

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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VIRTUAL PUBLIC HEARING

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THURSDAY

NOVEMBER 12, 2020

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The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 4:00 p.m. EDT, Anthony Hood, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

ANTHONY HOOD, Chairperson
ROBERT MILLER, Vice-Chair

ZONING COMMISSION MEMBERS PRESENT:

PETER G. MAY, Member
MICHAEL TURNBULL, Member

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN, Secretary
PAUL YOUNG, Zoning Data Specialist

The transcript constitutes the minutes from the Virtual Public Hearing held on November 12, 2020

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

Case No. 20-14 - VNO South Capitol, LLC & Three Lots in
 Square 649, LLC - Design Review, 5 M St. SW (Square
 649, Lots 43- 45 & 48) 6

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

(4:00 p.m.)

CHAIRPERSON HOOD: Okay. Good afternoon, ladies and gentlemen. We are convening and broadcasting this public hearing by video conferencing. My name is Anthony Hood, and joining me

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1 are Vice Chair Miller, Mr. Shapiro -- I'm sorry, Commissioner May
2 and Commissioner Turnbull. Commissioner Shapiro will not be
3 joining us tonight, but possibly will be reading the record.

4 We're also joined by Office of Zoning staff, Ms. Sharon
5 Schellin as well as Mr. Paul Young, who will be handling all of
6 our virtual operations.

7 The virtual public hearing notice is available on the
8 Office of Zoning's website. This proceeding is being recorded
9 by a court reporter and the platforms used are Webex, Webcast
10 Live, Webex and YouTube Live. The video will be available on
11 the Office of Zoning's website after the hearing.

12 Tonight's hearing is Zoning Commission Case Number 20-
13 14, VNO South Capitol, LLC & Three Lots in Square 649, LLC.
14 Design Review in Square 649, Lots 43, 44, 45 and 48. Today's
15 date is November the 12th, 2020.

16 All persons planning to testify should have signed up
17 in advance and will be called by name at the appropriate time.
18 At the time of sign-up, all participants will be complete the
19 oath or affirmation required by Subtitle Z 408.7.

20 Accordingly, all those listening on Webex or by phone
21 will be muted during the hearing and only those who have signed
22 up to participate or testify will be unmuted at the appropriate
23 time. When called, please state your name and home address before
24 providing your testimony. When you are finished speaking, please
25 mute your audio.

1 If you experience difficulty accessing Webex or with
2 your call in, or have not signed up, then please call our OZ
3 hotline number at 202-727-5471. Again, that number is 202-727-
4 5471.

5 If you wish to file written testimony or additional
6 supporting documents during the hearing, then please be prepared
7 to describe and discuss it at the time of your testimony.

8 The hearing will be conducted in accordance with
9 provisions of 11-Z DCMR, Chapter 4 as follows: preliminary
10 matters; Applicant's case, they have up to -- the applicant has
11 up to 60 minutes; report of the Office of Planning and the
12 Department of Transportation; report of other government
13 agencies; report of the ANC, in this case it's ANC 6D; testimony
14 of organizations which will have 5 minutes; the testimony of
15 individuals which will have 3 minutes. And we will hear in the
16 following order from those in support, opposition and undeclared.
17 And then we'll have rebuttal and closing by the Applicant.

18 Let me just go back, after testimony of those in
19 support, we'll hear from the parties in opposition and then
20 proceed with the individual testimony in opposition, and then we
21 will have rebuttal and closing by the Applicant.

22 Again, the Office of Zoning hotline number is 202-727-
23 5471 for any concerns during this proceeding.

24 At this time the Commission will consider any
25 preliminary matters. First, let me ask, Ms. Schellin, before we

1 go to preliminary matters, have we made contact with Vice Chair
2 Miller?

3 MS. SCHELLIN: I have. And he shut down his computer
4 and it's restarting it and worse case, he will call in.

5 CHAIRPERSON HOOD: Okay. Okay. So at this time the
6 Commission will consider any preliminary matters. Does the staff
7 have any preliminary matters?

8 MS. SCHELLIN: Yes, sir. First of all, we have a party
9 status request at Exhibits 53 through 53(b) from 1101 S. Capitol,
10 LLC, it is in opposition. They have filed a request for a waiver
11 of the time period not being 14 days prior to the hearing.
12 They're represented by Carolyn Brown. I believe she is on, if
13 the Commission has questions for her, but you have the request
14 before you and would ask that you would consider this request.

15 CHAIRPERSON HOOD: Okay. Let me open for --
16 Commissioners, I don't have -- I'll start off, I don't necessarily
17 have a issue. It looks like some submissions or some material
18 was presented kind of late and they didn't have enough time, at
19 least that's the way I read it. I don't have an issue with them
20 getting party status in opposition but let me ask my colleagues.
21 Any opposition, Mr. Turnbull?

22 COMMISSIONER TURNBULL: No, Mr. Chair. The building
23 is next door to the current applicant. I'm fine with it.

24 COMMISSIONER MAY: Mr. Chairman, I agree. The -- I
25 mean it seems like there was late breaking information and so

1 that explains why there was not an earlier application for party
2 status, so that makes sense to me and certainly they are uniquely
3 affected, they would meet the standards. So it makes sense to
4 me.

5 CHAIRPERSON HOOD: Okay. I thank you both. And Ms.
6 Schellin, I guess we'll just call this -- this part, 1101 S.
7 Capitol, or did they have a name? We'll just call them whatever
8 --

9 MS. SCHELLIN: Okay. Thanks.

10 CHAIRPERSON HOOD: (Audio Interference.)

11 MS. SCHELLIN: (Audio Interference.)

12 CHAIRPERSON HOOD: I'm sorry?

13 MS. SCHELLIN: I think you might need to vote on that.

14 CHAIRPERSON HOOD: Oh, we do? Okay. So I move that
15 we grant 1101 S. Capitol, LLC care of Ruben Companies, party
16 status in opposition in Case Number 12-

17 MS. SCHELLIN: 20-14.

18 CHAIRPERSON HOOD: -- 20-14 and ask for a second.

19 COMMISSIONER TURNBULL: Second.

20 CHAIRPERSON HOOD: Commissioner May tried to say
21 second, but he's on mute so --

22 COMMISSIONER TURNBULL: He was taking too long.

23 CHAIRPERSON HOOD: Mr. Turnbull seconded. Ms.
24 Schellin, can you do a roll call vote, please?

25 MS. SCHELLIN: Commissioner Hood?

1 COMMISSIONER MAY: Hold on, hold on, hold on. I was -
2 - I had a question about this, which is, will you be voting
3 either in the same motion or in a prior motion to waive the rule
4 --

5 MS. SCHELLIN: Yes.

6 COMMISSIONER MAY: -- to allow the filing?

7 CHAIRPERSON HOOD: Thank you. And I'm glad that you
8 got through because you're exactly right. Let's include what
9 Commissioner May said in our motion to grant. Let's waive the
10 requirement and also grant the party status in opposition in
11 Zoning Commission Case Number 20-14. I will correct that and add
12 that to my motion. And I --

13 COMMISSIONER TURNBULL: I will second that also.

14 CHAIRPERSON HOOD: Okay.

15 MS. SCHELLIN: Okay. Mr. Hood?

16 CHAIRPERSON HOOD: Yes.

17 MS. SCHELLIN: Commissioner Turnbull?

18 COMMISSIONER TURNBULL: Yes.

19 MS. SCHELLIN: Commissioner May?

20 COMMISSIONER MAY: Yes.

21 MS. SCHELLIN: Let me look to see if Commissioner May
22 is on yet.

23 CHAIRPERSON HOOD: You mean Miller.

24 MS. SCHELLIN: Miller, I'm sorry. Commissioner May is
25 here. I do not see him yet, so the vote is 3 to 0 to 2, to waive

1 the rule and to approve the party status application in opposition
2 of 1101 S. Capitol, LLC. Commissioner Hood moving, Commissioner
3 Turnbull seconding, Commissioner May in support. Commissioners
4 Miller and Shapiro are not present.

5 Okay. So next we have the proffered expert witnesses,
6 which was previously accepted when this case started in October,
7 so there's only one new expert that's been added and that is
8 Shane Dettman. He has previously been before the Commission, so
9 we would ask the Commission to consider approving him as an expert
10 in this case, in Planning and Zoning.

11 CHAIRPERSON HOOD: Okay. I think, Commissioners, we'll
12 just keep our -- unless I hear otherwise, we'll keep our same -
13 - what we normally -- you know, give him party status and keep
14 our same way of doing that. I think we've done that for him and
15 others. Any objections? Not seeing any, we'll continue that,
16 and I will do that in general consensus.

17 MS. SCHELLIN: Okay.

18 CHAIRPERSON HOOD: My way of saying, we can do that in
19 general consensus.

20 MS. SCHELLIN: Okay. And other than that, the Applicant
21 has requested 60 minutes for their presentation this evening.
22 And Mr. Young can bring their people on board right there.

23 CHAIRPERSON HOOD: So we can bring them up. Let's see
24 if we can get Vice Chair Miller on. Let's take a minute. I'm
25 going to go on mute and I'm going to see if we can help him get

1 up.

2 (Pause in proceedings.)

3 CHAIRPERSON HOOD: So what we're going to do, we're
4 going to wait and I'm going to ask Mr. Young or Ms. Schellin, if
5 you all can tell me when Vice Chair Miller either calls in --
6 he's going to try to log back in, but if not, he's going to call
7 in. Once he calls in, then Ms. Shiker and others, we can begin
8 the presentation.

9 (Pause in proceedings.)

10 CHAIRPERSON HOOD: And while we're waiting, Ms.
11 Schellin, if you could remind me, I'm going to request that
12 Commissioner Shapiro reads the record.

13 MS. SCHELLIN: Yes, sir.

14 (Pause in proceedings.)

15 CHAIRPERSON HOOD: Okay. I see he's on now. So, Ms.
16 Shiker, we can get started. We appreciate and thank everyone -
17 -

18 VICE CHAIR MILLER: Sorry about that.

19 CHAIRPERSON: Okay. Good. I see you're on, so thank
20 you, Vice Chair. So we can go ahead and get started and I
21 appreciate everyone's patience.

22 VICE CHAIR MILLER: Yes, I do too.

23 MS. SHIKER: All right. Shall I start? All right.
24 Good afternoon, Chairman Hood and members of the Commission. We
25 are here today to present an application for design review under

1 Subtitle I, Chapter 7 for a property located at the northwest
2 corner of M and South Capitol Streets. I would ask, Paul, if
3 you could pull up our presentation, because I have a couple of
4 slides as part of my discussion, and you can go to the second
5 page. Thank you, if you could go to page 2. Thank you.

6 So the site is there in pink and the application
7 includes the majority of Square 649, excluding only the northeast
8 corner, which is lot 47 and is owned by the Ruben Companies, the
9 party in opposition.

10 The property is zoned D-5. The purpose of the D-5 zone
11 is to permit high-density mixed-use development. This zone
12 allows, as a matter of right, unlimited residential density and
13 up to 6.5 FAR for non-residential use with additional density
14 permitted with the use of credits. The maximum permitted height
15 for this site is 130 feet. The site has no rear or side yard
16 requirements and is permitted to occupy 100 percent of the lot.

17 Residential development in the D-5 zone is specifically
18 exempted from the exclusionary Zoning Regulations, with the only
19 exception being for the production of affordable housing if you
20 take advantage of penthouse habitable space. The project we're
21 presenting tonight fully complies with all of these standards.
22 Next slide, please.

23 The site's location at the corner of M and South Capitol
24 Street also subjects it to additional requirements from the sub-
25 area. These additional zoning requirements are fully complied

1 with for the project and Mr. Dettman will go through those.

2 In addition, because of the frontage on that green line
3 you see at the corner of M and South Capitol Street, we are
4 required to do a design review, which is why we are before you
5 this evening. The Zoning Regulations provide very detailed
6 standards for this specific review. These are specific to the D
7 Zone. They are different design review standards that you're
8 typically used to seeing for cases like in the CG zones or in
9 the Southeast Federal Center. And they're completely different
10 from the standards you see for PUDs, which include the evaluation
11 of amenities and benefits. So there's a very distinct set of
12 requirements for D Zone properties in this sub-area.

13 Since the October 1st hearing, we have worked very hard
14 to make changes to the project to address the concerns that we
15 heard from both the Commission and from the community.

16 First, we will note that the application has been modified
17 to include only a single development option, that is the
18 residential development with a ground floor retail. We are no
19 longer requesting flexibility for a mixed-use scheme.

20 Second, we've continued to work closely with the Office
21 of Planning, and we're pleased to continue to have that support.
22 They identified some conditions in their report, all of which
23 we've agreed to. They also asked for clarification of two points;
24 one, whether the project continued to provide solar panels and
25 it does. We have committed to a minimum of 750 square feet of

1 solar panels. And they asked where our IZ unit that results from
2 the penthouse habitable space would be located; we'll provide
3 that in our testimony tonight.

4 Our team has also worked closely with DDOT. We believe
5 we've addressed all of their concerns and that they have no
6 objection to the project.

7 Our team has also continued to work hard and close with
8 the ANC throughout the month of October since that last hearing.
9 During this time we've made progress. We're closer than we
10 originally were, but, unfortunately, we are not here with their
11 support and we're pleased that we've made progress, but we aren't
12 100 percent there.

13 We're going to go through tonight the significant
14 design changes that we've made to try to address all of their
15 concerns and we hope that that will explain some of the
16 differences.

17 We're also disappointed that the Lot 47 owner is now a
18 party in opposition. We've been working with them over the past
19 week and a half to address some of their concerns, which we
20 believe are solely related to this access easement.

21 It's important to note that DDOT and the Office of
22 Planning had requested that we provide this combined access into
23 the Square because it's consistent with DDOT policies. As such,
24 we are agreeing to allow the Lot 47 owner to use our private
25 property to access their site.

1 As Mr. VanPelt will describe, we believe that we're
2 providing more than reasonable access with that easement over our
3 private property. And, in fact, we think it will be a benefit
4 to their property once they are fully in design. In recent PUD
5 cases, providing that kind of access has actually been considered
6 a benefit or an amenity. Again, that's not the standard here,
7 but it is something that we thought was a benefit to them, not a
8 detractor.

9 In this case we think that maybe their issues are more
10 with DDOT and DDOT's priorities for combined access and limiting
11 curb cuts. Whether or not they access their property through a
12 separate curb cut or through our private property driveway
13 easement, it doesn't impact the operation of our project. And
14 so we're happy to continue to work on operational issues with
15 them or talk with them further and we'll get to hear some of what
16 they say tonight.

17 Finally, we understand that there is concern in the
18 community regarding affordable housing and the policies of the
19 District of Columbia on that issue. Many of the letters in the
20 record -- and I anticipate the testimony tonight will seek to
21 impose standards on this project that are not applicable under
22 current law.

23 The concerns expressed relating to affordable housing
24 were also the dominant conversation piece with the ANC both before
25 and after the October hearing. It is an important issue to this

1 community. However the affordable housing issues are not the
2 subject of this hearing tonight. This application before you is
3 for design review and there are specific standards for that.

4 The Commission has consistently determined that in a
5 design review case it is -- its authority is limited to whether
6 the design review standards are met. And if there are any special
7 exception or variances requested, whether those standards are
8 met. In this case, we're fully compliant with zoning, we need
9 no relief, and we believe we have satisfied the design review
10 standards.

11 That being said, the Applicant will provide details
12 relating to its commitments to affordable housing, both in
13 general and with respect to this project. These commitments are
14 outside of the design review process and are offered in direct
15 response to the community's concerns and the concerns that we
16 heard from the Commission.

17 So with that, I'll ask Ms. Saclarides from JBG Smith
18 to start her presentation. Thank you.

19 MS. SACLARIDES: Thanks, Christy. You can go on to the
20 next slide. And good afternoon, Commissioners, and hi to everyone
21 watching at home.

22 I'm Robbie Saclarides. I'm the development manager
23 with JBG Smith. JBG Smith is a commercial real estate developer,
24 owner and operator with a singular market focus, that is the D.C.
25 region.

1 We've been active in D.C. for over 60 years now and our
2 portfolio is comprised of commercial office, multi-family and
3 retail assets. With emphasis on placemaking, we recently
4 delivered the pedestrian-focused promenade at Half Street a few
5 blocks south of 5 M featured here on the right, along with over
6 750 residential units surrounding it. Next slide, please.

7 We understand and share the concerns we've heard about
8 affordable housing from the community throughout this process.
9 In addition to our important work in contributing to the market
10 rate supply of residential units, JBG Smith has been forward-
11 thinking in its approach to affordability.

12 In 2018 we embarked on an ambitious affordable housing
13 venture launching the Washington Housing Initiative in
14 partnership with the Washington Housing Conservancy. This is an
15 industry leading program in which JBG Smith is raising over a
16 100-million-dollar fund that is dedicated to preserving and
17 creating over 3,000 affordable housing units in high-impact
18 locations throughout the D.C. Metro region.

19 With 50 percent of the funds being dedicated to the
20 District specifically, this equates to over 12 percent of the
21 mayor's targeted 12,000 affordable units.

22 The Washington Housing Initiative is one of the many
23 ways our firm has been innovative in thinking about how to provide
24 affordable housing in different ways than how it's always been
25 done.

1 JBG Smith is a leader in this space and has invested
2 in increasing affordability in the District and the region. We
3 hope this model presents a new tool for private and public
4 partners to leverage as we continue to collaborate in delivering
5 housing affordability across the region. Next slide, please.

6 The 5 M property specifically, this project consists
7 of approximately 608 multi-family rental units, over 24,000
8 square feet of retail, that's the pink base here. Next slide,
9 please.

10 As Christy mentioned, we are really disappointed that
11 we were unable to obtain the support of the ANC after spending
12 so much time working with them and making many design
13 modifications and program commitments in response to their
14 specific concerns regarding the building's design and impact on
15 the community.

16 We understand this corner is an important gateway not
17 only for the Office of Planning and the Zoning Commission, but
18 also for the local community. And, as such, we began our
19 engagement with the ANC back in April roughly three months prior
20 to filing out initial application.

21 We continue to work with the ANC Commissioners in
22 refining our design, over 10 meetings throughout the 7 month
23 period between April and October, presenting to the full ANC in
24 public meetings on both September 14th and again on October 27th
25 after three subsequent meetings. Next slide, please.

1 So showing our architectural detail the significant
2 design changes made in collaboration with the ANC when she walks
3 us through the plans in more detail, this slide here summarizes
4 the non-design related adjustments that our team has made in
5 response to the ANC's concerns over the past 7 months of working
6 together.

7 First, as mentioned previously, we eliminated the use
8 flexibility included in our initial application in response to
9 the community's concerns. Next, the ANC also expressed concern
10 over residential parking permits associated with the project. In
11 response, we've agreed to structure our leases such that
12 residents of the property will not be eligible for RPPs and we've
13 included this commitment as a condition to this approval.

14 The ANC also expressed a few concerns regarding how
15 lighting and signage may be incorporated into the project. In
16 response, we've committed to prohibit both neon and digital
17 signage as well as architectural lighting on the building as a
18 condition to this approval. We've provided both lighting and
19 signage plans that show all lighting incorporated will be
20 functional in nature for the safety of our residents and those
21 in the public space.

22 The ANC expressed some concerns about increased dog
23 relief activity associated with the project and we've
24 incorporated a dog run within the building in response and will
25 maintain it to encourage residents to keep this activity to the

1 interior of the project and away from public space.

2 And last, the ANC expressed some concern about a
3 Heritage tree on site. As the tree is located in the public
4 space, adjacent to the proposed building, our team has already
5 begun coordinating with DDOT and urban forestry to prepare a root
6 study and determine the best plan for preserving this public
7 space tree, all in accordance with District laws relating to
8 Heritage trees. Next slide.

9 As previously mentioned, JBG Smith is taking an
10 innovative approach to affordable housing through the Washington
11 Housing Initiative. However, we heard through our engagement
12 with the community that affordable housing on-site is a priority
13 and, as such, we've agreed to satisfy the penthouse habitable
14 space requirement by providing a unit onsite as well as an
15 additional 19 onsite affordable units outside of the IZ program,
16 totaling 20 units onsite, in addition to our separate investments
17 near the Washington Housing Initiative.

18 This more than doubles our previous commitment proposed
19 on the October 1st hearing. And with that, I'll turn it over to
20 Shelly to walk us through the design of the building.

21 MS. MRSTIK: Thank you, Robbie. And thank you to the
22 Commission for hearing our case this afternoon. My name is Shelly
23 Mrstik and I'm an architect at Gensler. Gensler is both local
24 and global. Our 5 M team is based on K Street and we have 50
25 global offices. We have completed several residential office and

1 mixed-use buildings throughout the city. Next.

2 Today I'll explain the site location, surrounding
3 context, summarize the overall project intent and show the design
4 process and evolution from our original design in April of 2020
5 and modifications we've made in response to ANC feedback,
6 including specific changes we've made since our original hearing
7 date on October 1st.

8 The site has a prominent location at the corner of M
9 Street Southwest and South Capitol Street, located in southwest
10 and immediately adjacent to the Ballpark neighborhood. Next.

11 Here's the enlarged site plan. Next.

12 This image illustrates the high density that is either
13 built, planned or allowed to the north and east and the medium
14 density that is planned directly to the south of our site. The
15 intersection of 5 M Street, at M Street and South Capitol, is a
16 gateway to the Southwest Neighborhood to the west neighborhood
17 to the west and to the Capitol building to the north, and we have
18 designed the building to respect and highlight these important
19 features. Next.

20 The framed axial view, similar to boulevards in Paris,
21 is strongest at North Capitol Street in D.C. We have an
22 opportunity at 5 M to reinforce the framed axial views at South
23 Capitol Street. As will be shown, the building fully meets the
24 street law requirements along South Capitol Street as set forth
25 in the Zoning Regulations for this site. Next.

1 We believe that establishing a strong edge at both M
2 Street and South Capitol Street will reinforce the views. The
3 upper left image looks at the Capitol dome which will be framed
4 from this point with high-density development on each side of
5 South Capitol Street. The lower left image looks towards
6 Southwest, which will be framed by the project and future
7 development on the south side of M Street, which can have a height
8 up to 110 feet. Next.

9 In the immediate context, there are already three
10 constructed or planned buildings with street walls up to 110 and
11 setbacks to 130, which is what is being proposed for this
12 property. These are similar in massing to the 5 M design and
13 generally have two-story window groupings. The NAB building
14 located diagonally across the intersection has a special corner
15 treatment. We recognize that there are many ways to create
16 special corners and we have taken great care in designing a
17 monumental corner element for this project that acknowledges the
18 nearby high-density buildings and respects the property's
19 important gateway location into the Southwest Neighborhood.
20 Next.

21 Other context buildings along South Capitol Street that
22 are influential to this design include 1221 Van for material
23 types, Saint Vincent Church for darker masonry and Capitol
24 Skyline for framed window openings. To the south of our site
25 are the Sanitary rowhouses, the majority of which are two stories

1 in height with punch masonry openings. They have blank walls
2 along M Street and front inboard on the north-south running
3 streets. Next.

4 To establish the context specifically in Southwest,
5 this diagram organizes properties based on their distance from
6 the M Street site in three zones, within a half mile, one mile
7 and one and a half miles. Next.

8 For each of these three distance ranges, we looked at
9 projects built prior to 1970 and those built after 1970. We did
10 this in order to respond to specific concerns raised by the ANC
11 that our project did not fully embody some of the newer
12 developments within Southwest.

13 For those in our immediate context, there's not a
14 consistent esthetic nor are there strong indications of mid-
15 century modern architecture. The fenestration patterns vary
16 between horizontal organization, frames, punch masonry openings
17 and curtain wall expressions.

18 The Randall School does fall in this ring and the ANC
19 noted it specifically to us. However, it is designed around a
20 historic structure and has different zoning context. Next.

21 It is only in the next ring of properties between one
22 half and one mile away from 5 M where the mid-century modern
23 architecture first appears. These buildings are generally towers
24 in the park that sit on medium-density sites, so they have a
25 different mass and character than buildings that are

1 | traditionally on high-density sites. It should be noted that the
2 | radius of the half mile to one mile to the east puts us into the
3 | heart of The Yards making it equidistant to the 5 M site as mid-
4 | century modern references. Next.

5 | The radius within range of one mile to one and a half
6 | miles away from 5 M contains some mid-century modern architecture
7 | as well as Arena Stage and The Wharf. The Bard at 501 I Street
8 | was another project that the ANC pointed us to. However, the
9 | site is zoned for a much lower density, so the design goal is
10 | different.

