

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Public Hearing Case No. 13-14B [Jair Lynch
Development Partners - Modification to Consolidated
PUD at Square 3128, Lot 800 - McMillan Reservoir Slow
Sand Filtration Site - Parcel 4.]

6:30 p.m. to 7:15 p.m.

Monday, March 10, 2016

Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220 South
Washington, D.C. 20001

1 Board Members:

2 MARCIE COHEN, VICE CHAIR

3 PETER MAY, Commissioner

4 ROBERT MILLER, Commissioner

5 MICHAEL TURNBULL, Commissioner

6

7 Office of Zoning:

8 SHARON SCHELLIN, Secretary

9

10 Office of Planning:

11 JENNIFER STEINGASSER

12 MAXINE BROWN-ROBERTS

13

14 Department of Transportation

15 JONATHAN ROGERS

16

17 Other:

18 NORMAN M. GLASGLOW JR., ESQ.

19 SHANE DETTMAN, ESQ.

20 JAIR LYNCH

21 JAMES VOELZKE

22 BRIAN SZYMANSKI

23 ROB SCHIESEL

24

25

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

2 VICE CHAIR COHEN: It's 6:30 so we'll start.
 3 Good evening, ladies and gentlemen. This is a public
 4 hearing of the Zoning Commission for the District of
 5 Columbia for March 10, 2016. My name is Marcie
 6 Cohen. Joining me this evening are my esteemed
 7 colleague Commissioner Miller, May, and Turnbull. We
 8 are also joined by the Office of Zoning staff, Sharon
 9 Schellin, Office of Planning staff, Ms. Steingasser,
 10 Ms. Brown-Roberts, and Mr. Rogers from the Department
 11 of Transportation.

12 This proceeding is being recorded by a court
 13 reporter and is also webcast live. So I know that
 14 our Chairman is watching us this evening in Houston.
 15 According we must ask you to refrain from any
 16 disruptive noises or actions in the hearing room,
 17 including the display of any signs or objects.

18 Notice of today's hearing was published in
 19 the D.C. Register and copies of that announcement are
 20 available to my left on the wall near the door.

21 This hearing will be conducted in accordance
 22 with the provisions of 11-DCMR-3022 as follows;
 23 preliminary matters, applicant's case, report of the
 24 Office of Planning, report of other government
 25 agencies, report of the ANC, organizations and

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

3 The following time constraints will be
4 maintained in this meeting. The applicant has asked
5 for 30 minutes, so -- 15, 20 minutes whatever. Okay,
6 20. Organizations get five minutes, and individuals
7 three minutes.

8 The Commission intends to adhere to the time
9 limits as strictly as possible in order to hear the
10 case in a reasonable period of time. The Commission
11 reserves the right to change the time limits for
12 presentation if necessary and notes that not time
13 shall be seated.

14 All persons appearing before the Commission
15 are to fill out two witness cards. These cards are
16 located to my left on the table near the door. Upon
17 coming forward to speak to the Commission, please
18 give both cards to the reporter sitting to my right
19 before taking a seat at the table.

20 When presenting information to the Commission
21 please turn on and speak into the microphone, first
22 stating your name and home address. When you are
23 finished speaking please turn your microphone off so
24 that your microphone is no longer picking up sound or
25 background noise.

1 The decision of the Commission in this case
2 must be based exclusively on the public record. To
3 avoid any appearance to the contrary the Commission
4 request that persons present not engage the members
5 of the Commission in conversation during any research
6 or recess or at any time. In addition, there should
7 be no direct contact whatsoever with any commissioner
8 concerning this matter, be it written, electronic, or
9 by telephone. Any materials received directly by a
10 commissioner will be discarded without being read,
11 and any calls will be ignored. The staff will be
12 available throughout the hearing to discuss
13 procedural questions.

14 Please turn off all cell phones at this time,
15 or anything that rings and makes noise, so not to
16 disrupt these proceedings. Would all individuals
17 wishing to testify please rise to take the oath? Ms.
18 Schellin, would you please administer the oath?

19 MS. SCHELLIN: Please raise your right hand.

20 [Oath administered to the participants.]

21 VICE CHAIR COHEN: I have to make a
22 correction for the record. It's really March 10th.
23 I'm pushing it because, I don't know why.

24 At this time the Commission will consider any
25 preliminary matters. Ms. Schellin, are there any

1 preliminary matters?

2 MS. SCHELLIN: The applicant has proffered
3 three expert witnesses. All three have previously
4 been accepted by the Commission, to ask the
5 Commission to accept those in this case.

6 VICE CHAIR COHEN: Then, let's call up the
7 applicant, please. Mr. Glasgow, please begin.

8 MR. GLASGOW: Thank you, Madam Chairman.
9 Good evening, Members of the Commission. For the
10 record my name is Norman M. Glasgow, Jr., the law
11 firm of Holland and Knight. Here with me this
12 evening are Mr. Shane Dettman of the same law firm,
13 MR. Jair Lynch, and Tony Stark on behalf of the
14 developer, Jair Lynch Associates, Mr. Jim Voelzke and
15 Brian Szymanski of MV&A Architects, Rob Scheisel of
16 Gorove/Slade Associates.

