. So we
17 advised the Applicant that he should proceed by
18 working with those property owners. So the
19 expectation was that the application would be from
20 the property owner and that they would work in
21 concert with their neighbors.

22 MR. TURNBULL: Does the Office of Planning
23 have any plans to look at other areas along this
24 strip that maybe need to be changed?

25 MS. STEINGASSER: As part of this, and the

1 Zoning Commission may remember several years ago, you
2 did a similar case to the north, we did look at, are
3 there other areas up and down this strip? But there
4 were none that carried this mixed-use moderate,
5 medium commercial-residential mix that we saw that
6 had obvious development parcels adjacent to it.

7 MR. TURNBULL: The Chairman brought up a
8 point that he was concerned about of a domino effect.
9 Are we seeing any issues, does the Office of Planning
10 see any issues with R-5-B marching down some of these
11 other R-4 areas on some of these side streets?

12 MS. STEINGASSER: In this particular case, in
13 our report on page 11, you can see where the land use
14 map reflects the zoning that we propose. However, on
15 the north side of Kenyon, there are some apartment
16 buildings that are built in the middle of the block.
17 We would not interpret the Comp Plan to extend the R-
18 5 further down Kenyon.

19 MR. TURNBULL: Across the street?

20 MS. STEINGASSER: Across the street. Even
21 though there are some smaller apartment buildings
22 there, we would see those remaining as just non-
23 conforming.

24 MR. TURNBULL: Yeah. We just worry about
25 encroachment into the R-4 zones. You're going to

1 then take a look at that courtyard, the three-foot-
2 six courtyard?

3 MS. BROWN-ROBERTS: That's correct. Yes, we
4 will.

5 MR. TURNBULL: Okay. All right. Thank you.

6 CHAIRPERSON HOOD: Okay. Any other
7 questions? Commissioner May.

8 MR. MAY: Yeah. On the courtyard question, I
9 just want to clarify. I mean, did you actually talk
10 to the ZA about this directly, or you just went by
11 what the Applicant told you?

12 MS. BROWN-ROBERTS: No, no. We didn't speak
13 to him directly.

14 MR. MAY: Okay. I'm very curious about that.
15 I mean, I just went back and reread the regulations,
16 the existing regulations for courts. And it says the
17 minimum dimension has to be four inches per foot of
18 height, which would be something in the neighborhood
19 of 10 feet here, which, you know, there doesn't seem
20 to be any sort of language in the regulations
21 allowing for averaging or, you know, minimum at the
22 deepest point. It just says "minimum."

23 So just on a plain-language basis, I don't
24 understand how they gave that interpretation. And I
25 think that's actually quite important to the case

1 overall, because I'm not sure what that would do for
2 the design of the building if you had to make sure
3 that that court was a minimum of 10 feet wide for the
4 entire length of it. So, anyway, I'm interested in
5 finding out exactly what the ZA thinks on this and
6 why.

7 CHAIRPERSON HOOD: Anybody else?

8 Commissioner Miller.

9 MR. MILLER: Thank you, Mr. Chairman. And
10 thank you, Ms. Brown-Roberts and Ms. Steingasser, for
11 your written report. It's very comprehensive. I
12 think it lays out the rationale for both the map
13 amendment and the variance, and in a very clear and
14 concise way. And I appreciate all the information in
15 there.

16 And I appreciate the answer you just gave to
17 Mr. Turnbull about where the land use map is, that
18 this site appears -- I'm on your page 11 -- to be the
19 last property on that, or the furthest east property
20 on Kenyon Street that has that mixed-use designation.

21 Because I had a question that actually went
22 in the other direction, which is why wouldn't we go
23 R-5-B to the multi-family buildings that are taller
24 than what R-4 currently, way taller than what R-4
25 currently -- why wouldn't we go a couple more?

1 I see that they are more of a row-house style
2 architectural character. But maybe you could just
3 briefly say why you -- was it just the land use map
4 that you stopped there and didn't go to the next
5 building, which was also a multi-family building?

6 MS. BROWN-ROBERTS: Yes. I think it was more
7 focused on what the future land use map was
8 recommending.

9 MR. MILLER: And that is what we should be
10 focusing on, as well, in terms of the legal standard.
11 So thank you very much.

12 CHAIRPERSON HOOD: Okay. Again, that is my
13 concern. And I think, Ms. Steingasser, you are
14 exactly correct. I know there are some other
15 apartments in the middle of the block. I'm not even
16 sure we ever got there, but it's there. And that was
17 my concern about encroaching and then coming, whether
18 we go east, to the north, to the south, and all back
19 to the west in encroachments.

20 So anyway, that question was answered.

21 Are there any other questions up here?

22 Does the Applicant have any questions? Well,
23 we don't have anybody from DDOT, but DDOT does have a
24 letter here in support.

25 Mr. Brown, do you have any questions of the

1 Office of Planning? Well, I'm not going to answer
2 for DDOT. Their letter speaks for itself. Do you
3 have any questions for the Office of Planning?

4 MR. BROWN: I have no questions for the
5 Office of Planning.

6 CHAIRPERSON HOOD: Okay. Do you have any
7 questions of the Office of Planning? Yes.

8 MS. HOWELLS: Excuse me. I'll get a drink of
9 water.

10 (Pause.)

11 MS. HOWELLS: Thank you. Thank you, Ms.
12 Brown-Roberts, for your work on this case.

13 I wonder if you remember my calling your --
14 well, a team of me and a couple of students and my
15 fellow calling the office and asking to speak to
16 someone at the Office of Planning.

17 MS. BROWN-ROBERTS: Yes, I remember it. I
18 remember speaking to you.

19 MS. HOWELLS: And I asked you at that time
20 what the process was in the Office of Planning for
21 incorporating neighboring property owners.

22 MS. BROWN-ROBERTS: Yes.

23 MS. HOWELLS: Okay. All right. And I
24 understood you to say today that it wasn't your
25 policy to reach out to neighboring property owners.

1 MS. BROWN-ROBERTS: I think I'd like to
2 clarify that, is that what I was saying is that this
3 was an application that was not submitted by the
4 Office of Planning. But I had spoken to the
5 Applicant, and so we were not making a direct
6 outreach to the community, because that was being
7 taken on by the Applicant.

8 MS. HOWELLS: All right. All right. Thank
9 you.

10 In your report, could I ask you, were there
11 any additional studies or reports, area neighborhood
12 plans or anything like that, that was used in the
13 course of your examination?

14 MS. BROWN-ROBERTS: There are no small area
15 plans, which are stuff that we usually look to.
16 There was not a small area plan for this area. And
17 so, based on site visit and what the Comprehensive
18 Plan recommends, those were what we used.

19 MS. HOWELLS: In the report, the Planning
20 Department does not discuss in depth the density and
21 the height and the unit requirement or lack thereof
22 in the R-5-B zone. Is there a reason why we weren't
23 -- why you would not have considered the fact that
24 the R-5-B zone would allow any number of units in
25 that building in addition to the four, the maximum

1 four that would probably be permitted on those two
2 lots in the R-4 zone?

3 I'm sorry. That was probably a confusing
4 question.

5 MS. BROWN-ROBERTS: Yeah.

6 MS. HOWELLS: You did not discuss the fact
7 that the R-5-B would allow any number of units, as
8 long as they could fit them. In other words, there's
9 no limit on the number of units in the R-5-B.

10 MS. STEINGASSER: There's not. In
11 Washington, when you move from the R-4 into the R-5
12 zones, the R-5 density is calculated by FAR, floor
13 area ratio, which is a relationship of the floor area
14 of the building to the land area. That's a standard
15 density shift in D.C. when you go from the R-1, 2, 3,
16 and 4 where it's set by number of dwelling units.

17 MS. HOWELLS: Right. Right. I do understand
18 that. I'm just saying that I think the number of
19 dwelling units does make a difference in a
20 residential neighborhood. And I was asking whether
21 or not the planning department felt that it would be
22 something worthy of discussion in the report.

23 MS. STEINGASSER: I think it's something --
24 maybe it's a presumption of habit, but that the
25 Zoning Commission is used to and they understand

1 that's how density is calculated. And then the
2 Applicant addressed it through the issue of parking.
3 So the fact that they have a parking variance request
4 for the size of four spaces indicates that there
5 would be no more than eight units. Because in the R-
6 5-B zone, that's how that would translate.

7 MS. HOWELLS: Right. So you don't think that
8 the increase in the number of actual living units in
9 the building would make a difference that's worthy of
10 consideration?

11 MS. STEINGASSER: It's considered as part of
12 the overall Comprehensive Plan discussion. When we
13 look at what the Comprehensive Plan anticipates in
14 terms of the mixed-used moderate medium-density, it
15 is calling for an increase in density. And the
16 Applicant has addressed that through the parking
17 variance request.

