

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

PUBLIC HEARING

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IN THE MATTER OF: :
   
:
   
WESLEY HAWAII, LLC - : Case No.
   
Consolidated PUD & Related : 19-01
   
Map Amendment at Parcel :
   
124/77 :
   
:
   
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Monday,
   
September 16, 2019

Hearing Room 220 South
   
441 4th Street, N.W.
   
Washington, D.C.

The Public Hearing of Case No. 19-01 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
   
ROBERT MILLER, Vice Chairman
   
MICHAEL G. TURNBULL, FAIA, Commissioner
   
(AOC)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON  
JONATHAN KIRSCHENBAUM

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MAXIMILIAN TONDRO, ESQ.  
ALEXANDRA CAIN, ESQ.

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF PRESENT:

JONATHAN ROGERS

This transcript constitutes the minutes from the Public Hearing held on September 16, 2019.

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

6:33 p.m.

1  
2  
3 CHAIRMAN HOOD: Good evening, ladies and  
4 gentlemen. This is the public meeting of the Zoning  
5 Commission for the District of Columbia. My name is Anthony  
6 Hood. Joining me is Vice Chair Miller and Commissioner  
7 Turnbull, Office of Zoning staff Ms. Sharon Schellin, Office  
8 of the Attorney General Ms. Cain, and Mr. Tondro, Office of  
9 Planning staff Mr. Lawson and Mr. Kirschenbaum, District  
10 Department of Transportation, Mr. Rogers.

11 Tonight's case is Zoning Commission Case No. 19-  
12 01. This is the Wesley Hawaii, LLC, Consolidated PUD Related  
13 Map in Parcel 124/77, One Hawaii Avenue, Northeast. And  
14 today's date is September the 16th, 2019. We're located in  
15 the Jerrily R. Kress Memorial Hearing Room.

16 Let's be remindful that we are being recorded by  
17 a court reporter and also webcast live. The order of  
18 service: Preliminary Matters, Applicant's case, Report of the  
19 Office of Planning and the District Department of  
20 Transportation, Report of Other Government Agencies, Report  
21 of the ANC, testimony of organizations and individuals, and  
22 rebuttal and closing by the Applicant.

23 A couple of housekeeping. Please turn off all  
24 your electronic devices. Anyone who would like to testify,  
25 please register at the kiosk. If you need some assistance,

1 you can see Ms. Schellin. When presenting testimony, please  
2 turn on your microphone and please turn on your microphone,  
3 first stating your name and home address. When you are  
4 finished speaking, please turn your microphone off.

5           The Commission's decision must be based  
6 exclusively on the public record. Any material -- and you  
7 know you're not -- we're not supposed to speak to any of the  
8 Commissioners. I mean you can say hi, but we cannot talk  
9 about any cases and what-not. The staff will be available  
10 throughout the hearing to discuss procedural questions.

11           So with that, would all individuals wishing to  
12 testify please rise to take the oath? Ms. Schellin, would  
13 you please administer the oath?

14           (Witnesses sworn.)

15           CHAIRMAN HOOD: All right. Ms. Schellin, do we  
16 have any preliminary matters?

17           MS. SCHELLIN: Yes sir. Exhibit 30, the Applicant  
18 submitted a motion to waive Subtitle Z, Section 300.7,  
19 requiring it to serve the Notice of Intent on ANC 4D. That  
20 ANC is across the street from the project, which is also  
21 considered an affected ANC. At the time that it served its  
22 Notice of Intent, it only served ANC 5A.

23           Everything after the Notice of Intent was served  
24 on both ANCs. So we ask the Commission -- I believe they did  
25 meet with 4D and everything after that was served on both

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1 ANCs. So we'd ask the Commission to consider their motion  
2 for waiver.

3 CHAIRMAN HOOD: Okay. Ms. Moldenhauer, are you  
4 presenting?

5 MS. MOLDENHAUER: Yes.

6 CHAIRMAN HOOD: Let me first ask you a question  
7 about the Notice of Intent. It's not that you -- for the  
8 record, it's not that you didn't present to the ANC 4C, I  
9 believe it is, it's just that you didn't serve them with the  
10 Notice of Intent. You presented and you gave them the same  
11 information you gave the ANC in 5A as well, correct?

12 MS. MOLDENHAUER: Correct. So with ANC 4D, we  
13 went, we met with them, we presented information about the  
14 project. We served them with the application and all  
15 subsequent documents. It's just solely that we did not serve  
16 them with the Notice of Intent, a 45-day Notice of Intent.

17 CHAIRMAN HOOD: And I didn't see anything, and  
18 maybe we'll look at it. I did see 5A's, but did 4D submit  
19 anything?

20 MS. MOLDENHAUER: No, they did not.

21 CHAIRMAN HOOD: Okay. Well, we can -- I ask you  
22 more as we get into the hearing.

23 MS. MOLDENHAUER: Sure.

24 CHAIRMAN HOOD: All right. Any other questions  
25 on that issue? Any objections to the request for the waiver?

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1 Okay. I think with the testimony provided by Ms.  
2 Moldenhauer, I think they did do their due diligence even  
3 though they didn't serve it, because I would have had a  
4 problem had they not went over and spoke and did the same  
5 thing with the ANC.

6 But that seems to not be the case according to the  
7 testimony provided here this evening. So unless there are  
8 any objections, I think we can accept that waiver. Anything  
9 else, Ms. Schellin?

10 MS. SCHELLIN: Yes. For the proffered experts,  
11 the Commission has accepted Mr. Varga and Mr. Van Pelt  
12 before. I'd just ask that you consider accepting them in  
13 this case this evening as expert witnesses.

14 CHAIRMAN HOOD: Okay. I was about to say, I  
15 didn't see Mr. Van Pelt, but I see him now. I see Mr. Varga.  
16 Any objections? We will continue their status.

17 MS. SCHELLIN: Okay, and then one other. Mr.  
18 Haresign, sorry. He was previously accepted by the  
19 Commission as an expert and master of planning, but that he's  
20 being proffered his evening in architecture. Now did he did  
21 come before the Zoning Commission in the 80's for 901 New  
22 York Avenue.

23 We could not find the record for that case,  
24 showing that he was -- had expert status. So to be safe,  
25 we're just asking that the Commission consider him as an

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1 expert in architecture this evening, just to -- so we have  
2 a record of it.

3 CHAIRMAN HOOD: Okay. Any questions or comments  
4 on that?

5 COMMISSIONER TURNBULL: I think he's fine, Mr.  
6 Chair.

7 CHAIRMAN HOOD: Okay. In the '80's, who was the  
8 chair then? Do you remember? Was it a good group back then?

9 MR. HARESIGN: Not nearly as good as this group.

10 CHAIRMAN HOOD: That was actually the good answer,  
11 and some of them are still around. I do know them now. But  
12 that was a good answer. You definitely have my expert  
13 status, so, anyway. All right. Anything else, Ms. Schellin?

14 MS. SCHELLIN: Let's see. That is all I have.

15 CHAIRMAN HOOD: Okay. Let me ask, does the  
16 applicant have any preliminary matters?

17 MS. MOLDENHAUER: No, I believe Ms. Schellin  
18 addressed everything. We did also did hand in a letter from  
19 the Fort Totten Civic Association that's not physically part  
20 of the record. That might be one other --

21 MS. SCHELLIN: They've got that.

22 CHAIRMAN HOOD: Okay. So with that, Ms.  
23 Moldenhauer, I would ask, you all have requested 35 minutes.  
24 Unless my colleagues have something else, I would ask that  
25 you specifically address the inconsistency with the FLUM

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1 concept of plan, what is it designated for and what you all  
2 requesting. If we can flush out all those questions and make  
3 sure we get them out for the record.

4           Why should we look at one versus the other? That  
5 whole conversation would be very helpful as we move forward.  
6 Let me see. Anybody have anything else to add? Okay. Why  
7 should we pick one over the other? That whole discussion  
8 would be very helpful, okay. All right, anything else? All  
9 right. So you may begin.

10           MS. MOLDENHAUER: Thank you. Good evening  
11 Commissioners. My name is Meridith Moldenhauer from the law  
12 firm of Cozen O'Connor on behalf of the Applicant, Wesley  
13 Hawaii LLC. We're here tonight to present an application for  
14 a Consolidated PUD and corresponding map amendment for a 70  
15 unit all affordable apartment building at One Hawaii Avenue,  
16 N.E., in the Fort Totten-Pleasant Hill neighborhood.

17           As part of that application, Wesley Housing is  
18 requesting a map amendment from the RA-1 Zone to the RA-2  
19 Zone. Wesley Housing proposes to raze the existing building,  
20 which has outlived its useful life and construct a new  
21 building to improve amenities, environmental sustainability  
22 features and significantly more family-sized housing, with  
23 an additional 36 units of affordable housing over what  
24 currently exists today.

25           You will hear testimony from Mr. Chris Marshall

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1 on behalf of Wesley Housing regarding the range of affordable  
2 levels for the project, from 30, 60 to 80 percent of MFI for  
3 a minimum period of 40 years. Mr. Marshall will also discuss  
4 how the project will not displace any tenants, because the  
5 existing tenants will be relocated during construction at  
6 Wesley Housing's expense, and will entitle them to return to  
7 the new building at a substantially similar rent.

8           Also to address the Commissioners' questions, Mr.  
9 Varga will testify in more detail about the project's  
10 consistency with the Comprehensive Plan. But I do want to  
11 address the FLUM designation for the project, which is  
12 currently identified as park, recreation and open space.

13           We concur with OP's report that this designation  
14 is incorrect, because the property has been privately owned  
15 and improved with an apartment building for a significant  
16 period predating the passage of the first Comprehensive Plan  
17 in 1984. The park recreation open space designation, which  
18 is generally intended only for those properties that are  
19 owned by federal or district entities, and owned as parks,  
20 this obviously is not, is likely a mistake to the property's  
21 location directly next to federal cemeteries.

22           I then direct the Zoning Commission to the most  
23 recent Court of Appeals cases, which have affirmed the Zoning  
24 Commission can find a PUD and map amendment not inconsistent  
25 with the Comprehension Plan, where the proposal may conflict

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1 with certain recommendations of the Comp Plan. The Court of  
2 Appeals even just this summer upheld the Commission's remand  
3 of the approval of the Friends of McMillan Park II case.