11 | In summary, the architectural context of Southwest
12 | contains a variety of material, the sum articulation and massing
13 | organization beyond the mid-century modern buildings that are
14 | more than a half mile away from our site. Next.

15 | It is within this context that we drew design
16 | inspiration for the details and shaped the overall form of the
17 | building. We developed the design at three scales: at the scale
18 | of the building to create an interlocking corner; at the scale
19 | of bay to take inspiration from hopper windows and older buildings
20 | to form a rotated balcony design. And at the scale of the
21 | details, we interpreted the mid-century modern architecture in
22 | Southwest to form floating volumes, interlocking brick patterns
23 | and captured masonry. Next.

24 | We emphasize the gateway corner at our site with an
25 | expression that is visible from the south and east and is also

1 dynamic in composition to provide visual movement in both the
2 north-south and east-west directions. This diagram shows how the
3 interlocking facades come together at M and South Capitol and the
4 white arrows indicate porosity at this corner. You'll see from
5 some of our images that we show generic massing for what the
6 zoning permits as a lot in the northeast corner of the Square.

7 This diagram shows how the 5 M building holds the
8 property line at South Capitol Street. As you can also see in
9 this slide, the building is now set back at 110 feet along South
10 Capitol and M Streets and provides additional openings at the
11 frame at the corner, which is directly in response to the ANC's
12 concern that the building was too large and looming at the corner.
13 Next.

14 We show how the building fits into the South Capitol
15 corridor and at the east side with a setback at 110, then steps
16 down to the west to blend into the lower heights of the Southwest
17 Neighborhood and to respond to the specific concern raised by the
18 ANC.

19 The height of the pavilion at the southwest corner has
20 been lowered significantly since October in response to the ANC's
21 feedback. Next.

22 In the next three slides we represent the view corridor
23 through photographs and renderings. This is how the site looks
24 today. Next.

25 And with our building rendered into it. Next.

1 And with lines indicating the existing, proposed and
2 allowed buildings visually connecting together. Next.

3 With respect to the architectural details we took hues
4 from Capitol Park, River Park, Harbor Square and Tiber Island.
5 These properties are located approximately one half to a full
6 mile away from the 5 M site. Details include floating volumes,
7 expressed slab edges and articulation of horizontal and vertical
8 grids. Next.

9 From a composition standpoint, the building has four
10 articulation strategies to respond to several factors of
11 influence as well as to break down the scale of the large city
12 block. Two of the four articulation strategies use brick. The
13 first is the brick grid along South Capitol Street and M Street
14 organized on a two-story module that responds to the scale and
15 character of the other properties along South Capitol Street.
16 You'll note that we've revised this material from the previously
17 proposed concrete in order to respond to the ANC's request to
18 create more consistency throughout the project.

19 The second use of brick is a stacked configuration of
20 captured stacked bond brick organized in a single-story module
21 along L and Half Streets, which faces the Southwest Neighborhood
22 and is tailored to mid-century modern details. The third strategy
23 is the brick podium that wraps the entire site with large, punched
24 masonry openings and the fourth is an articulated glass pavilion
25 at the southwest corner. Elements of the recessed curtain wall

1 also appear at the top of the L Street façade. Next.

2 This project has three components which create variety
3 and break down the scale of the larger site. A, is the
4 residential tower at the corner of South Capitol and M Street;
5 B, is the corner pavilion at the intersection of M and Half
6 Streets; and C, is the northern residential tower along L and
7 Half Street. Next.

8 Here's the location within in the city where the
9 building holds a strong corner at the intersection of M and South
10 Capitol, then tapers into the Southwest Neighborhood. Next.

11 To provide an orientation to the building we'll walk
12 around the property clockwise in the next series of images.
13 Starting at South Capitol Street, the two-story reading of the
14 brick frames is similar to other large openings on the buildings
15 on the east side of South Capitol Street. The South Capitol
16 elevation shows the masonry retail base, a setback at 110 and the
17 extension of the building up to 130. Next.

18 We use a strong brick grid as an organizing element
19 with occupiable places for people. At the view from the
20 intersection of South Capitol and M, the interlocking corner from
21 our initial concept sketch is present and framed with a brick
22 grid. Outside curtain wall corners intersect into the corner bay
23 in an alternating pattern that draws the eyes to the top of the
24 implied tower. We use wood soffits and trellises to highlight
25 the horizontal surfaces. Outside the corner, we used the rotated

1 form to create clusters of four balconies.

2 The remaining field of the façade along South Capitol
3 Street respects the requirement for 60 percent of the frontage
4 to be located on the property line in order to establish a strong
5 view towards the Capitol. Next.

6 Working our way to the southwest corner of the site,
7 the pavilion anchors the corner but is also lower than the full
8 residential towers to provide visual relief at this corner. The
9 M Street façade of the pavilion is set back from the property
10 line at the base, then further set back above the level 3 to
11 provide vertical tiering. The residential floors are connected
12 at the lower levels but disconnected at the upper levels in
13 response to comments about the massing at the corner that we
14 received from the ANC. The building steps down in height as it
15 moves from South Capitol toward the pavilion reflecting the
16 surrounding lower scale residential neighborhood.

17 The pavilion is articulated with metal and curtain
18 wall. The roof of the pavilion has outdoor amenity space and
19 can be accessed by residents in both towers. This view also
20 shows the façade at Half Street. We carried the reveal at the
21 third floor around from M Street down Half Street and along L
22 Street as well to create a floating tower. Furthermore, the
23 units located on the level of the reveal have wide outdoor
24 terraces. There are 24 outboard balconies at Half Street, each
25 with glass guardrails to give a lighter appearance. Next.

1 At Half Street a masonry base that is oriented to the
2 west contains punch brick facades at walk-up units with
3 individual entries, canopies and traditional stoops meant to
4 align with the Sanitary rowhomes to the south of M Street. The
5 ANC report states that the stoops are industrial; however, we
6 believe they are consistent in design in detailing to traditional
7 stoops in the neighborhood. This view also shows the one story
8 reveal above the unit entries between the brick base and tower
9 above. Next.

10 Rounding the corner to L Street, on the north side of
11 the site, the maisonettes wrap around to the lobby entry. The
12 lobby is a through lobby that allows for a view to the landscaped
13 corridor at the center of the block. Next.

14 In response to ANC comments we simplified the tower of
15 the L Street façade, added a tiered setback at the top two floors
16 and raised the height of the base. In doing so, the organization
17 of this element became too symmetrical and inconsistent with the
18 proportions of the other facades. To improve the proportions,
19 we extended the eastern wall over to the Lot 47 property line.
20 This also helps to reinforce the floating volume that the ANC has
21 encouraged throughout the project. In the lower left-hand corner
22 of this image is the vehicular entrance to the private driveway.
23 The driveway has an 18-foot clear height and a 20-foot clear
24 width that expands to 22 feet where there are no columns. Next.

25 At the north elevation along South Capitol Street, this

1 is the party wall adjacent to Lot 47. A similar articulation
2 will be used at the party wall to the west along the north-south
3 property line between 5 M and Lot 47. We worked closely with OP
4 to design it ensuring the condition that wraps the light brick
5 frame around to this elevation and it infills with the darker
6 brick. We anticipate that a future development would also build
7 to its property line at this location. Next.

8 The primary organizational element is a lighter brick
9 frame, and we use a darker brick at the base. Other materials
10 in the pallet are a neutral low-E glass, gray metal mullions and
11 channels between brick and wood at the underside of the exposed
12 soffits. In response to the ANC, all four elevations are now
13 wrapped in brick and a lighter color is used. Next.

14 Here are photographs of the materials. Next.

15 And now moving to the plans. The streetscape has street
16 trees and a planting zone at each sidewalk. On this plan, we
17 also show the improved intersections and pedestrian crossings
18 that will be part of this project. In response to the ANC's
19 comments, we recessed the base along M Street by three feet back
20 from the property line to allow for more generous planting and
21 bike parking zone along the sidewalk.

22 At L Street, the building is also offset from the
23 property line at the base to complement the larger streetscape
24 zone around the residential lobby entrance on the north side of
25 the building. Next.

1 The ground floor contains a fully covered private
2 driveway with access to both onsite loading docks. There's a
3 residential lobby at both M Street and L Street and retail
4 entrances on both M Street and South Capitol. This configuration
5 accommodates requests from OP and DDOT for the private driveway
6 easement for Lot 47, which Gorove Slade will explain later in
7 this presentation. Next.

8 The typical floor plan shows how the units wrap around
9 the large central courtyard that has lush plantings and
10 recreation space for residents. We are proposing to locate the
11 IZ unit on Floor 3 and it will be constructed in the first phase
12 of development. Next.

13 The roof plan shows the penthouses in blue. Next.

14 And the landscape roof plan shows the amenity spaces.
15 There is one contiguous roof to allow for circulation between the
16 two elevator cores and used by all building residents. Next.

17 This is the outdoor amenity space on top of the
18 southwest pavilion. Next.

19 And from a sustainability perspective, the project is
20 on track to exceed the minimum code requirements with a target
21 of lead silver. While our scorecard shows 50 points, we are
22 currently tracking it in the 56 to 58-point range. Additionally,
23 this slide shows the locations of vertical solar panels on the
24 south penthouse walls. The project will have a minimum of 750
25 square feet of area dedicated to solar panels. And furthermore,

1 on the topic of sustainability, all storm water is handled onsite
2 through the use of green roof and a system in the garage. Next.

3 The next slides demonstrate the significant work that
4 we did with the ANC over the last several months to seriously
5 consider their recommendations, highlight the important gateway
6 of the site, and incorporate a variety of modifications into our
7 originally proposed design. We heard the ANCs concerns about
8 potential curbside deliveries and passenger loading at the
9 street. We added a covered passenger pick-up and drop-off zone
10 in the interior of the block.

11 Additionally, the driveways and loading docks are
12 designed to accommodate full-size trucks and are fully contained
13 within the center of this site. Next.

14 The ANC encouraged to look at mid-century modern
15 precedence in Southwest. Other ANC comments were that the
16 original design was too massive, especially the large concrete
17 frames and had too many façade treatments. On the left image,
18 showing the east elevation along South Capitol Street, we
19 originally showed a three-story grid complemented with a very
20 simple brick façade. In October, we added balconies with wood
21 soffits, captured brick with stack bond and express slab edges,
22 all of which are details that can be found in Southwest. We also
23 enlarged the openings and the dark brick façade at the same time.
24 In the current version we reduced this frame from three stories
25 to two, simplified this elevation by using a two-story brick grid

1 throughout and converted the organizing frame from concrete to
2 brick. The brick base is also extended upward in this current
3 version.

4 The October version had a greater amount of contrast
5 of materials but the ANC questioned the use of dark brick and
6 the feeling that the building had too many architectural
7 expressions, so we lightened the brick colors in the current
8 version and maintained a consistent façade treatment for the
9 entire elevation. Next.

10 In October we added balconies, captured brick, the
11 stack bond and express slab edges. We introduced horizontal
12 stitches to connect the masses together at the north elevation
13 and we enlarged the openings in the masonry wall. In the current
14 version, we removed the precast grid façade, added even more
15 balconies at both L Street and Half Street, introduced a one-
16 story reveal between the podium and tower and now use the same
17 façade type from the pavilion at the top two floors here to
18 consolidate the design vocabulary.

19 Again, in response to the ANC's stated concerns, we
20 simplified the façade so that there is now a single expression
21 for the entirety of Half and L Street. The masonry base is also
22 a consistent element around the ground floor for both the main
23 and residential towers. Next.

24 This shows the full extent of the north façade which
25 highlights the simplification of the vocabulary. Additionally,

1 the top two floors at this elevation are set back from the main
2 street wall to give balcony space to the units as well as to
3 create a tier at the top of this elevation.

4 The ANC report suggested a exoskeleton wrap the entire
5 project. This was surprising to us, as much of the commentary
6 from the ANC up to this point has been to encourage us to soften
7 the appearance of the grid. Our original design had a grid for
8 a large portion of the façade book-ended by areas of visual relief
9 with flatter masonry facades; however, the design was not
10 accepted by the ANC.

11 We believe that extending an exoskeleton around the
12 entire project will lead to an overall heaviness for this city
13 block. Next.

14 At the intersection of M and Half Streets, we revised
15 the massing of this corner as a direct response to ANC comments
16 to make this a more graceful transition into the Southwest
17 Neighborhood with a lower building height that provides light,
18 air and porosity throughout the site. This comparison shows how
19 we reduced the scale of the pavilion, removing the upper portion
20 from the lot line and introducing tiering for a more varied roof
21 line in the October version, and removing the upper portion
22 altogether in the current version to achieve the ANC's request
23 to be able to see through the site. Next.

24 And in elevation, this shows a scale reduction of the
25 corner and a tiered step-down into the neighborhood in a more

1 graceful manner as requested by the ANC. This elevation promotes
2 a variety of building heights. Next.

3 The ANC stated that there were too many architectural
4 treatments throughout the project. In October we simplified the
5 façade to exclude the rotated windows and remove the
6 architectural armature along M Street. The removal of the rotated
7 windows and simplification of the base allowed for a more pure
8 and simple box to float above the street corner to be more
9 consistent with other examples of the massing strategy in the
10 Southwest Neighborhood. Next.

11 The ANC stated that they wanted to see more unification
12 within the architectural treatments of the façade. Next.

13 At the east elevation, along South Capitol Street, we
14 switched from a two-part façade to a single part façade. Next.

15 At the south elevation we simplified the frame,
16 especially at the corner of M Street and South Capitol Street.
17 Next.

18 At the west elevation we adapted the brick red from the
19 south elevation to have a tighter frame. And at the north
20 elevation on this slide, similar to the strategy of
21 simplification that we used on the east elevation, we
22 consolidated the two façade types into a primary façade with a
23 curtain wall infill to break down the massing and highlight the
24 lobby entrance. Next.

25 The ANC stated that the corner, especially the

1 projecting boxes, felt too massive and that the corner did not
2 signify a gateway into the Southwest community. In the current
3 version we created a regular frame at each level from Floors 3
4 through 11, then introduced tiering within the openings of the
5 corner elements to pull a portion of the façade away from the
6 intermediate corner -- or the immediate corner. We also use
7 horizontal wood trusses to lighten the architecture.

8 At the ground floor, we introduced a re-entering corner
9 retail entrance to provide a more generous sidewalk at the
10 intersection and a more welcoming retail entrance, especially for
11 the future when the South Capitol Street is brought to grade
12 here. Next.

13 We heard the ANC's comments about lightening the brick
14 in October and we've also eliminated the pre-cast concrete from
15 the pallet as well, replacing it with brick. Next.

16 The ANC wanted to see more balconies in the project.
17 We added balconies to the South Capitol elevation. In October
18 they were disbursed in the dark brick façade. In the current
19 version, they are clustered together in the primary façade. We
20 added five balconies over the original design at this location.
21 Next.

22 On both L and Half Street, we also added balconies in
23 both October, and now in the current version, with even more
24 balconies. Half Street added 10 additional balconies and L Street
25 has 21 additional balconies. Next.

1 Over time we have also evolved the appearance of
2 balconies. In the current version, we studied ways to introduce
3 areas of special brick patterns at the scale of the balcony to
4 reflect similar details within the Southwest Neighborhood. While
5 full brick screens of the balcony edge would have been too heavy,
6 we replaced the metal spandrel with a decorative brick panel and
7 the spandrel above each balcony. During our October 27th meeting,
8 the ANC described the balconies as inside-out pockets. Between
9 October 27th and our filing date, we continued to simplify the
10 balconies to give them a lighter and more straightforward
11 appearance. Next.

12 Initial feedback from the ANC was that the grid of the
13 mullions, especially along M Street, was too heavy and appeared
14 too industrial. We worked closely with the OP to lighten the
15 appearance of the grid of the mullions, emphasizing a larger grid
16 with an expressed channel and reducing the mullion caps of the
17 secondary mullions within the grid. You'll see that the balconies
18 are now also rotated in at the top in the current design as well.
19 Next.

20 The ANC emphasized the Sanitary rowhomes on the south
21 side of M Street as part of the project's context. The masonry
22 base of the 5 M project is of similar height to the rowhomes. In
23 the current version, we introduced a one-story reveal above the
24 masonry base to distinguish the maisonettes from the rest of the
25 building above. Next.

1 The ANC requested a larger street safe zone along M
2 Street to make the pedestrian gateway more gracious. We set back
3 the retail base by three feet along the entire frontage of M
4 Street. At the southeast corner, the large reentrant zone
5 provides covered outdoor space and a more generous pedestrian
6 zone as well. Next.

7 The ANC asked for more tiering along M Street. We set
8 back Floors 12 and 13 by 10 feet to provide a tier at the top of
9 the M Street façade. This resulted in a more horizontal reading
10 of the main façade along M Street and more consistency with the
11 setback along South Capitol Street that now turns the corner and
12 extends for the entirety of the M Street elevation. Next.

13 The ANC requested that we add a dog relief zone internal
14 to our project which will be constructed in the first phase of
15 the development. Next.

16 As mentioned earlier, the residential tower now spans
17 over the private driveway and extends to the lot line of Lot 47
18 to create an asymmetrically balanced façade. The ANC expressed
19 concerns that the units along the lot line would not receive
20 enough light and air as a result. These units are identified in
21 pink on the plan and elevation. They do not have at-risk windows
22 on the lot line, and they are similar to other inline units on
23 the north and south elevations that receive a similar amount of
24 light and air. Next.

25 We provide 18 foot clear for the entire north-south

1 driveway making truck access to the loading docks very easy.
2 Next.

3 While the ANC expressed concern, truck and vehicle
4 access below residential units is a common condition throughout
5 the city. This slide shows other examples from Southwest and
6 also one on South Capitol Street. Next.

7 This is a photograph of the Heritage tree that has been
8 referenced by the ANC. This plan shows how the streetscape could
9 be configured to allow a circulation around the base of the tree
10 and can be further refined with DDOT once the plan for the tree
11 has been determined. Next.

12 The ANC specifically asked to see our signage approach.
13 The signage plans were included with our pre-hearing filing. The
14 building owner will prohibit the use of digital and neon signage.
15 Next.

16 We received a request from the ANC to outline the
17 preliminary lighting strategy. The lighting is functional for
18 functional illumination purposes for building occupants. There
19 will be no architectural façade lighting and neon lights will be
20 prohibited as well. Next.

21 This is a copy of our lighting plan that was also
22 provided in our pre-hearing submission. Next.

23 And finally, we'll end on the building's place in the
24 city, and I'll turn it over to Mr. VanPelt from Gorove Slade.
25 Thank you.

1 MR. VANPELT: All right. Thank you, Shelly.

2 Good evening. It's nice to see you all -- I guess it's
3 close enough to evening. Good evening, Commissioners, nice to
4 see you all virtually. For the record, I'm Dan VanPelt, Vice
5 President and Principal with Gorove Slade. We've been working
6 with JBG Smith and the project team and DDOT related to the
7 transportation aspects of the 5 M Street Southwest project. I'll
8 touch on the highlights of our review and coordination with DDOT.

9 As shown on the slide here, the project we're
10 discussing is situated along M Street southwest corridor between
11 South Capitol and Half Streets. It's located between two
12 Greenline Metro stations with the closest being the Navy Yard-
13 Ballpark Station a couple blocks away to the east.

14 Additionally, there are several Metro bus lines and a
15 D.C. circular route within the city at this site, with a stop
16 adjacent to the project serving several of these routes.

17 As part of this site redevelopment, the mid-block bus
18 stop adjacent to the site on M Street will be moved 100 feet to
19 the west onto the southwest corner of the site. There are east-
20 west bike lanes on I Street to the north and a north-south
21 assigned route on Half Street to the west. The Anacostia Trail
22 is also nearby and there's a Capital Bikeshare station near the
23 site at the corner of M and First Street. The project commits
24 to expanding bus station capacity of ANC 6D; more on that shortly.
25 Next.

1 I'll zoom into the site now. The seven existing curb
2 cuts around the block will be closed, greatly improving the public
3 realm. These will be replaced by two curb cuts that serve the
4 private two-way driveway that runs through the site between Half
5 Street and L Street.

6 All garage and loading activity will be coming in off
7 of this private drive internalizing it within the project. The
8 image on the slide indicates that the garage access ramps in blue
9 and notice the loading areas are shown in red. All the loading
10 to the site is head in, head out.

11 Shown in purple is a dedicated space along the private
12 drive for pick-up, drop-off. It was important to provide an off-
13 street location for such activity to minimize the likelihood of
14 vehicles stopping on M Street, blocking traffic flow and
15 potentially conflicting with the bus stop. With regards to
16 vehicular parking, there will be 311 vehicular spaces in the
17 below-grade garage. The residential components of the project
18 will be parked at a .3 ratio per dwelling unit reflective of the
19 need of the market. The balance of the parking, 126 spaces is
20 allocated to the retail portion of the project. There is the
21 strong potential for a grocer in this project and this parking
22 meets the requirements.

23 I should also point out that the Applicant has
24 committed that unused parking spaces will not be leased to anyone
25 besides tenants of the project. The bicycle parking will include

1 144 long-term spaces and 42 short-term spaces exceeding the
2 zoning requirement. The project will also include non-
3 traditional cargo bike parking and other bike amenities. Next.

4 The new private driveway plan will accommodate access
5 for the future redevelopment of the adjacent Lot 47 at the corner
6 of S. Capitol and L Street via a private easement. During our
7 earlier actions with DDOT, they communicated that access should
8 be shared between the 5 M project and the adjacent Lot 47. When
9 Lot 47 redevelops, it will also not be permitted to have curb
10 cuts on South Capitol Street and DDOT does not want two curb cuts
11 on L Street. The private driveway creates an opportunity to
12 consolidate access at one location, which is DDOT's preference.
13 The private driveway will provide a 22 foot long easement while
14 the clear width of the driveway in the north-south direction will
15 be 20 feet, which is consistent with the preferred width for
16 alleys in commercial areas of the city, as this dimension allows
17 two trucks to pass one another facilitating two-way traffic flow.
18 This is also why the D.C. Municipal Regulations state alleys
19 should have a minimum width of 20 feet.

20 Zoning also requires 14 feet clearance for service
21 vehicles and this was accommodated in the 18 feet of clear height
22 as provided in the private drive under the building and Shelly
23 showed you the section of that just a little bit ago. The
24 location of the columns for the Phase B building along the Lot
25 47 property line will frame locations for loading the parking

1 access from the private drive. The Phase B column locations were
2 adjusted to provide a 56-foot clear span in the southwest corner
3 of Lot 47 where that future project's loading and access --
4 parking access is likely to be located. The figure to the right
5 shows how the private drive and column spacing can accommodate
6 reasonable access to Lot 47 with the 20 foot clear width drive,
7 which, again, is consistent with the preferred width for service
8 alleys in the District that serve a mix of loading and parking
9 access needs. Next.

10 For this project, we performed a comprehensive
11 transportation review, which we spoke with DDOT, and include 18
12 intersections and driveways in the vicinity of the site, Maco
13 (ph) access and multi-motor review was performed for both a mixed-
14 use scheme and a residential scheme. The mixed-use scheme has
15 been dropped from consideration. Given that we are currently in
16 atypical traffic patterns resulting from the pandemic, pre-
17 pandemic base traffic levels were used for the analysis. This
18 included recent count data on file taken before COVID-19 and it
19 was supplemented using big data, probe data for a few locations
20 where we did not have pre-pandemic counts. This methodology for
21 developing existing conditions was also reviewed and vetted with
22 DDOT.

23 Our study concluded that the redevelopment of the site
24 will enhance the public realm and non-auto ability through the
25 elimination of curb cuts, reconstruction of sidewalks and

1 landscaping, and the addition of non-auto amenities. The (audio
2 interference) also concluded that three intersections showed some
3 increase in vehicular delay. These impacts can be mitigated with
4 signal timing adjustments and the transportation and management
5 plan that has been committed, such that the project will not have
6 a detrimental impact. Next.

7 Here I've listed the highlights of the TDM plan. It
8 includes many of the typical components expected of such a plan
9 in the District. The plan has also been revised based on
10 coordination with DDOT after their staff report was issued. We've
11 enhanced the TDM package to include curb extensions adjacent to
12 the site at two locations. Further TDM enhancements include the
13 expansion of the Bikeshare station at M and First Street by eight
14 docks. Capital Bikeshare memberships will be offered to each
15 resident at initial occupancy and there will be a contribution
16 of \$90,000 to the DDOT Transportation Mitigation Fund to be used
17 for an additional new 19 dock county station or other pedestrian
18 bike or transit enhancement in ANC 6D. We believe that this
19 results in a robust TDM plan for this project. Next slide.