18 MS. HOWELLS: All right. Thank you. There
19 are comparison tables in the report. And when we
20 spoke with Ms. Brown-Roberts, we raised with her the
21 possibility of an R-5-A that would allow some
22 scrutiny of the effect of the property on the
23 adjacent property.

24 In your report, you really do not discuss the
25 R-5-A other than to say the size would be smaller

1 than the building next door. Is there no other
2 reason -- is there any reason to consider the R-5-A
3 as a potential zone?

4 MS. BROWN-ROBERTS: We didn't because we
5 didn't see the R-5-A as a potential zone for this
6 property.

7 MS. HOWELLS: And that was simply because of
8 the height limitation in the R-5-A?

9 MS. BROWN-ROBERTS: No, because of the --
10 because of the Comp Plan, and we didn't think that
11 that would be appropriate.

12 MS. STEINGASSER: And I'll just clarify. The
13 R-5-A is a zone that is designated as a low-density
14 apartment. It's a low-density residential. The Comp
15 Plan directs for the land use to actually go up to a
16 medium moderate mixed density.

17 MS. HOWELLS: Well, actually, that's a good
18 question. I'm glad you've raised that, because when
19 we looked at the future plan map, we saw -- at first,
20 the first time we looked at it, it looked like
21 everything was in the light-brown area, the tan area,
22 which would have been designated as moderate density.

23 And that made us curious. We then noticed
24 that in the testimony, the transcript, I think when
25 this was first set, that this was described as a

1 moderate density property. So we're confused about
2 just exactly what the designation is for this
3 property in the future land use map.

4 MS. STEINGASSER: Well, I think we're mixing
5 the land use category of the generalized land use map
6 and the definition of the zone districts. The zone
7 districts are also defined by density, and an R-4 is
8 considered a moderate-density residential.

9 MS. HOWELLS: Right.

10 MS. STEINGASSER: The land use map identifies
11 the site for a mixed-use moderate medium density.

12 MS. HOWELLS: Well, when we looked at it, it
13 didn't look that way. But so, I just would like to
14 note you, we note that on the -- if you look at the
15 generalized policy map that you turned it, it is
16 shown in a neighborhood conservation area, which is
17 all an R-4 zone, and therefore moderate density. Is
18 that not correct?

19 MS. STEINGASSER: Again, you have to look at
20 the text of the neighborhood conservation district
21 and the text of those maps and what that means. It
22 doesn't mean, and it should not be implied,
23 interpreted to mean that there should be no change.
24 It talks about it in terms of a stable change --

25 (Cross-talk.)

1 MS. HOWELLS: No, I understand that. But I'm
2 just trying to decide whether we're using a
3 "moderate" or a "medium" adjective in front of the
4 zone.

5 So, for example, the problem that I'm having
6 here is that, then when we entered, we looked at the
7 map, which looked one way, and we entered a street
8 address, and it came up another. It came up as a
9 medium, actually, when we entered the street address.

10 But I understand, and I believe it's stated
11 in at least one of the Zoning Commission's decisions,
12 the ZC's 08-11 that the future land use map is
13 actually a relatively large-scale map and it's not
14 drawn to a smaller scale. And therefore, it's not
15 capable of accuracy and it's not intended to be read
16 with particularity as to any individual property.

17 Is that how you would view it?

18 MS. STEINGASSER: The Comprehensive Plan map
19 is an embodiment of all the policies in the
20 Comprehensive Plan.

21 MS. HOWELLS: Right. I understand that.

22 MS. STEINGASSER: It's not a zoning map.
23 What that statement is intended to say is it is not,
24 in and of itself, a zoning map. And you need to look
25 at the combination of it --

1 MS. HOWELLS: Right. Okay.

2 MS. STEINGASSER: And I'm not sure what you
3 entered an address into, whether that's something --

4 MS. HOWELLS: The future land map.

5 MS. STEINGASSER: Through the Office of
6 Zoning or through the Office of Planning? We both
7 have some interactive things.

8 MS. HOWELLS: Right. Right.

9 MS. STEINGASSER: And again, there's a
10 moderate-density definition for zoning and a
11 moderate-density definition for Comp Plan.

12 MS. HOWELLS: Yeah. So we just wanted to
13 clarify that we wouldn't necessarily use that, the
14 future land use map, to designate a particular
15 property for a particular density.

16 MS. STEINGASSER: We absolutely would use the
17 land use map for that designation guidance.

18 MS. HOWELLS: But it says -- but in the
19 Zoning Commission's order, it tells us that you can't
20 use it because it's not sufficiently accurate to be
21 read with particularity. I'm sorry; I'm having
22 trouble with that word.

23 MS. STEINGASSER: That's okay. That's to the
24 individual unit. Well, I'm not sure what case you're
25 -- what 08 is. That's obviously a seven-year-old

1 case.

2 MS. HOWELLS: It was involving -- it was
3 involving the -- I believe the Convention Center, I
4 believe.

5 MS. STEINGASSER: The future land use map
6 absolutely provides the guidance to the Commission
7 and to the Office of Planning on how to interpret
8 what the appropriate density should be for a site.

9 MS. HOWELLS: But then, can you tell us what
10 the difference is? Why would the generalized policy
11 map show this clearly in the R-4 lighter-colored tan-
12 colored area, and the future land use map that you
13 have provided today shows it actually slightly darker
14 just to the edge of what we thought was the R-4 zone?

15 MS. STEINGASSER: Well, that's the whole gist
16 of the case. Is the site appropriate for up-zoning,
17 for being zoned from the R-4? And again, the R-4 is
18 a row house zone, which is everything to the west of
19 the site. Or does the Comp Plan provide sufficient
20 guidance to substantiate a rezoning to a higher
21 density?

22 MS. HOWELLS: Okay. Thank you.

23 One other question. Is the -- I think one
24 other question. Is the area surrounding the 14th
25 Street corridor today, would that be considered an

1 area where market demand is weak or where there are
2 large amounts of poorly utilized land?

3 MS. STEINGASSER: I'm sorry.

4 MS. HOWELLS: The 14th Street corridor that's
5 close to the property in question?

6 MS. STEINGASSER: Well, at this point, the
7 Office of Planning did not provide any testimony on
8 the market.

9 MS. HOWELLS: Okay. All right.

10 (Pause.)

11 MS. HOWELLS: Thank you. That's all the
12 questions I have.

13 CHAIRPERSON HOOD: Thank you, Ms. Howells.
14 Let's see if we -- hold on a second.

15 (Pause.)

16 CHAIRPERSON HOOD: Okay. Let's go to the
17 Office of Planning -- I mean, not Office of Planning.
18 The Advisory Neighborhood Commission. Do we have
19 anyone here from the Advisory Neighborhood Commission
20 1-A? I will attempt to speak about their decision.

21 Colleagues, is this our Exhibit number 34?

22 ANC 1-A had no official position. A motion
23 to oppose the case failed by lack of a second. A
24 motion to support the case failed with a vote of 3-4
25 to 1. And that is Mr. Boyce, Kent C. Boyce, the

1 Chairperson, who submitted it -- I'm sorry, Vice
2 Chair. He's either the Chair or the Vice Chair. But
3 anyway, he's authorized to submit it.

4 MR. BROWN: He was the Chair.

5 (Chorus of "Yes.")

6 CHAIRPERSON HOOD: Thank you, Mr. Brown.

7 Do we have any other government reports?

8 (No audible response.)

9 CHAIRPERSON HOOD: Okay. Not seeing any.

10 Yes, we do have DDOT. DDOT was supportive. Thank
11 you, Vice Chair. And that was Exhibit? Do you know
12 the exhibit right off?

13 (No audible response.)

14 CHAIRPERSON HOOD: Okay. And that was
15 Exhibit 32 in our file.

16 Let's go to persons who are here in support.
17 Would anybody like to come and testify who is here in
18 support?

19 (Pause.)

20 CHAIRPERSON HOOD: Reverend Holmes, did you
21 sign in or sign the list? Were you prepared to speak
22 in support, or did Mr. Brown just recruit you just
23 that second?

24 (Laughter.)

25 CHAIRPERSON HOOD: I mean, you can come up in

1 support, but I just want to know if you were
2 recruited on the spot or were you automatically
3 prepared to testify in support?

4 REVEREND HOLMES: Yes, sir, the latter.

5 CHAIRPERSON HOOD: Okay. Well, you can come
6 on up. I don't want to discourage you. I just saw
7 that move there.

8 (Laughter.)

9 CHAIRPERSON HOOD: Come on up, Reverend
10 Holmes. You have three minutes.

11 FEMALE VOICE: Did he take the oath before?

12 CHAIRPERSON HOOD: Yes, he did. He's a well-
13 known reverend here in the City. I'm sure even if he
14 didn't take the oath --

15 (Laughter.)