17 We believe that we've addressed all the
18 questions and comments of the Commission and the
19 Office of Planning that made during the setdown, and
20 as of today we have addressed the questions that were
21 raised by DDOT, and at this point in time, depending
22 upon how the Commission wants to proceed, I think we
23 can be available to answer questions. Or would the
24 Commission prepare to have more information? We're
25 ready to proceed either way.

1 VICE CHAIR COHEN: I think we'll proceed with
2 questions then.

3 MR. GLASGOW: All right. Thank you.

4 VICE CHAIR COHEN: And, Mr. May, can you
5 begin with questioning?

6 MR. MAY: Sure. The key question that I had
7 was the revised loading plan that was -- if you could
8 address that since that was just submitted and I
9 haven't had a chance to even read what was submitted.

10 MR. SCHIESEL: Yeah. For the record, it's
11 Rob Schiesel with Gorove/Slade Associates.

12 Yeah, since DDOT issued their staff report
13 we've -- they had a few concerns about the loading
14 management plan as presented. In the time we have
15 talked with them, coordinated with Harris Teeter, and
16 talked with the rest of the team on the project to
17 develop a revised loading management plan that we
18 think addresses all of the DDOT comments and
19 concerns.

20 The main crux of this plan is to try to
21 eliminate backing maneuvers during certain times of
22 the day. And as the plan was submitted today there's
23 going to be one slight edit to that plan. We talked
24 to Jonathan earlier and that is to -- one of the
25 elements was to restrict Harris Teeter vehicles.

1 MR. MAY: Can you start with what was
2 submitted today because it was just submitted today?
3 I haven't --

4 MR. SCHIESEL: The change to the -- the main
5 change to the plan, in order to eliminate backing
6 maneuvers along Evarts Street, the new plan elements
7 are to restrict all Harris Teeter vehicles from
8 arriving between 7:00 and 8:30 a.m., the times of
9 concern. So they won't be backing into the docks.
10 And to then use the curbside of Evarts Street for the
11 remaining loading activity, which would be mostly the
12 venders that are serving Harris Teeter.

13 The difference of the two is that Harris
14 Teeter controls their trucks, they have less control
15 over the venders. So we were looking for a solution
16 that allowed the venders to have their activity while
17 not requiring backing maneuvers by loading on the
18 curbside just for those 90 minutes. They won't have
19 backing maneuvers which is their main impact --
20 potential for impact that we saw in our analysis.

21 And then the thing that DDOT and us discussed
22 today was extending that restriction to move-in,
23 move-outs, and trash for the residential. That was
24 their request was to add that to the revised plan.

25 The other elements of their plan are pretty

1 standard as far as having a loading dock manager,
2 distributing routes, restricting the truck size,
3 which was already under the prior plan. But the main
4 change was going to a curbside based system for those
5 90 minutes instead of the original system we proposed
6 which was a -- which differed.

7 MR. MAY: So just to be clear, between 7:00
8 and 8:30 there will be no backing maneuvers?

9 MR. SCHIESEL: No backing maneuvers into the
10 docks.

11 MR. MAY: Into the docks.

12 MR. SCHIESEL: Yes.

13 MR. MAY: And when a vender that is not
14 Harris Teeter, so not under their control, when they
15 arrive they would actually do curbside loading?

16 MR. SCHIESEL: Yes. Curbside loading on
17 Evarts Street.

18 MR. MAY: On Evarts Street. Okay.

19 MR. SCHIESEL: Yeah, on the north side of the
20 street.

21 MR. MAY: Okay. And then you incorporated
22 the other vehicles that might be coming, the trash
23 and the residential --

24 MR. SCHIESEL: Yeah. The larger residential
25 moving. There is no control over things like UPS,

1 but --

2 MR. MAY: Sure.

3 MR. SCHIESEL: -- those are smaller vehicles
4 with less of an impact.

5 MR. MAY: Right. All right. I do have a
6 couple other questions if that's okay?

7 VICE CHAIR COHEN: Absolutely.

8 MR. MAY: Okay. So right now there are, I
9 think, three loading docks for Harris Teeter. Is
10 that right? Or there's a row of --

11 MR. SCHIESEL: I think there's three docks
12 and a service delivery space, right? Yeah.

13 MR. MAY: Okay. So we see three actual
14 loading docks. They're hard to see the lines between
15 them but I can see the levelers at the top there,
16 right. So and then there's a loading space over
17 there. Okay. And the far left loading, is that
18 residential loading over there? Okay.

19 So my question is, I mean, it's still a
20 really big, big, big curb cut and I wonder, and this
21 may be completely outrageous, but is it possible for
22 the residential loading to use the Harris Teeter
23 loading docks? I mean, can it be scheduled in such a
24 manner that those things could -- I'm just trying to
25 eliminate one -- I mean, I know we have requirements

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1 for the number of loading docks and all that sort of
2 stuff, but I don't want to make the curb cut any
3 bigger than it has to be and it's clearly, we're not
4 going to get a, you know, front in/front out loading
5 space on this project because I think we tried that
6 on the initial hearing.