20 We've coordinated extensively with DDOT during the
21 review. We're pleased to have their support in the form of a no
22 objection staff report. DDOT's report did have some conditions,
23 which we believe we've worked through with them. I'll just go
24 over them quickly. DDOT requested a non-restrictive easement for
25 the driveway. Our Applicant has agreed to the language committing

1 to a private easement per the Office of Planning's condition in
2 their report. DDOT understands that this commitment allows future
3 redevelopment of the adjacent Lot 47 to proceed with access from
4 the private drive, ready to apply for that site, that would be
5 consistent with DDOT's access policies and the design engineer
6 manual.

7 DDOT has requested that a sentence be added to the
8 private easement condition stating that a copy of the easement
9 will be provided to DDOT Planning Sustainability Division when
10 it's available and the Applicant agrees to this condition.

11 As for the rest of DDOT's conditions, most of them
12 we've agreed to as noted on the slide. The Capital Bikeshare
13 memberships, the Applicant will offer them to new residents at
14 lease up and in lieu of constructing a sidewalk on the north side
15 of L Street, opposite the site, the Applicant has agreed to a
16 \$90,000 commitment to be used for a new counting station or other
17 non-auto improvements in ANC 6D. We think the missing L Street
18 sidewalk will be addressed when the site adjacent to it redevelops
19 and we believe this \$90,000 commitment is a better option to
20 support the community.

21 At this time, we believe we've addressed all DDOT
22 concerns. Additional transportation documentation has been
23 submitted to the record that addressed all open DDOT issues, this
24 includes a fully detailed revised TDM plan. This concludes my
25 testimony and I'll pass it over to Shane Dettman.

1 MR. DETTMAN: Thank you, Dan. And good evening,
2 Commissioners. I'm pleased to have the opportunity to provide
3 testimony to you this evening.

4 As Christy mentioned at the outset of our presentation,
5 we're here before you tonight because of the project's location
6 to M and South Capitol Street sub-area of the Regulations. This
7 site has frontage on both South Capitol Street and M Street,
8 which are both designated tertiary streets within that
9 subsection of the Regulations. To that end, the applicable
10 criteria in this case include the general special explanation
11 tier under Subtitle X, Chapter 9 as well as the satisfaction of
12 any special conditions under the design review criteria of
13 Subtitle I. Next, please.

14 It's worth clarifying that this case is not considered
15 what's termed as a non-voluntary design review under Subtitle X,
16 Chapter 6 of the Regulations, and because of this, a major
17 difference between the Commission's review and this case, and
18 those conducted under Subtitle X, Chapter 6, such as those
19 conducted in the CG Zones that are south of M Street, is that in
20 this case the Applicant is not required to demonstrate that the
21 project is not inconsistent with the comprehensive plan. Next,
22 please.

23 So does the Comprehensive Plan have any bearing on this
24 project, I think is a question, and I'd say certainly, it does,
25 to the extent that it's relevant. As you know under the Home

1 Rule Charter, the Zoning Regulations overall shall not be
2 inconsistent with the Comprehensive Plan. And in adopting CR 16
3 under Case 086(a) and in adopting the IZ Regulations under Case
4 0433 and subsequent amendments, the Commission has already
5 determined that the existing D-5 zoning of the site is not
6 inconsistent with the Comprehensive Plan. That said, however,
7 the Comp Plan does promote consultation with the District
8 elements, specifically, the implementation element states: "To
9 the extent they are relevant, consider the goals and policies of
10 the District Elements in the approval of PUDs, variances, campus
11 plans, special exceptions, large tract reviews, and other
12 projects requiring review." And so while the standard of review
13 in this case does not require it, you'll find that Exhibit 14D
14 of the record, that the Applicant has considered the goals and
15 policies of the Comp Plan, as well as the Southwest Neighborhood
16 Plan as part of the proposed project. Next, please.

17 Turning our attention to the specific sub-area
18 criteria, the M and South Capitol Street sub-area requires
19 buildings to be set back 15 feet from the property line along
20 South Capitol Street, except in Square 649 between M and L
21 Streets, and a one-to-one setback for any portion of a building
22 exceeding 110 feet. The proposed project satisfies these two
23 criteria. Next.

24 The sub-area also prohibits vehicle and loading access
25 along South Capitol Street and requires that at least 60 percent

1 of the street wall along the west side of South Capitol Street
2 to be constructed to the setback line, which in this case is the
3 property line. No curb cuts are proposed along South Capitol
4 Street and 83 percent of the project South Capitol Street façade
5 is built to the property line. Next.

6 The project also satisfies applicable design review
7 criteria under Subtitle I, Chapter 7. These criteria require
8 demonstration that the project will help achieve the objectives
9 of the sub-area, which are to "insure the preservation of the
10 historically important axial view of the Capitol Dome and further
11 development of a high-density mixed-use corridor north of the
12 Capitol Gateway neighborhood." The project will help achieve
13 these objectives by not intruding upon but rather strengthening
14 the axial view of the Capitol Dome through adherence to applicable
15 street wall and upper level setback requirements and a fitting
16 contextual high-quality, high-density design. Next.

17 The project will be in context with -- go ahead --
18 next, please. The project will be in context with the surrounding
19 neighborhood and street patterns. It respects the rights of way
20 that surround the project on all four sides. Next slide, please.

21 The project is also in context with the surrounding
22 neighborhood and it's important to note that the context for this
23 site includes both sides of South Capitol Street as well as South
24 Capitol Street (audio interference). The project is locating at
25 a prominent gateway location, the South Capitol Street gateway

1 to the nation's capital and the M Street gateway to the southwest
2 neighborhood.

3 As Shelly described, the architecture surrounding the
4 project site quite varied. Along South Capitol Street consistent
5 with the Regulations and years of long-term planning by District
6 and federal government agencies, the height, massing and
7 streetscape of the project reflect the consistent monumental
8 street wall and gracious public space improvements of the many
9 other recently constructed buildings along the corridor. Along
10 M Street the project incorporates setbacks, height reductions and
11 façade articulation that are appropriate for this section of the
12 corridor, while being responsive to the nearby context of
13 Southwest, including the two-story Sanitary rowhouses on the
14 south side of M Street. Next.

15 The project will minimize conflicts between vehicles
16 and pedestrians by eliminating substantial curb cuts that
17 currently exist along South Capitol and M, providing a wider
18 sidewalk along M, and locating loading facilities internal to the
19 site allowing for head-in and head-out circulation. Next.

20 Again, (audio interference) following Shelly's very
21 good testimony, the project minimizes blank walls adjacent to
22 public spaces through façade articulation that is contextual to
23 both South Capitol Street and southwest. It is appropriately
24 unique in its own right. I'll note that the Applicant has even
25 articulated common lot line facades to provide interim visual

1 interest until those walls are covered up by adjacent
2 development. Next.

3 The project will minimize impacts on the environment.
4 As Shelly testified, the project will achieve LEED Silver and,
5 in fact, is tracking in the range of 56 to 58 points, which is
6 at the high end of the LEED Silver range. We'll also employ
7 sustainable storm water management strategies, such as extensive
8 and intensive green roofs and a cistern that will handle all
9 storm water on site. Further, the project will contain a minimum
10 of 750 square feet of solar panels at the penthouse level. Next.

11 These next two slides address a provision that
12 expressly refers to South Capitol Street Southeast, however, it
13 seems to focus on things that would be relevant to both sides of
14 the corridor. So it wasn't clear to us whether the reference to
15 Southeast was intended, but out of an abundance of caution, we
16 thought (audio interference) to include it in our evaluation.
17 The first part of this provision looks at using massing materials
18 and landscaping to further the vision of South Capitol Street as
19 a (audio interference). The project massing, high-quality
20 materials and landscape satisfy the criteria. Next.

21 The second part of this provision looks at massing,
22 parking and loading access and the location of service areas in
23 relation to approximate residential (audio interference) and
24 context. As Shelly thoroughly described, the project's massing
25 successfully relates to the context of Southwest, and the

1 location of parking, loading and service areas will not cause
2 adverse impacts to the residential uses in context of Southwest.
3 Next.

4 With regard to the general exception criteria, the
5 project will be in harmony with the general purpose and intent
6 of the Regulations, maps, the D-5 Zone and the M and South Capitol
7 Street sub-area. It's within allowable height, density and the
8 use provisions, it satisfies all applicable sub-area and design
9 review criteria and does not require any zoning relief. The
10 project will also not adversely affect the use of neighboring
11 property in accordance with the regulations. It contains parking
12 and loading that's capable of accommodating expected demand, thus
13 avoiding potential impacts to neighborhood streets and
14 circulation. The additional restrictions on parking agreed to by
15 the Applicant will further reduce the potential for adverse
16 impacts.

17 And finally, the height of the project is unlikely to
18 have adverse impacts on light and air to the nearest residential
19 uses. In fact, given its location on the north side of M Street,
20 any shadowing caused by the project would be on the one-story
21 industrial government buildings to the west and vacant properties
22 to the north. Next.

23 As I stated earlier, while the regulations do not
24 require an evaluation for Comp Plan consistency, the
25 implementation does promote consideration of the goals and

1 policies of the Comp Plan and the Applicant has done that in
2 Exhibit 14D of the record. And as that exhibit and the table
3 before you clearly show, the project advances numerous land use,
4 housing, environmental and urban design goals and policies in the
5 Comp Plan. This includes policies focused on the concept of
6 "greater downtown" as a series of connected business districts
7 that include South Capitol Street; encouraging new high-density
8 mixed-use neighborhoods that include South Capitol Street
9 corridor and the stadium area; private sector support for meeting
10 housing demand and recognition of the importance of affordable
11 housing; improvements to public space and sustainable buildings;
12 the importance of view protection; the District's monumental
13 boulevards and gateways and architectural character and the need
14 to establish appropriate building transitions between major
15 corridors and adjacent development. Next.

16 Speaking of transitions, there have been comments in
17 the record regarding the way that the project relates to the
18 context to the west, the lack of tiering and how it relates to
19 nearby residential areas. The success of the project and how it
20 relates to those surrounding contexts has already been thoroughly
21 addressed by Shelly, but I wanted to add to that testimony by
22 mentioning how the context to the immediate west of the site is
23 envisioned to change per recommendations of the Southwest
24 Neighborhood Plan, which have been incorporated into the proposed
25 future land use map currently under council review. As you can

1 see on the slide before you, the Southwest Neighborhood Plan
2 recommends several amendments to the FLUM designations for the
3 District parcels and Greenleaf public housing development to the
4 west of the site that would include high and medium-density
5 commercial and residential development. These are appropriate
6 designations given the vision for M Street to be a grand boulevard
7 set forth as far back as the AWI Framework Plan and the Mayor's
8 ambitious goals. Given the type of development that these land
9 use designations would support and the site's location at the
10 confluence of two important gateway boulevards, the proposed
11 height and massing of the project is appropriate. Next.

12 This last sequence of slides addresses the specific
13 design principles in the Southwest Neighborhood Plan. The plan
14 recommends application of these design principles to all new
15 development achieved through a PUD and strongly encourages
16 applications of these principles to matter of right developments.
17 In presenting the project, Shelly has already touched upon a lot
18 of what the principles are focused on, so I'll go quickly through
19 this last sequence.

20 The plan encourages a mix of massing and building
21 heights that complement the current mix of high rise and low-
22 rise buildings. The project incorporates multiple heights that
23 are appropriate given the surrounding context, its location on
24 South Capitol Street and the type of development that is
25 envisioned in the immediate west. Next.

1 Through contextual massing and fenestration and the use
2 of high-quality materials on all sides of the project, it will
3 achieve design excellence at the level that is fitting for its
4 location at the confluence of these two important gateways. Next.

5 The frontage of the buildings are appropriately varied.
6 Indeed, while the overall design has been simplified, it retains
7 a level variation that helps break down the massing of the block,
8 it is not at all heavy-handed and is still informed by the context
9 of southwest. Next.

10 The project will enhance green space through its
11 extensive landscape improvements, interior courtyards and rooftop
12 amenities. Next.

13 As I've mentioned, the project will incorporate rooftop
14 solar panels, employ various storm water management strategies
15 and that it's currently tracking towards the high end of LEED
16 Silver. Next, please.

17 Consistent with this principle, all parking will be
18 located below grade and all parking -- and access points and
19 loading facilities are located at the interior of the site, thus
20 avoiding substantial interruptions to street frontages. The
21 ground floor of the project on both sides of South Capitol -- on
22 both South Capitol and M Street, I should say, both of which are
23 key corridor frontages, are designed with a high level of
24 transparency and ample ceiling heights that create a high-quality
25 retail experience, active street level and promote pedestrian-

1 oriented usage. Next.

2 Finally, the minimization of curb cuts, provision of
3 multiple pedestrian entrances and substantial streetscape
4 improvements will encourage efficient connectivity around the
5 site for all modes of travel, particularly pedestrians. Next.

6 In conclusion, while not specifically required, the
7 consideration of the District elements shows that the project
8 design advances many goals and policies that are relevant to the
9 project and the surrounding area. The project is consistent with
10 the design principles of the Southwest Neighborhood Plan and most
11 importantly, the project satisfies the general special exception
12 criteria of Subtitle X, Chapter 9 and all other design review
13 criteria that are applicable under the existing Zoning
14 Regulations. With that, that concludes my testimony and I'll
15 hand it off to Christy.

16 MS. SHIKER: Thank you. And that concludes our
17 presentation. We're happy to answer any questions that the
18 Commission may have.

19 CHAIRPERSON HOOD: Okay. Thank you all very much for
20 your presentation. (Audio interference) bring me back up. Take
21 the presentation down for now and I would ask -- let's see if I
22 can see -- Ms. -- see if there any questions or comments.
23 Commissioner May?

24 COMMISSIONER MAY: I don't have a lot of questions. I
25 mean, the presentation was really very thorough, and I

1 appreciated the -- in particular, seeing the various iterations
2 of the design as it has been developed and how it has changed in
3 response to the comments.

4 You know, I guess, maybe I have one question, which is
5 -- or question, I'm not sure what it is -- comment about the
6 hanging balconies and I'm just -- I'm curious about those, because
7 those are unusual, to say the least. Maybe the architect can
8 come up and tell me more about what their thinking is with those,
9 and why that's more appropriate than what had, you know, some of
10 the earlier iterations of the projecting balconies.

11 MS. SHIKER: Sure, Commissioner May. Shelly, can you
12 --

13 MS. MRSTIK: Sure.

14 MS. SHIKER: -- come up and talk? Thank you.

15 MS. MRSTIK: Sure. So the previous iterations from the
16 beginning, we had fewer balconies, so we recognize that balconies
17 are important to this community and to the city. So we looked
18 at ways to add more of them. We looked at both outboard balconies
19 and inboard balconies and we feel that having inboard balconies
20 creates more of a dark space and more dark space for the unit,
21 so we definitely were looking at outboard balconies for this
22 project and we wanted to make them light in appearance. Some of
23 our earlier designs had balconies, especially along South Capitol
24 Street that to some in the ANC, they felt that they were imposing
25 and would take away from the view shed, so we definitely wanted

1 to lighten them up.

2 And you'll see between our October design and the
3 design now, we do have diagonal structure to the end of the
4 balcony out there that has been lightened and simplified over
5 time.

6 COMMISSIONER MAY: So the idea is just to create a
7 relatively light balcony? I mean, you don't need to have that
8 diagonal for structural reasons, right? It's just --

9 MS. MRSTIK: Sure. We also have the motif of the hopper
10 windows tipping in and out of the building, which we have along
11 M Street and South Capitol Street, so we wanted to tie in a thread
12 there of having diagonal support and some way of grounding the
13 cantilever balcony.

14 COMMISSIONER MAY: Okay. Well, like I said, they're
15 unusual, to say the least. And they're only on the south and
16 west side or west and north, I forget. No. Yeah, west and north
17 -- they're not on the east side, right?

18 MS. MRSTIK: Correct.

19 COMMISSIONER MAY: Right. And they're not even visible
20 on -- when you're coming up South Capitol if you look down M
21 Street, are they?

22 MS. MRSTIK: Correct.

23 COMMISSIONER MAY: Yeah. Okay. So it's west and north.
24 Okay. Yeah, I mean, I think the -- overall the presentation hit
25 pretty much every issue that would need to be addressed and,

1 again, I think the design has improved as it has gone through
2 the review with the ANC. I mean, it may not be that the ANC
3 loves the final result, but I think that you have been making an
4 honest effort to be responsive to their concerns and I think that
5 overall the design has been refined.

6 I mean, it -- arguably, it could use some further
7 refinement. I'm a big fan of simplification and there -- you
8 know, there is still a lot going on with the different design
9 ideas, but I don't feel so strongly about it that I would, you
10 know, raise an issue with it or have specific recommendations.

11 I do appreciate all the changes that have been made.
12 You know, the commitments with regard to signage, especially, you
13 know, given the location but also given the fact that we're very
14 concerned about signage and the visibility of these things that
15 could be quite distracting, you know, when you're talking about
16 such an important view corridor.

17 Yeah, I don't have any other -- anything else to say.

18 CHAIRPERSON HOOD: Okay. Thank you, Commissioner May.
19 Commissioner Turnbull?

20 COMMISSIONER TURNBULL: Thank you, Mr. Chair. Thank
21 you for your presentation. Along with Commissioner May, I can
22 see there's been a lot of changes. I don't know if you're totally
23 there at the finish spot where maybe you want to be or the ANC
24 wants you to be, but there's been a lot of work to make some
25 changes on this.

1 I thought the presentation was at times a little bit
2 confusing when the -- when Ms. Mrstik was going through it, what
3 was in, what was out, this change was done, that change was done.
4 Are the hopper windows, the big pivoting windows, I thought she
5 said they were out. And I'm not really sure if they're in,
6 they're out or what, because the drawings still show windows at
7 an angle, but are those permanently fixed, or do they rotate?

8 MS. MRSTIK: Good question. We still have the motif
9 in the project at both the south -- or at the M Street façade
10 and the South Capitol Street façade. They are fixed -- fixed
11 elements that appear as though they've rotated out of the
12 building. And they can be --

13 COMMISSIONER TURNBULL: Okay. It was confusing after
14 you said that. I'm looking, and I think saw windows that were
15 on an angle still. Okay.

16 My only other question, as Commissioner May brought up,
17 I don't think balconies with these angled structural steel
18 members at the side look lighter. I think they actually draw
19 more attention to themselves than the simple railings that you
20 had before. I think that looks lighter than these heavy steel
21 members holding up a balcony, or maybe they're not structural,
22 but just to say, they look awfully heavy and I think they draw
23 more attention to themselves than anything else. If that's what
24 you want -- I don't agree with that, I think it looks a little
25 bit overbearing. I think you -- it's like carrying balconies

1 to an extreme just for the sake of a balcony.

2 I had a question -- there's still something -- I guess,
3 you had several slides in the presentation that showed what it
4 was in the beginning, October 1st and then now, and I guess when
5 you look at -- some of them -- the one corner with the pavilion
6 still looks awkward as it meets the other two sides. The one
7 side on the right going towards South Capitol has more of the
8 grid, and then you go up to the top floor, and as I look at the
9 next -- at the building at the left on Half Street, it changes,
10 it's more -- as you say it's softer, but it just -- as I look at
11 the top, they don't really -- they don't really blend. I mean,
12 nothing blends, there's a lack -- to me there's a little lack of
13 consistency when I look at that corner and I look at those two
14 buildings at the side of the pavilion, it's like, why did you
15 change and make it so different that it just looks like it's a
16 separate owner and it just looks -- it doesn't look -- from a
17 contextual looking at the whole building, it just looks a little
18 too much -- too much different. So that would be my only thought,
19 is that there's just a little bit too much going on and it is
20 maybe too much of a change.

21 The IZ unit, could you show me where the IZ unit is
22 again?

23 MS. MRSTIK: Sure. I will pull up the page reference.
24 It's slide 43, Mr. Young. It is marked in the dashed pink line
25 on the South Capitol Street bar on the courtyard side.

1 COMMISSIONER TURNBULL: And what floor is it on?

2 MS. MRSTIK: The third floor.

3 COMMISSIONER TURNBULL: The third floor, right above
4 the private drive -- the private street and the driveway next to
5 a building -- the blank wall of a building. If I'm a Realtor
6 and I want to get rid of the worst unit, that's where I would
7 put it, wouldn't I? That's probably the worst place -- the worst
8 unit you've got in your whole building is right there. But let's
9 make it the IZ unit, why not, because we're not making a lot of
10 money on it. I think that's disgusting. That's my own personal
11 feeling. You really, to me, have picked the worst unit to make
12 the IZ unit, on the third floor right above the drives. I can't
13 believe it, you know.

14 Ms. Shiker, you really ought to think about this.
15 You've got to talk to the Applicant and find out why they would
16 be -- never mind, I'm not -- you know what my comments are, you
17 know where I'm going on this. I'm always concerned about where
18 you put the IZ units. I can't imagine if you had more IZ units,
19 where you'd be putting them. But, Ms. Shiker, you know where
20 I'm going on this, think about it.

21 MS. SHIKER: Commissioner Turnbull, we can look at the
22 location of the IZ unit and get back to you on that.

23 COMMISSIONER TURNBULL: Thank you. Thank you.
24 Parking, there was rumor in some of the testimony there might be
25 a grocery store here?

1 MS. SHIKER: Robbie Saclarides, do you want to -- or
2 Dan?

3 MS. SACLARIDES: That's correct. We're targeting
4 (audible interference) grocers for the retail in this project.

5 COMMISSIONER TURNBULL: Towards who?

6 MS. SACLARIDES: Grocers -- potential grocer tenants.

7 COMMISSIONER TURNBULL: And is that why you need so
8 much parking?

9 MS. SACLARIDES: Yes. They demand heavy parking ratios
10 --

11 COMMISSIONER TURNBULL: And if you don't get a grocer,
12 what are you going to do?

13 MS. SACLARIDES: If we don't get a grocer for our
14 retail, the parking will be used for our tenants, retailers and
15 residents only.

16 COMMISSIONER TURNBULL: And we can put that in the
17 order then?

18 MS. SACLARIDES: Yes.

19 COMMISSIONER TURNBULL: It will not be used for
20 ballpark parking or any --

21 MS. SACLARIDES: Correct. Correct. Yes, we've already
22 agreed to this condition with DDOT specifically.

23 COMMISSIONER TURNBULL: Okay. I didn't notice that.

24 MS. SHIKER: We have it in writing already in the
25 record, Commissioner Turnbull.

1 COMMISSIONER TURNBULL: All right. I hadn't noticed
2 that. I went through it, but I hadn't picked up on that. All
3 right. Thank you. All right, Mr. Chair, those are my questions
4 for now.

5 CHAIRPERSON HOOD: Okay. Thank you, Commissioner
6 Turnbull, let's go to Vice Chair Miller.

7 VICE CHAIR MILLER: Thank you, Mr. Chairman, and thank
8 you to the Applicant for your presentation.

9 I share the comments of each of my colleagues who have
10 spoken, both on the design modifications, I think they are an
11 improvement and I appreciate the iterations as Commissioner May
12 pointed out that you went through to try to be responsive to the
13 ANC's concerns. And I also do appreciate all the conditions that
14 you've agreed to from DDOT and the Office of Planning regarding
15 the easement, the private access easement, the signage, the
16 lighting, the parking that you've just mentioned -- that was just
17 mentioned by Commissioner Turnbull.

18 I do agree with Commissioner Turnbull's comments about
19 the location of the affordable units. I appreciate that the
20 affordable units are not required beyond the one that was
21 triggered by the penthouse habitable space, which you're doing
22 at 50 percent MFI unit for. Is that MFI unit also on the third
23 floor? Where is that located? Are all 20 on the third floor?

24 MS. SHIKER: No, we have not placed the other units at
25 this point.

1 VICE CHAIR MILLER: Okay. So I realize that you're -
2 - that the current Inclusionary Zoning Regulations do not apply
3 to this project and that's something that we need to address for
4 future projects. It's a big loss opportunity in the D-5 Zone,
5 which this property is located in, and in other of the zones
6 where -- which have been exempted from Inclusionary Zoning, which
7 should not have been, I think it was just a mistake or just
8 something that we didn't think that we were going to need to have
9 for whatever reason. But be that as it may, we have Inclusionary
10 Zoning -- enhanced Inclusionary Zoning cases coming before us and
11 we'll address it for the future, hopefully.