16 MS. COHEN: I declare you the next President,
17 Reverend.

18 REVEREND HOLMES: Thank you. Thank you so
19 very much.

20 Dr. Bockai has done great work within our
21 city structure. He has looked at this property over
22 and over again. He has come to ourselves, who I'm
23 part of a broader coalition across the City, to say,
24 how can he be able to effect change?

25 And so, he purchased the property, from what

1 I've gathered later, and he was able to understand
2 the needs of the citizens around the area to be able
3 to say that we need this residential housing here,
4 and we're tired of what is current structure, which
5 was a blighted property.

6 And that particular area, typically, needs to
7 have more of a happy eye than the eye strain. And
8 so, that's why we're here today to be able to push
9 this forward and be able to work as I'm going to work
10 with the citizens here on my left-hand side, these
11 beautiful citizens and the buildings, to try to see
12 if we can all come together and try to give something
13 that all of us can be proud of.

14 CHAIRPERSON HOOD: Okay. And, Reverend
15 Holmes, could you identify yourself? Even though I
16 know you, could you identify yourself for the record?

17 REVEREND HOLMES: Reverend Dr. George Holmes.

18 CHAIRPERSON HOOD: Okay. Thank you. Let me
19 see if there's any cross examination.

20 Colleagues first, any questions up there?

21 (No audible response.)

22 CHAIRPERSON HOOD: Mr. Brown, do you have any
23 cross?

24 MR. BROWN: No, sir.

25 CHAIRPERSON HOOD: Ms. Howells, do you have

1 any cross?

2 MS. HOWELLS: No, sir.

3 CHAIRPERSON HOOD: Okay. Let's go to the
4 party in opposition. Ms. Howells, if you all want to
5 come forward, you can present your case. How much
6 time do they have? Is that how much time they have,
7 31? You have 31 minutes and 42 seconds.

8 MS. HOWELLS: As a preliminary matter --

9 CHAIRPERSON HOOD: You have somebody here as
10 an expert. Let's take that. Thank you. Does
11 anybody know what exhibit that is right off?

12 MR. BROWN: Mr. Chairman, are you okay if we
13 stay at the table? Mr. Chairman, would it be okay if
14 we stay put at the table?

15 CHAIRPERSON HOOD: You'd have to ask Ms.
16 Howells.

17 MS. HOWELLS: I have no objections.

18 CHAIRPERSON HOOD: She has no objections.
19 Okay.

20 (Pause.)

21 MALE VOICE: What exhibit is that?

22 MALE VOICE: 31A.

23 CHAIRPERSON HOOD: And, Ms. Howells, you are
24 proffering -- how do you pronounce his name? I'm
25 sorry.

1 MR. MROCZKOWSKI: It's Nicholas Mroczkowski
2 with Stoiber and Associates Architects.

3 CHAIRPERSON HOOD: Mroczkowski.

4 MR. MROCZKOWSKI: Close enough.

5 CHAIRPERSON HOOD: I'm in the ballpark.

6 MS. HOWELLS: Very close, very close.

7 CHAIRPERSON HOOD: Ms. Howells, what are you
8 proffering him as, again?

9 MS. HOWELLS: Yes. As an expert. He's a
10 licensed architect, and he has significant experience
11 with the R-4 zone and with the type of properties
12 that we are considering today and with the
13 development of affordable housing in the District.

14 CHAIRPERSON HOOD: So you're proffering him
15 as an architect?

16 MS. HOWELLS: I am, yes.

17 FEMALE VOICE: Which exhibit?

18 CHAIRPERSON HOOD: It's Exhibit 31, 31A.

19 MR. MAY: Mr. Chairman, I have no objection.

20 CHAIRPERSON HOOD: Okay. Anyone else?

21 MR. MILLER: And I'm supportive as well.

22 CHAIRPERSON HOOD: Okay. Okay. So we will,
23 by general consensus, accept the filing. We have a
24 waiver request. And also, we will give Mr.
25 Mroczkowski --

1 MS. HOWELLS: You did it better the first
2 time.

3 CHAIRPERSON HOOD: I did it better the first
4 time? That's because I --

5 MR. MROCZKOWSKI: Mroczkowski. Like T-CH.

6 MS. HOWELLS: Like "mariachi band."

7 CHAIRPERSON HOOD: Okay. Why don't I just
8 say this? We'll give the architect, we'll proffer
9 him as an expert witness, and I will work on his
10 name.

11 (Laughter.)

12 MR. MROCZKOWSKI: Okay.

13 CHAIRPERSON HOOD: So, Ms. Howells, you may
14 begin.

15 MS. HOWELLS: All right. Thank you.

16 We will just call him Nick. We're going to
17 let Nick speak. But I just have a couple of issues
18 I'd like to address. Is now an appropriate time to
19 address the variance? Okay.

20 It is our position that the requirement for a
21 variance does not change just because it's a parking
22 variation. And it requires that the three standard
23 tenets be met. And that in this case, the size of
24 the building and the fact that the maximum FAR is
25 being used on this property creates a large building.

1 And if, in fact, there were six units as
2 opposed to eight units in this building, there would
3 be no need for a variance. So the lot itself does
4 not have the unique qualities that require, that
5 would seem to require a variance with respect to the
6 number of parking lots, parking spaces. And so, we
7 would question whether a variance is appropriate.

8 That, however, is not the important issue.
9 The important issue here more is the impact that the
10 other aspects of the R-5-B would have on the
11 neighboring property and the Kenyon Street property.
12 And I'd like to first discuss, before we let Nick
13 speak, the neighborhood itself and the designation of
14 this particular property, as both Kenyon Street, the
15 Yes We Can Cooperative, and the two vacant lots next
16 to it, as well as the property that's being picked up
17 on Irving Street.

18 Kenyon really is an integral part of a well-
19 defined urban row house street. And at the 1300
20 block itself is one of the City's neighborhoods that
21 began really maybe one block or even three-quarters
22 of a block off the 14th Street corridor. And those
23 particular types of neighborhoods are singled out for
24 special preservation consideration in the
25 Comprehensive Plan for transit-oriented development

1 under 306. So I think we have to pay careful
2 attention to what is being done here.

3 We will see -- Nick has some photos in his
4 presentation that would illustrate the essential
5 character of the street and the role that 1372 Kenyon
6 Street plays in it, both from a visual and a physical
7 perspective. It is -- it and both its counterpart on
8 Irving Street really are cornerstones when you look
9 at them and you walk down the street in their
10 respective landscapes, as I might admit, are the
11 residents of 1372 Kenyon Street, who have been in the
12 neighborhood since before 1981 when they first
13 acquired an interest in the building.

14 And they have stayed there, just as Dr.
15 Bockai, through the hard times and seen that the
16 property itself is well taken care of. It's well
17 financed. And it supports 18 units of affordable
18 family housing today in that area, which was actually
19 a big save on their part.

20 So, the R-5-B, though, we don't think is
21 appropriate to the three lots in question here, as
22 opposed to those that are across the street in the R-
23 5-B zone that's across the street. Those lots are
24 very different. And this is borne out in the
25 Commission's own order granting the R-5-B status to

1 lots 8, 10, and 808, and Square 28-43, which comprise
2 the northern R-5-B's known that have been discussed
3 today.

4 That is an existing total 28,505-square-foot
5 zone. And it contains two very much larger
6 residential buildings than Kenyon Street. Directly
7 across from 1379 is across the street from 1372
8 Kenyon Street. But it's a 40-unit building. And it
9 traverses two lots, 8 and 808.

10 And then the 14th Street corridor directly
11 abuts the property line to the west. Unlike the
12 Kenyon Street, there is no alley that separates, no
13 real visual separation between the commercial zone to
14 the west and the property. But directly to the east
15 of that large building begins a very sweet, quaint
16 row of two-storied town homes that symbolize what the
17 Kenyon Street block, 1300 Street block of Kenyon
18 Street really is all about.

19 And of course, that zone goes beyond 13th
20 Street. It goes from, you know, the alleyway down to
21 13th Street and crosses over into yet more R-4
22 territory.

23 And then to the north, the third lot in R-5-B
24 zone is on the Park Road side. And that lot contains
25 a 21-unit building. And that building happens to be

1 next door to a dry cleaner and right across the
2 street from the Giant and Tivoli center. So it is a
3 very different piece of property than the building,
4 than the stretch of Kenyon Street that 1372 Kenyon
5 Street sits on. It has a very different quality to
6 it.

7 And so, with respect to those lots, the ANC
8 1-A approved the application and the ZC, Zoning
9 Commission, properly found that those were more
10 appropriately, that that zone then more appropriately
11 reflected the existing development on those three
12 lots.