7 MR. SCHIESEL: Yeah. I mean, we share your
8 concern. You know, we're trying to balance the needs
9 of the building's users. And you know, the key
10 difference with this design is knowing who the
11 grocery tenant is. And Harris Teeter has got a
12 little different loading procedures which on one hand
13 we don't need the extra long tractor trailers. They
14 use the shorter trucks, which is great. On the other
15 hand they actually have a higher frequency deliveries
16 per day.

17 MR. MAY: Sure.

18 MR. SCHIESEL: And we're, based on the
19 numbers that they're telling us in our observations
20 of the docks, we're more comfortable with the higher
21 number just due to the amount of activity they have.
22 I mean, we can explore that but this is the number
23 that we feel is the balance between making sure
24 they're not going to disrupt --

25 MR. MAY: Right.

1 MR. SCHIESEL: -- off-street.

2 MR. MAY: I mean, do they have three docks at
3 the other Harris Teeter locations? Particularly the
4 ones that were cited in your report? I'm picturing
5 the one on Capitol Hill and it doesn't -- I mean,
6 just my recollection going past it is that it's not
7 that many bays.

8 MR. SCHIESEL: The one on Capitol Hill
9 actually is big enough to handle larger trucks.

10 MR. MAY: Yeah.

11 MR. SCHIESEL: So they have a -- it's similar
12 in some aspects, but there's going to be a slightly
13 different operations plan here.

14 MR. MAY: Yeah.

15 MR. SCHIESEL: Because they can accommodate
16 the larger vehicles there, and they use some of the
17 curbside space that's next to it. I consider this an
18 improvement over that loading dock.

19 MR. MAY: Okay. All right. Well, I mean, it
20 might be worth examining whether it's possible to
21 share that. I mean, if that requires additional
22 relief, I mean, I for one would be interested in the
23 possibility of granting it. Just to reduce the size
24 of that curb cut because it's just -- I mean,
25 granted, I think it's smaller than what was there

1 before where the whole block was basically a curb
2 cut.

3 All right. So I won't dwell on that.

4 MR. LYNCH: Commissioner May.

5 MR. MAY: Yeah.

6 MR. LYNCH: If I could proceed. Jair Lynch.
7 I just wanted to provide some context.

8 MR. MAY: Sure.

9 MR. LYNCH: One of the reasons that we're
10 back here now is because we have a specific tenant in
11 which we have under a letter of intent, that's Harris
12 Teeter. As you can imagine our first move was to try
13 to move to the smaller trucks because we saw some
14 examples of that throughout. Their next move to us
15 naturally was, we need four loading docks at that
16 point.

17 MR. MAY: All right. So maybe forget about
18 three, or cutting down the three.

19 MR. LYNCH: Right.

20 MR. MAY: Okay.

21 MR. LYNCH: So just wanted to provide you
22 that, some context. So we're really talking about
23 three for them and they do plan on sharing the fourth
24 with the residential.

25 MR. MAY: Oh, okay. So we're already getting

1 what I'm asking for.

2 MR. LYNCH: Right.

3 MR. MAY: Okay. So and I just have two
4 questions about the architecture. One is that the
5 area of rooftop setback relief is exactly the same as
6 what was there before, now.

7 MR. GLASGOW: Yes.

8 MR. MAY: Okay. And there's no -- we're not
9 creating any habitable space on the roof. There is a
10 potential for a rooftop terrace or something like
11 that, but there is not a major room associated with
12 it or anything, right?

13 [No audible response.]

14 MR. MAY: Okay. And then, because I mean,
15 that's one of the tradeoffs I think we've been -- had
16 a lot of discussion about that in the last few weeks.
17 And we don't like trading off setback relief for the
18 option of habitable space.

19 And then the last thing is, did anything
20 actually change in the design of that corner terrace
21 piece between setdown and today, because I was
22 looking at the drawings and maybe I just looked at
23 them too fast but I didn't see that there was any
24 real difference.

25 MR. VOELZKE: This is Jim Voelzke, MV&A

1 Architects.

2 We added glass. Actually, the proportions of
3 it changed a little bit and we added glass underneath
4 it.

5 MR. MAY: Oh, okay. Okay. All right. I
6 mean, I you know, I think it's fine. All right.
7 Thank you.

8 VICE CHAIR COHEN: Commissioner Miller, would
9 you like to go?

10 MR. MILLER: Thank you, Madam Chair. Yeah, I
11 like the design changes that -- provisions that were
12 made to the outdoor terrace and café. And I guess
13 the only question I had, the Office of Planning had
14 the condition about all entrances to this supermarket
15 be open to the public while the supermarket is open.
16 And I think in your submission you said the applicant
17 is amenable to complying with that condition.