4 In that case, the Court of Appeals, directly  
5 quoting from the *Durant* case said that the Court noted that  
6 even if a proposal conflicts with one or more individual  
7 policies associated with the Comprehensive Plan, this does  
8 not in and of itself preclude the Commission from concluding  
9 that the action would be consistent with the Comprehensive  
10 Plan as a whole.

11 Thus, the Court said, quote, The Commission may  
12 balance the competing priorities in determining whether a PUD  
13 is consistent with the Comprehensive Plan as a whole. If the  
14 Commission approves a PUD that is inconsistent with one or  
15 more policies reflected in the Comprehensive Plan, the  
16 Commission must recognize these policies and explain why they  
17 are outweighed by the other competing considerations.

18 Here we have a case such as this, and the  
19 Commission does have the authority, as the Court has stated,  
20 to evaluate the Comprehensive Plan as a whole and to identify  
21 that here, one policy such as the FLUM map can be outweighed  
22 or balanced by the competing priorities of other elements.  
23 And as I said, Mr. Varga will go through all of the multiple  
24 elements that we feel are consistent with this project. But  
25 to that end --

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1 CHAIRMAN HOOD: One minute Ms. Moldenhauer. Do  
2 we have that in the record, what you just read?

3 MS. MOLDENHAUER: I can provide it. It's a copy  
4 of my testimony.

5 CHAIRMAN HOOD: I'd like that to be part of the  
6 record.

7 MS. MOLDENHAUER: Absolutely. We'll upload a  
8 couple -- we'll upload it to the record afterwards.

9 CHAIRMAN HOOD: All right, thank you.

10 MS. MOLDENHAUER: To that end we outline in our  
11 written submission that the project furthers a number of  
12 policies, both in land use elements, housing, transportation,  
13 environmental and urban design and the Rock Creek East  
14 elements.

15 Our planner, Mr. Varga, will explain this in more  
16 detail, but also it is important for the Zoning Commission  
17 to note that the project is consistent and not inconsistent  
18 with the GMP, the Generalized Policy Map, which identifies  
19 the property as neighborhood conservation area designation.

20 Thus in these cases, the Commission can find that  
21 the Wesley Housing project is not inconsistent with the Comp  
22 Plan as a whole based on a balancing of policies and  
23 elements, that the project is consistent with the overall,  
24 and with the single inconsistent element of the FLUM  
25 designation.

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1           Before I turn it over to Mr. Marshall, I did also  
2 want to briefly mention that Wesley Housing has worked  
3 extensively with the community, both before and after the  
4 application, beginning back in May of 2018, and wrapped up  
5 just a few weeks ago on August 21st. Wesley Housing has  
6 placed a high value of community support and collaboration,  
7 given its mission and long term ownership goals.

8           As I noted earlier, we have a letter that was not  
9 part of the record but was added this evening, which was from  
10 the Fort Totten Civic Association. We have the Office of  
11 Planning Support and DDOT that we worked with collaboratively  
12 throughout this process. And I'd also just like to note that  
13 this evening there was also a filing from the Coalition for  
14 Smarter Growth in support of the application that is in the  
15 record at Exhibit 36. Thank you. I'll turn it now over to  
16 Mr. Marshall.

17           MR. MARSHALL: Good evening. My name is Chris  
18 Marshall, and I'm a project manager at Wesley Housing  
19 Development Corporation, the parent company to the Applicant,  
20 Wesley Hawaii LLC. As a brief background on Wesley Housing,  
21 we are a non-profit affordable housing developer established  
22 in 1974. Wesley Housing owns over 1,700 units in Virginia  
23 and D.C.

24           Although our track record in Virginia dates back  
25 decades, Wesley Housing more recently entered the D.C.

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1 market, starting with the current renovation of 80 existing  
2 affordable apartments at 7th and Hamlin Streets, N.E. We  
3 were excited about this application and the proposed 70 unit  
4 all-affordable building at One Hawaii Avenue, N.E.

5           We think Bonstra Haresign has done an excellent  
6 job designing a building that meets Wesley Housing's goals  
7 for the site. We hope that in time, this building will  
8 become a source of pride for the neighborhood. A vital piece  
9 of this process has been our work with the existing tenants  
10 at One Hawaii Avenue and the broader Fort Totten community.

11           Over two years ago, the existing tenants were  
12 living in squalid conditions. Indeed, the existing building  
13 was the poorest condition building Wesley Housing had ever  
14 purchased. Faced with the potential of having their homes  
15 sold to another buyer, the tenants acted on their TOPA rights  
16 and assigned their purchase rights to Wesley Housing.

17           We agreed to provide the existing tenants with  
18 paying for all relocation expenses during construction, rent  
19 protections for the life of their residency, the right to  
20 return to comparable unit sizes, and paying for the  
21 Association's legal representation. Additionally, we've also  
22 worked extensively with the ANC, specifically Commissioner  
23 Sandy Washington as well as the Fort Totten Civic  
24 Association.

25           In June, we requested a postponement of our

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1 previously scheduled hearing in order to address community  
2 concerns. In response to these concerns, we have revised our  
3 proposal since the Commission set down our application in  
4 March. These revisions include reducing the building height  
5 from five stories to four, reducing the unit count from 78  
6 to 70 units, increasing parking spaces from 12 to 14, and  
7 adding an outdoor play area for children.

8 I am happy to report that as a result of these  
9 changes, we have received the full support of both ANC 5A and  
10 the Fort Totten Civic Association. To that end, I did want  
11 to address the potential adverse impacts of the proposed PUD,  
12 and how our project mitigates or otherwise outweighs those  
13 impacts. With respect to surrounding parking needs, the 14  
14 spaces we are providing exceeds the zoning requirement for  
15 a 70 unit building, which is 11 spaces.

16 Since we have reduced the unit count and increased  
17 the parking, we feel that no adverse impact exists. But if  
18 asserted, then our modifications have mitigated any minor  
19 impacts. With respect to the increased density of the site,  
20 as I noted we mitigated any concerns by reducing the building  
21 size by eight units. We feel that any impacts of increased  
22 density are outweighed by the provision of 70 affordable  
23 apartment units, many of which are family sized.

24 With respect to the building height, the  
25 property's location mitigates any adverse impacts. The

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1 property has existing buffers, as all three sides are bounded  
2 by roads. Additionally, we do not have neighbors on two  
3 sides as we abut cemeteries to the south and west. To the  
4 north and east, the homes across Hawaii Avenue are separated  
5 from the project with a 120 foot right-of-way.

6           Thus, we feel the proposal is in harmony with the  
7 neighborhood and will not adversely impact neighboring  
8 properties due to a tight fit. As I previously mentioned,  
9 we worked with the existing tenants and have ensured as  
10 limited an impact as possible for them during the temporary  
11 relocation process.

12           The tenants' right to return to the new building  
13 mitigates any concerns for displacement. Moreover, the  
14 tenants will be able to come back with substantially similar  
15 rents. Wesley Housing believes we have offered a robust  
16 benefits package as a part of our application. Our primary  
17 benefit is that we are offering 70 fully affordable dwelling  
18 units.

19           We have proposed affordability levels at 30  
20 percent, 50 percent, 60 percent and 80 percent MFI for a  
21 period of 40 years. Ten percent of the units will be  
22 affordable for the life of the building under IZ regulations.  
23 Although the entire building will be affordable for no less  
24 than the 40 year period, we have requested flexibility from  
25 the Commission to vary affordability levels.

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1 Right now, our building-wide affordability average  
2 is 58 percent MFI, and we are seeking flexibility to increase  
3 the average up to 60 percent MFI. This modest flexibility  
4 maintains the substantial levels of affordability we are  
5 proposing, but gives Wesley Housing the needed ability to  
6 adjust to future DHCD funding guidelines if necessary.

7 In addition to the affordable housing benefit,  
8 Wesley Housing is offering the following public benefits and  
9 project amenities: Superior urban design and architecture,  
10 employment and training opportunities, superior landscaping  
11 and preservation of open spaces, social services,  
12 environmental sustainability, uses of special value and an  
13 outdoor children's play area.

14 Finally, as requested by the Office of Planning,  
15 Wesley Housing can commit to programming the outdoor play  
16 area prior to the issuance of the Certificate of Occupancy.  
17 If the Commission has any question about Wesley Housing's  
18 benefits and their amenities package, I would be happy to  
19 answer. Thank you again for your attention, and I will now  
20 turn it over to our project architect, David Haresign from  
21 Bonstra Haresign.

22 MR. HARESIGN: Hi. My name is David Haresign.  
23 I'm an architect with Bonstra Haresign Architects. I live  
24 in Washington, D.C. in American University Park. Our firm  
25 is located on 14th Street, 14th and between R and S. The

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1 firm is 15 years old. My partner Bill started a predecessor  
2 firm five years before that in 2000.

3           We are predominantly an urban mixed use firm. We  
4 do probably 60 to 70 percent multi-family housing. We've  
5 developed, we've designed over 10,000 units of housing with  
6 1,500 affordable units, mostly in Washington, D.C. I had a  
7 full presentation that would take about oh, 20 minutes, but  
8 I've been asked to truncate that if that's acceptable to the  
9 Board, and answer three, three particular points that were  
10 outlined in the Office of Planning and Department of  
11 Transportation reports.

12           First, DDOT. If you'll go to the site plan  
13 please. So you can see Hawaii Avenue on the right-hand side,  
14 Rock Creek Church on the left-hand side and Allison Street  
15 on the south, kind of southeast side. Our entrance into the  
16 parking garage and loading area is from Allison Street.

17           DDOT's only comment related to the building  
18 architecture was to make certain that we provided mirrors  
19 that would allow for safe ingress and egress from the garage,  
20 and we intend to show those mirrors in the final construction  
21 documents. They will also likely be adjusted in the field  
22 once those retaining walls are built.

23           The second item, if you'd go to the roof plan, had  
24 to do with solar panels and -- solar panels and green roofs.  
25 The Department of Energy and Environment has specific

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1 guidelines for the design of solar panels above green roofs.  
2 You can see that on the right-hand side of our project in the  
3 southeast corner, there are solar panels that are above the  
4 green roof.

5           It's Wesley's intention to get as close to a net  
6 zero building as possible, and these solar panels are shown.  
7 They are shown in the event that they are able to get grants,  
8 but their intention is to provide solar panels. So we have  
9 followed the guidelines that DOEE has provided to us, and we  
10 have reviewed those guidelines with two consultants, they're  
11 consulting firms who do solar panels and they've agreed to  
12 -- they've agreed these layouts meet their requirements.