13 But that can't be said for the three lots
14 we're talking about on Kenyon Street tonight. 1372
15 has been with -- it's R-4 zoned since 1958, and it
16 wants to stay there. And it serves itself as a
17 buffer to the rest of the street. Because it's not
18 going anywhere. It's not conforming under R-4. It's
19 non-conforming under R-5-A and R-5-B.

20 The vacant lots to its east are internal to
21 the R-4 zone, and the proposed development on those
22 vacant lots will be physically joined to a row house,
23 and it is called a multi-family house, but it's
24 actually a conversion. Those row houses have been
25 converted, but it's only three units. And that is

1 the first of a number of architecturally similar row
2 houses, the first 10 of which are four stories, but
3 the rest of the street is all three stories on the
4 south side of Kenyon.

5 So we feel that the Kenyon Street, the three
6 lots on Kenyon Street are simply inappropriate for
7 the R-5-B zone for that reason.

8 There are other reasons, too, that we feel
9 it's inappropriate. And that is because the R-5-B
10 zone allows a higher density. It allows for a
11 different design, an increased -- could be a
12 substantial increase in the number of units for the
13 property that will be built next door. An that seems
14 inappropriate for the very edge of an R-4 zone, which
15 Kenyon so admirably represents.

16 There also will be adverse effects on the
17 property in terms of the density for that property
18 because it is a very narrow lot and there are going
19 to be a lot more people there. Parking is, of
20 course, still a problem, although I know that's not
21 always a winning argument these days. But the
22 reality is that the people in the neighborhood who
23 need their cars to go to work have problems with the
24 inability to find a place to park their car when they
25 come home.

1 There will be a significant loss of light and
2 air if you allowed for the R-5-B to take its full
3 effect. Now, we do appreciate and we do have to say
4 here that we have been working with the Applicant.
5 And we really do very much appreciate their desire
6 and attention to try to find a solution to the
7 problem.

8 The only problem is that it's an R-5-B zone.
9 And unless you have a cooperative owner next door,
10 you can't control. There will be no special
11 exception hearing as would be permitted in an R-5-A
12 zone. There would be no variance hearing as would be
13 required for the development of the property in an R-
14 4. And if it happened to be a conversion, of course,
15 you would also have a special exception hearing.

16 And we think for in-fill, for in-fill
17 housing, it is important to consider what remedies
18 are available to the owners and the residents of the
19 affected adjoining property.

20 So with that, I would like to turn this over
21 to Nick and his presentation.

22 MR. MROCZKOWSKI: Great. I'll keep mine very
23 brief because I rather wanted to speak mostly to what
24 the density impact is for an R-5-B, irrespective of
25 the very responsive and interactive design that's

1 happened to date. As Ms. Howells pointed out, an R-
2 5-B is much more of an open checkbook for an amount
3 of density.

4 And the impact is certainly minimized based
5 upon their current scheme, shown up here in the upper
6 left-hand corner and across the top. Just looking at
7 three different views, this section cut through the
8 middle. And then looking towards the south.

9 An example R-4 development would be a three-
10 story somewhere between 30 and 35 feet. And you can
11 see markedly at 8:00 a.m. on April 21st, you get at
12 least another story, story-and-a-half of light down
13 into the existing court.

14 And then an R-5-B, we'll call it the worst-
15 case, or maybe just a theoretical development, where
16 you put actually a 50-foot wall on the property line.
17 That could, in actuality, be developed that way. And
18 you could see at 8:00 a.m. there's almost no light,
19 and the moving to 10:00 a.m., again substantially
20 less light. Almost two floors lose their light.

21 So, speaking just purely on statistics and
22 numbers and what can go there, and as a right, R-5-B
23 could very much look like this if we didn't have a
24 cooperative owner working next door. And to some
25 extent, I would imagine the Commission would want to

1 consider that possibility.

2 MS. HOWELLS: Do you have any questions?

3 MR. MROCZKOWSKI: Yeah. And then, this last
4 slide is the -- sort of five representative pictures
5 that we took around the existing site. Picture 1
6 here on the left is if you're standing behind the
7 vacant lot, looking towards the cooperative. Picture
8 2 is again in the alley, looking towards the adjacent
9 row house.

10 Picture 3 down here is close to the
11 intersection at -- it's mislabeled 5, but it is
12 actually picture 3, looking down Kenyon. You can see
13 the missing tooth, and then the start of the row
14 homes. And then a little further down Kenyon is
15 picture 4.

16 And then immediately across the street -- I
17 apologize for the shadowing. It is all north facing
18 and in the morning. So a little bit in shadow; I
19 apologize for that. I can zoom in if it would be
20 helpful.

21 FEMALE VOICE: Yes.

22 MR. MROCZKOWSKI: Okay. Middle bottom or
23 just all of them? Sure.

24 (Pause.)

25 MR. MROCZKOWSKI: So as you can see, as Ms.

1 Howells pointed out, there's a couple of larger homes
2 that exist and preexist. And then it does step down
3 to the three-story norm that you see in R-4 more
4 typically.

5 And we also are aware that the BZA and
6 certainly most folks are fighting the pop-ups and the
7 expansion in R-4. And I don't think that can go
8 without at least noting that this would potentially
9 go against that trend.

10 (Pause.)

11 MS. HOWELLS: Do you have any questions?

12 CHAIRPERSON HOOD: Are you finished?

13 MS. HOWELLS: Well.

14 CHAIRPERSON HOOD: Okay.

15 MS. HOWELLS: With this witness, yes.

16 CHAIRPERSON HOOD: Okay. Do you have some
17 other witnesses?

18 MS. HOWELLS: Do you have any direct -- yes,
19 but we will have people testify.

20 CHAIRPERSON HOOD: Well, bring everybody up,
21 I mean, who's a part of your party. You're doing a
22 party thing. Everybody who's --

23 MS. HOWELLS: We have two other witnesses.
24 Yes, they were signed up.

25 CHAIRPERSON HOOD: This is part of your

1 presentation party. Then we'll get the witnesses in
2 opposition.

3 MS. HOWELLS: You want them all in a row.

4 Okay. Fine. All right.

5 (Pause.)

6 CHAIRPERSON HOOD: And again, you have about
7 less than 18 minutes left.

8 MS. HOWELLS: Okay.

9 (Pause.)

10 MS. HOWELLS: All right. I'd like to begin
11 with Ms. Luzmila Tivey. She's the President of the
12 Kenyon Street Yes We Can Cooperative.

13 MS. TIVEY: Good evening, members of the
14 Zoning Commission of the District of Columbia. My
15 name is Luzmila Tivey, and I'm the President of the
16 Board of the Directors of the Kenyon Street Yes We
17 Can Co-op, Incorporated, "the Cooperative."

18 Along with my daughter and my son, we live in
19 Apartment number 4, which is located on the east side
20 of the building overlooking the empty lot. I've
21 lived in Columbia Heights for over 30 years and have
22 seen firsthand how the neighborhood has changed for
23 better or for worse.

24 While I am not against the development of the
25 property, I am concerned with the building height

1 that would be allowed under the R-5-B and under the
2 proposed plan and its direct impact on the quality of
3 life of the cooperative residents and my household.

4 MR. FOSTER: Good evening. My name is Darryl
5 Foster. I'm with my mom, the president. And as a
6 concern, it's the loss of natural light. It is a
7 major issue for us since the proposed new building
8 will be four stories high. We use more natural light
9 than electricity to provide light to our home during
10 the daytime hours.

11 Many of the neighbors mainly rely on natural
12 light as an important part of our daily living,
13 because we live in an older building with no ceiling
14 light fixtures. Natural sunlight provides a free
15 light source, and we fear without having necessary
16 light in our homes then we'll be forced to use more
17 electricity.

18 This would cause our bills to go up and
19 create a financial burden on me, on my family and I,
20 and our residents living on the east side of the
21 building. Natural light is a key necessity for all
22 of us. And without plenty of access to it, the
23 result is an unfair burden on us and our neighbors.

24 Also, if the four-story building is allowed
25 under the zoning change, it would deny us access to

1 fresh air flow. Because our building is older, we
2 open our windows for fresh air and ventilation. We
3 know that this new building will have terraces, and
4 we fear that smoke or noise pollution can prevent us
5 from obtaining the fresh air. Also, privacy and
6 noise.

7 Speaking of terraces, we know that the new
8 building will only be three feet away from our
9 apartment building, with terraces, a large courtyard,
10 and a rooftop terrace. Being this close to this type
11 of building takes away from our privacy. It makes us
12 very uncomfortable to know that someone could look
13 directly into our home.