18 MR. GLASGOW: That is correct, Commissioner
19 Miller.

20 MR. MILLER: How many entrances are there to
21 the supermarket and do you have any anticipated --
22 does Harris Teeter have any anticipated hours of
23 operation at this point?

24 MR. VOELZKE: I don't know what their hours
25 are. Right now we have one entrance. They may add a

1 second entrance. They haven't done their fixture
2 plan yet or their layout. But any entrances will be
3 on the north service court and exclusively on the
4 north service court.

5 MR. MILLER: You said right now they have one
6 entrance.

7 MR. VOELZKE: Yes, but that's --

8 MR. MILLER: Could change.

9 MR. VOELZKE: -- sort of early planning. I
10 don't know, you know, they may come up with a second
11 one as well.

12 MR. MILLER: Okay. Well, thank you. I have
13 no other questions.

14 VICE CHAIR COHEN: Thank you. Commissioner
15 Turnbull?

16 MR. TURNBULL: Thank you, Madam Chair. I
17 just had one question. Even when we set this down
18 previously, when we approved this, the intersection
19 at One Quarter and Evarts, where we have the loading
20 dock and the entrance to the senior housing, we made
21 a big case about the seniors being able to cross the
22 street carefully. And we talked about stop signs.
23 In fact, one option was even to have, I think on
24 Evarts Street, a stop sign with the flashing red
25 light was presented, I think, by you folks.

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1 In your latest presentation of a perspective
2 of that intersection, the previously submitted design
3 showed two stop signs. One at One Quarter Street and
4 one at Evarts. Now it looks like the stop sign at
5 Evarts has gone away. I only seen one at -- I see
6 one at Evarts but not one at One Quarter.

7 MR. VOELZKE: I think it's an error in the
8 rendering, sir. There's no change to the operation
9 of that intersection proposed.

10 MR. MILLER: Okay.

11 MR. VOELZKE: The crosswalks and stop signs
12 will be there.

13 MR. MILLER: So there are -- there are both
14 stop signs for that street?

15 MR. VOELZKE: Yeah. And I'll point out that
16 I think that the safety of that intersection is
17 greatly enhanced with the new design because the
18 trucks going in and out of the loading docks no
19 longer interact with that intersection.

20 MR. MILLER: Good. Thank you. The other
21 thing was questioning, originally with the recent
22 submittal I got a question about, we talked about a
23 dock manager, a loading manager. And originally you
24 said someone from Harris Teeter. Now we're getting
25 into other areas with other people. Who is operating

1 the loading management? Is it Harris Teeter or is
2 there someone from the building who is actually the
3 dock manager?

4 MR. SCHIESEL: It is someone from Harris
5 Teeter will have that responsibility and it will be
6 their responsibility to coordinate with the
7 residential property management for the potential for
8 sharing that dock.

9 MR. MILLER: Okay. And that person will be
10 available. It's not somebody who is -- I guess what
11 I'm concerned about that is not simply a stock person
12 who is putting, you know, stock on the shelves or
13 something. It's actually a designated person that's
14 going to be there to handle truck traffic.

15 MR. SCHIESEL: It's my understanding that all
16 the Harris Teeter loading docks will always have
17 somebody there scheduling and operating them, the
18 deliveries. Managing the loading dock might not be
19 their only responsibility.

20 MR. MILLER: Right. But it's a senior level
21 position, not -- within the company. Somebody who
22 has the authority to do this.

23 MR. SCHIESEL: That is my understanding.

24 MR. MILLER: Well --

25 MR. SCHIESEL: Yeah.

1 MR. MILLER: Somebody is trained.

2 MR. SCHIESEL: It will be a trained employee.

3 MR. MILLER: Well, when we do this
4 modification could we clarify that language to make
5 sure that the person from Harris Teeter is a trained
6 individual able to, and has the authority, to do
7 this? That's my only concern. I think that's
8 something critical for this whole loading dock to
9 succeed. That would be my only stipulation, that we
10 tighten that language up a bit.

11 But those are my questions, Madam Chair.

12 VICE CHAIR COHEN: Thank you, Commissioner.
13 I just have a couple of questions.

14 We're reducing the number of rental units by
15 six. Is that correct? And we're -- no? Can you
16 clarify? Is there still the same number of rental
17 units?

18 MR. LYNCH: There has been no change in the
19 rental units in this parcel, at Parcel 4. There is
20 196 units that are so-called market rate, and there
21 are 85 senior units that are here. The loading dock
22 changes and the changes to customize the building for
23 Harris Teeter has not affected the unit count above.

24 VICE CHAIR COHEN: Good. Do you have to go
25 back to HPO for approval of this change? Or --

1 MR. LYNCH: I don't think so, but we do have
2 to go back to staff from HPRB as we go through the
3 permitting process. So this will be a natural stop
4 for that.

5 VICE CHAIR COHEN: Okay. Thank you. Those
6 are my questions.

7 Is there no other questions? We'll go to --
8 is there anybody here from the ANC that -- do you
9 have any cross for the applicant?

10 [No audible response.]