12 But -- so I appreciate that you increased the (audio
13 interference) unit from 1 to, I think, 8 at the last hearing and
14 now you're up to 20. I think all 19, beyond the 1 that was 50
15 percent unit are that the 80 percent MFI level, Ms. Shiker; is
16 that correct?

17 MS. SHIKER: That's correct.

18 VICE CHAIR MILLER: And are they -- are they in the
19 same proportion as the -- in terms of size -- what are the size
20 of these units? Are they the -- what are the size of the IZ
21 units and the size of the 600? How many -- how many, I assume
22 it's predominantly one-bedroom units in this building. But can
23 you just review that again for me? What the number of units --
24 number of sized units are overall and how the IZ units, if they're
25 comparable in terms of proportion.

1 MS. SHIKER: So right now the one IZ unit is the
2 required 616 square feet that is triggered by the penthouse
3 habitable space and that will be a unit that meets the size
4 requirements and clearly would be balanced. We have not
5 identified our place -- the remaining 19 non-IZ affordable
6 housing units, because we haven't gotten to that point in our
7 design. If additional information is requested, we could provide
8 it, but we don't have it this evening.

9 VICE CHAIR MILLER: So do you have -- what's the overall
10 of the 602 units that are proposed, what's the size proportion
11 of those? You don't have that at this point, you're saying?

12 MS. SHIKER: We have 608 total units, and yes, we do
13 have a general breakdown of those size, so I could ask either
14 Robbie or Shelly to do that.

15 VICE CHAIR MILLER: Yes, if you could, that would be
16 useful to have.

17 MS. SHIKER: Shelly, do you have that distribution? Or
18 Robbie, do you have the distribution?

19 MS. MRSTIK: I'm pulling it up right now.

20 MS. SHIKER: Thank you.

21 VICE CHAIR MILLER: So I realize that the IZ doesn't
22 apply except for that one unit that's triggered for other reasons
23 -- for the habitable space penthouse. So I suppose that the
24 other aspect of IZ don't necessarily apply to those 19 affordable
25 units that are part of this project, but would you have an

1 objection to language being in the order that would require the
2 same kind of language that's in the IZ -- as if they were IZ,
3 such that they're the same quality, you know, in terms of
4 finishes, that they're distributed equitably throughout the
5 building, that they are of the same proportion of sizes as the
6 overall units, would you have any objection to that kind of
7 condition being in this order?

8 MS. SHIKER: So at this point, Commissioner Miller,
9 these are not IZ units and they're not subject to those
10 requirements. And I understand that you understand that as well.
11 We -- I don't think that a condition could be included in the
12 order, because it is as a matter of law, not an allowed condition
13 for a design review. It is certainly something that we can take
14 a look at in terms of where we might want to place them and what
15 we could agree to include in a finding of fact of what we've
16 stated, but I don't believe that it can be included as a condition
17 of the order.

18 You know, this is voluntary affordable housing that's
19 not part of the IZ program, but again, we can go and look at
20 where these units might fall and where -- you know, what we could
21 proffer to you on that, we just have not gotten to that point
22 yet for the design of the building.

23 VICE CHAIR MILLER: Well, I don't think that there's
24 anything in the law that would prohibit you from agreeing to that
25 kind of condition. There's certainly not a -- and I think I have

1 a somewhat different interpretation of the law in terms of -- I
2 appreciate all of the comprehensive planning consistency analysis
3 that Mr. Dettman did provide, which he said was considered, but
4 he said it's not required in this type of voluntary design review
5 case, as you just mentioned. However, I think that the statutory
6 language of zoning shall not be inconsistent with the
7 comprehensive plan is a requirement, no matter what our
8 regulations specifically require or not, and so I think that
9 there is a case to be made for arguing that certain types of
10 housing priority should carry forward in all zoning cases,
11 including where there aren't specific requirements. And we may
12 disagree on that, but --

13 MS. SHIKER: I think we do have a unit (audio
14 interference) for you, at this point, Commissioner Miller, if
15 you'd like (audio interference) to tell you.

16 VICE CHAIR MILLER: I'm ready to hear (audio
17 interference).

18 MS. MRSTICK: All right. For the north building we
19 have 20 percent studio, 28 percent junior one-bedroom, 19 percent
20 one-bedroom, 24 percent junior two-bedroom, 9 percent two-
21 bedroom. In the south building -- would you like that as well?
22 Studio is 14 percent, junior one-bedroom is 23 percent, one-
23 bedroom 16 percent, junior two-bedroom is 13 percent, two-bedroom
24 is 14 percent and three-bedroom is 20 percent. Does that help
25 answer the question?

1 VICE CHAIR MILLER: Yes, thank you. I appreciate that.
2 And I just -- I would just, again, encourage the Applicant to
3 consider applying -- consider agreeing to language in any zoning
4 order -- if we get to that point, that would treat those
5 affordable units as if they were required with all the criteria
6 that the city has considered important in Inclusionary Zoning
7 cases, so and in terms of proportionality, in terms of size,
8 location and quality. So, you know, it's -- it's 608 units, as
9 you just said, we're up to 20 affordable if you can call 19 of
10 the 20 at 80 percent MFI affordable, which I watched a lot of
11 the Comp Plan hearing that counsel had today, there were a lot
12 of public members on both sides of the issue of whether those
13 Comp Plan amendments should go forward, who wouldn't necessarily
14 agree that 80 percent MFI is affordable.

15 But -- I'll just leave it at that. I appreciate all
16 of the design changes that have been made and the conditions that
17 have been agreed to thus far and I would encourage you to be open
18 to other changes and refinements as we hear from the public
19 testimony tonight. Thank you.

20 CHAIRPERSON HOOD: Thank you, Vice Chair, I appreciate
21 your comments. I will say, Vice Chair Miller, I was watching it
22 as well but mine is cut off. I associate myself with those who
23 do not believe that 80 percent MFI is affordable. So, as you
24 know, I've been a proponent to try to get down to 30 percent on
25 many occasions, so that's where we are on that.

1 Ms. -- let me see, let me make sure I pronounce your
2 name correctly, I have a way of butchering names up. Ms.
3 Saclarides.

4 MS. SACLARIDES: Saclarides.

5 CHAIRPERSON HOOD: Could you repeat that again, please?

6 MS. SACLARIDES: It's Saclarides.

7 CHAIRPERSON HOOD: Saclarides. Okay. Okay. It's
8 Saclarides. Okay. You can call me Anthony and I'll just call
9 you Robbie; is that okay?

10 MS. SACLARIDES: Yeah. Deal.

11 CHAIRPERSON HOOD: Glad to meet you. All right. And
12 you can call me Anthony too. So my question, you mentioned
13 about the money you were all placing, I guess, for affordable
14 housing, I'm not sure, I can't remember exactly what your
15 intention was, when you go live sometimes you hear a lot of
16 discussion and you forget some things. But help me to remember
17 or to recall, you mentioned you all were putting a lot of money
18 for affordable housing somewhere, right?

19 MS. SACLARIDES: Right.

20 CHAIRPERSON HOOD: (Audio interference).

21 MS. SACLARIDES: So JBG across is focused on all three
22 aspects of the Mayor's housing initiative regarding rental
23 affordability. One is the production of 36,000 new market rate
24 units, two is the 12,000 new affordable units, and three is the
25 preservation of an estimated 4,700 existing dedicated affordable

1 units whose affordability controls will expire by 2025. So within
2 the JBG structure, this site specifically is targeting that first
3 category and delivering new market rate units, which is a key
4 component of the initiative and has provided rent relief across
5 D.C. as evidenced by the January 22, 2020 study issued by the
6 Office of the CFO.

7 The Washington Housing Initiative is another portion
8 within JBG's realm and approach to affordability. They are
9 focused on the other two components including the production and
10 preservation of affordable units separate and apart from this
11 specific site, targeting high-impact areas where the
12 affordability tools are offered as outlined in the Housing Equity
13 Report, such as bonus density or tax credits and other incentives
14 that yield more affordable housing for the investment.

15 CHAIRPERSON HOOD: Again, my question was -- I
16 appreciate the long answer, but my question again is still, why
17 not start here? If you don't have an answer for me, just say
18 that; I've given you the answer or I don't have an answer.

19 MS. SACLARIDES: Sure. Yeah. That's the answer.

20 CHAIRPERSON HOOD: Okay. All right. Do we have that
21 answer you just gave, Ms. Shiker, is that in the file somewhere?
22 If not, I'd like to have her answer in the file.

23 MS. SHIKER: Yes, we can provide that Chairman Hood.

24 CHAIRPERSON HOOD: Okay. Also, Ms. Mrstik, let's talk
25 about the -- and I didn't hear my other colleagues talk about

1 | it. I know there's been a lot of work with the ANC and the colors
2 | and the design and the balconies and I get it, I saw the three
3 | phases where we all presented after the zoning hearing and then
4 | what you have now.

5 | The light color brick and I didn't hear my -- at least
6 | I don't recall hearing my colleagues mention, is that something
7 | -- we need to really look at that again. I know there's some
8 | other things that I think they did ask you to look at it, but
9 | that light color brick, could we revisit that?

10 | I know if the ANC worked on -- here's the problem that
11 | I have with anything like light colored brick like that, because
12 | it gets dirty and after a certain amount of time it's dirty and
13 | it starts looking black, and I'm sure JBG will keep that building
14 | up, but once it starts getting dirty and, especially on a corridor
15 | like that, then that will reflect on not just the Zoning
16 | Commission but the Applicant, JBG, that will reflect on all of
17 | us. So I don't know if that's something that you need to relook
18 | at, but just take that into -- I'm not saying make a change,
19 | since -- if you've worked it out with the ANC and everybody else
20 | -- and I didn't hear my two colleagues who are trained in
21 | architecture say a whole lot about it, I don't think, but I just
22 | wanted to raise that. And if I see that it's been relooked at
23 | again and I see it changed, then I will say okay that's good. I
24 | was just asking specifically if you could just relook at that.

25 | Mr. Turnbull mentioned the IZ unit. I agree with him

1 100 percent, 100 percent. And that happens and I hear him
2 actually bring that up a lot and, you know, not just -- I'm not
3 picking on this Applicant, but we hear a lot of things a lot,
4 twice a week, three times a week. We hear, "Oh, we can't do
5 that; your regulations don't say this; or this is what we're
6 confined to, it's non-voluntary" -- come on, at the end of the
7 day and what I see in this record with the opposition of whatever
8 they ask for, at the end of the day, you're going to develop and
9 you're going to leave. But when you develop -- we have a
10 neighborhood that's going to be developed and that -- those people
11 who live around there and the citizens of this city are going to
12 have to endure whatever is left.

13 So I kind of go along with the Vice Chair, even though
14 the law doesn't say it, sometimes we need Applicants to come down
15 and just go ahead and sometimes just do it. I'm not getting on
16 this Applicant, Ms. Shiker, or your client, but we hear it all
17 the time -- "Well, the Zoning Regulations don't" but what
18 irritates me the most is when I hear them say,
19 "Well, we don't have to do that." Okay, we already know that.
20 We know what the regulations are, we get it. We know what the
21 regulations are. We know what's been crafted and we might need
22 to revisit it. So some of the things that this community is
23 asking for, we can get there. I know JBG can get there. So you
24 know, I'm not going to go through a whole lot of what if and what
25 is, and we don't want to do this. Sometimes it's about being a

1 good neighbor. You don't have to do all of it, but sometimes
2 it's about just being a good neighbor. When you move in and
3 you're going to do something in a community where people live,
4 sometimes it's about doing it. If they need a little more
5 affordable housing, just do it. You can do it. It's not always
6 about the profit.

7 But anyway, I know what I'm saying wouldn't stand up
8 in court, I'm not that naive, but I know that you all are going
9 by our regulations, which we need to relook at. I'm going to
10 ask the Office of Planning to start relooking at this, our design
11 review, because I can tell you that -- to have council -- council
12 members usually don't weigh in and that's troubling, because they
13 -- when Council Member Allen weighed in on this case and he
14 represents the whole ward. And to me, that's a big hesitation
15 for me.

16 And yeah, there are some design issues, which you have
17 worked out and some that have not been worked out, but for me,
18 I'm going to leave it at that. I don't have a lot of questions.
19 But when I read -- this was troubling when I read this, "we don't
20 have to do this," or "it's not in your regulations. No, we didn't
21 -- when we codify regulations sometimes, we miss stuff, but it
22 doesn't take anything to just fill in a few of the gaps. That's
23 all my ask is and I'm going to leave it at that, but I am going
24 to ask the Office of Planning, let's relook what we have in front
25 of us.

1 Any other questions? Okay, not seeing any, let's go
2 to ANC 6D, do you have any cross (audible interference). ANC 6D,
3 Ms. Fast, do you have any cross?

4 MS. FAST: Yes, thank you, sorry, I was not muted. I
5 was unmuted, waiting to be unmuted.

6 I do just have one question and only because Robbie
7 brought it up. I think it's important because she mentioned the
8 economic report about the influx of market rate units and how
9 they tend to lower rental rates. I would ask as -- in the cross
10 since she brought it up, if she could let you all know what the
11 units that JBG is now renting on Half Street, literally a block
12 away from what this project will be and what their going rate is
13 currently, if she could.

14 MS. SACLARIDES: Commissioner Fast, I don't know that
15 information off the top of my head. I can look it up and get
16 back to you.

17 MS. FAST: Okay. Well, I would -- I would suggest to
18 the record and to the Commission that they are renting upward of
19 2 to \$3,000 for those units. That is the market rate going for
20 the Navy Yard. And I think that when you say you're going to
21 throw in 608 units at market rate, that is what the expectation
22 will be and who that serves is questionable. That's my only
23 question of the Applicant. Thank you.

24 CHAIRPERSON HOOD: Okay. Thank you, Chairperson Fast.
25 Let's go to the other party, the Ruben Company.

1 MS. BROWN: Good evening, Chairman Hood and members of
2 the Commission. I do have a couple questions for Mr. VanPelt.
3 And I don't know if he needs to be brought up to make sure he
4 can answer.

5 My first question is that -- Mr. VanPelt, good evening.
6 You mentioned in your testimony that the private drive loading
7 and parking facilities have been designed to accommodate the Lot
8 47 parking and loading facilities where they are likely to be
9 located, correct?

10 MR. VANPELT: Correct.

11 MS. BROWN: Okay. And that building has not been
12 designed yet, correct?

13 MR. VANPELT: It has not, not that I know of.

14 MS. BROWN: Okay. So what happens if it can't be
15 located where you anticipate? What if the Lot 47 building doesn't
16 put its parking and loading facilities or can't accommodate them
17 where your designs have anticipated them to be?

18 MR. VANPELT: I think that there's -- as I understand
19 and maybe this is where Robbie could chime in or Shelly could
20 chime in, but I understand there could potentially still be some
21 flexibility. But we have provided -- the plans have provided a
22 56-foot clear span spacing where we think it's -- there's a high
23 likelihood that that's where the loading would likely go. It
24 gives flexibility in the design, and then we think there's also
25 other opportunities within the column spacing to -- parking has

1 more flexibility where that could be located, because those
2 vehicles aren't as large. But we felt that this was a way to
3 provide reasonable accommodation in the column spacing to
4 accommodate that future need.

5 MS. BROWN: And does that take into account trash
6 facilities or transformer locations or other operational aspects
7 of the building?

8 MR. VANPELT: Well, the Lot 47 building would have to
9 be serviced, trash, loading just as the 5 M Street project would
10 have to be served trash and loading from the same private drive
11 and the requirement -- the zoning requirement in the District is
12 14 feet clear and most trash and waste haulers in the District
13 are used to working within that vertical clearance.

14 As far as transformers it's -- I'm not the dry utility
15 consultant, so I can't really comment on that, but it's my
16 understanding that they're no longer allowing the Pepco vaults
17 in areas where there would be traffic operating over them, so
18 they're not in the private driveway, so that would have to be
19 (audio interference) -- for DDOT to have that out in the public
20 realm. So, I think the short answer to your question is yes,
21 because the Lot 47 building would have the same needs as the 5 M
22 Street project would from this private trash.

23 And you talked about the easement that it -- would need
24 to be negotiated and that that's one of the conditions that the
25 Applicant has agreed to; is that correct, that you would address

1 that easement?

2 MR. VANPELT: Yes.

3 MS. SHIKER: I think I'm going to step in and just say
4 that the agreement from the OP condition is that we would record
5 an easement that would benefit Lot 47.

6 MS. BROWN: An easement agreement?

7 MS. SHIKER: It would an easement across the 5 M property
8 for the benefit of Lot 47.

9 MS. BROWN: And would that require negotiation with the
10 Lot 47 owner?

11 MS. SHIKER: The recordation does not require
12 negotiation, but I believe that JGB and the Lot 47 owner are
13 working together to ensure that operational issues can be taken
14 into account.

15 MS. BROWN: Okay. So -- and I don't mean to be
16 questioning the attorney in this, but (audio interference)
17 clarification that we helped get an answer on. Are you saying
18 that it's possible that you will record an easement regardless
19 of whether you reach agreement with the Lot 47 owner?

20 MS. SHIKER: The easement could be recorded. I think
21 JBG Smith is committed to working to making sure that they're on
22 the same page. But, yes, an easement could be recorded if
23 ultimately an agreement wasn't met, or they didn't come to that
24 agreement.

25 MS. BROWN: And you believe that that would satisfy the

1 condition of the OP requirement and DDOT requirement?

2 MS. SHIKER: Yes.

3 MS. BROWN: Even though the OP agreement -- the OP
4 report talks about an easement agreement as opposed to just an
5 easement?

6 MS. SHIKER: The intent is that the easement would
7 benefit Lot 47 to the extent that curb cuts were obtained for
8 different development and access was done in a different way,
9 that the Lot 47 would be able to work with DDOT on that. This
10 is an easement that would provide the 22 feet -- it would provide
11 a 22-foot easement to benefit Lot 47 if it, in fact, chose to
12 use it after its work with DDOT.

13 MS. BROWN: Okay. We heard tonight that it's a 20-
14 foot easement. Which is it, 22 or 20?

15 MS. SHIKER: It is 22 feet. The columns in some places
16 narrow that to 20, so we have used the term 20 foot cleared, but
17 the easement would be granted over the entirety of the 22 feet.

18 MS. BROWN: Thank you. Back to Mr. VanPelt, we've
19 heard tonight that there -- one of the potential retailers is a
20 grocer. What type of truck deliveries do grocers typically
21 require?

22 MR. VANPELT: Grocers would require a tractor-trailer
23 and the loading access has been designed to allow a tractor-
24 trailer access.

25 MS. BROWN: And is that shown in the documents that

1 | you've submitted to the record?

2 | MR. VANPELT: I don't know if that is in the record
3 | right now, I'd have to check. If not, we can submit it to the
4 | record.

5 | MS. BROWN: Okay. And what is the wheelbase typically
6 | on a tractor-trailer that is serving a grocery store?

7 | MR. VANPELT: Well it depends on the grocer, but most
8 | of the grocers and what we analyzed here was a WB-67, which is
9 | pretty much the largest tractor-trailer that is commonly over the
10 | road.

11 | MS. BROWN: Okay. And you don't know if that's in the
12 | record yet about those autoturn diagrams?

13 | MR. VANPELT: I'd have to check. I don't know if those
14 | exact autoturns are in the record.

15 | MS. BROWN: And in stating that your loading facilities
16 | and the private drive can adequately accommodate what's on the
17 | Lot 47 lot, does that take into account a wheelbase 67 truck?

18 | MR. VANPELT: It does.

19 | MS. BROWN: And will you be having a loading management
20 | plan to coordinate the loading for both buildings?

21 | MR. VANPELT: Robbie could probably talk about this
22 | from an owner perspective, but it's my understanding that that
23 | will be something that property management will handle. They
24 | will be coordinating the loading activities, move-ins, move-outs
25 | for the residential and the like, so that area is used as

1 | efficiently as possible and to minimize conflicts.

2 | MS. BROWN: Okay. All right. And just to follow-up
3 | on the easement question. So if an easement is not reached, will
4 | your project meet the DDOT spacing requirements?

5 | MR. VANPELT: So the plan, as it is proposed, when we
6 | met with DDOT what we -- we met with them early and when they
7 | looked at this site and they looked at the likelihood that Lot
8 | 47 is likely to be redeveloped, understanding that it's a surface
9 | parking lot in its current configuration, DDOT saw really that
10 | there's an opportunity here for the entire block to redevelop.
11 | And any parcel that -- any project that goes through and gets
12 | redeveloped, you know, it takes a clean slate sort of approach
13 | to access and curb cuts. So they saw the opportunity to create
14 | a private alley here or an alley system that would serve both
15 | the 5 M project and Lot 47.

16 | So that was the perspective that DDOT took as we looked
17 | at this and as we went through and were planning the access and
18 | the circulation. So while the curb cut proposed would not meet
19 | the DDM requirements for spacing, that's really -- DDOT is looking
20 | at is really an interim condition, that's not a long-term
21 | condition. Their goal, as we talked with them, was to work with
22 | both Applicants to come up with a consolidated one curb cut on L
23 | Street that would serve the block from L Street.

24 | MS. BROWN: And you just mentioned both Applicants.
25 | You know that Lot 47 does not have any pending application before

1 the Zoning Commission or any plans for building, correct?

2 MR. VANPELT: That's what I understand.

3 MS. BROWN: Okay. And to follow up on that question,
4 so if -- you're aware that there's a current curb cut on the Lot
5 47 property that has access to L Street, correct?

6 MR. VANPELT: Yes, I am.

7 MS. BROWN: Okay. So if an easement is not reached,
8 an easement agreement is not reached, and you -- the building is
9 constructed with a private driveway, what will the distance be
10 between the private driveway and the Lot 47 existing curb cut?

11 MR. VANPELT: I don't have the exact dimension, but I
12 doubt it would be less than the 24 feet, the standard.

13 MS. BROWN: Okay. And then in order to make your
14 building compliant, DDOT would force us to relocate that curb
15 cut?

16 MR. VANPELT: Yeah, potentially, assuming that the
17 agreement is not reached for shared access.

18 MS. BROWN: Okay. So the burden to be compliant for
19 your building then is transferred to the Lot 47 owner, correct?

20 MS. SHIKER: I don't think that Dan can answer that.
21 I mean --

22 MR. VANPELT: Yeah, I think that --

23 CHAIRPERSON HOOD: Do you have somebody on your team,
24 Ms. Shiker, that can answer that?

25 MS. SHIKER: I think that that's a question for DDOT,

1 Chairman Hood. I mean, typically DDOT, as Mr. VanPelt just
2 testified, looks at it in total, like for the future total
3 redevelopment. And in this case, this is a curb cut that's
4 existing. We have seven curb cuts that are existing, and we're
5 not allowed to keep those as part of our redevelopment because
6 DDOT's policies are that you have to go through a new curb cut
7 approval process for development.

8 So it's -- sometimes it's kind of like, you know, you
9 can't make an omelet without breaking eggs. Sometimes in interim
10 conditions, there is non-compliance with DDOT standards. So is
11 DDOT going to require them to move that curb cut in the interim?
12 I think that's a question for DDOT, not for Mr. VanPelt. In the
13 --

14 CHAIRPERSON HOOD: Okay. That's fine. That's fine.

15 So Mr. VanPelt, let me just -- not favoring the
16 opposition, but let me just ask you this. So you used the
17 handbook, and in the handbook, it told you that you just basically
18 do a analysis from this site and this site only. Is that what
19 you did in this case as well? Well, I shouldn't be talking about
20 the other case. But is that what you did in this case?

21 MR. VANPELT: I think you're (audio interference)
22 referring to the CTR guidelines, the Comprehensive Transportation
23 Review Guidelines handbook, and so we -- I think your question,
24 if I understand your question correctly, is that we look at the
25 impacts associated with the redevelopment of this site, and then

1 we look at the other approved but not online projects in the
2 neighborhood, and we -- those are background projects. So we
3 include those in the transportation analysis. We did not assume
4 any redevelopment of Lot 47 in our transportation analysis
5 because it is not -- there is not a plan that has been proposed
6 or approved for that parcel, if I understand your question
7 correctly.

8 CHAIRPERSON HOOD: You answered my question. Thank
9 you. Thank you for deciphering that and trying to figure that
10 question out.

11 Okay, Ms. Brown. I'm sorry to interrupt.

12 MS. BROWN: No worries. Those are all of my questions.
13 Thank you.

14 CHAIRPERSON HOOD: Okay. Thank you.

15 Let's move right along. Let's go to the Office of
16 Planning and DDOT. I think --

17 Who do we have from the Office of Planning? I know Mr.
18 --

19 MS. SCHELLIN: Mr. Cochran.

20 CHAIRPERSON HOOD: Mr. Cochran. I saw Ms. -- Mr.
21 Zimmerman as well. I didn't see (audio interference). I think
22 it's Mr. Zimmerman tonight. Okay.