13           The third item was potential increase or decrease  
14 of units, so if you'd go to the second floor. We have some  
15 units that are a little unusual. We have double inside  
16 corners on this building because it's a T shape, and we have  
17 in normal Washington parlance, we'd be able to put bedrooms  
18 indoors that have glass walls and open to living rooms and  
19 with a sight to outside windows.

20           The affordable housing requirements in D.C., they  
21 require that all bedrooms have an outside window. So the two  
22 units that Juan is going to point to that unit and the one  
23 south of the core area, have outboard bedrooms that face out,  
24 and inboard living spaces. Wesley has not finally determined  
25 whether they're going to move forward with this unit design,

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1 which requires us to request a little bit of flexibility in  
2 terms of unit yield.

3           So we may in fact resubdivide some of the units,  
4 and it could result on the second, third and fourth floor in  
5 a reconfiguration of those units. I think also one on the  
6 first floor. So up to seven units may be impacted by the  
7 design of this. So that's the reason, the primary reason for  
8 the request for flexibility. Meridith.

9           (Off-microphone comments.)

10           MR. HARESIGN: I didn't know -- have that. Sorry.  
11 So there was -- DOEE also requested that we provide charging  
12 stations. Our client has agreed to provide an infrastructure  
13 for that. So they will provide conduits and the ability to  
14 install I think it's probably 207 or 240, 240 amp power for  
15 charging stations in the garage if required.

16           So there's no guarantee that by the time this  
17 project's built that there will be any tenants that are --  
18 that need that. But in the event in that they do, our client  
19 has agreed to provide for a charging station. That's it.

20           MS. MOLDENHAUER: Mr. Haresign's obviously  
21 available for any additional questions from the Commission,  
22 and then we'll just turn it over to Mr. Varga to go through  
23 more of the detailed analysis of the additional elements, as  
24 the Zoning Commission needs to balance and weigh those in  
25 comparison to the FLUM inconsistency.

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1 MR. VARGA: Good evening Mr. Chairman and members  
2 of the Commission. My name is Stephen Varga, director of  
3 Planning Services at Cozen O'Connor. I'm testifying today  
4 in support of the application. You have a copy of my resume  
5 entered into the record. In preparation for this testimony  
6 I've reviewed the application and performed planning and  
7 zoning research for the property and surrounding  
8 neighborhood.

9 My testimony will focus on the sole question of  
10 the project's inconsistency with the FLUM and how despite the  
11 FLUM designation, in my professional opinion, the application  
12 and project are not inconsistent with the Comprehensive Plan.  
13 As Meridith mentioned earlier, the Commission can find that  
14 the project is not inconsistent with the Comprehensive Plan,  
15 even with the mistaken FLUM designation.

16 This is because the Comprehensive Plan and its  
17 policies are to be interpreted as a whole. The competing  
18 policies in the plan must be balanced, and no single policy  
19 or map should govern. In turn, the Commission is able to  
20 find a PUD and map amendment not inconsistent with the  
21 Comprehensive Plan, even when at odds with one map, so long  
22 as the Commission finds it is outweighed by the other map and  
23 policies.

24 Here the project is not inconsistent with numerous  
25 policies in the Comprehensive Plan, as well as in the

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1 generalized policy map. These inconsistencies outweigh any  
2 inconsistency with the incorrect FLUM designation for the  
3 property. In terms of the FLUM designation, it's clear the  
4 property was mistakenly designated for parks, recreation and  
5 open space due to its location near two cemeteries.

6           The Comprehensive Plan points out that the FLUM,  
7 quote, does not follow parcel boundaries, and this is a  
8 perfect example of how that can result in a mistaken  
9 designation. More importantly, the nature of the property  
10 and its use indicate that the parks, recreation and open  
11 space designation is incorrect.

12           This designation is not intended for a privately  
13 owned piece of property that is improved with an apartment  
14 building and separated from the cemeteries by public roads.  
15 A moderate density residential designation is more  
16 appropriate, as it would match the designation of nearby  
17 residential neighborhoods.

18           Notwithstanding the mistaken FLUM designation, the  
19 project is consistent with the generalized policy maps  
20 designation for the property of Neighborhood Conservation  
21 Area. There is no change to the existing residential use at  
22 the property. The project's modest increase in density and  
23 massing will provide for more modern unit layouts of  
24 additional affordable units for the community, and amenities  
25 for residents.

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1           The project will conserve and enhance the  
2 residential character of the Fort Totten neighborhood, as  
3 recommended in the Neighborhood Conservation Area. This  
4 application also furthers many policies in the Comprehensive  
5 Plan. In terms of the land use element, this element is  
6 given greater weight because it integrates the policies and  
7 objectives of all the district elements.

8           Wesley detailed in its application statement at  
9 pages 21 and 22 that the project is consistent with several  
10 land use policies, including LU-213, LU-215 and LU-224. I  
11 did want to highlight LU-213 in particular, which reads as  
12 follows. It's titled Conserving, Enhancing and Revitalizing  
13 Neighborhoods.

14           Recognize the importance of balancing goals to  
15 increase the housing supply and expand neighborhood commerce  
16 with parallel goals to protect neighborhood character,  
17 preserve historic resources and restore the environment. The  
18 overarching goal to, quote, create successful neighborhoods  
19 in all parts of the city requires an emphasis on conservation  
20 in some neighborhoods and revitalization in others.

21           In my professional opinion this application is not  
22 inconsistent with this policy, as well as the other land use  
23 elements identified in Wesley's statement. The project is  
24 also consistent with the housing element of the Comprehensive  
25 Plan. I will not walk through all eight relevant housing

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1 element policies identified in the application statement, but  
2 the housing element is of critical importance in the  
3 applications, producing 36 new affordable units and  
4 preserving 34 existing affordable units to further these  
5 goals.

6           The project is comprised of 100 percent affordable  
7 units for low to moderate income residents, and maintains the  
8 level of affordability for residents in the existing  
9 building. The project will result in the net increase in 36  
10 new affordable units, approximately half of which will be  
11 larger family- sized units.

12           By incorporating 22 family-sized units, including  
13 15 three bedroom units, the project satisfies the important  
14 housing for families recommendation in the housing element  
15 at H-131. Also, the Applicant took proactive steps to ensure  
16 no current residents would be displaced as a result of the  
17 project.

18           As stated earlier, the Applicant and current  
19 residents entered into a development agreement that permits  
20 current residents to return to the property after it has been  
21 constructed. The agreement also offers paid relocation and  
22 cost protection to current residents.

23           In this way, the project will not displace any  
24 residents, as recommended in the housing element at H-213.  
25 The property is located in the Rock Creek East Planning Area

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1 and the project is not inconsistent with the Rock Creek East  
2 Policies 111, 112, 115 and 116. As noted, the project will  
3 greatly improve the quality of the building for residents,  
4 and upgrade the landscaping substantially through tree  
5 plantings and attractive shrubbery.

6 Further recommendations in the area element call  
7 for the rehabilitation of existing housing and development  
8 of new housing, particularly low cost affordable housing for  
9 seniors. Given that the large portion of the existing  
10 tenants are seniors, that demographic will stand to benefit  
11 from the affordability and other improvements proposed by the  
12 project.

13 Finally, in my review of the application, I also  
14 found the project to be consistent with two transportation  
15 elements, seven environmental protection elements and six  
16 urban design elements, as outlined in the application  
17 statement. The project's consistency with the housing  
18 element, the Rock Creek East element and other policies in  
19 the transportation, environmental and urban design elements  
20 outweighs the incorrect FLUM designation.

21 In particular, the project's proposal brings 70  
22 units of high quality affordable housing is not only a point  
23 of emphasis in the Comp Plan, but has clearly become a vital  
24 planning goal for our city's leaders. Based on my evaluation  
25 of the project in light of the applicable planning documents,

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1 I believe the PUD is effective at balancing numerous  
2 priorities, including providing housing, especially  
3 affordable and family friendly housing, and enhancing the  
4 property through landscaping improvements, all the while  
5 limiting impacts to neighboring residential properties and  
6 thereby maintaining compatibility with the surrounding stable  
7 neighborhood.

8           In short, I believe the proposed PUD and related  
9 map amendment is not inconsistent with the Comp Plan, despite  
10 its mistaken designation on the future land use map. Thank  
11 you for your consideration and I'll be happy to answer any  
12 questions that you have.

13           MS. MOLDENHAUER: Thank you. So that concludes  
14 our presentation. I would just note that I believe we've  
15 addressed, based on everyone's testimony, the different  
16 requests or clarification comments in the OP report. We are  
17 -- OP did under Section 2 point 2 of their report, identify  
18 additional kind of conditions for the flexibility under the  
19 unit mix or the unit flexibility percentage, and we are  
20 agreeable to all of those consistent with the DHCD  
21 guidelines.

22           We also want to point out that the additional TDM  
23 conditions recommended by DDOT in their transportation report  
24 are also approved and the Applicant agrees with all of those  
25 as well.

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1           So with that said, I would also just like to make  
2 a final point that we have some individuals who are tenants  
3 at One Hawaii that are in the audience, and if they just want  
4 to kind of wave, identify that they're here, because I think  
5 it's really important that they've been participating in this  
6 process for a long time, and they came down tonight and I  
7 wanted to make sure the Commissioners were aware that they  
8 were here tonight. That being said, we are available for  
9 questions. Thank you.

10           CHAIRMAN HOOD: So the people that just waved, are  
11 they in support or opposition? I'm asking you. I'm asking  
12 you Ms. Mariner, Moldenhauer. Yeah, I'm asking you Ms.  
13 Moldenhauer. You wanted them to wave.

14           MS. MOLDENHAUER: You were looking behind me and  
15 so I was so confused.

16           CHAIRMAN HOOD: I'm asking -- I'm looking, right.

17           MS. MOLDENHAUER: Okay. Looking through me. Yes,  
18 so they're in support. They are members of the tenant  
19 association, which has a letter of support at Exhibit 33 and  
20 a board member of the tenant association. But they have a  
21 written letter at Exhibit 33.

22           CHAIRMAN HOOD: Okay. Do we have anyone in the  
23 audience who's in opposition to this case?

24           (No response.)

25           CHAIRMAN HOOD: Okay, all right. Commissioners,

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1 any questions of my colleagues? Do my colleagues have any  
2 questions? Mr. Turnbull.