11 VICE CHAIR COHEN: Okay. Then we'll move on
12 to the Office of Planning. Ms. Brown-Roberts.

13 MS. BROWN-ROBERTS: Good evening, Madam
14 Chair. Good evening, Madam Chair and Members of the
15 Zoning Commission.

16 I will stand on the record, and if you have
17 any questions I'm willing to take them.

18 VICE CHAIR COHEN: Thank you. Let's go on to
19 -- Mr. Rogers?

20 MR. ROGERS: Good evening, Madam Chair and
21 Members of the Commission. DDOT and the applicant
22 coordinated closely following the issuance of our
23 staff report to come up with a loading management
24 plan that addressed our concerns while meeting the
25 functional needs of the building, and as indicated by

1 the applicant the loading management plan submitted
2 today with the revision to restrict the residential
3 move in/move out and trash during the 90 minute
4 period is an acceptable solution and DDOT appreciate
5 the close coordination that the applicant has had to
6 resolve these issues. Happy to answer any questions.

7 VICE CHAIR COHEN: Thank you. Are there any
8 questions from the commissioners? Commissioner
9 Turnbull or -- of OP DDOT? Well, they're kind of
10 deciding.

11 MR. TURNBULL: Yeah, Madam Chair, we were
12 just -- we were huddling here. We had -- in both
13 residential lobbies is there a transit screen in each
14 one? Do you recall? I'm not sure if we had it or
15 not.

16 MR. SCHIESEL: No, I cannot recall from the
17 original PUD that the TDM plan. I guess we can look
18 that up.

19 VICE CHAIR COHEN: Mr. Rogers, do you recall?

20 MR. ROGERS: I don't recall. I'm sorry.

21 VICE CHAIR COHEN: Okay. Well, I thought
22 there was so that's scary if I recall. Anyway you'll
23 confirm, please.

24 MR. TURNBULL: But there would be one in
25 each, I would --

1 VICE CHAIR COHEN: Yeah, yeah, yeah, that's
2 what I thought.

3 MR. TURNBULL: Right. Yeah. Okay.

4 VICE CHAIR COHEN: But let's not rely on my
5 memory, so let's confirm that.

6 All right. So if there are no questions of -
7 - I just have one comment, actually. For Department
8 of Transportation, did you just get revised plan
9 today? Or did you get it --

10 MR. ROGERS: No, it was the loading
11 management plan specifically, which I believe was
12 entered into the record today.

13 VICE CHAIR COHEN: Okay. Because it would be
14 helpful to get things a few days ahead of time. I
15 guess I'm reprimanding you from your past as well.
16 Thank you.

17 All right. Does the applicant have any
18 cross?

19 MR. GLASGOW: No cross.

20 VICE CHAIR COHEN: And does the ANC have any
21 cross for OP or DDOT?

22 Then would you like to come up and testify
23 next?

24 [Pause.]

25 MS. BARNES: I'm not actually testifying

1 today because of the fact that ANC 5B has already
2 voted on this. And so Mr. Lynch had attended one of
3 the ANC public meetings to provide a presentation
4 updating the McMillan Parcel 4 to include the name of
5 the store and who the store was going to be.

6 So on October the 20th, 2015, ANC had a duly
7 noted public meeting with eight of 10 members
8 present. Six representing a quorum voted six, zero,
9 two to continue to support their modification of
10 Parcel 4 building for the Harris Teeter grocery store
11 modification for this Case No. 13-14B. And that's
12 all I have for today.

13 VICE CHAIR COHEN: Thank you very much.
14 Commissioners, any questions of the ANC?

15 [No audible response.]

16 VICE CHAIR COHEN: Thank you for your being
17 here today. Really appreciate your coming out.

18 Oh, cross. No, okay. See I can read minds
19 too.

20 All right. Let's move on to witnesses.
21 Chris Otten. Oh, and I'm sorry, there is only
22 Rashida Brown from ANC 1A. Welcome, and you have
23 three minutes so please -- no, you have five minutes
24 for an ANC. Three? Because they're -- sorry. But
25 why don't you start and if you go over a little bit,

1 I'm generous tonight.

2 MS. BROWN: Thank you. Good afternoon,
3 Commissioners. My name is Rashida Brown and I'm a
4 Parkview resident and ANC commissioner for the 1A-10
5 single-member district. ANC 1A-10 is adjacent to the
6 McMillan Reservoir and sits northwest of the sand
7 filtration site.

8 I'm testifying today to express my support
9 for this zoning application and on behalf of the
10 proponents who live within my single-member district.
11 The full ANC 1A is not weighing in on the matter.
12 The support on my side of the ward is quite
13 significant. We recognize the numerous benefits that
14 will follow this development, including a quality
15 grocery store where residents have access to
16 affordable and healthy produce.

17 The applicant, Jair Lynch Development
18 Partners, has requested to modify the previously
19 approved consolidated PUD for Parcel 4 to accommodate
20 the programmatic requirements that are specific to
21 the identified tenant, Harris Teeter. Changes in the
22 loading management plan provide a customized
23 structure to better accommodate Harris Teeter's
24 delivery trucks and equipment throughout Parcel 4.