23 Mr. Cochran, when you come up, you can begin, and then
24 we will hear from Mr. Zimmerman.

25 MR. COCHRAN: I'm waiting.

1 MR. YOUNG: Mr. Cochran, for some reason I cannot make
2 you a panelist. I can only mute and unmute you.

3 CHAIRPERSON HOOD: I'll tell you what. Mr. Cochran,
4 do you need to -- let's do this. Do you need to sign back off
5 and come back on?

6 MR. COCHRAN: Can you see me?

7 CHAIRPERSON HOOD: No. I guess what we can do is --
8 we can go to Mr. Zimmerman first while you try to come on.

9 MR. YOUNG: He can talk. He just can't have his video
10 up.

11 MS. SCHELLIN: Right. You can hear him.

12 CHAIRPERSON HOOD: Right. But you know the public also
13 looks at this as well. So I always like to be able to see,
14 especially our government (audio interference) presentations.

15 MR. COCHRAN: Can you hear me at this point?

16 CHAIRPERSON HOOD: I can hear you, so you -- okay. Go
17 ahead, Mr. Cochran.

18 MR. COCHRAN: Let me see if I can get my camera to
19 work. No, I see nothing that would give me permission to have
20 video work. I had considerable difficulty connecting to the
21 website. I had to try several times tonight.

22 CHAIRPERSON HOOD: Okay. So tonight, we'll just go
23 with what we have. You may begin, Mr. Cochran.

24 MR. COCHRAN: Okay. Thanks very much. OP, as you
25 know, is recommending that the Board approve the application for

1 the design review in the M and South Capitol Street sub-area of
2 downtown's D-5 Zone subject to those two easement agreements that
3 we noted in our report. I just want to note a couple of things
4 for the record. The first thing is Mr. Dettman referred to M
5 Street and South Capitol Street as tertiary streets. They're
6 primary streets in the Downtown Code.

7 And someone mentioned that this was a voluntary design
8 review, it's actually mandatory. It's required in the Downtown
9 Regulations that the Applicant go through this design review. I
10 just wanted to clear that up for the record.

11 But our testimony today first considers the review
12 process briefly, but maybe in a little bit of detail, and then
13 whether the application meets those review criteria.

14 So the process, and it's a little unusual because it's
15 probably the first or second you've looked at in downtown. There
16 are 14 sub-areas in the downtown zones. Each sub-area has
17 specific dimensional or use requirements intended to ensure that
18 new buildings further the purposes or special character of the
19 particular sub-area.

20 Now, in 11 of these sub-areas, by-right projects aren't
21 automatically sent to OZ, and a zoning relief is needed, that
22 kind of relief is reviewed by the BZA. But in three of the sub-
23 areas, the Zoning Commission is required to review all projects
24 and to consider any variances or special exceptions that are
25 requested. And this is one of those three sub-areas.

1 While the process is called design review, the review
2 criteria and procedures for a design review in downtown are
3 different than other design reviews. Subtitle X, Section 601.1
4 explicitly exempts the downtown zones and sub-areas from Subtitle
5 X Section 604's design review process that applies to areas like
6 Capitol Gateway. So for the project in the M and South Capitol
7 Street sub-areas, the evaluation criteria that you're required
8 to consider are limited to the very specific criteria of that
9 South Capitol M Street sub-area. And these are spelled out in
10 Subtitle I, Section 616.

11 The second thing is the design review criteria and
12 procedures that are in Subtitle I, Section 701.2, and finally,
13 the usual Subtitle X, Chapter 9 special exception standards.
14 That's -- all that's actually stipulated in the regulations for
15 the review, so that's what OP's report focused on.

16 And the question is, even within those limited
17 criteria, does the application meet them? And it does. The
18 particular sub- area covers seven and a half blocks north of M
19 Street on the west side of South Capitol and, also, six blocks
20 north of M on the east side of South Capitol. And then on the
21 north side of M Street, there's that half block between South
22 Capitol and Half Street Southwest. So that's it.

23 The sub-area has two objectives. One is to ensure the
24 preservation of the historically important axial view of the
25 Capitol Dome, and then the second is to further the density --

1 | excuse me -- the development of a high-density mixed-use corridor
2 | north of the Capitol Gateway. So to look at those objectives,
3 | there are nine evaluation criteria that have to be considered.
4 | They're in Subtitle I, Section 616. Our report details how the
5 | design meets the positioning and setback criteria specified for
6 | the South Capitol Street frontage, how the scale and general
7 | design is appropriate to that street's monumental context, and
8 | how the proposal would contribute to the high-density corridor
9 | with a variety of residential and retail uses north of South
10 | Capitol Gateway -- north of the Capitol Gateway sub-area, excuse
11 | me, the Capitol Gateway zone. There are no specific height
12 | setback or use requirements for other than the South Capitol
13 | Street frontage.

14 | The Commission must also consider the criteria in
15 | Subtitle I, Section 701 for design review criteria in Downtown.
16 | So it's not just a sub-area, it's also Section 701 in the next
17 | chapter of Downtown.

18 | The most important of these criteria in Chapter 7 is
19 | that the proposed building is to be in context with the
20 | surrounding neighborhood and street patterns. And it clearly
21 | meets the street pattern criteria. It maintains its internal
22 | loading system, and the consolidated curb cuts would also help
23 | reduce the impact on the street system.

24 | With respect to the surrounding neighborhood context,
25 | overall, as OP's report analyzes in more detail that I can go

1 into tonight, the design is in balance and context with the
2 neighborhood. It responds well to the South Capitol Street
3 context and with differing degrees of success to other
4 neighborhood contexts of which there are several, and which these
5 contexts have multiple design and use traditions. On two sides
6 of the location is next to sites that have -- or are zoned for
7 130-foot mixed-use downtown buildings. It's also across M Street
8 from two-story row houses that face Carrollsburg Place, and here,
9 the design attempts to respond to these row houses with a base
10 on the Applicant's project that's of a similar scale to the
11 townhouses across the street and with townhouse-like stoops and
12 entrances that are on Half Street. The sites also across Half
13 Street from one-story industrial buildings whose fenestration the
14 design picks up on, and its land-use designation has been
15 recommended for changed high-density uses in the Council-adopted
16 neighborhood plan.

17 And the corner gateway is also -- as others have said,
18 the corner side is a gateway to southwest. In that context, the
19 proposed building -- well, it may have more in common with
20 buildings constructed along M Street and 4th Street Southwest
21 over the last 20 years than it would with southwest mid-20th
22 Century modernist developments that combine high buildings with
23 lower buildings and open spaces visible from the street. Now
24 mid-century developments -- and they're two and a half blocks
25 away, that's the nearest one, those were on large sites that

1 fostered multiple buildings and that had moderate and medium-
2 density zoning, whereas the Applicant's site is much smaller, and
3 it's in a high-density Downtown zone.

4 Are there aspects of the design that could be improved?
5 Yes, as with almost any project that OP or the Zoning Commission
6 looks at. But that doesn't negate that this project meets
7 Subtitle X's special exception criteria; Subtitle I, Chapter 7's
8 design criteria for Downtown; and Subtitle I, Section 616's
9 criteria specific to the M and South Capitol Street sub-area it's
10 located in. And, accordingly, OP recommends approval of the
11 application. Of course, after DDOT finishes testifying, I'm
12 happy to answer any questions.

13 CHAIRPERSON HOOD: Okay. Thank you, Mr. Cochran.

14 Mr. Zimmerman, DDOT?

15 MR. ZIMMERMAN: Good evening, Chairman Hood, and
16 members of the Commission. For the record, I'm Aaron Zimmerman
17 with the District Department of Transportation. DDOT is
18 supportive of the Applicant's proposal. As you heard in Mr.
19 VanPelt's presentation, we've agreed on all the conditions to
20 mitigate the project's impact to the transportation system. These
21 include a robust Transportation Demand Management plan,
22 construction of curb extensions at three corners surrounding the
23 site, expansion of a nearby Bikeshare station, and a contribution
24 to DDOT's Transportation Mitigation Fund which we will use
25 towards bike-ped transit and Bikeshare improvements around ANC

1 6D.

2 The agreed-to transportation conditions are documented
3 in the September 29, 2020 Gorove Slade response to DDOT memo
4 which is Exhibit 35 on the record. DDOT also supports the
5 language of the two easement conditions proposed by OP in their
6 supplemental report which is Exhibit 55. These are in response
7 to the Applicant's recently revised site design where the
8 building has shifted eastward to the property line and are
9 intended to ensure Lot 47 has reasonable access to the shared
10 north-south driveway. The new easement condition should
11 supersede the original easement language of Exhibit 35 (audio
12 interference) Gorove Slade memo.

13 With the agreed-to transportation conditions and the
14 revised easement, including the zoning order, DDOT has no
15 objection with the approval of this design review application.
16 Thank you.

17 CHAIRPERSON HOOD: Gentlemen, thank you both. Let's
18 see if we have any questions or comments.

19 Commissioner May?

20 Commissioner Turnbull?

21 Vice Chair Miller?

22 Okay. Thank you both.

23 Let me see if the Applicant has any questions or
24 comments or cross.

25 Ms. Shiker?

1 MS. SHIKER: Yes. I just -- I just have one
2 clarification for Office of Planning. Steve, you commented that
3 this is on a primary street, and I believe that --

4 MR. COCHRAN: Can you hold on just a second, Christy.
5 I've got -- thank you. Sorry. Go ahead.

6 MS. SHIKER: Oh, I'm sorry. Yeah. So I just -- I
7 wanted to clarify something that you said in your testimony that
8 the M and South Capitol Street fronting on this project is a
9 primary street. I believe that it's a tertiary street based on
10 616.3 and the -- excuse me -- 616.3 and the map. So I just wanted
11 to correct the record. The primary street is located on the east
12 side and the north side of M Southeast. So I just wanted to
13 clarify that because there would be other requirements if it was
14 a primary street, and since it's a tertiary street, the
15 requirements are the ones that we set forth in our presentation.

16 MR. COCHRAN: Okay.

17 CHAIRPERSON HOOD: Okay. Thank you.

18 Ms. Fast, you have any questions (audio interference)?

19 MS. FAST: I do. I do. This is for the Office of
20 Planning. So Steve, I just want to clarify that, for the record,
21 the Office of Planning worked with residents of Southwest to
22 create this small area plan, the Southwest small area plan.
23 That's correct, right?

24 MR. COCHRAN: That's right.

25 MS. FAST: And that plan -- this parcel sits firmly

1 within the boundaries of the small area plan?

2 MR. COCHRAN: That's correct.

3 MS. FAST: Right. And based off your testimony that
4 you indicated that aspects of this design could be improved,
5 wouldn't you agree that if this corner -- which is a major gateway
6 as you have described it to Southwest, shouldn't these aspects
7 be improved before the final project is approved from Zoning?

8 MR. COCHRAN: Could you specify which aspects you mean?
9 Sorry, Gail.

10 MS. FAST: Well, I don't know. You indicated it in
11 your testimony that you just said that the aspects of the design
12 could be improved. I guess maybe I'm asking you what aspects of
13 the design could be improved, and shouldn't they be since this
14 corner is such a critical corner as the gateway to Southwest?

15 MR. COCHRAN: Here's the distinction I was trying to
16 make. First off, in the small area plan, it doesn't say anything
17 specific to this site. It's not one of the highlighted sites
18 where a land-use change is proposed as opposed to the site to
19 the west where the small area plan says it should go to high
20 density.

21 But with respect to the design guidelines, they're in
22 the small area plan, but those aren't the guidelines that are
23 specified in the criteria that we're supposed to be using for
24 tonight which has to do with the South Capitol and M Street
25 gateway. There are -- indeed, if you wanted to say that this

1 | should be reflective of the mid-century modernist tradition as
2 | opposed to some of the other traditions that are in Southwest or
3 | the nearby neighborhood, yes, there are things that could change
4 | that would make it more reflective of the mid-century modern
5 | design. You know, that's been done with the recent homeless
6 | shelter on Delaware Avenue. But there are other aspects of this
7 | that are simply good as a building goes and not necessarily
8 | reflective of mid-century modern design.

9 | MS. FAST: Okay. Thank you. That's all I have,
10 | Commissioner -- Chairman Hood. Thank you.

11 | CHAIRPERSON HOOD: Okay. Thank you, Chair (audio
12 | interference) Fast.

13 | Let's go to Ms. Brown (audio interference). Do you
14 | have any cross-examination?

15 | MS. BROWN: Yes, I do. I'd like to start with the
16 | Office of Planning. Mr. Cochran, good evening. How are you?

17 | MR. COCHRAN: Very good, thanks.

18 | MS. BROWN: Good. I have a follow -- I have a question
19 | on the -- following up on what I ask asking Mr. VanPelt about
20 | the easement agreement. The condition that you have in your
21 | Office of Planning report specifically uses the word agreement.
22 | If no agreement is reached, would you consider the Applicant in
23 | satisfaction of the conditions?

24 | MR. COCHRAN: Given that I am not an attorney, I would.
25 | My intention was -- and our intention with DDOT was that the --

1 I believe, that the Applicant should offer an easement, and that
2 easement should be realistic. That's why there's the provision
3 in there for DDOT to have to look at whether access could
4 reasonably be provided to the Lot 47.

5 MS. BROWN: So are you --

6 MR. COCHRAN: When we were --

7 MS. BROWN: I'm sorry. Go ahead.

8 MR. COCHRAN: -- talking about this, we didn't imagine
9 that there would be a possibility that there wouldn't be another
10 curb cut if that came up. The owner of Lot 47 is certainly free
11 to apply for a separate curb cut. We were just trying to see if
12 we couldn't get this Applicant to try to make it so that there
13 would be just one curb cut. And that's why they had the
14 responsibility to offer the easement, and we wanted to make sure
15 it was a realistic possibility.

16 MS. BROWN: Okay. And let me follow up with the
17 question that I asked Mr. VanPelt. If no agreement is reached
18 and the private driveway easement is rendered non-compliant with
19 DDOT's -- with separation distances, does that mean that the
20 Applicant -- that the Lot 47 owner would have to move its curb
21 cut either when it plans its new building in order to make the
22 current project compliant?

23 MR. COCHRAN: I don't really want to answer for DDOT
24 on this one.

25 MS. BROWN: Okay.

1 MR. COCHRAN: So you might want to address it to them.

2 MS. BROWN: Okay. And let's -- let me go back to the
3 easement terms. If no agreement could be reached between the two
4 property owners and the Applicant filed unilaterally an easement
5 agreement, and it had some restrictions on hours that the Lot 47
6 owner could use, the size of trucks that could use the easement,
7 or the priorities that would be given to the JBG property, would
8 you consider that in the spirit of the OP condition?

9 MR. COCHRAN: I'm not the one that's going to be
10 interpreting it. It does not seem, however, that that would be
11 in the spirit of it. That should be part of what DDOT is looking
12 at prior to a Zoning Commission decision. DDOT has to find that
13 easement to be reasonable, reasonable access to parking and
14 loading for a future building on Square 649, Lot 47. So --

15 MS. BROWN: Okay.

16 MR. COCHRAN: -- (audio interference) the design. DDOT
17 says yes or no, this is reasonable, and presumably they would
18 consider aspects of what you just asked about. If DDOT doesn't
19 consider it reasonable, then the Applicant has to keep working
20 on it.

21 MS. BROWN: All right. Thank you. That answers my
22 question. Thank you, Mr. Cochran. I now will turn to Mr.
23 Zimmerman and ask him the same questions. You've had time to
24 prepare. You've got an answer, hopefully. But let me repeat
25 the question and maybe you can answer it. Did you anticipate in

1 | your condition that an actual agreement would be reached between
2 | the two property owners in order to satisfy the condition that
3 | you've recommended?

4 | MR. ZIMMERMAN: My understanding was that there would
5 | be agreement between the parties, you know, when I first read the
6 | condition just with the word "agreement." So that was my
7 | understanding.

8 | MS. BROWN: And would you accept a unilateral easement
9 | if the parties could not agree?

10 | MR. ZIMMERMAN: Well, I mean, that would depend on what
11 | the easement agreement says. In your question to Mr. Cochran
12 | about, you know, some unreasonable restrictions on time and
13 | things like that, I think that would not be in the spirit of what
14 | we were looking for, and that would not, you know, be something
15 | that we would, you know, concur with, you know, a unilateral
16 | easement with, you know, unreasonable restrictions put on you
17 | guys.

18 | MS. BROWN: Okay. And let's say that the Lot 47 owner
19 | disagreed with DDOT's interpretation of what's reasonable. What
20 | recourse does the Lot 47 owner have under that scenario?

21 | MR. ZIMMERMAN: I mean, I think maybe coming back to
22 | the Zoning Commission to, you know, keep this issue alive. You
23 | know, if the 5 M building -- project were to get built with that,
24 | that you disagreed with, you know, you could petition the public
25 | space committee for a curb cut on L Street that is, you know --

1 that is something that you would be able to do. You know, this
2 whole time, we've been advocating for the shared access. Our
3 Design and Engineering Manual that we, you know, base a lot of
4 our policy off of, you know, calls for, you know, interpartial
5 (ph) connections and, you know, pursuing those opportunities
6 before a curb cut is granted.

7 So, you know, you could petition the Public Space
8 Committee for a curb cut along L Street, but then you'd have to,
9 like, demonstrate, you know, the hardship or demonstrate, you
10 know, why access to that driveway can't be provided. So that's
11 another -- that is another option.

12 MS. BROWN: And a couple follow-up questions on that.
13 So I did have the earlier question for some of the Applicant's
14 witnesses about the fact that when this private driveway gets
15 established, it will be non-compliant with the separation between
16 driveways. That's correct --

17 MR. ZIMMERMAN: That's correct.

18 MS. BROWN: -- right?

19 MR. ZIMMERMAN: Correct.

20 MS. BROWN: And so in order for the JBG project, the
21 5M project, become compliant, it will necessarily force the Lot
22 47 owner to shift its curb cut if it does not reach an easement
23 agreement with the 5 M project, correct?

24 MR. ZIMMERMAN: The existing curb cuts that are on the
25 ground today for Lot 47 would not have to move. But if your

1 question is about the future conditions, you know, we would
2 strongly advocate for using the shared driveway, or you could
3 petition the Public Space Committee to shift, you know, and put
4 a curb cut further to the east. However, as we noted in our
5 report, you know, we thought that there was the potential, when
6 you start adding up all the spacing, the width of the curb cut,
7 the distance to South Capitol, the distance to the 5 M driveway
8 that it would be close. It might be out of -- this driveway
9 might put it out of compliance with the spacing. You'd have to
10 go in there and, you know, measure it a little bit more precisely.
11 But it was an issue that we raised in our report.

12 But to answer your question directly, under future
13 conditions, you know, it would either be using the shared driveway
14 or, you know, shifting a curb cut to the east which, you know,
15 we would hope to work with you on your projects to not have to
16 do that but to use the shared driveway instead.

17 MS. BROWN: So do you think that's fair to make the
18 Lot 47 owner shift its driveway in order to make this project
19 compliant with your separation and distance requirements?

20 MR. ZIMMERMAN: I mean, you know, we're looking at the
21 block holistically and what the future should be. You know, we
22 really were working with 5 M to try to get this L-shaped driveway
23 that they have from L to Half Street to serve as almost like an
24 alley for the block. And so that's -- that was the perspective
25 that we're coming at it from.

1 MS. BROWN: Okay. I'm going to shift gears and go to
2 the tractor-trailer comments from Mr. VanPelt about the grocery
3 store use. What would typically be the operation of that private
4 driveway with a grocery store requiring deliveries? What is the
5 general rule of thumb for grocery store deliveries? Daily?
6 Weekly?

7 MR. ZIMMERMAN: You know, I would say several times per
8 week. I would defer to the grocers on that. But I would say,
9 you know, several deliveries a week would be my expectation.
10 And, typically, we design for, like, 55-foot trucks in design,
11 you know, for the turning in and out of F Street and L Street.

12 MS. BROWN: And do you think there is -- that there
13 would be any backups using that private drive and shared driveway
14 for the Lot 47 owners if they were coming -- you know, if you
15 have those kinds of deliveries several times a week?

16 MR. ZIMMERMAN: I mean, I have not seen any analysis
17 backing that up, but there could be conflicts in there. I haven't
18 seen -- you know, total volumes would be on the private street
19 network. But, typically, you know, we would not fully expect
20 that condition to happen, you know, based on the designs of the
21 5 M loading -- the loading area that I've seen and where the
22 hypothetical Lot 47 access would be.

23 MS. BROWN: And then I think I have one final question.
24 What is your understanding of the area of the easement? Would
25 it be the entire private drive? Would it just be the north-south

1 element from L Street? And how do you imagine the cars exiting
2 and entering the Lot 47 project that has yet to be designed? How
3 would that work within the square system?

4 MR. ZIMMERMAN: My understanding is that the easement
5 they're offering is just for the north-south alley. Now, what
6 was the second -- repeat the second part of your question.

7 MS. BROWN: How does that -- would that operationally
8 work based on the amount of traffic that would be coming through
9 the private drive?

10 MR. ZIMMERMAN: Well, I mean, we envision most of the
11 trucks -- most of the trucks entering from Half Street, probably
12 some split of 5 M residential traffic using both driveways, and,
13 you know, residential -- based on that easement, residential
14 traffic -- assuming it's a residential project, we don't know
15 that yet, on Lot 47, you know, using that to go north-south to L
16 Street and having, you know, the traffic travel that direction.

17 MS. BROWN: And isn't it a little difficult -- and I'm
18 sorry, I said that was the last one. I just have one final -- I
19 think this is truly it. Isn't it a little difficult to make
20 those judgments when it is so hypothetical that this actually
21 could serve and satisfy the needs of the Lot 47 owner?

22 MR. ZIMMERMAN: Well, I mean, from the drawings that
23 I've seen uploaded to the record this week, I do see that they're
24 -- at least the 5 M team has planned for, say, two loading berths
25 and a parking garage entrance off the alley onto the Lot 47

1 property. And given the lack of specificity around any future
2 development on Lot 47, that, you know, seemed like a reasonable
3 assumption at this stage.

4 MS. BROWN: So, you know, I'm sorry to continue to
5 follow up -- have these follow-up questions, but I'm not going
6 to say that they're my last questions anymore. I guess I have a
7 lot of difficulty understanding why JBG and DDOT gets to design
8 what happens on Lot 47. Can you explain that?

9 MR. ZIMMERMAN: Well, I don't -- I would not say that
10 they're designing what happens on your property. It sounds like
11 they're -- you know, you have the ability to apply for a curb
12 cut on L Street. You also have -- to us, this was giving more
13 flexibility to Lot 47 in case you didn't want a curb cut on L
14 Street, and so that, you know, this would potentially save square
15 footage by combining the access. So, I mean, to us this gives
16 an extra route for you guys to get access that could potentially
17 allow for more development.

18 MS. BROWN: Okay. I think those are all my questions.
19 Thank you very much. Thank you, Mr. Chairman.

20 CHAIRPERSON HOOD: Okay. Thank you, Ms. Brown.

21 All right. Let's go to -- there's other government
22 reports. I do want to mention, again, I believe it was in the
23 file earlier, was the letter from the council member. I want to
24 read that. That's Exhibit 40. Yeah, Exhibit 40 in the record.
25 Any other government issues? Any other government materials --

1 | submissions? I didn't see any. All right.

2 | So with that, let's go to our ANC 6D Chairperson Fast,
3 | if you could provide us your testimony at this time?

4 | MS. FAST: Thank you. You can hear me, correct? Good.
5 | Okay. Good evening. I was going to start at good afternoon,
6 | but it looks like we're evening now. Chairman Hood and Zoning
7 | Commissioners, I'm Gail Fast, Chair of ANC 6D, and I represent
8 | Southwest, the Navy Yard, and Buzzard Point.

9 | As stated in our supplemental report filed with the
10 | Zoning Commission, ANC 6D voted 50 to 0 to oppose the Zoning Case
11 | No. 20-14, a design review case located in the heart of ANC 6D.
12 | This was 62nd opposition vote on this project. Following the
13 | directive of the Zoning Commission at the October meeting, ANC
14 | 6D met with the Applicant twice, once for a brainstorming session
15 | where ANC 6D specifically spelled out our vision, and a second
16 | time to review the design plans that you see before you tonight.
17 | As we have said before, ANC 6D regards South Capitol and M as
18 | the two most important streets in our ANC.