3 COMMISSIONER TURNBULL: Thanks, Mr. Chair. Thank  
4 you for your presentation tonight. The homes across the  
5 street on Hawaii Avenue, they're all rowhouses. What are the  
6 height of those homes?

7 MR. HARESIGN: So the houses immediately across  
8 the street are two story with front porch rowhouses. We did  
9 a survey of the neighborhood. Can you go to this regional  
10 context plan please? So you can get a sense of where our  
11 site is, lots of folks who don't protest in the green spaces  
12 to the left, and to the right immediately the two story  
13 rowhouses.

14 There are also three and four-story apartment  
15 buildings that are interspersed throughout the neighborhood,  
16 and again we thought given the isolated nature of this site  
17 that a four or even five story building would have been  
18 acceptable to put on this site. It's also pretty much a  
19 gateway site, you know. It's got pretty strong axial  
20 opportunities for views and the T shape that we have  
21 developed allows for that to occur.

22 COMMISSIONER TURNBULL: Okay, thank you. It's my  
23 understanding there's no record lot on this site currently,  
24 but you are going through the subdivision process to acquire  
25 a record lot?

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1 MS. MOLDENHAUER: Correct, Commissioner Trumbull.  
2 At the beginning of the application process when we filed our  
3 initial submission, it was simply a parcel. During the  
4 course of the application we actually had filed for  
5 subdivision and we have received a record lot. So I don't  
6 know if we actually referenced the new record lot in our  
7 submission, but we can identify that.

8 COMMISSIONER TURNBULL: I didn't see it, so if you  
9 have it if you could do that.

10 MS. MOLDENHAUER: Yes. I believe it was part,  
11 some part of the file and I'll make sure. It's Record Lot  
12 1, since there's no other lot on the square. But we have  
13 gone through that official process and we are Record Lot 1  
14 in Square 4023.

15 COMMISSIONER TURNBULL: Okay, thank you. The  
16 current building is going to be razed and you talked about  
17 a plan. There is some reference to it in the documents, but  
18 you also start talking about a development agreement. Is  
19 that in the record at all or can you provide us with some  
20 more information on, I mean, the whole process of relocating.  
21 We've had this on many PUDs before, and sometimes things fall  
22 through the cracks. We've had some very contested cases  
23 where residents don't, aren't quite as responsive to some of  
24 the programs that are being developed for them. So could you  
25 explain a little bit more on what you could provide us?

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1 MR. MARSHALL: So as it pertains to our relocation  
2 efforts, Wesley does this all the time for lack of a better  
3 way of putting it. We have a full time on staff relocation  
4 coordinator who's, as evidenced by her job description, is  
5 solely devoted to making sure that the relocation process for  
6 our residents is as seamless as possible.

7 We commit to during our relocation efforts to  
8 tailor our relocation work with all of our residents per  
9 their needs. Our development agreement has stipulations  
10 about where we can relocate residents. We're obligated to  
11 relocate them within the District of Columbia and we have to  
12 exhibit best efforts to relocate them within two miles of the  
13 site because we understand that it's inconvenient, but people  
14 have lives and so we need to maintain their daily lives based  
15 on where we temporarily relocate them. So in sum, it is an  
16 incredibly crucial part of our development process and one  
17 that frankly we highlighted when we first met with the  
18 tenants association before they assigned the purchase rights  
19 to us.

20 COMMISSIONER TURNBULL: Okay. I wonder if you  
21 could for with whatever you are bound not to tell or what you  
22 are required to tell. Could you provide to me a little flesh  
23 out for us, some documents that explain that process so we  
24 feel a little bit more comfortable that things are being  
25 taken care of?

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1 MS. MOLDENHAUER: We can outline -- we have  
2 outlined it. The tenants are represented by Eisen and Rome,  
3 and they've had multiple meetings with us, you know, both  
4 obviously during the TOPA process, throughout this whole  
5 process, and they also wrote a letter in support based on  
6 their relocation packages, and that letter of support as at  
7 Exhibit 33 in the record.

8 COMMISSIONER TURNBULL: Yeah, I was just wondering  
9 that what Mr. Marshall just said, I wonder if you could  
10 submit something like that for the record.

11 MR. MARSHALL: We in the record can submit a  
12 sample relocation plan.

13 COMMISSIONER TURNBULL: If you could do something,  
14 I think we would like to see it.

15 MR. MARSHALL: Yeah. It outlines effectively  
16 everything I talked about with respect to our attention to  
17 residents and fulfilling their relocation needs.

18 COMMISSIONER TURNBULL: Okay, okay. There's one  
19 curb cut right now on Rock Creek, and it's not going to be  
20 on -- you're going to close it and it's going to be on  
21 Allison, is that correct?

22 MR. MARSHALL: That is correct.

23 COMMISSIONER TURNBULL: Loading is separate from  
24 the garage entrance, right? It's in the corner of the  
25 building?

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1 MR. HARESIGN: Yes. Go to the first floor please.  
2 So this is the cellar level. Go back to the cellar level.  
3 So all of the parking is in the cellar. Go to the first  
4 floor. And the loading dock is a fully enclosed loading dock  
5 that allows trucks to pull in down the ramp a bit, and then  
6 back fully into the building.

7 COMMISSIONER TURNBULL: And that's where trash  
8 pickup would also --

9 MR. HARESIGN: Trash pickup is there as well.

10 COMMISSIONER TURNBULL: What are you doing to  
11 mitigate and how long can trucks stay there idle, the smells,  
12 concerned about protecting the health and welfare of the  
13 residents.

14 MS. MOLDENHAUER: So we do have obviously  
15 Gorove/Slade has been consulting on this and working with  
16 DDOT to coordinate both the TDM plan and obviously part of  
17 that would be the final loading mitigation plan to evaluate  
18 kind of how long trucks could idle or could stay in that  
19 location.

20 COMMISSIONER TURNBULL: All right. We would like  
21 to see that then. Are the windows operable or non-operable?

22 MR. HARESIGN: The windows are operable.

23 COMMISSIONER TURNBULL: They are operable, okay.

24 MR. HARESIGN: They're, a portion, not all of  
25 them.

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1 COMMISSIONER TURNBULL: Not the whole thing,  
2 right.

3 MR. HARESIGN: But there's an adequate amount to  
4 provide some fresh air so --

5 COMMISSIONER TURNBULL: Okay. So you're going for  
6 LEED certification at what level I forgot?

7 PARTICIPANT: Gold.

8 COMMISSIONER TURNBULL: Gold?

9 MR. MARSHALL: Yes. We've committed to LEED Gold  
10 in the application.

11 COMMISSIONER TURNBULL: Are you actually going for  
12 certification?

13 MR. MARSHALL: That's the expectation.

14 COMMISSIONER TURNBULL: Okay, and you talked about  
15 the solar. You say there is a covenant that runs with the  
16 property for the residents that are already there?

17 MR. MARSHALL: You're correct. As by way of  
18 context, the existing building was acquired through the Site  
19 Acquisition Finance Initiative through DHCD. With that  
20 comes an affordability covenant. If and when we achieve  
21 Housing Production Trust Fund financing to build the building  
22 that we're considering today, it is anticipated that the SAFI  
23 covenant will be replaced by the HPTF covenant, with similar  
24 terms that run with the property.

25 COMMISSIONER TURNBULL: Okay. Similar terms,

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1 okay, okay. Mr. Chair, those are my questions for now.

2 CHAIRMAN HOOD: Thank you. Before we go to the  
3 Vice Chair, I want to -- I need to start doing this and I  
4 wanted to do it earlier but I forgot. Paul Young does an  
5 excellent job in videoing this, and I never give -- I never  
6 say anything about him. So I'm going to ask Ms. Schellin to  
7 help me remember, especially in our meetings, to say  
8 something because when I do go home and try to --

9 We all rely on those videos to kind of remember  
10 some of the things that happened. I think he does a superb  
11 job and I've never said anything about him but I'm going to  
12 change that. So I don't want him to change what he's doing,  
13 but he does a great job. Vice Chair Miller.

14 VICE CHAIR MILLER: Thank you, Mr. Chairman. I  
15 would echo your commendation of Paul for the videos, and  
16 thank you for your presentation this evening, which is a very  
17 commendable, all affordable housing project. Housing is one  
18 of the most important if not the most important civic  
19 priority outlined in the Comprehensive Plan, and both the  
20 retention of existing affordable housing for existing tenants  
21 and preservation of housing for existing tenants and creation  
22 of new affordable housing.

23 So you're to be commended and DHCD is to be  
24 commended for coming up with this project that has so many,  
25 70 affordable units and so many two and three bedroom family

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1 sized units. I appreciate, Mr. Varga, your providing that  
2 written statement of all the housing and other Comprehensive  
3 Plan policies, which are important in the balancing to  
4 outweigh what is an unfortunate future land use map  
5 designation in this case of -- for an existing housing site,  
6 as parks, recreation and open space.

7           So it is what it is, and so we have to make that  
8 -- we have to balance those other policies and say why  
9 they're more important than the inconsistent future land use  
10 map designation. How long has the existing, the existing  
11 residential building been? I assume it predates -- you may  
12 have had this somewhere in the record -- that it predates the  
13 first Comprehensive Plan land use map even probably?

14           MR. VARGA: It does by many years. My  
15 understanding is that the building was constructed in the  
16 mid-40's, and the first Comprehensive Plan was introduced in  
17 1984.

18           VICE CHAIR MILLER: And the -- how much of the --  
19 how much of the site will have open space versus the building  
20 footprint, whether it's the landscaping or the outdoor play  
21 area or the -- I guess the amenity terrace might qualify as  
22 open space as well. At what percentages is open space versus  
23 building footprint?

24           MS. MOLDENHAUER: So --

25           VICE CHAIR MILLER: Approximately.

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1 MS. MOLDENHAUER: Approximately. So one of the  
2 things I just want to point out is that given the fact that  
3 the property has very large building restriction lines, 20  
4 foot building restriction lines on Allison and Rock Creek and  
5 then a 15 foot building restriction line on Hawaii, we  
6 actually our lot does encompass a large amount of open space,  
7 because we obviously cannot, you know, push beyond that BRLs.  
8 But I believe given a specific number. I think we are at --

9 VICE CHAIR MILLER: You can provide it for the  
10 record. You don't have to --

11 MR. HARESIGN: Yeah. I can provide you with an  
12 approximate. I think it was 53 percent is what remembered.

13 VICE CHAIR MILLER: That just might be an  
14 important part of the balancing in trying to stretch the  
15 parks, recreation and open space designation to include that.