25 For this community Harris Teeter wouldn't be

1 just another grocery store. It would be a part of a
2 greater vision for McMillan, providing wellness and
3 healthy produce for a community striving for greater
4 access. Harris Teeter is known for providing
5 supports to the community through its pharmacy,
6 health information for seniors, leveraging a one easy
7 access place, complementing the multiple benefits
8 within Parcel 4, including affordable housing.

9 The need for better, more sustainable, and
10 more cost-effective health outcomes must rest on a
11 network of strong families and supportive
12 communities. A quality grocery store like Harris
13 Teeter sits in the heart of this and we are all
14 trying to achieve -- and that we are all trying to
15 achieve for the McMillan.

16 I continue to remain supportive and urge you
17 to approve this application. Thank you.

18 VICE CHAIR COHEN: And thank you for your
19 testimony. Any questions of this person?

20 Okay. Applicant, any questions?

21 Okay. ANC, any?

22 Okay. Thank you very much. Anybody else in
23 support of this application? Anybody in support of
24 the application please come up now.

25 Seeing none then we'll go on to opponents.

1 Mr. Chris Otten and Ms. Abigail, I can't pronounce
2 your last name. Looks like Deer, Doubts?

3 MS. DeROBERTS: DeRoberts.

4 VICE CHAIR COHEN: Okay. Why don't you come
5 up too, please?

6 Mr. Otten, you're representing D.C. For
7 Responsible Development?

8 MR. OTTEN: Reasonable.

9 VICE CHAIR COHEN: Reasonable. Okay. Can I
10 -- why don't you begin, please?

11 MR. OTTEN: Okay. Thank you. Thank you,
12 Vice Chair Cohen and Commissioners.

13 D.C. For Reasonable Development is an
14 unincorporated nonprofit citizen's association of
15 D.C. residents, activist organizations, ANC
16 Commissioners, civic reps, and all those who care
17 about planning in the District. Several participants
18 live within eyesight of the subject site, McMillan
19 Park.

20 Any modifications to Zoning Commission Order
21 13-14 must consider that Zoning Order 13-14 is under
22 appeal right now in the highest court in the District
23 of Columbia. The Office of Planning is calling these
24 modifications minor. DDOT, up until today, has
25 called the modifications untenable in terms of

1 mitigating failing traffic conditions along North
2 Capitol Street as well as on to Evarts Street. I'm
3 not quite sure what was filed today, but I don't
4 think there's any way possible that somehow they've
5 mitigated the failing traffic conditions along North
6 Cap and Evarts Street.

7 Modifications to D.C. Order 13-14 whereby
8 agencies are unsatisfied or express concerns are not
9 minor. Here we are, I think it's the third or fourth
10 hearing on this project. There are absolutely no
11 view shed depictions showing how modifying the height
12 of the proposed parcel buildings, including 14-foot-
13 tall mechanical penthouses will impact the views of
14 the surrounding neighborhood, from Lincoln's Cottage,
15 or any direction around this historic site.

16 Further, the issue of the land covenants are
17 still outstanding. Preservation of this historic
18 landmark goes against the Secretary of the Interior
19 Standards for Historic Preservation. How long will
20 this be ignored?

21 The Office of Planning still has not
22 conducted the required comprehensive public review
23 pursuant to PUD regulations to determine the adverse
24 effects of the proposed project and modifications
25 thereto.

1 D.C. For Reasonable Development participating
2 members are injured by the fact that only a couple of
3 the relevant agency reports can be found on the
4 record in either this case or 13-14. These reports
5 would shed light on potential adverse effects so that
6 the Zoning Commission can conduct your legally
7 required balancing act, public benefits versus
8 adverse impacts and either mitigate those effects or
9 find the impacts unacceptable according to the
10 regulations.

11 I don't know how you're going to be able to
12 do that without the relevant agency reports on the
13 record.

14 We ask you to take no action on these
15 modifications given consideration of the appeals now
16 before the Court of Appeals. We ask you to consider
17 the fraud involved with Fontaine PR Company that
18 astro turfed the surrounding neighborhood. We ask
19 you to consider the privatization of this public land
20 and ask OP to clarify what they mean by minor
21 modifications when the destruction of this historic
22 landmark will be a major problem for the surrounding
23 community for all eternity, and those who currently
24 enjoy and appreciate this historic public open space
25 will be affected permanently.

1 In my submission I have included attachments.
2 There's an outstanding question of whether or not
3 this was fraudulently sole sourced to Vision McMillan
4 Partners by the executive in this case, DMPED. And
5 when will the Zoning Commission step up to understand
6 the conflict of interest that exists when you have
7 DMPED as the applicant, co-applicant of this project
8 sitting as the boss of the Office of Planning who is
9 recommending approval of these projects to you?
10 There's a serious conflict of interest there and it
11 needs to be dealt with seriously.