14 Noise is another concern for us. With the
15 new building being so close, we would hear everything
16 from rooftop parties to other noises coming from our
17 100-year-old walls.

18 MS. TIVEY: Overcrowding and parking.
19 Parking is already a major issue, with Kenyon Street
20 itself feeling like a highway versus a residential
21 street. The new building brings more people in the
22 already-overpopulated area. As a social worker, I
23 own a personal vehicle to get around to the City and
24 oftentimes have trouble finding parking near the
25 building.

1 Even though the new building is asking for
2 four parking spaces in the back of the building, we
3 believe that it is not enough and parking will be a
4 great disruptive by arrivals of new people in our
5 community.

6 Thank you, members of the Commission, for
7 your time.

8 MS. HOWELLS: And Janet Bersch.

9 MS. BERSCH: Good evening, members of the ANC
10 1-A Commission. My name is Janet Stephanie Bersch.
11 I am the daughter of Fanny Bersch with the red scarf
12 over there. And I've lived here for as long as I can
13 remember, which is about 18 years, so practically my
14 entire life.

15 And currently, I am a college student at
16 Northern Virginia Community College, and my brother
17 recently joined the Navy. And I continue to live at
18 home with my mother.

19 I'm here to speak to you about the impact the
20 proposed zoning change will have on me and my mother.
21 We are opposed to the zoning change for my building
22 and the empty lots next door to our building. We
23 believe that the proposed construction that the new
24 zoning will allow will have a negative impact on our
25 quality of life and on our neighborhood for the

1 following reasons:

2 We live on the east side of the building on
3 the first floor, which gets little light already.
4 The proposed building will restrict the amount of
5 light we get into our apartment even more. If we get
6 less light, we are forced to use more energy and
7 electricity to compensate for the lack of natural
8 sunlight that the new building will block.

9 My mom also has various plants in windows
10 along the east side. And without the sunlight,
11 there's basically no point in having these plants
12 anymore, and we wouldn't get to have that kind of
13 luxury. And we mainly have our windows along the
14 east side are in the living room and the kitchen,
15 which is also where we spend most of our time in the
16 house. So we would barely get any sunlight to see in
17 our house.

18 We also think that the proposed building,
19 which has a rooftop garden and small balconies, will
20 create problems with noise and privacy. We believe
21 that the size of the proposed building will also have
22 a negative impact on air circulation into our
23 apartment.

24 We also are worried about the number of
25 people who will be moving in and the overcrowding it

1 will cause. And also, the increased demand for
2 street parking. And eventually, I hope to get a car,
3 so I don't know. There's like -- it's already a
4 struggle trying to get parking in D.C., because
5 traffic can be crazy.

6 But for these reasons, we oppose the rezoning
7 as proposed in case 14-24. Thank you for your time
8 and attention.

9 CHAIRPERSON HOOD: Okay. Thank you all for
10 your testimony.

11 Ms. Howells, let me ask -- hold your seats
12 for a second. We may have some questions. Ms.
13 Howells, let me ask a question. You kept alluding to
14 -- first of all, are you finished?

15 MS. HOWELLS: I was going to make a closing
16 statement.

17 CHAIRPERSON HOOD: Oh, I'm sorry. Go right
18 ahead.

19 MS. HOWELLS: Okay. All right.

20 As you can hear from this testimony, you
21 probably have seen from the pictures, really this is
22 in-fill housing. And it certainly is in-fill housing
23 no matter how you characterize 1372 Kenyon Street or
24 the property next door. It is in-fill housing.

25 And we think that the zone change, a zoning

1 change to do the in-fill housing in an R-4 zone poses
2 serious problems. Because in the R-5-B zone, it
3 allows for a density and a design that is different
4 than the rest of the neighborhood.

5 Now, we would like it if Dr. Bockai could
6 build his building. We do agree that maybe there
7 could be some design elements that could be picked up
8 from our building. But we have appreciated the fact
9 that he's worked with us. But we have no guarantee
10 that that is, in fact, the building that will be
11 built.

12 And we have to be careful when we zone. And
13 the Comprehensive Plan is replete with admonitions to
14 that point, that moderate density is an important,
15 and row house development is an important asset in
16 the District.

17 And for transit-oriented development, it says
18 to us that the reach of transit-oriented development
19 around any given station or along a high-volume
20 transit corridor should vary depending on the
21 neighborhood. And towards the end of that same
22 paragraph, it says the character, established
23 character and scale of the neighborhood surrounding
24 the station should be considered. And it also says
25 to us that many of the City's priority transit

1 corridors transition to single-family homes or row
2 houses just one-half block or less off the street
3 itself.

4 So that is the situation here, and it is one
5 that we should be aware of. If you look at the
6 neighborhood in-fill elements in the Comprehensive
7 Plan, development is supposed to be compatible and on
8 the scale with the surroundings and consistent with
9 environmental protection and public safety
10 objectives.

11 And it actually finds that in-fill housing in
12 these neighborhoods is very appropriate for family-
13 based housing, which, of course, Kenyon is, with half
14 of its using being large three-bedrooms and the other
15 half being large two-bedrooms. 307.3 goes on to say
16 that high-quality design standards should be
17 required, and the privacy of neighboring structures
18 should be respected, and density and scale should
19 reflect the desired character of the surrounding
20 area.

21 In-fill development policy LU 1.4.1 says,
22 "Such development should complement the established
23 character of the area and should not create sharp
24 changes in the physical development pattern."

25 And finally, the last one -- there are a

1 number of these provisions in the Comprehensive Plan.
2 But one neighborhood conservation policy for the mid-
3 city element instructs that the District retain and
4 reinforce the historic character of mid-city
5 neighborhoods, particularly its row houses, older
6 apartment houses, historic districts, and walkable
7 neighborhood shopping districts.

8 And so, we can see a very strong policy
9 towards protecting this neighborhood and, actually,
10 the older buildings that were incorporated in these
11 neighborhoods, even the non-conforming ones that are
12 consistent and were intentional and are well
13 integrated into the R-4 zone.

14 Our problem here is not with our neighboring
15 property owner. But it is with the fact that the R-
16 5-B zone allows for a completely different type of
17 construction and at least 10-foot-taller heights.

18 And as I said earlier, but I'd like to
19 reiterate, and it leaves the Kenyon Street tenants,
20 the Yes We Can tenants, the Kenyon Street Yes We Can
21 Cooperative with little redress by which they could
22 address another property owner who came up with a
23 different property plan, as was evidenced with the
24 slides presented by our architectural expert
25 Mroczkowski.

1 In an R-5-A, you would have, as I said
2 earlier, the special exception that you could have
3 the placement of the buildings, as well as the air
4 and light, effect on air and light examined. You
5 would have a much lower FAR. You would have an
6 ability to come in and challenge the proposed
7 development.

8 The same thing with a conversion in an R-4
9 neighborhood. If there was a conversion, you could
10 show up as the neighboring property at a special
11 exception hearing and address some of those same
12 issues.

13 And if you were even in a variance situation,
14 you would at least get to show up in a variance
15 hearing. And this property, I think, would require a
16 variance because the lots are 16.33 wide, and they
17 have to be 18 feet. And therefore, in order to
18 develop them as two row houses, you would have to
19 have a variance hearing.

20 And air and light, from what I've read from
21 the dictates of the Court of Appeals in the District
22 of Columbia, that air and light is something that is
23 to be and should be considered in variance hearings.

24 So it's sort of inappropriate, we think
25 somewhat out of kilter that the determination here of

1 an R-5-B poses a lesser standard on redevelopment
2 that actually would have a greater impact on the
3 neighboring property than an R-5-A would or even a
4 conversion would.

5 That said, if we could find a way to link the
6 design proposal that Dr. Bockai is presenting to us,
7 and we have agreed to work further even to make it
8 even more compatible with the needs of the
9 neighboring property, we would not impose the
10 imposition of the R-5-B zone.

11 But we don't know from a legal perspective of
12 any way that we could tie that design to -- and this
13 is one of the reasons we were sorry to sort of hear
14 that we couldn't speak more about the design.
15 Because it would be great if we could tie that design
16 to the zoning approval.

17 And so we'll just leave that with you for
18 your contemplation. And otherwise, we thank you very
19 much for hearing us tonight.

20 CHAIRPERSON HOOD: Okay. Thank you all for
21 your presentation.

22 One quick question I do have and the only one
23 I do have is, Ms. Howells, you mentioned a Zoning
24 Commission case across the street. Do you have the
25 actual Zoning Commission case number? I'd like to

1 read that.

2 MS. HOWELLS: Oh, I do. I'm sorry I didn't
3 mention it.

4 CHAIRPERSON HOOD: Not the 08-11. You
5 mentioned something else, about across the street. I
6 don't think those were the same.