16 MR. HARESIGN: And I think that, you know, we've  
17 worked very hard to incorporate landscaping around the edges  
18 of this particularly. We worked with DDOT in during the  
19 review process, and discussed the Rock Creek Church Road  
20 frontage and have come up with a landscape plan that we think  
21 provides for a park-like setting. So can you go to the  
22 landscape plan?

23 I say never volunteer. Whoa, back up. So never  
24 volunteer, but I'll volunteer. I'll actually ask you to look  
25 at this view. We've consolidated our services to the Allison

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1 Street side, which is not very public. Nonetheless,  
2 landscaped and screened that, and along Rock Creek Church  
3 tried to reinforce the sense of a parkway that was part of  
4 the original plan for this area.

5 VICE CHAIR MILLER: And the FAR for this, the  
6 density for this development is on the low end of the FAR  
7 range. It's two point something. It's low --

8 MS. MOLDENHAUER: 2.24.

9 VICE CHAIR MILLER: Yeah.

10 MR. HARESIGN: So it's permitted under the RA-2  
11 to be 2.59 because of the packing of the site, and the  
12 elimination of the 5th floor we're at a lower density.

13 VICE CHAIR MILLER: Right. I just want to clarify  
14 and follow up on Commissioner Turnbull's questions and your  
15 own statements about the Office of Planning's recommendations  
16 on page one and two of its report dated September 6th, and  
17 we'll hear more from the Office of Planning very shortly.

18 But if we go through each of them, each of the  
19 issues which they -- each of the seven issues which they ask  
20 you to address, if we can go through one by one and just you  
21 could say what you're doing or not doing to -- and why  
22 briefly. I think you already did say it, but just so I can  
23 be clear on my -- so it can be clear on the record what it  
24 is that you're now -- how you're addressing these.

25 So number one was, revise and narrow the request

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1 to vary the dwelling units by an amount equal to minus ten  
2 percent from the number depicted on the architectural plans.  
3 So you're still saying that you may need to reduce the number  
4 of units because of the shape and configuration of some of  
5 the -- and the window requirements. Is that what I -- did  
6 I hear that correctly?

7 MR. HARESIGN: That's correct, and you know the  
8 trade-offs are some one bedrooms with varied living rooms,  
9 which would be traded off for some larger. We have some  
10 studio units that would be incorporated into those. So if  
11 you see on this second and third floor plan, the ones that  
12 are in raspberry, those are studio units and they would be  
13 blended into those inside corner units.

14 So instead of having a one and a studio, now you'd  
15 have two two-bedroom units, more family units.

16 VICE CHAIR MILLER: So what is the range of units,  
17 range and number of units that you are asking for?

18 MR. HARESIGN: There are currently 70, and we may  
19 go down to 63 in that scenario. So a ten percent adjustment.

20 VICE CHAIR MILLER: 63 to 70?

21 MR. HARESIGN: 63 to 70.

22 VICE CHAIR MILLER: You wouldn't go above 70?

23 MR. HARESIGN: We've asked for flexibility as we  
24 replan this. If we replan the floor plans, that we'd be able  
25 to go to five percent increase. So it would go -- it would

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1 go from 70 to 73 really.

2 VICE CHAIR MILLER: 63 to 73 would be the --

3 MR. HARESIGN: 70 to 73.

4 VICE CHAIR MILLER: Yes, the upper range.

5 MR. HARESIGN: For the upper end, right.

6 VICE CHAIR MILLER: But the total range 63 to 73?

7 MR. HARESIGN: 63 to 73, yeah.

8 VICE CHAIR MILLER: Okay, and then the next one,  
9 number two, do you have any -- I think you said that you were  
10 agreeable to those refinements that the Office of Planning  
11 or clarifications that the Office of Planning is suggesting.  
12 No dwelling unit should be rented to a household with an  
13 income greater than 80 percent median family income.

14 The overall average affordability levels for the  
15 building should not exceed 60 percent MFI. I think I did  
16 definitely hear you say that. The proffered affordability  
17 levels of 30 percent, 50 percent, 60 percent and 80 percent  
18 MFI should not change to different income levels, and all  
19 units should be maintained as affordable for the length of  
20 the affordability control period. You're okay with all of  
21 those, right?

22 MS. MOLDENHAUER: Yes we are, consistent with the  
23 DCHA requirements, yes. Which is what -- and OP I believe  
24 OP worked with DHCD to come up with these requirements.

25 VICE CHAIR MILLER: Right, right, okay. And on

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1 the solar panels, I think I -- the point is that number three  
2 is, Adequately address DOEE Environment and Energy comments  
3 regarding the placement of solar panels on the roof.

4 I think you're still saying that that's contingent  
5 on your being able to receive grants, which I think DOEE has  
6 probably outlined in whatever conversations they've had with  
7 your discussions and the grants that are available for that.  
8 But you're still not making a firm commitment.

9 You're saying it's not really a proffer or it's  
10 a proffer only if you get the grants? What are you saying?

11 MS. MOLDENHAUER: So correct. We are -- we are  
12 stating that it is our goal to provide solar. We are  
13 showing solar where and they'd be located. Until we get the  
14 grants that we cannot full commit to it. I think DOEE's  
15 comment on page 16 of the OP report also indicates that the  
16 solar should be mounted in a location that could provide  
17 green roof underneath.

18 I believe that Mr. Haresign testified that as we  
19 are showing on the northern portion, that those solar panels  
20 are currently designated to be separated by the required  
21 distance, so that in conjunction with DOEE's recommendation  
22 we could locate green roof underneath, as we are showing.  
23 And that -- so I think that's --

24 VICE CHAIR MILLER: You can do both?

25 MS. MOLDENHAUER: We can do both, and that I

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1 believe responds to the first bullet point that DOEE  
2 provided, identifying the solar mounted above the green roof  
3 is allowed under both GAR and the storm water retention  
4 requirements. We wanted to make sure that we responded to  
5 that and acknowledged that our solar panels are dimensioned  
6 so that both can exist.

7 VICE CHAIR MILLER: But you can't make a firm  
8 commitment on the solar panels because of the grants --

9 MS. MOLDENHAUER: Of the grant funding, correct.

10 VICE CHAIR MILLER: And that you could make a  
11 commitment and come back for a minor mod showing that you  
12 applied for the grant and couldn't get it and --

13 MS. MOLDENHAUER: We could, but we prefer to ask  
14 for flexibility and ask the Commission to allow us to  
15 continue as Wesley wants to obviously pursue that  
16 requirement.

17 VICE CHAIR MILLER: Okay. I just hadn't heard  
18 that kind of conditional aspirational kind of commitment to  
19 solar panels previously.

20 MS. MOLDENHAUER: I believe it was discussed at  
21 a TMA project that we presented before the Zoning Commission  
22 for a design review. It was not a PUD.

23 VICE CHAIR MILLER: Okay. Well I'd ask you to  
24 take a look at that and see if you can just firm that  
25 commitment up. And on the next point, point four, Address

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1 the DOEE comment that you provide one onsite electric  
2 charging station. I think you said you'd provide the  
3 infrastructure for that. I'm not sure I understand the  
4 distinction but --

5 MS. MOLDENHAUER: Yeah. I just want to point out  
6 the DOEE actual comments is bullet point four on page 16 of  
7 the OP report, and DOEE's comment is the Applicant should  
8 consider, not require, but should consider installing  
9 electrical vehicle charging stations or electrical vehicle-  
10 ready infrastructure.

11 So we are complying with the recommendation that  
12 we would commit to the electrical vehicle ready  
13 infrastructure as DOEE identified kind of as an option in  
14 their recommendations.

15 VICE CHAIR MILLER: Okay, thank you. The next one  
16 is, Address DDOT comments that you provide mirrors along the  
17 driveway to improve visibility between entering and exiting  
18 vehicles. Is that -- is that part of your -- is that part  
19 of your mitigation or part of the TDM plan now or not?

20 MS. MOLDENHAUER: As Mr. Haresign stated, those  
21 will be provided and will be located onsite prior to any  
22 Certificate of Occupancy being issued.

23 VICE CHAIR MILLER: Okay. Number six was, Commit  
24 to the construction and programming of the play area prior  
25 to the issuance of the Certificate of Occupancy for the

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1 building.

2 MS. MOLDENHAUER: And yes, the Applicant continues  
3 to want to work with the tenant association to program that  
4 space. But we will commit to having the programming  
5 finalized prior to a Certificate of Occupancy being issued.

6 VICE CHAIR MILLER: Okay, and do we -- but we  
7 don't -- at this point we don't have any programming, because  
8 you haven't worked that out with the tenant association?

9 MS. MOLDENHAUER: Correct.

10 VICE CHAIR MILLER: What is the square footage of  
11 that play area approximately? If you don't have it, you  
12 could just provide that also. I looked at the diagram and --

13 MR. HARESIGN: And we'll provide it for you.  
14 We've shown it. It's about a little -- it's around a third  
15 of the outside space, so 25 percent to a third. So we'll  
16 give you square footage.

17 VICE CHAIR MILLER: Okay, and this point you don't  
18 know the equipment or the programming or the materials or the  
19 -- okay. Address any TDM, Transportation Design Management  
20 conditions recommended by DDOT. I think you said that you  
21 would -- you've agreed to every, all their recommendations?

22 MS. MOLDENHAUER: Correct. The Applicant has  
23 agreed to all the TDM recommendations by DDOT.

24 VICE CHAIR MILLER: Okay, thank you for going  
25 through each of those.

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1 MR. HARESIGN: Can I just go back to the  
2 playground issue also?

3 VICE CHAIR MILLER: Yes.

4 MR. HARESIGN: So the playground issue is a late  
5 breaking request from the neighborhood, not from the tenant  
6 association, and it came up in August. So we have --

7 VICE CHAIR MILLER: The Fort Totten Civic  
8 Association.

9 MR. HARESIGN: Fort Totten Civic Association. So  
10 we have not had time yet to fully digest that --

11 VICE CHAIR MILLER: I appreciate all of the  
12 engagement that you've done with the ANCs and the tenant  
13 association certainly, and the Fort Totten Civic Association  
14 group. That's to be commended. Did you get any feedback?  
15 I know we had the ANC 5A letter of support. Was there any  
16 feedback from the presentation to 4D or the reason why we've  
17 --

18 MS. MOLDENHAUER: We've been emailing them the  
19 entire time, and they at our initial meetings have relied on  
20 the actual ANC that you're located in. That was their  
21 response the first time we presented, and they did not ask  
22 us to come back. We said we'd be available to come back, but  
23 they said, you know, that they would rely on the ANC in which  
24 we're located.