12 Clearly Office of Planning has rubber stamped
13 this through and through. And it's up for the Zoning
14 Commission to determine whether or not their
15 reporting is acceptable. An acceptable level of
16 planning in the District of Columbia here in modern
17 day 21st Century planning in the Nation's Capital.

18 When you look at other planning agencies
19 around the world and including our nation, they have
20 reports that are hundreds of pages long that take
21 into consideration displacement impacts, that take
22 into consideration noise impacts, that take into
23 consideration refuse, infrastructure. Not once in
24 any of the reports on file in the record across any
25 of these McMillan Park zoning records can you find

1 any analysis by the Office of Planning as if they're
2 working in the vacuum. It is outrageous and it is
3 injuring our participating members.

4 For that, we are simply asking that you obey
5 any decisions on these modifications until the Court
6 of Appeals can discern whether or not the Office of
7 Planning is doing their job. Certainly we haven't
8 seen you guys ask them to do their job. So we had to
9 take it to court. We're asking you to ask them to do
10 their job tonight. Thank you.

11 VICE CHAIR COHEN: Thank you. Next.

12 MS. DeROBERTS: Good evening, Commissioners.
13 My name is Abigail DeRoberts. I live in ANC 5E. I'm
14 a constituent of Ms. Barnes, and I'm here this
15 evening to testify about the modification of course
16 to the zoning. I got involved with D.C. for
17 Reasonable Development and Friends of McMillan Park
18 because I live in the neighborhood. I live just two
19 blocks south of the park.

20 VICE CHAIR COHEN: Excuse me. Are you
21 testifying as yourself now, or are you testifying as
22 part of --

23 MS. DeROBERTS: I'm testifying as myself.

24 VICE CHAIR COHEN: Okay.

25 MS. DeROBERTS: But I --

1 VICE CHAIR COHEN: Just wanted to clarify.

2 MS. DeROBERTS: Yeah. So I am testifying as
3 myself and just as someone who is directly very
4 deeply impacted by this.

5 As I was sitting down, thinking about my
6 testimony just before 6:00 p.m., I was sitting in my
7 bedroom with my window open. I'm about a half block
8 off of North Capitol Street. And I heard a siren of
9 an ambulance going to the hospital, as I do every
10 day. And I heard this siren completely stopped in
11 traffic on North Capitol Street, not getting any
12 louder, not getting any quieter, completely blocked
13 by what is already totally debilitating traffic in
14 the neighborhood.

15 And actually, as I was on my way here I was
16 talking to one of my neighbors who shared the same
17 concerns about the problems with the traffic in the
18 neighborhood and specifically on North Capitol
19 Street. North Capitol and Evarts is really interview
20 the epicenter of this traffic quagmire that totally
21 debilitates the neighborhood two times a day at rush
22 hour. And I really think that augmenting this zoning
23 to make it easier for this Harris Teeter to go in is
24 only going to increase the problems with the traffic
25 on North Capitol Street. I think the loading

1 management plan has not really satisfied the
2 communities problems with the traffic in the
3 neighborhood.

4 And I have known Ms. Barnes since I moved to
5 the neighborhood about six and a half years ago, but
6 I don't really feel like her opinion on this is
7 representing the constituents in the neighborhood and
8 myself and my neighbors.

9 I feel like the transit screen by DDOT must
10 not have been done any time related to rush hour
11 traffic because rush hour traffic is absolutely crazy
12 in the neighborhood. And to think about loading
13 things into and out of a Harris Teeter at North
14 Capitol and Evarts is just absolutely ridiculous.
15 Even on the Bears side on 1st Street, which is
16 currently closed off for the construction, knowing
17 what that traffic was like before the construction
18 went in makes me also not very optimistic about that
19 being well managed as far as like, an in and out for
20 a Harris Teeter, or a building with hundreds of
21 units, or hundreds of row houses that are thrown up.

22 So basically my primary concerns are the
23 traffic and the impacts of also long-term
24 construction on the traffic of the neighborhood. And
25 I don't really see any ways that these augments to

1 the zoning are going to help. I think they're only
2 going to hurt the neighborhood and the community.
3 That's all I got. Thanks.

4 VICE CHAIR COHEN: And thank you.
5 Commissioners, any questions of these individuals?

6 The applicant, do you have any cross?

7 ANC, any cross?

8 Thank you very much for your testimony.
9 Applicant, please come up and provide your rebuttal
10 and closing, please.

11 MR. GLASGOW: Thank you, Madam Vice Chair.
12 With respect to rebuttal, the person that was
13 testifying with respect to what traffic consultant
14 was not -- traffic issues was not qualified as a
15 traffic engineer, and we've had our expert traffic
16 engineer testify as to that, and the DDOT
17 representative on those issues.

18 With respect to issues dealing with the court
19 case, the orders of the Zoning Commission are in full
20 force and effect unless and until either -- until
21 they are dealt with by the Court in some other
22 fashion. Either a remand, reversal, or whatever. So
23 all of the orders that you have in this case are
24 totally in full force and effect and proceeding on
25 that basis.