19 | Ever since Anthony Williams and Andy Altman presented
20 | their Anacostia waterfront plan and introduced the concept of a
21 | new Southwest waterfront to the Southwest community, M Street was
22 | proclaimed to have a design as a grand boulevard whose eastern-
23 | most portion would start at 11th Street Southeast, cross South
24 | Capitol, and end at the Southwest waterfront. As one can see
25 | now along M Street, The Wharf has been designed in its second

1 phase, and the property has been specifically placed so as to
2 have a head-on view of the waterfront M Street. Accordingly, ANC
3 6D believes that the plan has been all along to have M Street as
4 a broad welcoming grand boulevard which we believe should include
5 a structure at the juncture separating Southeast and Southwest
6 that more clearly marks a change in the neighborhood's look and
7 feel.

8 We had hoped to come today to say that the Applicant's
9 revised design reflects its unique position at the eastern-most
10 end of M Street, Southwest, and its important gateway location.
11 While some of the design elements have been approved, ANC 6D will
12 argue the building architecturally lacks the blend of historic
13 with new construction found in other Southwest projects, is still
14 heavy-handed, domineering, and unwelcoming.

15 The replacement of the three-story grid and added
16 balconies and terraces on South Capitol has helped minimize the
17 stacked tissue box effect seen in the first iteration. ANC 6D
18 actually liked the concrete framing and repeatedly requested this
19 type of eco (ph) skeleton around all three buildings. By doing
20 so -- to extend around all three buildings, excuse me. By doing
21 so, not only would it soften the look of the project, it would
22 provide a visual that would draw you from South Capitol gracefully
23 down M Street. ANC 6D was disappointed that the Applicant ignored
24 the suggestion since one of our main criticisms has always been
25 that this project presents three very different buildings without

1 any distinct feature tying them together.

2 Another concern of the ANC's were the hopper windows.
3 In the Applicant's revised design, they modified them by tilting
4 them backwards. Instead of softening the building, the effect
5 is the opposite. They now make the building look even heavier
6 and fatter than before.

7 While the Applicant purports to have incorporated
8 design elements used by such noted architects as Chloethiel
9 Woodard Smith, Charles Goodman, and Keyes Lethbridge & Condon,
10 the revised balcony design on the north elevation and southwest
11 corners, and that's the L and Half Street sides, look like hanging
12 inside-out pockets. I fear Chloethiel would be turning over in
13 her grave if she knew these were in homage to her concept of
14 floating volume, frame masonry, and wide balconies seen
15 throughout Southwest.

16 The Applicant has also squandered an opportunity on M
17 Street to bring the grand boulevard vision to fruition. ANC 6D
18 discussed with the Applicant numerous times, even before this
19 revised design, to tier the building on M Street to show the
20 gradual entrance into Southwest. It appears that the ANC and the
21 Applicant have defined tiering differently as the Applicant is
22 using setbacks on the building rather than like seats in an
23 amphitheater designing the building to successfully recede in its
24 height as it makes its way down M Street.

25 As for the pavilion, ANC 6D has nothing to say regarding

1 | it other than it is misplaced and does not serve as a connection
2 | between the buildings on M and Half. Had the Applicant extended
3 | the eco skeleton, you could begin to see the correlation between
4 | the Applicant's project and the Sanitary homes which are directly
5 | across from it.

6 | As stated in our report, the Applicant has indicated
7 | to the ANC that it will be actively seeking a grocer to fill the
8 | retail space. ANC 6D is concerned that the site cannot sustain
9 | the 24/7 commotion of truck traffic to stock it. This ANC is
10 | all too familiar with this type of scenario. At The Wharf where
11 | on any weekday evening between 4:00 p.m. and 7:00 p.m., cars must
12 | navigate around -- I'm sorry, I apologize. My virtual came up.
13 | I apologize -- where on any weekday evening between 4:00 p.m.
14 | and 7:00 p.m., cars must navigate around box trucks too large to
15 | utilize The Wharf's loading docks and instead double park on Main
16 | Avenue, causing traffic backup all the way to Independence
17 | Avenue.

18 | We are requesting to see a detailed transportation plan
19 | that includes in their retail leases ANC 6D's requirement that
20 | there is no loading and/or unloading to a car on South Capitol
21 | or M Streets. And should the Applicant be unable to secure the
22 | proposed retail tenant, ANC 6D is requesting the zoning order
23 | include wording that restricts the Applicant from operating or
24 | leasing any portion of the parking lot to a PMI or any other
25 | parking company to serve anything other than that which ends up

1 as their retail tenants.

2 In meeting with the Applicant, we reiterated numerous
3 times our concerns regarding the proposed loading on L Street,
4 and we are convinced that the design was revised at the last
5 minute in an effort to eke out a few more market rate units in
6 this already enormous project.

7 Aside from concerns regarding at risk windows, lack of
8 air and sunlight for the residents, the design is contrary to any
9 loading and parking entrancing in Southwest. The ANC advised the
10 Applicant numerous times about the building's relationship to the
11 adjoining property; however, it fell on deaf ears. Apparently,
12 our concerns were not enough to impact their design. We were
13 pleased to see that the Ruben Company has provided a letter of
14 opposition that reiterated ANC 6D's same concerns. Maybe now
15 they'll be more successful than we were.

16 Finally, as it pertains to the design, ANC would like
17 it on the record a response to the support letters provided by
18 the Capitol Riverfront BID and Brookfield properties. To be
19 honest, ANC 6D was shocked to see their letters and have come to
20 learn they had been drafted in response to a request by one of
21 their other Board members.

22 To that end, let ANC 6D be clear that a) development
23 projects are not in a BID's purview which Michael Stevens,
24 President of the Capitol Riverfront BID attested to in his letter;
25 b) 5 M is not located in the Capitol Waterfront BID boundaries;

1 c) that the Capitol Riverfront BID has never supported or opposed
2 any development project during my tenure on the Commission that
3 is within its geographic boundaries; d) that JBG is a member of
4 the Capitol Riverfront BID Board of Directors; and e) 5 M is
5 located squarely within the Southwest small area plan, a plan
6 that was developed in conjunction with the Office of Planning and
7 an advisory board made up of Southwest leaders.

8 What this says to me and my fellow ANC Commissioners
9 is that JBG does not have enough belief in their own project to
10 let it stand on its own merit. And while we appreciate working
11 with the Applicant since April, it should be noted that this is
12 the shortest amount of time we have ever worked with a developer.
13 We just recently appeared before Zoning after having worked with
14 that developer for over three years.

15 In closing, our residents were steadfast in their
16 desire to maintain the economic and racial diversity that makes
17 Southwest so strong and vibrant. And while ANC 6D recognizes
18 this is a design review, this ANC wants it to be clear regarding
19 the Applicant's response to the affordable housing issue. This
20 project will present the largest number of residential units seen
21 in Southwest to date, 608 units. They are still positioned based
22 upon their penthouse habitable space to provide only one unit of
23 affordable housing. The remaining 19 units that they are
24 proffering would be workforce housing. While their total
25 contribution to the District of Columbia's housing needs has

1 doubled boasting an increase of 2.6 percent, that is a lofty --
2 that lofty offer is shameful.

3 This concludes ANC 6D's testimony. I look forward to
4 answering your questions.

5 CHAIRPERSON HOOD: Thank you very much, Chairperson
6 Fast. Let's see if we have any questions from the Commission.

7 Commissioner May?

8 COMMISSIONER MAY: No, I do not have questions. Thank
9 you.

10 CHAIRPERSON HOOD: Okay.

11 Commissioner Turnbull?

12 COMMISSIONER TURNBULL: Thank you, Mr. Chair.
13 Commissioner Fast, thank you for being here tonight. Do you
14 think any more meetings with the Applicant could be fruitful?
15 You think that -- I mean, in (audio interference) the Applicants
16 to really get down to work when we get to a point like this. Do
17 you think those meetings would be fruitful at all for you?

18 MS. FAST: Well, we would hope so. I believe that as
19 far as the South Capitol viewshed, we were really impressed with
20 their revisions to it, and we feel as if they actually heard us.
21 Where we're struggling is the corner of M and South Capitol and
22 this idea of a tiered down vision as it moves into Southwest. If
23 the Applicant felt that there was room for negotiations, we would
24 love to discuss it. Our only other concerns are those balconies.
25 We really -- I think you mentioned it as well, and even maybe

1 Commissioner May --

2 COMMISSIONER TURNBULL: Right.

3 MS. FAST: -- talked about the balconies. They just
4 are too heavy for the building. And we'd love to see a redesign
5 of those to make the buildings appear much softer. And then as
6 -- again, I think as we've said -- and I don't know that we can
7 explain it because we're not architects, but the eco skeleton or
8 the design frame that we see on the South Capitol, if it could
9 extend itself to the building -- to the pavilion, which you, too,
10 have commented as well, seems mismatched. And to the other
11 buildings, I think we could reach an agreement where we would be
12 all satisfied with the design element. The affordable housing
13 piece is a whole other story, but, hopefully, I answered your
14 question.

15 COMMISSIONER TURNBULL: No. Thank you very much. I
16 greatly appreciate it.

17 CHAIRPERSON HOOD: Thank you.

18 Vice Chair Miller, you have any questions or comments?

19 VICE CHAIR MILLER: No questions, Mr. Chairman. Thank
20 you, Commissioner Fast, for your testimony.

21 CHAIRPERSON HOOD: Okay.

22 So I'm glad to hear, Chairperson Fast, the exchange
23 between you and Commissioner Turnbull because I didn't think
24 another meeting probably would work, but it sounds like that's
25 doable. So I would hope -- we'll see where it goes. One of the

1 things that I think that I'm hearing from -- not just in this
2 case but across the city, I'm wondering if we should re-look at
3 some of our regulations. And not in this -- it won't help this
4 case. But I think it's maybe time for us to revisit some of our
5 regulations as well. What do you think about that, Chairperson
6 Fast, if the Commission revisits some of our regulations of some
7 of the concerns and issues we're hearing from communities? Like
8 in this case, the (audio interference), what do you think about
9 that?

10 MS. FAST: Well, it would be helpful to us. As you
11 can see here, applicants come with a bevy of lawyers and, you
12 know, experts. We are a volunteer board, though elected, to
13 represent, and we do the best that we can. We need assistance
14 from the Zoning Commission in looking at some of the flexibility
15 and some of the concerns that ANC's have because, to be perfectly
16 honest, as you have stated, we live here. We're going to pass
17 that corner every single day. And it is really in our best
18 interest, but also the community's best interest, to put forth
19 the best project on that corner. And when we get stymied by
20 regulations such as, you know, they don't have to because it's
21 in the regulation, it's a D 5 Zone, and this is what you don't
22 have to do, or this is what you do have to do, it really ties
23 our hands, and we're unable. So I would welcome it for sure.

24 CHAIRPERSON HOOD: So here's what I'm wondering. It
25 won't help us in this case, but one of the things I'm going to

1 do, I'm going to go to Office of Planning and ask them to look
2 at it. But the key is -- and I'll say this, not just for you,
3 Chairperson Fast, but for others who may be listening.

4 If we get to that point and we have a hearing, I can't
5 be the only one in the room, because if I'm the only one in the
6 room we'll be right back here saying, well, we should've added
7 this or we should've added that.

8 But let me also state -- while I heard you say that you
9 all are not lawyers, but let me just say this, Chairperson Fast,
10 you all do a fantastic job with all the developments you have
11 going on in that area. I, too, gave -- years ago gave Andy Altman
12 a tour down in that area. You know what I told him at that time
13 (audio interference)? I told him I'd be dead and gone by the
14 time this is developed, but I was wrong. That Southwest is
15 coming, and I appreciate all the work you all do. So I want you
16 to know while you're not lawyers or architects, and I know that
17 you all do a great job. And you can take that back to that
18 Commission (audio interference).

19 MS. FAST: Thank you.

20 CHAIRPERSON HOOD: So thank you.

21 MS. FAST: Thank you.

22 CHAIRPERSON HOOD: Let's see if the Applicant has any
23 questions of Chairperson Fast.

24 MS. SHIKER: We do not have any questions. Thank you.

25 CHAIRPERSON HOOD: Okay.

1 And Ms. Brown, do you have any questions of Chairperson
2 Fast?

3 MS. BROWN: No, sir, no questions. Thank you.

4 CHAIRPERSON HOOD: Okay. Thank you.

5 And thank you, Chairperson Fast, for all that you all
6 do.

7 Let's see. Give me one second. Okay. We don't have
8 any parties in support.

9 So Ms. Schellin, do we have anyone on the line -- I
10 mean, organizations or individuals who are here in support?

11 MS. SCHELLIN: We have one person, Alison Prince as a
12 proponent. And after that, it would go to the party in
13 opposition.

14 CHAIRPERSON HOOD: Okay.

15 MS. SHIKER: Chairman Hood, Alison, I think is only
16 here if we need her for questions. I'm not trying to speak for
17 her, but I don't think that she's planning to testify.

18 MS. SCHELLIN: Okay.

19 CHAIRPERSON HOOD: I was actually wondering about that.
20 But, you know, anyway.

21 So let's go to the party, Ms. Brown, in opposition.

22 MS. SCHELLIN: Okay. She signed up to testify. So -
23 - instead of just attending, so that's why I --

24 CHAIRPERSON HOOD: Okay.

25 MS. SHIKER: Yes, she may be participating as part of

1 our presentation. She's part of our panelist team.

2 MS. SCHELLIN: Okay.

3 MS. SHIKER: Yeah. I'm sorry if we did not make that
4 clear. She's part of our team. Thank you.

5 CHAIRPERSON HOOD: I was about to say that was going
6 to be a first. But anyway.

7 Ms. Brown, party in opposition?

8 MS. BROWN: Yes, thank you very much. Good evening,
9 Chairman Hood, and members of the Commission. For the record, I
10 am Carolyn Brown with The Brown Law Firm here on behalf of 1101
11 South Capitol, LLC, an entity of the Ruben Company and owner of
12 Lot 47. I am joined tonight by Richard Ruben of the Ruben
13 Company. Also with us is Jami Milanovich of Wells + Associates,
14 our transportation consultant who has been qualified as an expert
15 many times before the Commission. She will make some brief
16 remarks after Mr. Ruben presents his testimony.

17 And if I could ask Mr. Young to bring up the two slides
18 we submitted as part of our presentation? And while that's coming
19 up, we are here today in opposition to the proposed project
20 because the revised design adversely effects the use of Lot 47
21 as permitted under the Zoning Regulations. The project forces
22 the Lot 47 owner, Ruben, into a premature and predetermined design
23 for its property that is not even part of this application. It
24 locks Lot 47 into a fixed configuration for parking access,
25 loading, and other fundamental structural and design components

1 when there isn't even a plan for a new building on Lot 47.

2 We believe it wrongfully infringes on the property
3 rights of Lot 47 to be able to design and use its property as it
4 sees fit and in its best interest under the Zoning Regulations.
5 The revised design gives supremacy to the JBG's interest over
6 those of an adjacent landowner, and that's just not right.

7 The root of the issue stems from DDOT's preference to
8 have a single curb cut on L Street. That policy is not in line
9 with well-settled law in the District of Columbia as well as
10 other jurisdictions for several reasons. First, it's merely a
11 preference or a policy of DDOT that never went through a public
12 notice and comment period in accordance with the District's
13 Administrative Procedures Act. Consequently, it does not have
14 the force of law or regulation. Second, the D.C. Court of Appeals
15 has held that while the District has the right to regulate
16 vehicular and other access to private property from a public
17 street, it cannot deny access to that private property.

18 In 1921, in the *Brownlow* case as clarified by *Nathanson*
19 *v. the District of Columbia Board of Zoning Adjustment*, the Court
20 held that the District government cannot unlawfully prohibit all
21 reasonable access to private property from a public right of way,
22 and that any such action constitutes an unlawful taking of a
23 property right without just compensation. And we've heard
24 tonight Mr. Zimmerman say that there is a possibility that we
25 could have a curb cut off of L Street if the easement weren't

1 reached, but it would not be in the location of where it is now
2 because the obligation -- the obligations of JBG to comply with
3 a separation distance would now be foisted upon Lot 47.

4 Because of this single access point on L Street, DDOT
5 has unwittingly denied what we believe would be reasonable access
6 to Lot 47 from a public right of way. Just through policy, not
7 any force of law or regulation, it would only allow the one curb
8 cut. And it just doesn't seem fair that Lot 47 that's never --
9 that isn't an Applicant here all of a sudden is bearing the burden
10 of what JBG wants to do on this site.

11 And I'm a little concerned that, you know, that the
12 Ruben Company is getting painted as the unreasonable ones because
13 they're not accommodating DDOT, OP, and JBG's desires for its
14 property. And that just doesn't seem right or fair. And it
15 seems that legally forcing Lot 47 owner to be treated as a co-
16 Applicant in this case and participate in negotiations to
17 ostensibly protect access to its own site seems to be an
18 unreasonable constitutional taking of -- an unreasonable taking
19 of its constitutionally protected right to its existing curb cut.

20 So we're very disappointed that we've essentially been
21 dragged into this whole policy to satisfy this new design of
22 building over private easement. And how can the Lot 47 owner
23 practically evaluate whether this is reasonable access to them
24 when it hasn't even designed a building for its own site? Mr.
25 Ruben will describe in more detail the adverse practical

1 | implications of the proposed single curb cut and the private
2 | driveway recommendation.

3 | As you know, in addition to demonstrating compliance
4 | with the design criteria of the M and South Capitol sub-area, the
5 | Applicant must also meet the special exception criteria and must
6 | prove that there will be no undue adverse impact on the use of
7 | neighboring property in accordance with the Zoning Regulations
8 | and zoning map. Here under JBG's current design with a building
9 | constructed over the private driveway, the project will unduly
10 | and adversely affect the use of Lot 47 in accordance with the
11 | Zoning Regulations governing parking, loading access, and
12 | potentially other area requirements even before the Lot 47 owners
13 | had a chance to design its building.

14 | We, therefore, oppose the current configuration of the
15 | project and ask the Commission to direct the Applicant to redesign
16 | the project in a way that does not adversely affect Lot 47. With
17 | that, I'd like to now turn to Mr. Ruben. If you could, please
18 | introduce yourself for the record and proceed with your
19 | testimony. Mr. Ruben, are you there?

20 | MR. RUBEN: I'm here. Can anybody -- can you hear me?

21 | MS. BROWN: Yes.

22 | MR. RUBEN: Okay. Great. Now I'm unmuted. Thank you,
23 | Carolyn. Thank you very much, Chairman Hood, and Commissioners,
24 | for the opportunity to testify before you this evening.

25 | I am Richard Ruben, CEO of Ruben Companies. As you

1 know, we are the -- as Carolyn said, we are the owners of Lot 47
2 which is the only lot on the entire Square 649 that is not part
3 of the Applicant's property.

4 We acquired the -- I can start my video, too. We
5 acquired the lot about 13 years ago from KFC which closed and
6 demolished its restaurant prior to the sale. We have operated
7 the property as a parking lot ever since that time while focusing
8 our development attention on other properties that we own on the
9 east side of South Capitol Street including the recently
10 completed 10K Hill South. As Carolyn stated, we have no current
11 plans to develop Lot 47.

12 I would like to first note that if not for the one
13 issue that we've been addressing, we would be completely
14 supportive of this application. The development introduces an
15 interesting design into the neighborhood, will bring additional
16 housing, retail activity, and will create local employment at a
17 time when it's desperately needed. However, there is that aspect
18 of the application, and particularly with respect to a change
19 that was made only two weeks ago that uniquely and adversely
20 affects Lot 47.

21 As you've heard a number of times this evening, DDOT
22 has a policy to permit only one curb cut on L Street. In
23 implementing that policy, DDOT and the Applicant propose that a
24 private driveway be created on the Applicant's property, that
25 would provide loading and parking access to both the Applicant's

1 property and to our Lot 47 when it would be developed.

2 Our understanding was that prior to the issuance of a
3 building permit for the first phase of the development, we and
4 the Applicant would have to reach an agreement, not just to have
5 and then record an easement, but an agreement, and on the terms
6 of the agreement that would give us access to our eventual
7 building over the Applicant's property.

8 For the past seven months, ever since we first received
9 notice of a zoning application, the eastern facade of the proposed
10 building was located on the western side of the proposed private
11 drive. You can think of this, as has been mentioned, as analogous
12 to having a private alley between the two properties. It would
13 be open to the sky. There would be no structure below it, just
14 like an alley. And we would each have the right to use the
15 private alley for ingress and egress. We were willing to accept
16 this simple elegant generous solution to assist in implementing
17 DDOT's policy subject, of course, to negotiating the exact terms
18 of the easement.

19 That is until two weeks ago when on a Zoom call with
20 the Applicant, for the first time, we were presented with the
21 radically revised design that you've seen tonight. In fact, you
22 haven't even seen it in every slide tonight. If you look
23 carefully, the old design is in some of those slides. And the
24 revised design places the eastern facade on the property on the
25 property line.

1 The proposed redesign is no longer analogous to a
2 private open-air alley, but rather places the structure of the
3 Applicant's building above the side and below private alley. So
4 as you can see in the slide that's on your screen now, that is
5 the original design until two weeks ago. And if you could change
6 the slide to the next one? Well, when it -- there you go. The
7 new private driveway. And you can see the -- you can see the
8 obstacle course of columns that would have to be navigated by our
9 30, 40-foot trucks and by parking garage patrons coming and going
10 from our garage.

11 This simply is not acceptable. We don't even know what
12 type of development we will be building. Maybe multi-family,
13 maybe an office building for an association like the National
14 Association of Broadcasters that are right across the street,
15 maybe retail. And each of these uses would have very different
16 requirements for loading, parking, core location, and trash
17 removal. It's simply not right for us to be boxed into these
18 decisions now.

19 Second, and no one has mentioned this tonight, there
20 is the sequencing of construction. Let's suppose that we wanted
21 to build on Lot 47 before the Applicant is ready to build its
22 phase two. Presumably, the easement agreement would say that the
23 Applicant would already have to create and pave the private alley
24 easement area so that our building could operate. Then after our
25 building is in operation with all the cars and trucks coming in

1 and out, the Applicant decides that they want to build phase two.
2 How can they now possibly build above and below the easement
3 area? Obviously, they can't without cutting off complete access
4 to our building for at least their two years of construction.
5 That just doesn't work.

6 Third, we now have two curb cuts on South Capitol and
7 one on L Street, as you've heard. And if we continue as a parking
8 lot after development of Applicant's second phase, there would
9 be two contiguous curb cuts on L Street which you've heard tonight
10 would violate DDOT's 24-foot separation policy. So in
11 implementing one DDOT policy about having one curb cut on L
12 Street, they would be violating another one of their own policies.

13 So why did the Applicant propose this obviously
14 unworkable solution? My conjecture, others have mentioned it
15 tonight in some of their testimony, but in response to the design
16 issues raised by ANC and others, the Applicant was faced with
17 losing square footage. So they moved their facade 22 feet to
18 the east to pick up some of that lost square footage.

19 Basically, Commissioners, the double whammy burden of
20 DDOT's curb cut policy and JBG's lost square footage is being
21 placed squarely on the back of Lot 47. As Christy Shiker said
22 tonight, well, you got to break a few eggs. Well, they're
23 breaking our eggs to benefit them. And Mr. VanPelt talked about
24 a high likelihood of where our core and our loading dock would
25 be loaded. Buildings are not designed based on high likelihood.

1 And Mr. Zimmerman stated tonight that there is a transportation
2 agreement. Well, the party most affected by that agreement hasn't
3 even been consulted.

4 So Lot 47 is not before this Commission, and yet we're
5 being asked well in advance of designing a building to -- with a
6 high likelihood, locate our garage entrance and our loading dock
7 when we don't even know what kind of building we're going to
8 build. In this instance, the Applicant's project adversely
9 affects its neighboring property, Lot 47, to use its property in
10 accordance with Zoning Regulations and the zoning map.

11 So what's the solution? As I said at the outset, other
12 than this issue, we support this project. We would like to see
13 it move ahead, so here are some suggestions. Number one, first
14 suggestion, just go back to the plan from two weeks ago with the
15 eastern facade on the west side of the private easement area
16 creating in effect that open air alley that everybody has
17 mentioned. In that case, DDOT gets its one curb cut, lot 47 is
18 not unduly burdened, and the sequencing of construction is no
19 longer an issue. We can either -- either one of us could build
20 our buildings first without a problem.