25 VICE CHAIR MILLER: Okay. So I appreciate also

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1 that your commitment to the LEED Gold and attempting to get  
2 certification for the LEED Gold, that's definitely to be  
3 commended, and for all the changes that you did make in  
4 response to the community and tenant concerns.

5 I would also echo Commissioner Turnbull's request  
6 that you provide the development agreement that the  
7 government agreement that is referenced in your testimony,  
8 which includes the relocation plan and the rent controls that  
9 you reference in your testimony, it's all important  
10 references that we would like to at least reference in the  
11 Zoning order, not necessarily make a condition of the Zoning  
12 order.

13 That also would apply to the community benefits  
14 agreement that you worked out with the ANC or the Fort Totten  
15 Civic Association. We'd like to see that and have that be  
16 part of our record that we can reference. There may be  
17 points, portions of it that are appropriate to include as  
18 conditions of the order that would be public benefits that  
19 would bolster your public benefits part of your application.

20 MS. MOLDENHAUER: The development agreement just  
21 includes a lot of specificity that is not relevant to the  
22 case. So we would ask that we can just provide an executive  
23 summary or an abstract. We would greatly appreciate that.

24 VICE CHAIR MILLER: All right. Yes, that would  
25 be -- it would be helpful to see the relocation plan, the

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1 rent controls that you have committed to. Those are all  
2 important and the right to return for existing tenants.  
3 That's all very important so -- and the community, the same  
4 is true for the Community Benefits Agreement.

5 If you can provide the actual -- do you have a  
6 signed Community Benefits Agreement with somebody?

7 MS. MOLDENHAUER: We do not. We have the ANC's  
8 letter in support, which outlines issues that were most  
9 important to the ANC. You know, and obviously we included  
10 some additional benefits that they requested the night that  
11 they voted in support of the application, which included the  
12 funding for the Civic Association as the sponsor.

13 But there is no written Community Benefits  
14 package. There's the ANC's resolution in support.

15 VICE CHAIR MILLER: Right, and on the monetary  
16 contributions to the -- the annual monetary contributions to  
17 the Fort Totten Civic, I think we have a Zoning regulation  
18 that that may go up against. So there may need to be some  
19 kind of statement from you as to how you can comply with  
20 that, with our enforceable monetary agreements before there's  
21 a C of O, as opposed to these ongoing annual commitments.

22 I mean it's commendable that you made that  
23 commitment, but we've run -- we ran into a problem in the  
24 past with these ongoing monetary commitments that couldn't  
25 then be enforced through a Zoning order. So if there's a way

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1 you can address that in some supplemental filing that  
2 accomplishes the same thing that is consistent with our  
3 Zoning regulations.

4 MS. MOLDENHAUER: We will address that, right.

5 VICE CHAIR MILLER: Okay, thank you.

6 MS. MOLDENHAUER: I just -- oh Commissioner  
7 Miller, sorry. There was a -- there's maybe a mathematical  
8 discrepancy, I think a rounding issue with the percentages  
9 that were provided in regards to a request for a flexibility  
10 range that my client has pointed me out. I want to make sure  
11 it's on the record. The request for flexibility would be  
12 between 74 and 63 I believe. Mr. Haresign said 73, but it  
13 would be 74 and 63.

14 VICE CHAIR MILLER: Okay. Thank you for that  
15 clarification.

16 MS. MOLDENHAUER: Thank you.

17 VICE CHAIR MILLER: Did you -- have you all -- I  
18 think I saw a reference to this. You requested a  
19 Comprehensive Plan map amendment to, as part of -- to the  
20 Office of Planning. Have you all or somebody has requested  
21 a map amendment change from the future end use map  
22 designation from parks, recreation space to moderate density  
23 residential, which is what it should be. Was that -- was  
24 that request made by you to the Office of Planning or was  
25 that made by somebody else or --

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1 MS. MOLDENHAUER: It was submitted in the open  
2 call process, not by us and not by Wesley Housing. But it  
3 is part of the pending recommendation to change the future  
4 land use map. But as we stated earlier, we believe that the  
5 balancing requirements, the Court of Appeals cases and the  
6 most recent Friends of McMillan decision that the Commission  
7 does have the ability to weigh the generalized policy map and  
8 all the other multiple areas of the Comprehensive Plan as a  
9 whole, given the fact that the property is designated for  
10 parks and open recreation space.

11 VICE CHAIR MILLER: I would agree. We all needed  
12 to just explain that very clearly so that others understand  
13 it. So thank you.

14 CHAIRMAN HOOD: First, let me just state that  
15 Commissioner May will be reading the record in this case.  
16 I'm not sure where we'll be, but he will be reading it and  
17 since he's watching, I'm just going to say I hope he feels  
18 better. I'll just leave it at that.

19 Mr. Marshall, let me -- let me ask you, and I may  
20 -- it's been a while since you mentioned this, but let me  
21 make sure I captured it right. Part of your statement, you  
22 said that there were no adverse impacts. You said -- that  
23 said this for me, state it out, there were no adverse  
24 impacts.

25 In any project, there's always adverse impacts.

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1 It's how we mitigate it. But can you go back over that  
2 sentence that you said there were no adverse impacts?

3 MR. MARSHALL: I am looking for the specific  
4 instance.

5 CHAIRMAN HOOD: So you did say it. So I did  
6 capture that correctly?

7 MR. MARSHALL: Pardon me for two moments while I  
8 rescan my testimony.

9 CHAIRMAN HOOD: Okay.

10 (Pause.)

11 MR. MARSHALL: So, thank you. I appreciate Ms.  
12 Moldenhauer for pointing that out. In light of the fact that  
13 our proposed parking count of 14 spaces is exceeding that of  
14 what's required by Zoning of 11, we anticipate that there  
15 would be no adverse impacts as a result of that.

16 CHAIRMAN HOOD: You anticipate, okay. That was  
17 the different the way I heard that. Maybe I misheard you.  
18 I thought you said there were no adverse, because in each  
19 project I know that we start off with adverse impacts. I've  
20 started off asking questions, what are the adverse impacts  
21 and work our way back to find out the mitigations.

22 But what you're saying is that you anticipate,  
23 because of the mitigation that you put in place, there are  
24 no adverse impacts.

25 MR. MARSHALL: Absolutely. Again, the exceedance

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1 of the parking count in addition to -- we haven't discussed  
2 this so far, but the designated pick up and drop off area on  
3 Rock Creek Church Road, which was the modification of our  
4 plan. Those two we believe -- no, we anticipate in  
5 conjunction would minimize or eliminate any impacts with  
6 respect to parking.

7 CHAIRMAN HOOD: Okay. So to your knowledge, you  
8 feel like you have addressed all the adverse impacts that  
9 were brought to you by the ANC's community folks, the tenants  
10 and everyone. You feel like you've at least mitigated, or  
11 put something in place to mitigate those adverse impacts?

12 MR. MARSHALL: We do.

13 CHAIRMAN HOOD: So let me ask you this. What were  
14 some of the -- one or two of the concerns that the ANC had  
15 that you said you had to continue to work. I know it was  
16 maybe the amount of units. What was the other one?

17 MR. MARSHALL: And if I can just -- I will say  
18 just for context, arguably the community members with whom  
19 we've worked most closely with and most consistently with was  
20 the civic association. Our strategy so to speak during this  
21 process was to work with our closest neighbors, because  
22 obviously they would be closest to the project and be  
23 potentially affected by it.

24 So in conversations with the Fort Totten Civic  
25 Association, their list of concerns, if I would describe it

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1 as such, was height. Closely related to that density and  
2 unit count, parking, transportation impacts and, as David  
3 mentioned earlier, opportunities for outdoor recreation for  
4 the families that would be occupying this property.

5 And so as we've seen in the plan that we're  
6 reviewing today, we went forth and addressed all of those,  
7 reduced the building height and building stories from five  
8 to four, reduced the unit count by ten percent, added parking  
9 and added the additional outdoor amenity space. So those  
10 were arguably the top issues.

11 CHAIRMAN HOOD: Okay. I don't have a whole lot,  
12 other than I really appreciate the explanation about the  
13 FLUM, other than it just being a mistake. I think it was  
14 very critical that we look at the other policies which  
15 outweigh that. I think that really gets us over, especially  
16 since we're being scrutinized a lot. I want to make sure  
17 that that, just to go ahead and say it was a mistake, I don't  
18 think the judge would, you know --

19 If I was the judge, I probably wouldn't buy that  
20 one. I would look at the other ones, which outweigh the  
21 other policies which outweigh why it should be where we are.  
22 So I appreciate that whole explanation from both you and Ms.  
23 Moldenhauer. I don't think I have anything else. Do you all  
24 have any follow-up? Commissioner Turnbull?

25 COMMISSIONER TURNBULL: Yeah. Thank you Mr.

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1 Chair. I just want to follow up on what the Vice Chair  
2 brought up about the benefits package. Normally, we have a  
3 fairly complete benefits package that talks about it. Going,  
4 I mean under -- the Zoning Commission has to look at under  
5 X35, 305.2.

6 The public benefits are superior features of a  
7 proposed PUD that benefit the surrounding neighborhood or the  
8 public good or the public in general, to a significant  
9 degree, to a significant extent that would likely result  
10 from the development of the site under a matter of right.  
11 A majority of the public benefits of the proposed PUD should  
12 relate to geographic area of the Advisory Neighborhood  
13 Commission in which the applicant is -- in which the  
14 application is proposed.

15 I mean it looks like a lot of the amenities,  
16 proposed amenities really are project oriented just to that  
17 site. They benefit the tenants, they benefit that particular  
18 site, but there's nothing really -- other than the one that  
19 was for the Fort Totten Civic Association, there's nothing  
20 really that extends out into the neighborhood that you're  
21 asking.

22 You've got specific items that you're doing for  
23 the ANC or in the surrounding neighborhood, the community  
24 good, that helps the people in the neighborhood around. I  
25 don't really see that. I mean is the -- is the play area of

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1 this building open to the public?