1 Lastly, with respect to this particular
2 project and Harris Teeter, as was testified by Mr.
3 Jair Lynch, they are under a letter of intent. We
4 want to move that forward from the letter of intent
5 stage. There were a couple of items that I think the
6 Commission indicated they wanted some clarification
7 on. But basically we believe that this case is ready
8 for disposition this evening on preliminary action.
9 And, Mr. Lynch, if you'd like to add anything to that
10 with respect to proposed action and the importance of
11 proceeding with Harris Teeter as quickly as possible.

12 MR. LYNCH: Commissioners, Jair Lynch. I
13 just want to reemphasize the fact that this project
14 has been a long time coming. There's been
15 significant momentum around this project over the
16 last couple of years, and landing the first anchor
17 tenant naturally allows for other retail to follow,
18 as co-tenancy is a big deal as part of the retail
19 master plan, we expect to continue to negotiate a
20 lease with Harris Teeter. But one of the conditions,
21 conditions precedent of actually executing a lease is
22 actually finishing the zoning components, and so we'd
23 urge you to make a decision as soon as possible and
24 we will continue to run forward as quickly as we can.

25 VICE CHAIR COHEN: Is that it? Okay. Even

1 in light of there being opposition expressed tonight,
2 I'm very comfortable and I believe my colleagues are
3 as well, to move ahead tonight with proposed action
4 pending, receiving from you, I think there are two
5 additional items which I'll have Ms. Schellin
6 summarize.

7 In light of that I will move to approve the
8 application for modification of a consolidated
9 planned unit development for Parcel 4 at the McMillan
10 Reservoir Slow Sand Filtration Site, Northwest
11 Washington, D.C., and ask for a second.

12 MR. MILLER: I'll second that. I'll second
13 that, Madam Chair, and I also want to just speak
14 briefly to the motion.

15 VICE CHAIR COHEN: Sure.

16 MR. MILLER: So, you know, what's before us
17 is a modification of a previously approved PUD.
18 Modifications mostly in design and loading related to
19 the perspective supermarket tenant. I think when we
20 previously approved the program for this particular
21 Parcel 4, I think this was one of the parcels that we
22 were most excited about, because of the large
23 supermarket coming to the neighborhood, the senior
24 housing, and the other housing, some of which I think
25 is affordable. So --

1 VICE CHAIR COHEN: All of the senior.

2 MR. MILLER: So none of that has changed. I
3 think even though there are obviously dissenting
4 opinions within any diverse community I would hope
5 that Mr. Roberts will be able to enjoy the
6 convenience of a supermarket near your neighborhood
7 without hopefully not exacerbating the existing
8 traffic problems, and hopefully some of the
9 mitigation measures that were in the previously
10 approved PUD will be monitored by DDOT and altered
11 and strengthened if they need to be.

12 So with that, I'm ready to move forward.

13 VICE CHAIR COHEN: Thank you for your
14 elaboration. For the record I think that was very
15 important. So now that we have a -- we've moved and
16 second, all those in favor?

17 [Vote taken.]

18 CHAIRPERSON HOOD: Ms. Schellin.

19 MS. SCHELLIN: Yes. Staff records the vote
20 four to zero to one to approve proposed action in
21 Zoning Commission Case No. 13-14B, Commissioner Cohen
22 moving, Commissioner Miller seconding, Commissioners
23 Turnbull and May in support, Commissioner Hood not
24 present not voting.

25 And I just have a couple items that the

1 Commission asked for. Commissioner Turnbull asked
2 that the applicant clarify the language that the
3 person from Harris Teeter is trained to be the
4 loading dock manager, and also he'd like a drawing
5 showing the stop sign at, I believe it was Evarts and
6 Quarter Street, that intersection there. And
7 Commissioner Cohen asked that they confirm the
8 transit screens in both lobbies.

9 Anything else?

10 VICE CHAIR COHEN: That's it. Thank you very
11 much.

12 MS. SCHELLIN: So if we could set a date, how
13 much time do you -- Mr. Glasgow, do you think you
14 need? Two weeks? Two weeks?

15 MR. GLASGOW: One week.

16 MS. SCHELLIN: Okay. We'll give you two
17 because it's not going to make a difference when you
18 get final action. So, you won't have to rush. So if
19 we could have that by 3:00 p.m. on the 24th of March?
20 And then if the ANC chooses to respond they would
21 have until 3:00 p.m. on the 31st. And then final
22 action would occur on April 11th, because I'll stay
23 and refer it to NCPC tonight before I leave.

24 MR. GLASGOW: Do we need to go through the
25 BAFO process with this?

1 MS. SCHELLIN: No.

2 MR. GLASGOW: Thank you.

3 MS. SCHELLIN: That was the other thing I
4 wanted to ask the Commissioners. Since this is -- it
5 has nothing to do with amenities, that the Commission
6 would waive that process. Okay.

7 VICE CHAIR COHEN: Yes. That's it. Okay.
8 Nothing further. This meeting is adjourned. I thank
9 everybody for coming tonight.

10 [Hearing adjourned at 7:15 p.m.]

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