7 MS. HOWELLS: The R-5-B, the 10 --

8 CHAIRPERSON HOOD: Right, how the Zoning
9 Commission came to the conclusion for across the
10 street. You were explaining the difference in one of
11 the project tonight as opposed the one that is across
12 the street.

13 MS. HOWELLS: The R-5-B across the street,
14 right. That --

15 CHAIRPERSON HOOD: Do you know what ZC case
16 that was?

17 MS. HOWELLS: Yeah. I think I'm looking at
18 it. I had two from up here -- 10-25, 10-25.

19 CHAIRPERSON HOOD: Ten-twenty-five?

20 MS. HOWELLS: Yeah.

21 CHAIRPERSON HOOD: Okay. Thank you.

22 MS. HOWELLS: Sure.

23 CHAIRPERSON HOOD: Colleagues, any other
24 questions?

25 Vice Chair Cohen.

1 MS. COHEN: Thank you, Ms. Howells, and the
2 rest of your party. You really made a very strong
3 case in your behalf. However, I just want to
4 question a little bit of circular reasoning, I think.
5 Because one of the obligations we have is to always
6 balance what is presented to us. And you yourself
7 stated this is a transit-oriented development
8 location. It is in-fill.

9 And we're balancing what you're saying about
10 preservation, because all the pictures that were
11 shown to us show a very active and multi-type
12 neighborhood. There's tall buildings and there are
13 row houses. When I say "tall," I'm saying denser.

14 One of the things that we're also concerned
15 about and which, again, if we could select from the
16 Comprehensive Plan, is the need for housing for
17 residents of Washington, DC, and we're obviously in a
18 crisis situation, and the need for housing for larger
19 families because, number one, these are two- and
20 three-bedrooms that are being proposed.

21 And again, we can't get into the details of
22 what is being proposed, although it seems to me
23 reasonable to expect that these people have stated on
24 record this is their project. So we could put some
25 credence to that. It's to legally binding, but I

1 think that they are honorable people.

2 But I think what we have to do is, again,
3 recognize that the City is in dire, dire need of
4 housing. And density is an answer because some dense
5 projects provide greater affordability. If you have
6 fewer units and you spread the cost of -- don't want
7 to preach to anybody. But I think you know where I'm
8 coming from.

9 And so my question to you is, you know,
10 again, the Office of Planning looked at it from one
11 point of view. You don't object to the design as
12 it's been presented. You're just worried about what
13 could, what may happen. And I understand that. But
14 I mean, we can't live our lives worrying about what
15 could happen. I mean, there's a lot of "God
16 forbid's" today in the world. But that's not how we
17 are able or should live our lives.

18 So it's not really a question. It's a
19 statement of reminding you the need to balance. And
20 I'm saying that you made an excellent case. I'm not
21 in any way quibbling with that. But I just wanted to
22 kind of forewarn you some of the things we're faced
23 with.

24 MS. HOWELLS: Right. And I appreciate that.
25 I spent my life representing affordable housing

1 cooperatives. And I just would like to say that we
2 need to pay attention to those properties and make
3 sure that they're not harmed by development, because
4 low-wealth people in the District of Columbia live in
5 the older buildings. And they live in buildings like
6 Kenyon.

7 And this group, because this group were such
8 fine stewards of their property, that property is in
9 great shape. And that's what we're concerned with is
10 that nothing happen that would affect what they
11 worked to achieve.

12 And I do think that the property, the R-4
13 property, particularly as I'm looking at the new regs
14 -- I probably should not be talking about that --
15 would lend themselves, as well as the R-4 does now,
16 to potentially four family-sized units, which I think
17 would also be useful and would fit with the
18 Comprehensive Plan's desire for more affordable
19 housing, as well as a report that was done, the
20 Investment Fund Report.

21 It's on the Office of Planning's website that
22 shows in fact the problem in Columbia Heights is the
23 number of condominiums that have been built, that
24 have seriously caused problems for family housing in
25 the area. I'm sorry I didn't include that in my

1 statement.

2 But that said, we think that a unit next door
3 is -- the way that they have been designed, not any
4 eight units, but these units, would probably not pose
5 that much of a problem. But we are concerned that
6 Dr. Bockai might not decide to stay and do that
7 property. And therefore, that's why we were asking,
8 you know, is there a way we could tie the zoning to
9 the property that has been proposed?

10 DR. BOCKAI: Can I make one --

11 CHAIRPERSON HOOD: Actually, no.

12 (Laughter.)

13 MS. HOWELLS: Thank you. Thank you for
14 allowing me to say this.

15 CHAIRPERSON HOOD: All right. Any other
16 questions up here?

17 Mr. Turnbull.

18 MR. TURNBULL: Thank you, Mr. Chairman.

19 I wonder if I could ask a couple of questions
20 for Mr. Mroczkowski.

21 (Pause.)

22 MR. TURNBULL: Hopefully, I got that as close
23 as I could.

24 MR. MROCKZKOWSKI: I'll take it.

25 MR. TURNBULL: Okay. Thank you for your

1 drawings, your presentation. Let me just ask you a
2 question on the R-4 and your R-5-B examples that you
3 show. Are these based upon what you feel is the
4 maximum lot use?

5 MR. MROCZKOWSKI: Correct. So in each case,
6 R-4 or R-5, the R-4 is limited by the lot occupancy
7 and then the three stories. And then the R-5-B just
8 sort of theoretical example, it's actually limited by
9 the FAR. So it's a 2,800-square-foot floor plate
10 times four.

11 MR. TURNBULL: Right.

12 MR. MROCZKOWSKI: And then raising up as much
13 as we could just to kind of get up to that 50-foot
14 height.

15 MR. TURNBULL: So you're showing the worst-
16 case here where the dog-leg would be at the --

17 MR. MROCZKOWSKI: Correct.

18 MR. TURNBULL: -- at the cooperative side.

19 MR. MROCZKOWSKI: Correct.

20 MR. TURNBULL: And thereby blocking the whole
21 area well.

22 MR. MROCZKOWSKI: Correct.

23 MR. TURNBULL: And you raise a good point. I
24 mean, actually these drawings, you raise a good point
25 in that we're doing a map amendment on this. We're

1 looking at a zone change. And so, there's no
2 guarantee that the as-proposed is what you're going
3 to get, that in fact, what we approve will allow for
4 the R-5-B, is the example which you're showing.

5 So, but that -- and you've got the height
6 right and everything else, is what you're saying?

7 MR. MROCZKOWSKI: Yes.

8 MR. TURNBULL: Okay. Well, as the Vice Chair
9 was talking about, we're very concerned about
10 housing. But at the same time, we're also concerned
11 about the quality of the life for that housing. So,
12 interesting question which we have to look at with
13 in-fill housing. But I appreciate your drawings.
14 Thank you.

15 CHAIRPERSON HOOD: Any other questions or
16 comments up here?

17 Commissioner May.

18 MR. MAY: Mr. Mroczkowski.

19 MR. MROCZKOWSKI: Yes.

20 MR. MAY: So, some similar sort of questions.
21 The R-5-B, the example R-5-B at the bottom, you said
22 that you basically did four stories of a particular
23 footprint, 2,800 square feet?

24 MR. MROCZKOWSKI: Correct. Correct. So I
25 took the 1.8 FAR, divided it by 4 to create a flow

1 plate that I then extruded as four floors.

2 MR. MAY: Now, I just tried to do the math on
3 that. I came up with something different. I mean,
4 it's 4,900 square feet, right? This is the lot;
5 isn't that right?

6 MR. MROCZKOWSKI: The combined lot is 45 --

7 MR. MAY: Forty-five.

8 MR. MROCZKOWSKI: Forty-nine fifty-two. Is
9 that not correct?

10 MR. MAY: I'm sorry. Say it again.

11 MR. MROCZKOWSKI: The combined lot is, as I
12 understood it to be, 4,952.

13 MR. MAY: Forty-nine fifty-two. So let's
14 just say 5,000 for the moment. And 1.8 of that --

15 MR. MROCZKOWSKI: Correct.

16 MR. MAY: It's like 9,000, right? Something
17 like that?

18 MR. MROCZKOWSKI: Right, 8,913 divided by 4.
19 Twenty-two -- I apologize. Twenty-two eight -- I
20 knew there was an eight in there -- twenty-two
21 twenty-two eight. I didn't have the numbers in front
22 of me. I apologize.

23 MR. MAY: Okay. So that's really a 2,200-
24 square-foot footprint?

25 MR. MROCZKOWSKI: Correct.

1 MR. MAY: Extruded for four floors.

2 MR. MROCZKOWSKI: If I had my sketch of model
3 here, I'd show you how that worked out.

4 MR. MAY: Yeah. It just seems a lot bigger
5 than that in terms of the footprint.

6 MR. MROCZKOWSKI: Okay.

7 MR. MAY: So I was kind of questioning that.

8 So, you know, I appreciate seeing the 8:00
9 a.m. model, but if I look at the 10:00 a.m. model,
10 what I'm seeing is essentially that there's very
11 little difference between what's proposed for the
12 building and R-4.