2 MR. MARSHALL: It is not.

3 COMMISSIONER TURNBULL: So that's not a public  
4 benefit.

5 MR. MARSHALL: So that particular feature is not,  
6 although as David mentioned previously, it was in response  
7 to the reasonable recommendation and preference from the  
8 Civic Association.

9 (Simultaneous speaking.)

10 CHAIRMAN HOOD: Let me ask, let me ask on that  
11 question. What about the ANC? I understand you've been  
12 working with the civic association, but we also have  
13 administrative procedures with the ANC. And I appreciate  
14 what the civic association -- I was a former president for  
15 20 years, so I'm not slighting the civic association. But  
16 we also have to give deference to the folks who were voted  
17 in, which is the ANC.

18 Were they working in tandem with the Fort Totten  
19 Civic Association? Is that how that worked? Did Sandy  
20 Washington -- I've got to be able to go home too, okay.

21 MS. MOLDENHAUER: Absolutely. So Commissioner  
22 Hood -- Chairman Hood, unfortunately we've emailed  
23 Commissioner Washington. She was not able to attend tonight  
24 due to a personal health challenge. But at almost every  
25 single one of our civic association meetings, where we went

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1 on April 2019, June 2019, July 2019, Commissioner Washington  
2 was present at this.

3 CHAIRMAN HOOD: So they worked together. That's  
4 all I need to know.

5 MS. MOLDENHAUER: They were working -- they were  
6 working together. I also just want to make sure that when  
7 we're talking about the civic association that the Commission  
8 is very much aware the civic association president, Dwight  
9 Callaway, who actually drafted a letter that's in the record,  
10 lives literally directly across the street on One Hawaii,  
11 lives across the street on Hawaii Avenue facing this project.

12 During those meetings, there were multiple people  
13 from that very close proximity of community members that  
14 either can see the property either from Hawaii or from  
15 Allison, or live in the back side of some of those private  
16 community townhomes.

17 CHAIRMAN HOOD: So Ms. Moldenhauer, I want you to  
18 understand that I understand that, even though they live  
19 right across the street, most affected. I want to hear from  
20 them too. But also I want to make sure that this ANC 5A has  
21 always been an outstanding ANC in this city, and I want to  
22 make sure that they're working in tandem with the Fort Totten  
23 Civic Association.

24 MS. MOLDENHAUER: Absolutely, and so Commissioner  
25 Washington, as I said, as an ANC commissioner and SMD

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1 commissioner for the project, was present at the Fort Totten  
2 Civic Association meetings, as well as the fact that we went  
3 to this ANC in June 2019, February of 2019, March of 2019 and  
4 then obtained the final vote in August of 2019. So we've  
5 worked really closely with this ANC as well.

6 CHAIRMAN HOOD: So let me get you back to where  
7 Mr. Turnbull was. So some of the questions he's asking about  
8 the playground. Does the ANC know that it's not open to  
9 everyone, it's only open to the residents?

10 MS. MOLDENHAUER: Yes. That was a question they  
11 asked at the August meeting, and we responded to that  
12 question.

13 CHAIRMAN HOOD: And I'm not sure whether we're  
14 going to talk about the DOE employment piece, but anyway I'll  
15 let Mr. Turnbull finish and we'll come back to that.

16 MS. MOLDENHAUER: But let me address Mr.  
17 Turnbull's first question, which is, you know, how are some  
18 of these project-specific levels of affordability in  
19 projects, how does that benefit the community? Interestingly  
20 enough here, we actually have a building that has residents.  
21 We have 22 tenants that are residents of the community. They  
22 go hand in glove.

23 You know, this is a project in which because  
24 those tenants have selected Wesley Housing as their TOPA  
25 purchaser, anything that benefits them also benefits -- they

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1 have been living in this neighborhood. They are part of the  
2 community. And so I think that we have to definitely --  
3 sometimes we separate those issues out as okay, well this is  
4 going to be the future residents and this is going to be the  
5 future project.

6 Here we actually have community aspects,  
7 neighborhood aspects, and one of the things that we heard --

8 COMMISSIONER TURNBULL: We're not separating that  
9 out. We perfectly understand and appreciate all that's being  
10 done. It's a significant civic benefit and it's very  
11 important. I'm just saying that in terms of a planned unit  
12 development that we've seen in other situations with a  
13 similar kind of a package, we've often seen additional  
14 benefits going out to the neighborhood more in general.  
15 That's all I'm saying.

16 MS. MOLDENHAUER: Okay.

17 COMMISSIONER TURNBULL: And all I'm saying is that  
18 maybe you should go back and think about it, and just take  
19 another look at your public benefits, and provide us, as the  
20 Vice Chair was saying, with a complete list of the public  
21 benefits package, so that we can look at it.

22 The other, and as the chair was about to say, I  
23 don't -- did we see what the first agreement --

24 (Simultaneous speaking.)

25 MS. MOLDENHAUER: I was just about to mention

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1 that.

2 CHAIRMAN HOOD: Right. It's a blank sheet of  
3 paper.

4 MS. MOLDENHAUER: That's where I was going, right.  
5 -- We don't have it filled out, but it something that is  
6 obviously committed to as part of our public benefits, which  
7 was Exhibit 15.

8 COMMISSIONER TURNBULL: So before we take final  
9 action, that will be completed?

10 MS. MOLDENHAUER: Yes, and it's so partly right  
11 now is Exhibit 15. The Applicant has agreed to enter into  
12 a for service agreement that is part of our public benefits  
13 identified in Exhibit 26 of our 20-day filing, as well as  
14 another aspect that is part of our public benefits for the  
15 overall community, is providing a community room.

16 Right now the civic association is not able to  
17 have meetings in their local neighborhood. They have to  
18 travel outside of their neighborhood to actually have their  
19 civic association meetings. So we have on number two in our  
20 20-day submission at Exhibit 16 we identify that we are going  
21 to be providing a first floor amenity room for purposes of  
22 the civic association to have meetings at no charge.

23 The civic association will be able to utilize that  
24 room for up to two meetings per month, and all they'll have  
25 to do is simply contact and coordinate with the property

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1 owner.

2 CHAIRMAN HOOD: So let me say this. Instead of  
3 us doing it that way, let's make sure we do it as the Vice  
4 Chair has already asked for.

5 COMMISSIONER TURNBULL: Yeah. Pull down all the  
6 documents you've got and pull it into one separate listing  
7 as the amenity and benefits package.

8 MS. MOLDENHAUER: Yes, and we'll provide that to  
9 the Commission.

10 CHAIRMAN HOOD: All right. I'm just curious about  
11 the playground equipment. What ages are going to be,  
12 preschool, kindergarten, 6th grade?

13 MR. MARSHALL: By no means can we say for certain  
14 the ages of the children that will be occupying the building.  
15 Broadly speaking, the way in which we program or way in which  
16 we plan to program, the amenities space is I consider a great  
17 example of how we'll be working with the tenants going  
18 forward to finish the planning of the --

19 CHAIRMAN HOOD: So you'll make the playground fit  
20 the young folks that are going to be living there, instead  
21 of the --

22 MR. MARSHALL: Yeah, yes it is.

23 CHAIRMAN HOOD: Okay.

24 MR. MARSHALL: Obviously pending future  
25 conversations, because there may be an instance in which some

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1 of our residents who are not young children say hey, you  
2 know, there might be something that I want to use there. So  
3 that is -- that is something that's good and coming up.

4 CHAIRMAN HOOD: Okay, all right. Again, we'll  
5 just wait to see that piece all in one place. All right.  
6 Anything else Commissioner Turnbull, Vice Chairman, okay.  
7 We have two ANCs I believe in this, 5A and 4D. Is anyone  
8 here representing them? Did I go -- no wait a minute, hold  
9 on, I'm sorry. Oh yeah. Anyone here representing ANC 5A  
10 or 4D to cross examine?

11 (No response.)

12 CHAIRMAN HOOD: Okay. Now I'm saying we'll go to  
13 the Office of Planning and DDOT. Mr. Kirschenbaum and then  
14 we'll go to Mr. Rogers.

15 MR. KIRSCHENBAUM: Good evening Chair Hood and  
16 members of the Zoning Commission. Jonathan Kirschenbaum from  
17 the Office of Planning. OP concurs that the project is not  
18 inconsistent with the Comprehensive Plan when the city-wide  
19 elements and the relevant area element policies are read in  
20 concert with the policy map and the future land use map.

21 We do feel that the benefit and amenities package  
22 is commensurate with the level of affordability gained  
23 through the PUD, particularly -- sorry, with the flexibility  
24 gained through the PUD, particularly the provisions of  
25 affordable and deeply affordable housing and larger two and

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1 three bedroom units.

2 We also are thankful for the Commission reviewing  
3 the outstanding issues that we raised in our public hearing  
4 report, and feel that the issues that have been addressed by  
5 the Applicant are satisfactory. That being said, we  
6 recommend approval of this PUD application and the related  
7 map amendment from RA-1 to RA-2, and we're happy to answer  
8 any questions you may have. Thank you.

9 CHAIRMAN HOOD: Thank you. Mr. Rogers.

10 MR. ROGERS: Good evening Mr. Chair, members of  
11 the Commission. For the record I'm Jonathan Rogers with the  
12 District Department of Transportation. DDOT would like to  
13 acknowledge the close coordination we've had with the  
14 Applicant on this project, and as you heard this evening  
15 already, the Applicant has resolved the substantive issues  
16 that DDOT raised in our report, which were not many.

17 I do want to just raise for the Commission that  
18 as was identified earlier, the building is surrounded on all  
19 three sides by a building restriction line, 20 feet on each  
20 side. Any elements within -- between the property line and  
21 the building restriction line are subject to the District's  
22 public space regulations, the playground which has gotten a  
23 lot of attention already this evening would be included in  
24 the area that is subject to public space permits.

25 So I'd just like to identify that to the extent

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1 that any commitments made with respect to benefits and  
2 amenities including the playground, other elements in the  
3 building restriction line that would be acknowledged, that  
4 those elements are subject to public space permitting, and  
5 we're happy to work with the Applicant moving forward, to  
6 make sure that the proposals would be something that the  
7 Public Space Committee would be able to approve of. With  
8 that, I'll pause and take any questions you may have.

9 CHAIRMAN HOOD: Right. Thank you both. Let's see  
10 if we have any follow-up questions, comments. Okay. Vice  
11 Chair, any follow-up questions or comments?