21 Second possible solution, have the Applicant give up
22 its L Street access entirely, and they can access its property
23 just from F Street. DDOT still gets its one curb cut on L Street,
24 now just dedicated to our property. We use our own curb cut as
25 we always expected to do for our own property and our own loading.

1 And the third course is that DDOT could bend its one
2 curb cut policy for this stretch of L Street. After all, L Street
3 at that location is not even a through street. There's not very
4 much traffic on it, and maybe two curb cuts at L Street would
5 not be as detrimental as DDOT's policy would have you believe.

6 Anyway, thank you very much for listening. I look
7 forward to the time a few years from now when I can come again
8 before this Commission for design review of Lot 47 when we
9 actually have designed the building. It might be for an office
10 building, multi-family, retail, post office, maybe a new finger-
11 licking-good KFC restaurant. Who knows? But the time to discuss
12 an impact to development of Lot 47 is when the owner of the
13 property is designing it and not when our neighbor is designing
14 their property. Thank you very much. And I greatly appreciate
15 your time this evening.

16 CHAIRPERSON HOOD: Ms. Brown, do you have another
17 witness?

18 MS. BROWN: Actually, I think that we will just have
19 Ms. Milanovich available for questions if anybody has some
20 questions that they want to pose for her. That would conclude
21 our presentation. And I would just echo Mr. Ruben's comments and
22 mention that it is important for us to wait and see what happens
23 here at this site at Lot 47, and that it's just unworkable to
24 assume that a unilateral easement agreement recorded without the
25 input from the Lot 47 owner could in any way be a workable

1 solution for this square. So thank you for allowing us to present
2 our testimony, and we're available for questions.

3 CHAIRPERSON HOOD: Okay. Thank you both, Mr. Ruben and
4 Ms. Brown, for your presentation. Let's see if we have any
5 questions or comments.

6 Commissioner May?

7 COMMISSIONER MAY: Yeah, I do have a couple questions.
8 Mr. Ruben, you seem to --

9 MR. RUBEN: Yes, sir.

10 COMMISSIONER MAY: -- say in your presentation or your
11 discussion that you would like to continue using the existing
12 curb cut on L Street; is that right? Do I understand that
13 correctly?

14 MR. RUBEN: Well, yes, we certainly would like to
15 continue to use it for -- it's currently being used as our parking
16 lot. So yes, we do --

17 COMMISSIONER MAY: I'm talking about in the future.
18 For your future development where you're concerned about where
19 you will be able to get a curb cut or whether you're -- you know,
20 you can have any kind of curb cut on L Street --

21 MR. RUBEN: Yes --

22 COMMISSIONER MAY: -- are you saying you would want to
23 keep that one?

24 MR. RUBEN: The location of that existing curb cut,
25 again, my conjecture makes the most sense for the probable design

1 --

2 COMMISSIONER MAY: Okay.

3 MR. RUBEN: -- of the building.

4 COMMISSIONER MAY: So did you --

5 MR. RUBEN: And also, it's -- I'm sorry.

6 COMMISSIONER MAY: Did you hear Mr. Zimmerman say that
7 the existing curb cut is not a problem and that that could stay?

8 MR. RUBEN: Not in addition -- not in addition to JBG's
9 curb. It could stay as long as we're using it in our parking
10 lot. But once we apply to change the use of the property, I
11 believe DDOT gets another look at it, and they could -- as they
12 have said now, they could eliminate it or they could move it.

13 COMMISSIONER MAY: Okay. Well, that's not what I heard
14 Mr. Zimmerman say. Maybe I'm wrong about what I heard. I thought
15 he said that if, you know, you would continue -- could continue
16 to use that one in the future if the property were redeveloped.
17 So --

18 MR. RUBEN: Well, if DDOT's willing to commit to that,
19 that's a different -- that's a different story.

20 COMMISSIONER MAY: Okay.

21 MR. RUBEN: I think --

22 COMMISSIONER MAY: All right. So --

23 MR. RUBEN: -- it's a different story.

24 COMMISSIONER MAY: Okay. So I'll go now to Ms. Brown.
25 Your initial argument about this seemed to be that DDOT's policy

1 with regard to curb cuts is not a -- it's not a valid regulation.
2 It didn't go through a regular rule-making process. It is simply
3 a policy of DDOT, and it in effect constitutes or could constitute
4 an illegal taking of your property rights; is that right?

5 MS. BROWN: Correct.

6 COMMISSIONER MAY: Okay. So why are you worried? If
7 you think that that's actually the legal argument, then it seems
8 to me that you would be able to prevail over DDOT to get the curb
9 cut that you need when the property is redeveloped.

10 MS. BROWN: Well, I guess we don't want to have to go
11 through a whole legal process and the expense of trying to fight
12 a determination when there's an easier way to do that through
13 this process and through DDOT. And --

14 COMMISSIONER MAY: I'm not sure that this is
15 necessarily an easier way to do it. But you're sort of -- you're
16 undercutting your own argument if this is where we have to solve
17 it, when in fact you have recourse at some point in the future.

18 MS. BROWN: Well, two thoughts on that. Number one, I
19 want to go back to the comment that you had about what DDOT
20 suggested. And yes, if they were to make a commitment that we
21 could keep the driveway where it is now, if that ends up being
22 the most advantageous to Lot 47 when it develops its property,
23 that would be great. What I heard him say, Commissioner May,
24 was that it would be up to the Public Space Committee, not DDOT.

25 COMMISSIONER MAY: No, I heard him say very clearly

1 that the existing curb cut is not an issue. But maybe he was
2 only talking about under the circumstance of the current use.

3 MS. BROWN: Yeah. That's what --

4 COMMISSIONER MAY: But I did not hear him say that.
5 Maybe I just wasn't paying close enough attention to what Mr.
6 Zimmerman said.

7 MS. BROWN: And then --

8 COMMISSIONER MAY: I can certainly understand how
9 moving the curb cut would or could, you know, throw you into a
10 completely different process or would throw you into a different
11 process. I understand that.

12 MS. BROWN: And to respond to your second -- I guess
13 the first part of your question about the legal argument that we
14 have, I think Ms. Shiker can attest to this as well and probably
15 Ms. Prince, that those arguments have been raised numerous times
16 with DDOT and the -- it's ignored. So it's very difficult --

17 COMMISSIONER MAY: DDOT ignores you? It's hard to
18 believe.

19 MS. BROWN: Those legal arguments anyway.

20 COMMISSIONER MAY: They never -- they never ignore me.
21 No, they ignore me all the time. Anyway.

22 MS. BROWN: Well, to the extent that we can try to make
23 sure that we don't have to go to the mat on that legal issue, it
24 would be much easier. And I think, as Mr. Ruben said, we want
25 to negotiate something very helpful to both parties, but the way

1 | it works now, it doesn't. But we're open to it.

2 | COMMISSIONER MAY: Sure.

3 | MS. BROWN: It's just that the, you know -- and Mr.
4 | Ruben gave his three solutions at the end of his testimony, and
5 | that's what would work for the Lot 47 owner.

6 | COMMISSIONER MAY: Okay. So one last question then.
7 | If there were -- if the Applicant were to eliminate that L Street
8 | entrance and do everything in and out of Half Street, you'd have
9 | no objection to them building right to the property line (audio
10 | interference)?

11 | MR. RUBEN: No. They have a right to build to the
12 | property line.

13 | COMMISSIONER MAY: Okay.

14 | MR. RUBEN: And then we (audio interference).

15 | COMMISSIONER MAY: All right. That's it. Thank you.

16 | CHAIRPERSON HOOD: Okay.

17 | Commissioner Turnbull, do you have any questions or
18 | comments?

19 | COMMISSIONER TURNBULL: Well, Mr. Ruben, it was so nice
20 | to see you tonight. It's always nice to get a little twist on
21 | our jobs here. No. But I empathize with your angst on this.
22 | And, hopefully, I think the Applicant's going to be going back
23 | and talking to ANC. I think probably we need to have them talk
24 | to you and to the Department of Transportation and try to come
25 | up with some kind of a solution.

1 But at least, Mr. Chair, I'm not sure where we go with
2 this. I think it's an interesting twist that we hadn't expected.
3 So hopefully we can resolve this, or at least move it forward
4 down the line to get some kind of a resolution.

5 MR. RUBEN: Thank you.

6 COMMISSIONER TURNBULL: Thank you again for coming.

7 MR. RUBEN: Yeah. Thank you, Mr. Turnbull. As I said,
8 I gave three solutions. But really, if they would just move the
9 facade back to where it was two weeks ago, that's -- and that's
10 why we objected at the last minute and had to request party status
11 at such a late time.

12 COMMISSIONER TURNBULL: It's totally understandable.
13 Totally understandable. Thank you.

14 MR. RUBEN: Thank you, sir. Thank you, sir.

15 CHAIRPERSON HOOD: Thank you, Mr. Turnbull.

16 Vice Chair Miller?

17 VICE CHAIR MILLER: I have no questions, Mr. Chairman.
18 Thank you, Mr. Ruben, for your testimony.

19 MR. RUBEN: Thank you, sir.

20 CHAIRPERSON HOOD: So the only think I will say is, as
21 Mr. Turnbull has already mentioned, I think people need to go
22 back and have a discussion because when I listen to the discussion
23 from Mr. Ruben and Ms. Brown, it doesn't even sound right. So,
24 you know, my first question is going to be why are we even here?
25 We just spent 30 minutes talking about something that doesn't

1 even sound right to me. So I'm going to leave it at that.

2 I'm going to ask you, as Mr. Turnbull has already
3 mentioned, go back and let's see whatever works for both. Because
4 even some -- you might not build, Mr. Ruben, for 30 years.

5 But it just doesn't -- the conversation to me -- and,
6 you know, I don't know how judges look at it in the courts, but
7 it just doesn't sound right. That whole discussion -- you know,
8 earlier, I wanted to say that, but I just said, you know, I heard
9 it for so long now. Let me just say that. It doesn't sound
10 right.

11 I'm hoping you all can go back. Really, specifically
12 DDOT since they are the ones who are allowing it. Let's have
13 that conversation. I think both the Applicant and you, Mr. Ruben,
14 you know, both of you all can go back and have that conversation,
15 I believe, with DDOT. But I'll leave it at that because I don't
16 think we will be voting on anything tonight or we're going to be
17 looking at further discussion.

18 And I appreciate Mr. Turnbull bringing up the going
19 back to talk to the ANC. I didn't think that would work because
20 (audio interference) and this is how it came back. But, hey,
21 let's try, you know. Sometimes the more the conversation, I
22 think Chairperson Fast said there's an opportunity there. So
23 let's not close the book on any opportunities. So I'll leave it
24 at that.

25 Any follow-up questions or comments, Commissioners?

1 Okay.

2 So let me thank Mr. Ruben and Ms. Brown for their --

3 MS. SCHELLIN: Cross. Cross.

4 CHAIRPERSON HOOD: Oh, that's right. Cross. Don't
5 turn them away. Let me bring them back. Thank you, Ms. Schellin.

6 Let's go to the Applicant. Do you have any cross?

7 MS. SHIKER: We don't have any cross today. Thank you.

8 CHAIRPERSON HOOD: Okay.

9 Chairperson Fast, do you have any cross?

10 MS. FAST: We don't at this time.

11 CHAIRPERSON HOOD: Okay. All right.

12 So thank you all very much.

13 We can take them down, Mr. Young, Mr. Ruben and --
14 well, you might want to leave him up now that I think about it.

15 But anyway, Ms. Schellin, do we have any individuals
16 who are here in opposition?

17 MS. SCHELLIN: We do. If we could take the Applicant's
18 team down and just leave the attorney up for now, and just the
19 attorneys and the ANC, then we can bring up the next four which
20 will be -- let me get them. I lost my -- there we go. It's
21 going to be Pamela McKinney, Chris Williams, Coy McKinney, and
22 Jennifer Walker. That's four. Do you want more than that?

23 CHAIRPERSON HOOD: Let's just stick with four. How
24 many do we have total?

25 MS. SCHELLIN: I think there were 13 the last --

1 CHAIRPERSON HOOD: Okay. Let's do four. Let's do
2 four.

3 MS. SCHELLIN: Okay.

4 MR. YOUNG: I don't see Chris Williams or Jennifer
5 Walker on here.

6 CHAIRPERSON HOOD: Okay. Let's bring two others up
7 that are out there waiting.

8 MS. SCHELLIN: Okay. That would be -- I'm sorry. Hara
9 Ann Bouganim and Adam Cooper -- Adam Cooper.

10 CHAIRPERSON HOOD: Okay. I don't see Cooper. Is --

11 MS. SCHELLIN: There was someone on by telephone. Can
12 you tell me what that number is, Paul? And I'll check phone
13 numbers.

14 MR. YOUNG: It's 202-898. I don't see it on here
15 though.

16 MS. SCHELLIN: 898.

17 CHAIRPERSON HOOD: Okay. Do we have one other person
18 we can bring up, Ms. Schellin?

19 MS. SCHELLIN: Barbara Gilbert.

20 MR. YOUNG: I do not have her on here either.

21 MS. SCHELLIN: How about Alexis Goldstein?

22 MR. YOUNG: I do not have her either.

23 MS. SCHELLIN: Corey Howell?

24 MR. YOUNG: I don't see him.

25 MS. SCHELLIN: I'm sorry?

1 MR. YOUNG: I don't see him.

2 CHAIRPERSON HOOD: Why don't we just -- let's just go
3 with --

4 MS. SCHELLIN: Rachel Davis?

5 MR. YOUNG: I don't see her either.

6 CHAIRPERSON HOOD: Let's go to three --

7 MS. SCHELLIN: That's it.

8 CHAIRPERSON HOOD: -- we have, and --

9 MS. SCHELLIN: That's it.

10 CHAIRPERSON HOOD: Well, we'll check back again after
11 we finish with the three that we have because (audio
12 interference). Let's start off with Ms. Pamela McKinney. And
13 I'm not sure who you called next. I think it was maybe Coy
14 McKinney, and then we'll here from (audio interference).

15 MS. SCHELLIN: Okay.

16 MS. MCKINNEY: Hi, Commissioner. Can I go ahead?

17 CHAIRPERSON HOOD: Yes, you may proceed.

18 MS. MCKINNEY: All right. Sorry, we have a crying
19 baby.

20 CHAIRPERSON HOOD: (Audio interference). Is it three
21 months?

22 MS. MCKINNEY: Yeah, three months. Yeah.

23 CHAIRPERSON HOOD: So I got a pretty good memory. I
24 can remember.

25 MS. MCKINNEY: Yeah. That's impressive. Well, thank

1 | you for the opportunity to speak with you this evening. My name's
2 | Pam McKinney, and I live in Southwest with my husband and three-
3 | month-old daughter. I'm also the president of Southwest
4 | Community Gardens which is only a few blocks from the proposed
5 | project.

6 | I'm speaking to you tonight as a concerned Southwest
7 | resident. My remarks have not changed much from what I originally
8 | planned to say in October, and I fully support our ANC's letter
9 | of opposition and concerns with this project. I ask the
10 | Commission to please reject this development until the project
11 | design is an example of equity and inclusion (audio interference)
12 | Southwest Neighborhood Plan.

13 | The Southwest plan is supposed to be a guiding document
14 | for development in Southwest. This plan states quote, I'm sure
15 | you've heard many times, "Southwest will remain an exemplary
16 | model of equity and inclusion. A welcoming and engaged community
17 | that celebrates and retains mixed races, ages, and income levels
18 | and enhances well-being for all amidst neighborhood growth and
19 | change." Residents stated they wanted new housing developments
20 | to offer varied (audio interference), especially unit size for
21 | families.

22 | As this is a guiding document for Southwest, every
23 | project should be analyzed with this plan in mind. And as
24 | Commissioner Fast noted, this will be one of the largest
25 | developments in Southwest. We also find that this project still

1 does not meet the standards laid out in the Southwest Plan.
2 Looking at the design, there is no unified presence in the
3 neighborhood as the ANC has stated. And I agree with the ANC in
4 their view of how a tiered design could better reflect elements
5 of Southwest.

6 The pitiful amount of affordable housing, not even
7 three percent offer, does not speak to equity or inclusion nor
8 uplift the goals of the Southwest Plan. Even JBG Smith has its
9 own corporate stated goals towards diversity and inclusion.
10 Quote, "At JBG Smith, we know that prioritizing diversity and
11 inclusion is not only the right thing to do, but the smart thing
12 to do." However, it seems these are just words and not actually
13 in practice, especially not in this project.

14 There is no diversity in the design to reflect
15 Southwest historic elements as ANC 6D also noted. The abysmal
16 amount of diversity in offering three-bedroom family sized or
17 affordable units for this project is insulting when they say that
18 prioritizing diversity and inclusion is the, quote, "smart thing
19 to do."

20 I think we all know why the IZ unit is placed in the
21 worst location of the building, because those who can't afford
22 market-rate units aren't worthy enough of a decent view. That
23 tells me all I need to know about JBG Smith, and their diversity
24 inclusion goals. And I hope that they can come to a better
25 resolution than what they've given us.

1 I hope you will heed our ANC's concerns and reject this
2 project as it is now. Thank you so much for your time.

3 CHAIRPERSON HOOD: Okay. Thank you.

4 Mr. McKinney?

5 MS. MCKINNEY: I got to go get him.

6 CHAIRPERSON HOOD: Oh, okay. All right. Well, let's
7 go -- okay. We'll wait.

8 What about Ms. Bouganim?

9 MS. BOUGANIM: (Audio interference). Hello?

10 CHAIRPERSON HOOD: Yes, we can hear you. You can go
11 ahead.

12 MS. BOUGANIM: Oh, okay. Thank you. This has taken
13 much longer than I thought. I admire your attention and your
14 help with this. My name is Hara Ann Bouganim from 1101 3rd
15 Street, Southwest. It's three blocks west of the project. I
16 speak from experience from the Southwest Small Area Plan Advisory
17 Committee, involvement with two adjoining developers which ended
18 up in memorandum of agreement, service in our Waterfront Tower
19 Condo Board for over six years, and successful placing of our I.
20 M. Pei designed condo on the National Register.

21 Like others in opposition, I delay -- asking to delay
22 design approval pending four items, some of which overlap things
23 that have been said. So I'll try to be brief.

24 It's terribly important to support the diversity of
25 Southwest Pam just spoke to.

1 Second, it's also important to involve more Southwest
2 residents (audio interference) in the planning of 5 M and to be
3 architecturally inclusive and respectful of a growing Southwest.

4 Now, the third thing, respect the unique architecture
5 of Southwest. (Audio interference) Sanitary homes which are row
6 houses directly across the street from the project. There is no
7 resemblance whatsoever. There's no way to connect the two. What
8 they have done is put some townhouses at the bottom of a humongous
9 building. You can't even see that from the street. You do have
10 steps to get into them, but that's about it. And there's no
11 connection to the Sanitary homes.

12 As far as the mid-century modern developments, very
13 similar problems. The high and low of Southwest is not really
14 honored.

15 My suggestion would be to emphasize entry to Southwest
16 by stepping down the west side of the building. Now, that has
17 been said by others.

18 Fourth, no one has mentioned this. Please provide
19 public (audio interference) street-level space. All our green
20 space is for the residents of the buildings themselves in the
21 central courtyard and on the roofs. What we're asking for here
22 is something that would look like this, perhaps a semi-circular
23 parklet in the southwest corner of 3 M with benches, trees, and
24 plantings. On the whole site, there is not one place to sit
25 down, one place for the residents to meet (audio interference)

1 people on the street, and vice versa, for some kind of integration
2 into the neighborhood. The main entry could be at that space,
3 and it would emphasize a welcoming connection of 5 M to Southwest
4 for all which would be a true gateway.

5 Thank you for listening. I am one of the few residents
6 who is speaking. I think others have a lot to say. We appreciate
7 a delay that would allow for input to truly weave Southwest into
8 5 M. Thank you.

9 CHAIRPERSON HOOD: Thank you very much, Ms. Bouganim.

10 Mr. McKinney, you may begin.

11 MR. MCKINNEY: Great. Yeah. So I'm really at a loss
12 for words. I spent all of today in meetings. I was at the Comp
13 Plan. I testified in the Comp Plan. There was a Housing
14 Authority meeting around Greenleaf. And one of the central themes
15 was affordable housing. That's -- everybody was talking about
16 affordable housing. And so, of course, I'm going to talk about
17 that as well.

18 And it's -- it's heartbreaking that JBG would offer
19 three percent and then hide behind rules and regulations. Like,
20 it's the same type of stuff why, you know, segregation was legal
21 at one point. So at some point, you got to be bold. You cannot
22 be cowardly and just hide behind legal interpretations for not
23 doing what's right. And right now, Southwest is being bombarded
24 with market-rate units. We've had gentrification. We've had
25 displacement. We -- the Southwest residents said we don't want

1 this. We put it in the Small Area Plan. The Comprehensive Plan
2 says affordable housing should be approached as a civic priority,
3 and yet we're still getting three percent. Like, I don't -- I
4 don't know what else to say about it.

5 I appreciate Commissioner Turnbull for -- you
6 mentioning about the location of the IZ unit. I appreciate you,
7 Chairman Hood and Commissioner Miller, about talking about the
8 affordable housing. Comprehensive Plan Section H-3.1 says
9 housing for families, but apparently in this project, only
10 wealthy families can move into these three-bedroom units.
11 Comprehensive Plan Section H-1.5 talks about housing quality, and
12 that says specifically that "Affordable units should be
13 indistinguishable from market-rate units." So don't treat the
14 affordable units as, you know -- don't give them a little crappy
15 location.

16 And then again, Housing Section 1.2.1 says, "affordable
17 housing production as a civic priority." Three percent is not a
18 civic priority. I heard one of the Applicant's lawyers or someone
19 talking about the CFO study saying that if they didn't build
20 housing that the price would go up, yes. Duh. The problem is
21 what type of housing do you build?

22 So if you look at Exhibit 48, it specifically says that
23 when you build market-rate units, it says that the housing market
24 is segmented. So if you build a whole bunch of market-rate units,
25 the market-rate unit prices will drop, but it does nothing for

1 low- and moderate-income prices. It actually increases it. So
2 we're not saying don't build housing. We're saying build
3 affordable housing.

4 It's baffling to me that we're -- it's still in this
5 climate of Black Lives Matter, and everyone's talking about
6 blacking out their profiles and muting themselves and all this
7 other stuff, and then we're just waiting for them to actually
8 implement it. So please give us more than three percent
9 affordable housing in the middle of an affordable housing crisis.
10 Thank you.

11 CHAIRPERSON HOOD: Thank you very much.

12 Commission, is there any questions or comments of this
13 panel?

14 Commissioner May, you have any questions or comments?

15 Mr. Turnbull?

16 And Vice Chair Miller?

17 VICE CHAIR MILLER: No questions. Just thanking them
18 all for sticking around and testifying today.

19 CHAIRPERSON HOOD: Okay.

20 And I, too, want to echo that to this panel. I
21 appreciate it.

22 And, also, Mr. McKinney, I appreciate you sending me
23 the information for me to read. I really appreciate that. I
24 will follow up on that. That's on my list of things to do as
25 well, which will be done soon. So I appreciate that.

1 All right. Does the Applicant have any --

2 Oh, Ms. Shiker, do you have any cross-exam -- I mean
3 any cross of the three witnesses?

4 MS. SHIKER: I do not. Thank you.

5 CHAIRPERSON HOOD: Okay.

6 Chairperson Fast, do you have any cross of the three
7 witnesses?

8 MS. FAST: I do not. Thank you.

9 CHAIRPERSON HOOD: Okay.

10 So thank you all very much. We appreciate your
11 testimony and taking the time to give us your views.

12 Okay. Ms. Schellin, do we have anybody else?

13 MS. SCHELLIN: There is no one else on the list. And
14 I don't think any of the other people have shown back up. I'm
15 looking just to make sure. Nope, they have not.

16 CHAIRPERSON HOOD: Okay.

17 MS. SCHELLIN: So that was the last panel.

18 CHAIRPERSON HOOD: Okay. Thank you very much, Ms.
19 Schellin.

20 And thank everyone who participated thus far.

21 Let's go to -- Ms. Shiker, do you have any rebuttal or
22 any closing at this time?

23 MS. SHIKER: Sorry. Yes. Yes. We do have rebuttal.
24 And I want to talk through some of the issues that came up.

25 With respect to the private driveway for which we were

1 offering the easement, we are happy to continue to work with DDOT
2 to put together the points of what the reasonable access is, but
3 we also have no objection to that property taking its own access.
4 We were doing this as an accommodation to the city, not for a
5 reason to adversely impact that private driveway.