13 MR. MROCZKOWSKI: Correct.

14 MR. MAY: Yeah. Okay.

15 MR. MROCZKOWSKI: And that's again a
16 compliment to the design team and the owner.

17 MR. MAY: Right. Okay. And so, I think for
18 you, Mr. Mroczkowski, thank you.

19 The other question I had is that the concern
20 about parking. I mean, you understand that the only
21 variance that's being requested from parking
22 requirements is the width of spaces. So there would
23 be no reduction in the number of cars that we park
24 here.

25 MS. HOWELLS: Right, right, yes.

1 MR. MAY: Okay. So I mean, is that a
2 particular concern? Or is it just the mere fact that
3 we're granting a variance?

4 MS. HOWELLS: It's a technical argument. But
5 we're not as concerned about the parking variance.
6 But it is a concern about, you know, a whittling of
7 the variance requirements, I guess. But I agree with
8 you. It is a minimal variance request.

9 MR. MAY: Okay.

10 MS. HOWELLS: Although it doesn't fit within
11 the de minimis rule, so that the Zoning Administrator
12 could --

13 MR. MAY: We understand that. I mean, it is
14 what it is.

15 MS. HOWELLS: Right.

16 MR. MAY: Okay. I guess one could argue that
17 if all that were done here was R-4 level of
18 development, that it would be -- that you'd only wind
19 up with the requirement for two spaces. So
20 theoretically, there might be fewer cars parking on
21 the street as a result of a two-unit development than
22 -- sorry, a four-unit development than an eight-unit
23 development.

24 MS. HOWELLS: Because of the reduction in
25 units.

1 MR. MAY: Right, right.

2 MS. HOWELLS: Yeah.

3 MR. MAY: But of course, you know, once you
4 live on a block where you can do residential parking
5 permits, there's no limit on the number of cars. You
6 could have six cars per unit, right?

7 MS. HOWELLS: Yes, yes, I guess do. I've
8 tried to park in front of this building before. It's
9 not possible. But, no, you're absolutely right.

10 MR. MAY: It's not an uncommon problem.

11 MS. HOWELLS: Yeah.

12 MR. MAY: But the requirements are what they
13 are.

14 MS. HOWELLS: Right, right.

15 MR. MAY: And hopefully, you're moving into
16 the neighborhood, you know what the parking issues
17 are. And if you don't have -- if you have a car,
18 you've figured out where to park it.

19 MS. HOWELLS: Well, it's been suggested that
20 America USA could give a few units to us. But --

21 MR. MAY: Yeah, I understand they have
22 extras. We've heard that before.

23 MS. HOWELLS: Yes.

24 MR. MAY: All right. Thank you.

25 MS. HOWELLS: Thank you. Yes.

1 CHAIRPERSON HOOD: Any other questions up
2 here?

3 (No audible response.)

4 CHAIRPERSON HOOD: Okay. Oh, I do want to
5 say something to the young lady, Bersch, Ms. Janet
6 Bersch. You might want to go to your ANC
7 Commissioner also and give them this letter. Because
8 this actually -- I mean, while it's addressed to
9 them, they need to know what -- and I guess they need
10 to know because they obviously could not take a
11 position. So you might want to still take it. I
12 think it still would be worthwhile.

13 We've been called a lot of things, ANC
14 commissioners, Zoning Commission, and some other
15 things I will not name.

16 (Laughter.)

17 CHAIRPERSON HOOD: But I still think it would
18 be good.

19 MS. BERSCH: There was testimony that was
20 also presented at the ANC.

21 CHAIRPERSON HOOD: To the ANC?

22 MS. BERSCH: Yeah.

23 CHAIRPERSON HOOD: So they do have a copy of
24 it?

25 MS. BERSCH: Yes.

1 CHAIRPERSON HOOD: Okay. Well, that's all I
2 was trying to do.

3 MS. BERSCH: And we'll be sure they get it if
4 they don't.

5 CHAIRPERSON HOOD: But if they already have a
6 copy, you don't need to go back and take it to them.
7 I think that might have helped them with their --
8 reach more of a resolution in what they presented to
9 us.

10 Okay. Any other questions up here?

11 (No audible response.)

12 CHAIRPERSON HOOD: Okay, Mr. Brown. Do you
13 have any cross?

14 MR. BROWN: No, no cross.

15 CHAIRPERSON HOOD: Okay. And again, no one
16 is here from the ANC. So we thank you all very much.
17 We appreciate your testimony.

18 MS. HOWELLS: Thank you.

19 MR. MAY: I'm sorry. I do have one last
20 question. So, do I understand you correctly that if
21 the property were to be developed exactly according
22 to what we see here in terms of the massing of the
23 building, then you wouldn't have any problem with it?

24 MS. HOWELLS: Right. And --

25 MR. MAY: And if it were to stay that way in

1 perpetuity, right?

2 MR. TIVEY: Our concern is the lighting. So
3 I don't want anything to impact that. That's our
4 living, like --

5 MR. MAY: I understand why you have the
6 concern.

7 MS. TIVEY: And then let me make it clear
8 about that parking thing. You know, you all are
9 going back and forth --

10 MR. MAY: You're not answering my original
11 question. So can I ask my original question again?

12 MS. TIVEY: Yeah. I mean, I understood it
13 the first time.

14 MR. MAY: Okay. But you didn't answer it.
15 So try to answer it.

16 MS. TIVEY: So I'm going to answer it. We
17 have concern with it, but we're not against them
18 building there. Because anything could be built
19 there. We just have some concerns with the natural
20 lighting, the air flow.

21 MR. MAY: So you don't support the existing
22 design either, the one, the design that they're
23 proposing right now?

24 MS. HOWELLS: There was a new design that we
25 haven't been -- we haven't had time to present to the

1 board yet.

2 MR. MAY: Okay. I'm not trying to force you
3 to decide one way or the other.

4 MS. HOWELLS: Right, right, right.

5 MR. MAY: I just thought I'd heard that
6 you're okay with the existing design. And that's why
7 I wanted to get clarity.

8 MS. HOWELLS: The existing design, the
9 original existing design had a much greater impact on
10 light and air than the one that we discussed today,
11 which Ms. Tivey has not seen yet.

12 MR. MAY: Okay. Okay.

13 MS. HOWELLS: And so I apologize.

14 MR. MAY: Okay.

15 MS. HOWELLS: But, yes. There was a concern
16 about the design, a major concern about the design.
17 We think we're working towards fixing it.

18 MR. MAY: Okay. All right. Well, I
19 appreciate that. I was just trying to understand
20 what I had heard, because I had the impression that
21 you were okay with the design as proposed. It
22 doesn't sound like you are completely okay with it.

23 MS. HOWELLS: Not with the original --

24 MR. MAY: It's better than what it was
25 before, but it's still --

1 MS. HOWELLS: Right.

2 MR. MAY: You still have issues. Okay.
3 That's all. That's helpful. Thank you.

4 MS. COHEN: Wait. I have one more question,
5 Mr. Chairman, for the architect whose name I won't
6 mess up. You could say it for me.

7 But it appears to me, and I just want to make
8 sure I understand, that the lighting is affected for
9 morning hours from eight to ten. Is that correct?

10 MR. MROCZKOWSKI: Right. Once it gets past
11 about 10:30, 11:00, using this model, it's more or
12 less identical for almost any scheme, with the
13 exception of the R-5-B max development concept, the
14 last one.

15 MS. COHEN: Sure.

16 MR. MROCZKOWSKI: Which continues to create
17 more impact.

18 MS. COHEN: Okay. Thank you very much.

19 CHAIRPERSON HOOD: Okay. Anything else?

20 (No audible response.)

21 CHAIRPERSON HOOD: All right. I went through
22 the cross. We didn't have any cross. We appreciate
23 it. Thank you for your testimony.

24 Is there anyone here, anyone else who would
25 like to testify in opposition in this case?

1 (No audible response.)

2 CHAIRPERSON HOOD: Okay. Mr. Brown, you can
3 do rebuttal. And let's phrase the rebuttal. We
4 appreciate how long everybody has been around, all
5 the things they have done in the neighborhood. Let's
6 stick to the map amendment and rebuttal. And then
7 you can give your closing remarks.