12 VICE CHAIR MILLER: Thank you Mr. Chairman. So  
13 I was just trying to go back and look here. Thank you for  
14 your report and your comments. I was trying to go back and  
15 look at your sit down report and see exactly the weighing of  
16 those Comprehensive Plan policies, and I think it's generally  
17 all there. But what would you say are the most important  
18 Comprehensive Plan policies that outweigh the FLUM parks,  
19 recreation and open space designation? If you could just  
20 succinctly maybe identify the most important and salient plan  
21 policies that go into that balancing from the Office of  
22 Planning's perspective?

23 I think we have it in your report, in both your  
24 reports, but if you could just summarize that?

25 MR. KIRSCHENBAUM: Thank you for the question.

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1 You know, we'll just note that the building has existed prior  
2 to the FLUM, and it also has been historically zoned since  
3 1958 with residential zoning. Regarding the FLUM, the  
4 Comprehensive Plan policies work together to support a  
5 moderate density residential use on the subject property.  
6 The land use element supports neighborhood revitalization and  
7 neighborhood beautification.

8           This building would provide a brand new, well  
9 designed apartment building in the community and would also  
10 provide brand new housing units and replace 34 existing  
11 dwelling units that are nearing their end of life. So the  
12 subject property as a result would be revitalized with high  
13 quality construction and apartments, and it will also provide  
14 larger units for families, which is a policy of the  
15 Comprehensive Plan, and it would also just create new housing  
16 in general. We're going to gain a significant amount of new  
17 dwelling units in the site, on the site and it would also  
18 provide infill housing.

19           We'll also note that this ANC does not have much  
20 affordable housing located on it. It has -- I don't remember  
21 the percentage offhand, but it's particularly low for the  
22 District of Columbia, and this is an all-affordable building.  
23 It will be not only available -- the units will not only be  
24 available to existing tenants on the site but about 50 units  
25 will be available to the residents of the District of

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1 Columbia and that being said, it's a public benefit this will  
2 be serving the needs of this direct community and ANC.

3 COMMISSIONER TURNBULL: Thank you Mr.  
4 Kirschenbaum. That was very succinct. Thank you. I'll  
5 leave it at that.

6 CHAIRMAN HOOD: I don't know how much more you can  
7 say. I think both of y'all did a great job on your reports,  
8 and I was just sitting here thinking Ms. Steingasser. The  
9 other night, I missed you Mr. Lawson because I'm used to  
10 always calling Ms. Steingasser and Mr. Lawson until tonight,  
11 Ms. Steingasser's not here. So I guess I'm going to have to  
12 eventually get focused on how to make an adjustment.

13 So all right. Let's see. Does the Applicant have  
14 any cross exam of DDOT?

15 MS. MOLDENHAUER: No. Thank you Mr. Kirschenbaum,  
16 thank you Mr. Rogers we enjoyed working with OP and DDOT and  
17 have no questions. Thank you.

18 CHAIRMAN HOOD: Okay, all right. Again, I don't  
19 see anyone from either one of the ANCs. Okay. I do have two  
20 letters from -- one letter from the Fort Totten Civic  
21 Association and it says, Wesley has been a responsive  
22 partner, addressing the needs and desires of the existing  
23 residents. As a community, we support this development and  
24 we'll continue to partner with Wesley as they move forward  
25 with planning, demolition and construction.

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1           And then the ANC, which a number of their members  
2 I've been knowing for years. As I said, I've got to go home.  
3 But anyway, I'm glad to see that they -- it says Wesley has  
4 worked very diligently and the vote was -- voted unanimously  
5 by a vote of 6 to 0 to support the application of those who  
6 were present in attendance. With a quorum and 7  
7 commissioners in attendance, ANC 5A voted unanimously.

8           Let me ask Mr. Marshall, how was it working with  
9 Sandy Washington?

10           MR. MARSHALL: Incredible. The thoroughness --

11           CHAIRMAN HOOD: Are you saying that because I'm  
12 going to go back and say something to her, or are you just --

13           MR. MARSHALL: This is on the record I must say.  
14 The thoroughness, the responsiveness, the dedication and the  
15 commitment that she showed to her community, I mean it was  
16 a model way of going about it as a commissioner.

17           CHAIRMAN HOOD: Right sir. I know they take it  
18 very seriously what they do so --

19           MR. MARSHALL: And I should say on the record just  
20 how grateful we were for the help that she offered to  
21 organize things in the process. I mean she, along with the  
22 president of the civic organization, were my understandable  
23 points of contact throughout all of this, and I do very much  
24 appreciate --

25           CHAIRMAN HOOD: And that's Dwight Calloway?

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1 MR. MARSHALL: Correct.

2 CHAIRMAN HOOD: Okay. So good. You had a good  
3 team there helping you, okay. All right. Do we have any  
4 other government reports? We had the report. Anything  
5 else? We had the DOEE report. I think we've spoken about  
6 that quite a bit. Is there any other reports? Was there a  
7 letter from the tenants, or they just -- yeah. Let me see  
8 what exhibit was that.

9 MS. MOLDENHAUER: Yes.

10 CHAIRMAN HOOD: I think that's Exhibit 33?

11 MS. MOLDENHAUER: Correct, that's Exhibit 33.

12 CHAIRMAN HOOD: Okay. I don't want to leave the  
13 tenants out. Let me just read an excerpt. Okay, this is  
14 also favorable. It says, We think that the new building will  
15 be a positive for tenants at the property as well as the  
16 surrounding community. I think as you were trying to allude  
17 to or alluded to Ms. Moldenhauer, I think that's very  
18 important, because you're right.

19 They're the most impacted, even though we have to  
20 -- by legally have to look at ANC says as well. So we really  
21 appreciate the work that you all have done with the Hawaii  
22 Avenue Tenants Association. All right. Let's go to any  
23 organizations and persons who are here in support who would  
24 like to testify?

25 Any organizations or persons who are here in

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1 opposition who would like to testify?

2 Any organizations or persons who are undeclared  
3 who would like to testify?

4 Okay. Not hearing any, Ms. Moldenhauer, do you  
5 have any rebuttal or closing?

6 MS. MOLDENHAUER: No. I'd just like to say thank  
7 you very much commissioners for hearing us out, OP and DDOT  
8 for working with us. We believe that the Commission, despite  
9 the fact that the FLUM is designated for parks, recreation  
10 and open space, it is not inconsistent with the comprehensive  
11 plan overall as a whole.

12 I point the Commission to 10A DCMR 300.1 and  
13 300.3, which states that the land use elements of the  
14 Comprehensive Plan is the cornerstone of the Comprehensive  
15 Plan and should be given greater weight than other elements  
16 as competing policies and different elements are balanced.  
17 So I believe that based on the McMillan test, the Commission  
18 can balance all of the various elements that were spoken to  
19 by Mr. Varga, as well as the benefits to the community and  
20 the affordability that's being provided and proffered on this  
21 project.

22 We believe that any adverse impacts have been  
23 mitigated based on the compromises and discussions that have  
24 been had throughout the discussion with the ANCs, the civic  
25 association, the tenant association and we believe that it

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1 is a beautiful and very exciting project based on the design  
2 of it and will be incompatible with the neighborhood and the  
3 community, and we would ask that the Commission vote so we  
4 can move forward with proposed action. Thank you.

5 CHAIRMAN HOOD: Okay, thank you.

6 MS. MOLDENHAUER: And we will provide everything  
7 that the Commission requested between now and any following  
8 hearing.

9 CHAIRMAN HOOD: Okay. Thank you, Ms. Moldenhauer  
10 and team. We really appreciate the presentation and everyone  
11 who participated. Before I go there, Commissioners you've  
12 heard the request. I'm not sure if what we asked for cannot  
13 be dealt with as final. I'm not sure, but let me see what --  
14 a final? Was there anything we needed to hold up on? Okay.  
15 So --

16 COMMISSIONER TURNBULL: I think you said that  
17 Commissioner May would read. I'm assuming Commissioner  
18 Shapiro will too?

19 CHAIRMAN HOOD: I'm not -- I haven't heard from  
20 Commissioner Shapiro.

21 (Simultaneous speaking.)

22 CHAIRMAN HOOD: Want to make them read, excuse me,  
23 make him read the final? Well, it's for final.

24 COMMISSIONER TURNBULL: For final.

25 CHAIRMAN HOOD: Okay, so if he chooses to read

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1 it, I don't want to make him do any extra work. Now  
2 Commissioner May, I don't mind making him do any extra work.  
3 All right. So I think we're ready to move forward for  
4 proposed action, so Commissioners, I'll entertain a motion.

5 VICE CHAIR MILLER: Thank you, Mr. Chairman. I  
6 would move that the Zoning Commission take proposed action  
7 on Zoning Commission Case No. 19-01, Wesley Hawaii LLC  
8 Consolidated PUD and Related Map Amendment at Parcel 124-77,  
9 One Hawaii Avenue, Northeast and ask for a second.

10 COMMISSIONER TURNBULL: Second.

11 CHAIRMAN HOOD: Okay, it's been moved and properly  
12 seconded. Any further discussion? All in favor, aye.

13 (Chorus of ayes.)

14 CHAIRMAN HOOD: Any opposition?

15 So ordered. Ms. Schellin, would you please record  
16 the vote?

17 MS. SCHELLIN: Yes. Staff records the vote 3 to  
18 0 to 2 to approve proposed action in Zoning Commission Case  
19 No. 19-01. Commissioner Miller moving, Commissioner Turnbull  
20 seconding, Commissioner Hood in support. Commissioners May  
21 and Shapiro not present, not voting.

22 If we could have the documents requested by  
23 September 30th, 3:00 p.m., and the ANCs? If you would reach  
24 out to them, since they're the only two parties? They would  
25 have until three o'clock p.m. on the 7th of October to

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1 respond if they choose to do so, and a draft findings of  
2 facts and conclusions of law by the 7th of October also, and  
3 then we can put this on for the October 21st public meeting.  
4 Thank you very much.

5 CHAIRMAN HOOD: Ms. Schellin, do we have anything  
6 else?

7 MS. SCHELLIN: No sir.

8 CHAIRMAN HOOD: All right. We want to thank  
9 everyone for their participation tonight and all the hard  
10 work that you all have done with the community and we greatly  
11 appreciate it, and with that, this hearing's adjourned.

12 (Whereupon, the above-entitled matter went off the  
13 record at 8:03 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCZC

Date: 09-16-19

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



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