6 And, you know, to the extent that they could seek a
7 approval of a curb cut, the current curb cut they have, whenever
8 there's a redevelopment, DDOT requires a re-review of the use of
9 curb cuts. And so we would be happy for them to take the access
10 for their property from their own curb cut. We were, as I said,
11 fine to accommodate. We thought we were giving a benefit to Lot
12 47 with the proposed easement, and we had been working closely
13 with DDOT to make sure that it was reasonable in the way that
14 they could access.

15 The private driveway condition of being covered has
16 very little impact on how that would be accessed. It's a typical
17 situation to have things covered. It also reduces noise for the
18 developments above. And so we would be happy to continue those
19 discussions. But, again, we do not have an issue for them to
20 take their own access.

21 For us, we believe that the L Street access point is
22 important because one of the things that we've heard from the
23 community was that it was very important that we allow for these
24 drop-off areas because of the activity, pedestrian-vehicular
25 activity that goes on at this intersection, especially near the

1 | ballpark. And so having that access to be able to drop
2 | pedestrians off within this drop-off way, which is one of the
3 | changes we made to address the ANC concerns, we think that's very
4 | important. And so for just closing this access, we don't think
5 | that that is appropriate.

6 | And, again, the way that our building is designed, it's
7 | completely appropriate to build to the side lot line, we're
8 | perfectly permitted to do that, as long as we provide this
9 | reasonable access. And so, again, we'd be happy to talk to them.
10 | We'll talk to DDOT.

11 | But we do believe that what we have provided is an
12 | accommodation to the city. We're providing for all of our --
13 | providing for all of our access on our property and making sure
14 | that we're really consolidating the parking and loading for that
15 | part of the square.

16 | With respect to the design, I will point out we're
17 | happy to go redesign the balconies on Half and L Streets. We
18 | heard -- we thought we had made some accommodations since the ANC
19 | had told us they didn't like that from October 27th until our
20 | November 3rd package was submitted. It sounds like they still
21 | don't care for them. We heard some questions and comments from
22 | the Commissioners. So we'll definitely take another stab at
23 | that.

24 | And we would be happy to go meet with the ANC again,
25 | maybe presenting to them before their last meeting of the year

1 and submitting something for the record to say what we looked at
2 and what we talked about. As you can see through our testimony,
3 we have really tried to address their concerns. And in some
4 cases, there's been changes in what different Commissioners have
5 said to us and how we've interpreted it. So, you know, as you
6 can see from the extensive amount of design revisions, we've
7 tried to listen. We've tried to respond. And, again, we're
8 happy to take one more shot at talking to them.

9 We believe that kind of an amphitheater stepping back
10 from M Street is not consistent with the height density
11 designation of the site. It's not consistent with what the
12 Southwest Plan calls for in the design principles, and that it
13 says transitions of buildings with higher and lower, that's why
14 we lowered the height of the corner. You know, we took off quite
15 a few floors to try to do that in accordance with the design
16 principles of the Southwest Plan. It's also not consistent,
17 again, with the Southwest Plan calling for the high-density uses
18 right here.

19 So as I said, we'd be happy to talk. You know, we
20 heard that there was some concern about how the pavilion connects
21 with the Half Street building. We could have another discussion.
22 We're willing and want to work with the ANC. We can study it,
23 see if there is something that would work or if we feel that,
24 you know, we just have different design aesthetics for it.

25 That being said, I do -- again, wanting to be a good

1 neighbor, a good community member, and we're happy to have those
2 discussions, but we do believe that the project fully complies
3 with all of the D-5 Zone requirements and with the specific
4 requirements for the sub-area. The application also satisfies
5 the design review criteria as has been clearly stated by the
6 Office of Planning as well. And so we believe that those are
7 the standards on the basis that this Commission should review the
8 project.

9 And with that, we, you know, I would be happy to answer
10 any other questions that you have, Chairman Hood (audio
11 interference).

12 CHAIRPERSON HOOD: Thank you, Ms. Shiker. You did give
13 us -- it wasn't necessarily testimony. But what I do want to do
14 is give Ms. Fast the opportunity, not necessarily you have to ask
15 a question, but you spoke to the Applicant. And they need to be
16 afforded an opportunity to be able to cross-examine. But since
17 you spoke, I'm sure you have somebody on your team that -- because
18 we don't cross-examine the legal team.

19 But if there are any questions, Ms. Fast, on what Ms.
20 Shiker said, I'm sure that you have -- Ms. Shiker has someone
21 who can respond to that if you have any questions, Chairperson
22 Fast. Do you have any questions (audio interference) rebuttal?

23 MS. FAST: I don't have any closing rebuttal, but I do
24 just want to emphasize that we are also willing to continue to
25 dialogue. And as you have said, you know, we realize that we've

1 got to meet in the middle. However, we will still be stuck
2 somewhere when it comes to the affordable housing piece. And
3 what I continually here from Christy, what she did not say in so
4 many words is, you know, this is what we're offering, and this
5 is where we are.

6 So I just want that to be clear because even if we come
7 to a design agreement, there could potentially be some opposition
8 if we still are at a 2.6 percent of affordable housing in this
9 building. So --

10 CHAIRPERSON HOOD: So --

11 MS. FAST: -- I will let the Commission decide if it's
12 worth discussing further.

13 CHAIRPERSON HOOD: Right. Okay. Chairperson Fast, I
14 hear you on that. I think that's going to be a big issue.

15 But it would be lovely if everybody would come back in
16 (audio interference). We're bound right now by the regulations
17 which I am going to seek out something else as we move forward.
18 I will ask the Office of Planning in our next meeting something
19 different but not necessarily pertaining to this case.

20 Ms. Shiker, I would just ask that when you all meet,
21 (audio interference) Applicant and everybody on discussions.
22 Think about it if it was right if you lived in the neighborhood
23 or what happens right next to your house, and I don't mean
24 personally. But sometimes we have to put ourselves in the same
25 situation, and then it helps the discussion go easy because we

1 know how we're going to be affected. You know, the regulations
2 are the regulations, but at the end of the day, we know how we're
3 going to be affected.

4 So I ask at least the Applicant and even the ANC, let's
5 go in there with clear minds. Let's not go in there with this
6 is not going to work. Sometimes if we clear our minds, it helps
7 out. I know sometimes when I get (audio interference), I try to
8 clear my mind and forget about what's happened in the past, and
9 let me treat this one differently, or let me just fresh -- so
10 let's do that, and let's see how we come back.

11 I appreciate Mr. Turnbull bringing that up because I
12 didn't think that was going to be one of the things we were going
13 to ask tonight, but I really appreciate that. And I'm always
14 looking forward to the Applicant in the community, what I call a
15 good neighbor policy.

16 So I can tell you this is only about the fourth or
17 fifth time it didn't work. So if we come back, then we can go
18 back down to four. So I'm depending on the ANC, and I'm depending
19 on the Applicant. You might not walk in hand in hand, but you
20 will walk in closely where you are today. So that's my --

21 MS. FAST: Agree.

22 CHAIRPERSON HOOD: Those are my charging orders. Don't
23 disappoint us.

24 All right. So let me see. Commissioners, any questions
25 -- follow-up questions or comments? I'm not seeing any.

1 VICE CHAIR MILLER: Mr. Chairman.

2 CHAIRPERSON HOOD: Vice Chair Miller.

3 VICE CHAIR MILLER: I would just echo what you said,
4 Mr. Chairman, that, yeah, there has -- or just speaking for
5 myself, you know, I've seen the movement that there has been in
6 this case on the design even though it's not totally satisfactory
7 to the ANC, and I see that the -- so different -- the Applicant
8 is -- collectively put the Applicant in a difficult position, but
9 that's what applicants and their attorneys are paid to work on,
10 to work out difficulties.

11 You know, so for some, it might -- some design issue
12 might be a further showstopper, or for the party in opposition
13 the easement language may be a showstopper, but I feel I need to
14 say that for me, the affordable housing is a showstopper. I
15 realize the movement that has occurred on this and what the
16 requirements and the regulations are.

17 But there are also -- as Mr. McKinney and others have
18 noted, there is the comprehensive plan overarching, civic
19 priority, it's above everything else, of affordable housing. And
20 it's in the guiding principles of the Southwest Plan. And it's
21 in our -- what's in our constitution, our Home Rule charter says
22 that zoning shall not be inconsistent with the comprehensive
23 plan. And while we may not have a specific regulation that
24 required a specific amount or specific type or size or location,
25 affordable housing for this particular area and this particular

1 site, there's nothing to stop the Applicant from providing it if
2 they so choose to do so. And it certainly would be consistent,
3 more consistent with the comprehensive plans, overarching
4 principles, and Southwest Plan's overarching principles.

5 And I would say, also, more in conformance with the
6 general special exception criteria relief which is being -- is
7 applicable in this case, that there not be an adverse effect on
8 the neighborhood. Although no one's being displaced from the
9 physical site of this project, the overall effect of this huge
10 amount of very expensive housing on a neighborhood, this
11 gentrification that's happening in our city, you can't -- you
12 can't deny that it's having an effect on the housing prices and
13 the availability of housing to people of all affordable levels.

14 So I would just -- as the Applicant goes back to and -
15 - the Applicant's representative said they're willing to go back
16 and try once more as they have in the past to have further
17 movement on design issues, on easement issues, I really encourage
18 them to also pursue more movement on the affordable housing issues
19 closer to what would be required if it were required,
20 acknowledging that it isn't required, if it were -- if
21 Inclusionary Zoning were applicable both in the number of the
22 units, you know, closer to the eight to ten percent not three
23 percent, closer to the locational, the proportional issues in
24 terms of the size of the units and the quality of the units and
25 location. So all of that, I think, should be worked on and would

1 be an important way to move this project forward.

2 I'll leave it at that. So I appreciate all of the
3 progress that's been made so far, but I think there can be further
4 progress on all fronts. And I -- and since I didn't mention it
5 before, and I want to end on a positive note, I was happy with
6 the additional balconies and outdoor terraces and the design
7 changes that have been made and appreciate the Applicant's work
8 in that area. So thank you, Mr. Chairman, for indulging me one
9 last time on the affordable housing issue.

10 CHAIRPERSON HOOD: No problem at all.

11 Let's see if we have any additional questions or
12 comments (audio interference).

13 VICE CHAIR MILLER: Mr. Chairman, since (audio
14 interference), when I was talking about the Inclusionary Zoning,
15 I also meant to say the income levels. 80 percent? Come on. It
16 can be 60 percent which is what (audio interference) is required
17 for rental unless these are going to be condos which I don't
18 know. Anyway, I meant include the income levels in that
19 proportionality argument, Mr. Chairman.

20 CHAIRPERSON HOOD: I would agree with you, Vice Chair.
21 And I think we mentioned earlier, and I was talking about how I
22 always like 30 percent. Anytime I asked for affordable housing
23 in the Watergate years ago, I don't have a problem asking for
24 affordable housing here, even though people looked at me and
25 thought I was crazy, but they came back with something. And

1 that's why I know it's doable.

2 Commissioner Turnbull?

3 COMMISSIONER TURNBULL: Thank you, Mr. Chair. The only
4 -- I guess the only other thing I would want to close with, we
5 often get letters from council members on cases. I don't think
6 we get too many that are opposed. Once in a while, we do, but
7 we don't get -- but we have Council Member Charles Allen who is
8 very much opposed. He is in opposition to this, and he talks
9 about the Southwest which is Exhibit No. 40. He had some very
10 strong words and very -- he has got a lot of heart and soul for
11 this area. And so he's -- I don't think (audio interference) -
12 - this last thing talks about M Street, Southwest, to create a
13 significant sense of place and the act of public realm. But his
14 letter is very meaningful, and I think we ought to take it to
15 heart. I think the Applicant ought to go back and read it and
16 understand where he's coming from on it. So anyways, just adding
17 -- throwing that in at the end here.

18 CHAIRPERSON HOOD: So that's the second time the
19 Councilman's letters come up in this hearing which I think, you
20 know, is very important as Mr. Turnbull said and I mentioned
21 earlier. So we'll leave it at that. I think the Commission has
22 brought a lot of good points up. And I'll just leave it at that.
23 I think we've beat that horse enough.

24 Any other questions or comments? All right. Thank you
25 all.

1 Did you have a closing, Ms. Shiker, or was that the
2 closing?

3 COMMISSIONER MAY: Mr. Chairman, there's a party in
4 opposition. Don't they get the question -- don't they do cross?

5 CHAIRPERSON HOOD: Yes, they do.

6 MS. SCHELLIN: Only on rebuttal. I don't think they
7 presented any rebuttal.

8 CHAIRPERSON HOOD: Well, she basically did, but she has
9 -- I'm going to follow the same format I did with Ms. Fast.
10 Typically, it is done by the Applicant, the specialist, but the
11 lawyer kind of -- Ms. Shiker kind of mentioned some things. And
12 if she wants to call up Mr. VanPelt or whomever to answer those
13 questions on rebuttal, I think that's just due process because
14 we don't ever know where this case is going to end up. We have
15 to make sure that we follow a process.

16 So Ms. Brown, did you have any cross on rebuttal?

17 MS. BROWN: The good news is no, I do not.

18 CHAIRPERSON HOOD: Okay. Okay.

19 MS. BROWN: Thank you for the opportunity though.

20 CHAIRPERSON HOOD: Okay. Thank you.

21 All right. So Ms. Shiker, did you have any closing?
22 Or was that your closing?

23 MS. SHIKER: It was my closing as well.

24 CHAIRPERSON HOOD: Okay. All right.

25 So I will -- I'm not going to necessarily close the

1 record in this case, but anything that we've asked for, because
2 I didn't keep a running tab, that's still what we need. How many
3 -- this is one vote? I think for the (audio interference) other
4 than the things that we've asked for, this case is closed (audio
5 interference) we know what we've asked for. I'm sure we do. I
6 just don't. So other than that, this case is -- the record in
7 this case is closed just for what we asked for.

8 Commissioners, any follow-up questions or comments?

9 Ms. Schellin, do we have any schedule?

10 MS. SCHELLIN: Yes. Ms. Shiker, how much time do you
11 guys need? (Audio interference) --

12 MS. SHIKER: Give me one moment. I know that ANC 6D's
13 meeting is December 14th.

14 MS. SCHELLIN: Okay. Then you'll go for the January
15 meeting then, because our meeting's that same week.

16 CHAIRPERSON HOOD: Let me ask this. Is that enough
17 time? Do you think, Ms. Shiker -- and I'm actually asking Ms.
18 Shiker and Ms. -- Chairperson Fast, is that enough time for you
19 all to have a meeting, try to work things out or not work things
20 out, and then maybe need to have another meeting after that
21 meeting? Because sometimes it takes more than one. So I want
22 to make sure because I'm not -- personally, I'm not in a rush.
23 But --

24 MS. FAST: Right. Right.

25 CHAIRPERSON HOOD: But I would like to see a consistent

1 building exercise more than a rush.

2 MS. FAST: The only -- normally, I think it would be
3 okay except that the holiday with Thanksgiving and stuff, sort
4 of puts a damper on the fact that by the time we would meet, see
5 new renderings, what we have learned -- because these last
6 renderings literally just came a few days ago to us as well. And
7 it's important for us to see those drawings, and we can talk
8 about it.

9 So I think we could -- we could -- well, I'll defer to
10 Christy. I would like to see what her team thinks.

11 MS. SHIKER: Yeah. So we really would like to present
12 for the ANC. We have worked very, very closely with these ANC
13 commissioners. And when you to go January, it's a new set of
14 ANC commissioners. We'd like to continue our other work that
15 we've been with -- our working group that we have. And so if,
16 you know, we can -- I'm trying to get an update. Commissioner
17 Fast, would you all be having a meeting the Monday before? Or
18 would we -- or would we just present at the one meeting given
19 the extensive (audio interference) and the offline discussion?

20 MS. FAST: Well, I think we can talk offline. Let's
21 have you present on the 14th, and we'll work together to come up
22 with what that timeline will be, whether you need to come back
23 to the administrative meeting or not.

24 MS. SHIKER: Okay. Could we then be considered at a
25 public meeting in December as opposed to in January, Ms. Schellin?

1 MS. SCHELLIN: Our meeting -- our only meeting is
2 December 17th. So there would not be enough time if you're going
3 to the ANC on the 14th.

4 MS. SHIKER: Okay.

5 CHAIRPERSON HOOD: So I will --

6 MS. SCHELLIN: So we need to move it to January.

7 CHAIRPERSON HOOD: I will say this, I do understand Ms.
8 Shiker's point about January. I'm not sure if there's a major
9 turnover in the ANC. That's like starting over again, and I
10 don't think any of us want to start all over. (Audio
11 interference) involved as much as you all are, I don't want to
12 start all over again. So --

13 MS. FAST: Well, what I would like to say, Chairman
14 Hood, is ANC 6D will -- we can do it for January. We are going
15 to lose two commissioners. I did not run for re-election. So
16 there will be a new Chair next year. But we are able to maintain
17 that continuity. And so the -- we will create a negotiating team
18 right now of current commissioners who will have it all nice and
19 wrapped up for January. So I think we can do that. We just need
20 to -- you just need to tell me when we would be meeting in
21 January.

22 MS. SHIKER: We could present to you, Commissioner
23 Fast, on December 14. We don't have a problem meeting that
24 deadline. I think what Ms. Schellin was saying was that there
25 isn't enough time for you to get your report in before the

1 Thursday Zoning Commission meeting that week. Is that what I'm
2 hearing correctly?

3 MS. SCHELLIN: No. I think that if they wanted to turn
4 their report in in one day, it's not a problem. It's just that
5 if they have issues with what you present to them on Monday, then
6 you don't have time to negotiate. That's the problem. And so I
7 think you're cutting yourself -- as Chairman Hood said, you're
8 not allowing yourself enough time for negotiation. Plus, you
9 need to also meet with the party in opposition. I think that's
10 Chairman Hood's concern.

11 And so if you meet -- if you present before the ANC,
12 you guys can still negotiate and get your report in time to still
13 come in the January meeting. Just because they don't meet again
14 until later, they could always have another meeting, special
15 public meeting or something, to get --

16 CHAIRPERSON HOOD: So let me say -- let me say this
17 though, Ms. Schellin. Let me say this.

18 Chairperson Fast gave me some assurances that the
19 continuity will carry over which doesn't --

20 MS. FAST: Right.

21 CHAIRPERSON HOOD: -- (audio interference) happen. So
22 I feel good now. So whichever -- whatever you all decide --

23 MS. FAST: Right.

24 CHAIRPERSON HOOD: -- is fine unless I hear otherwise.
25 So I'll leave it up (audio interference).

1 MS. SCHELLIN: Okay. So then working back from the
2 first -- we'll (audio interference) for the first meeting in
3 January then. So that's January 14th. So if you guys could just
4 submit everything -- since you want to present to the ANC by
5 December 14th, still keeping that date, then if you could submit
6 all of your plans by -- all of your submissions rather than the
7 Commission asked for, serving all of the parties by December 7th.
8 Commissioner Fast, is one week before the meeting going to give
9 you enough time to review it?

10 MS. FAST: Well, so -- I guess I'm confused a little
11 bit. If the next hearing date for this would be on January 14th,
12 regardless of -- because we can hold special meetings as well.
13 When would our report be due? That's what I just need to know.
14 When would you need the report back from us?

15 MS. SCHELLIN: We can get your report later. It's a
16 matter of them submitting everything so that you have it in time
17 to consider at your meeting. That's what I'm trying to work out.

18 MS. FAST: Okay.

19 MS. SCHELLIN: And your meeting is December 14th.

20 MS. FAST: Right.

21 MS. SCHELLIN: And so I'm asking if you get it one week
22 before, is that going to be time for you to have them come present
23 to you December 14th?

24 MS. FAST: Yes. Yes.

25 MS. SCHELLIN: Okay. Christy, does that date work for

1 | you to make your submissions?

2 | MS. SHIKER: So I am trying to confirm that. I'm sorry.
3 | It's difficult when we're not all sitting together speaking.

4 | MS. SCHELLIN: Yeah.

5 | MS. SHIKER: So what you're proposing is that we would
6 | submit our full package to the Commission, everybody, to submit
7 | on the -- can you please remind me of the date?

8 | MS. SCHELLIN: December 7th by 3:00 p.m.

9 | MS. SHIKER: So on 12/7 by 3:00 p.m. And then the ANC
10 | would consider it on the 14th. If there was continuing discussion
11 | and dialogue, would we be able to submit a follow-up to the
12 | Commission?

13 | MS. SCHELLIN: I would say --

14 | MS. SHIKER: (Audio interference) --

15 | MS. SCHELLIN: -- based on what Chairman Hood was
16 | saying, I would say yes, Chairman Hood? Yes.

17 | MS. SHIKER: Okay. So we could submit follow-up if we
18 | needed to, and then there would be a public meeting, not another
19 | hearing --

20 | MS. SCHELLIN: Correct.

21 | MS. SHIKER: -- on the 14th of January.

22 | MS. SCHELLIN: Yes. So based on that submission, the
23 | parties -- you know, if you need to do a follow-up based on your
24 | -- I'd say your meeting with the ANC on the 14th, and you're
25 | going to hopefully meet with the party in opposition by that time

1 | also, correct?

2 | MS. SHIKER: Yes.

3 | MS. SCHELLIN: Okay. So then if there's any follow-
4 | up, since this is going to be taken up by the Commission on the
5 | 14th, -- and I think that gives you almost a whole month even
6 | considering the holidays, that any follow-up submissions by you
7 | guys, the Applicant, you could make that follow-up submission by,
8 | say, December 31st?

9 | MS. SHIKER: Happy New Year, yeah.

10 | MS. SCHELLIN: 12/31 for your follow-up. And then the
11 | ANC and the parties could -- OP included and DDOT, if they choose
12 | to make a submission, a follow-up submission, although I think
13 | the Commission wants to hear from the party in opposition and the
14 | ANC, if they could make their submission by January 8th at 3
15 | o'clock p.m. And we can put this on for January 14th, 4:00 p.m.
16 | And draft findings of fact and conclusions of law, including from
17 | the opposition party, if they choose to submit it, would be due
18 | by 3:00 p.m. on the 8th, also. Sooner if you can, but if not -
19 | -

20 | MS. SHIKER: Okay.

21 | MS. FAST: That works for us.

22 | MS. SHIKER: I believe that works for us as well.

23 | MS. SCHELLIN: Okay. Great.

24 | CHAIRPERSON HOOD: Okay.

25 | MS. SHIKER: And Commissioner Fast, we'll reach out to

1 | you tomorrow to schedule our first follow-up call.

2 | MS. FAST: Sounds good.

3 | CHAIRPERSON HOOD: Thank you, Ms. Schellin, for working
4 | all that out.

5 | Anything else, Commissioners?

6 | Chairperson Fast, thank you for your service as a
7 | Commissioner. And I'm sure that I don't know what you're doing
8 | or where you're going, but I'm sure --

9 | MS. FAST: I'm going (audio interference).

10 | CHAIRPERSON HOOD: -- our paths will cross somewhere.

11 | MS. SCHELLIN: That's right.

12 | MS. FAST: I'm actually going to the -- to the Office
13 | of the Advisory Neighborhood Commission. And Chairman Hood, I
14 | will tell you that if you need to go before the council or the
15 | Office of Planning regarding anything that has to do with IZ or
16 | the regulations for zoning, I will be more than glad to join you.

17 | CHAIRPERSON HOOD: Okay. Thank you very much. But I
18 | -- I knew where you were going. I didn't know if you wanted it
19 | public. But anyway, I just wanted to thank you for your service.
20 | And I'm sure our paths will cross. And I'm sure the ANC
21 | Commissioners will have a jewel to help them out in the office.
22 | Thank you for your service.

23 | MS. FAST: Thank you.

24 | CHAIRPERSON HOOD: Okay.

25 | I want to thank everyone for their participation. And

1 let me say, the Zoning Commission is going to meet November the
2 16th on Zoning Commission Case No. 20-02. And that case, which
3 is coming Monday, is the Office of Planning text amendments to
4 Subtitles B, C, F, G, H -- I mean, I'm sorry. G, I, K, U, and X
5 and Z for Inclusionary Zoning Plus. And that hearing is going
6 to be at 4:00 p.m. this coming Monday.

7 So I want to thank everyone for their participation
8 tonight, the Applicant, the residents, the ANC and all, with my
9 colleagues. So with that, unless I see a sign, this hearing is
10 adjourned. Goodnight.

11 MS. SHIKER: Goodnight. Thank you.

12 (Whereupon, the above-entitled matter went off the
13 record at 8:01 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: DCBZA

Date: 11-12-20

Place: Teleconference

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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