8 MR. MAY: Mr. Chairman, before he gets
9 started, can I ask him a question?

10 CHAIRPERSON HOOD: Sure.

11 MR. MAY: It's something else I'd like to
12 have him respond to.

13 So, if we were to grant approval of the map
14 amendment and the zoning variance, I mean,
15 essentially this is like a BZA case with a variance,
16 is there any obligation on the part of the Applicant
17 to actually build to the plans that were submitted
18 for the variance case? Is there anything binding in
19 that order?

20 MR. BROWN: Well, we have a hybrid here. And
21 certainly, each of you have sat in your BZA function.
22 And variance could be approved subject to conditions.
23 I'm --

24 MR. MAY: So the conditions could include
25 building it according to the plans that we have?

1 MR. BROWN: I think, wearing your BZA hat,
2 which you have dual jurisdiction in this case, you
3 could do that. I would ask if you did that, that you
4 allow us some flexibility, because quite frankly,
5 we're --

6 MR. MAY: Yeah. I understand. You still
7 have reviews to get through.

8 MR. BROWN: Yeah.

9 MR. MAY: Right.

10 MR. BROWN: And also, we're still talking
11 with the Kenyon Co-op people.

12 MR. MAY: Sure. Absolutely.

13 MR. BROWN: But you've got a cooperative
14 owner. And he shouldn't be discouraged.

15 MR. MAY: Sure. The second question I have
16 is, have you ever been involved in a BZA case where,
17 or a map amendment, frankly, where the change in the
18 property's designation was actually covenanted to
19 specify certain limitations on the development?

20 MR. BROWN: Not outside the PUD context.

21 MR. MAY: Okay. I seem to recall having
22 participated in such cases, and you might want to ask
23 the Office of the Attorney General about doing such a
24 thing. I specifically can hear the voice of our
25 attorney in my head talking about this, but I can't

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1 remember what he said. So it might be worth
2 understanding that.

3 CHAIRPERSON HOOD: I actually remember that
4 as being a different way the discussion turned out,
5 but I actually agree with you if we can go that
6 route. But my recollection recalls that we could not
7 do that.

8 MR. MAY: Well, I know we can't impose
9 anything. It's a question of --

10 CHAIRPERSON HOOD: I like that, because I
11 think we've tried that before. I'm just -- well,
12 let's see. Let's pose the question.

13 MR. MAY: Yeah. I'm curious about that.

14 CHAIRPERSON HOOD: Let's pose the question.

15 MR. MAY: Because it seems like the design as
16 proposed is close to what would be satisfactory to
17 the abutting neighbors. And it may be a way to get
18 up to the R-5-B zone, which seems to be appropriate
19 and creates more units and so on, but at the same
20 time does take some steps to protect light and air
21 for the adjacent property, which frankly would not be
22 built today because the court would be non-compliant.
23 But, you know, it is what it is, right?

24 CHAIRPERSON HOOD: Okay. And Ms. Hanousek
25 will put that on our laundry list, things to look

1 for. Okay. So --

2 MR. BROWN: And, Mr. Hood, I think we can be
3 very brief. I think we've laid out both in our
4 written filings and our discussions and certainly
5 echoed by the Office of Planning how we meet the test
6 for the rezoning from R-4 to R-5-B. It's clearly
7 laid out by the Comp Plan and all the considerations
8 at the various levels.

9 And in the same token, I think we've laid out
10 the variance case in such a way that satisfy the
11 three-prong test.

12 I guess the most important thing is, we've
13 done all that and we do in fact have a cooperative
14 owner. And while we couldn't -- nobody can predict
15 what might happen in the future, but we have a
16 cooperative owner here and now, eager, very eager, as
17 he reminds me regularly, to proceed and proceed based
18 on this plan.

19 And how we get it back to the order itself,
20 but we have an opportunity with Dr. Bockai that, in
21 the context of the rezoning and also what he's
22 planning to do and has made it clear that this is
23 what he wants to do, that we can take advantage of it
24 and have a good outcome. And once it's built, it's
25 built. And you've got the best outcome possible.

1 CHAIRPERSON HOOD: Was that your closing?
2 You didn't do any rebuttal. So I take it that's your
3 closing.

4 MR. BROWN: No. Again, I don't want to
5 belabor the point.

6 CHAIRPERSON HOOD: Okay.

7 MR. BROWN: I mean, I don't think there's --

8 CHAIRPERSON HOOD: I think the record is
9 complete.

10 MR. BROWN: The record is full.

11 CHAIRPERSON HOOD: Thank you very much.

12 Okay. Thank you, everyone, again for their
13 participation. Let's see. Do we need to go down a
14 list of things that we need? I know we had some
15 outstanding questions. Ms. Hanousek has that. Could
16 you work on that, Ms. Hanousek, if possible, some
17 dates?

18 MS. HANOUSEK: Yes. Okay. The first thing
19 is that May and Turnbull asked OP to confirm with the
20 ZA about court dimension requirements because of
21 their concern over a three-foot-six-inch courtyard
22 size.

23 Hood asked the case number for the case
24 concerning an R-5-B across the street, and that case
25 number was 10-25. I don't know if there's more

1 information you want on that.

2 CHAIRPERSON HOOD: That was all. You can
3 cross that out unless somebody else wants that. But
4 I'll look that up. Thank you.

5 MS. HANOUSEK: Okay. May wants to ask OAG
6 whether a map amendment can have a covenant on what
7 can be built. Is that correct?

8 CHAIRPERSON HOOD: You can add my name to
9 that. I also want to find out, see where we are in
10 this time.

11 MS. HANOUSEK: Okay.

12 CHAIRPERSON HOOD: Anything else?

13 MR. MILLER: Just following up on that, I
14 mean, just confirming that we can do the conditions
15 to the variance part of this.

16 MR. TURNBULL: Yeah, I would agree with
17 Commissioner Miller. I think that's a key point
18 which could be a win-win for everybody in this case,
19 is if the variance can be coupled with some language
20 specific to the plans, what's being proposed here.

21 MS. HANOUSEK: And that should be part of
22 what's checked with OAG, yes? Okay.

23 So, for timing, it depends on how long. This
24 doesn't seem like a lot of information. If we can
25 get the information in a week, does that seem

1 reasonable?

2 CHAIRPERSON HOOD: Yeah. It may take us a
3 little longer.

4 MS. HANOUSEK: Okay. Two weeks?

5 CHAIRPERSON HOOD: Let me ask this. Do you
6 all need to give us anything, Mr. Brown? We're not
7 asking anything from you all, the Office of Planning
8 or anybody, are we?

9 MR. BROWN: No, but we can certainly
10 cooperate on the ZA question, because I had direct
11 dealings with him. So, I mean, I think we're both
12 interested in getting the same answer.

13 CHAIRPERSON HOOD: Okay. All right. Why
14 don't we do two weeks, Ms. Hanousek?

15 MS. HANOUSEK: Okay.

16 CHAIRPERSON HOOD: Give everybody some
17 additional time. Well, when is two weeks? Where is
18 that going to put us? We're not going to do anything
19 anytime soon. It will be January anyway. So, I
20 mean, you can do --

21 MS. HANOUSEK: If it's two weeks, then we
22 would get our information by the 21st. And then
23 responses to the information would be January 4th.
24 That's longer than usual because of the holiday. And
25 draft orders would be due December 28th, and it could

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1 be up for proposed action at the January 11th
2 meeting. Does that sound --

3 CHAIRPERSON HOOD: Do we have another meeting
4 in January? Do we have a meeting at the end of
5 January? I think we do. We usually do.

6 MS. HANOUSEK: Yes. We have a meeting
7 January 25th.

8 CHAIRPERSON HOOD: Why don't we schedule it
9 for January 25th, that meeting? Because it gives
10 everyone a chance during the holiday time. So that
11 way we won't be pushing it. So let's work from that
12 date back.

13 MS. HANOUSEK: Okay. Okay. So we would want
14 the draft order by January 11th. And we would want
15 the submissions by -- we'd want the submissions by
16 December 28th. And then there would be until January
17 11th for the responses and for the draft order. Is
18 that acceptable?

19 CHAIRPERSON HOOD: That's fine. I think
20 that's reasonable. It gives everybody an
21 opportunity, a little more time to be able to
22 present.

23 Okay. Anything else?

24 (No audible response.)

25 CHAIRPERSON HOOD: Anything else, Ms.

1 Hanousek?

2 MS. HANOUSEK: No, sir.

3 CHAIRPERSON HOOD: Mr. Brown, are we okay?

4 MR. BROWN: We're good.

5 CHAIRPERSON HOOD: Ms. Howells, are we okay?

6 The party?

7 (No audible response.)

8 CHAIRPERSON HOOD: Okay. Must be okay.

9 All right. So want to thank everyone for
10 their participation tonight. And this hearing is
11 adjourned.

12 (Whereupon, at 9:00 p.m., the hearing was
13 adjourned.)

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