

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ZONING COMMISSION

VIRTUAL PUBLIC MEETING

VIA WEBEX

MONDAY, DECEMBER 4, 2023

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

ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN, Secretary  
PAUL YOUNG, Data Specialist

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

JACOB RITTING, Esquire

The transcript constitutes the minutes from the Public Meeting held on December 4, 2023.

**Diversified Reporting Services, Inc.**

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C O N T E N T S

Case No. 22-35

UM 500 Penn Street NE, LLC, NYA4 Associates, LLC,  
and HH Brooks, LLC

4

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

(4:00 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. Today's date is December the 4th, 2023.

We are convening and broadcasting this public hearing by videoconferencing. My name is Anthony Hood, and I'm joined by Vice Chair Miller, Commissioner Stidham, and Commissioner Imamura, also the Office of Zoning Staff, Ms. Sharon Schellin and Mr. Paul Young, who will be handling all of our virtual operations, and our Office of Zoning Legal Division, our counsel this evening is Mr. Jacob Ritting. All others will introduce themselves at the appropriate time.

The virtual public hearing notice is available on the Office of Zoning's website. This proceeding is being recorded by a court reporter and the platforms used are WebEx and YouTube Live. The video will be available on the Office of Zoning's website after the hearing.

All persons planning to testify should have signed up in advance and will be called by name at the appropriate time. At the time of signup, all participants will complete the oath or affirmation required by Subtitle Z48.7. Accordingly, all those listening on WebEx or by phone will be muted during the hearing and only those who have signed up to participate or testify will be unmuted at the

1 appropriate time.

2           When called, please state your name before  
3 providing your testimony. When you are finished speaking,  
4 please mute your audio. If you experience difficulty  
5 accessing WebEx, or with your telephone call-in, or have not  
6 signed up, then please call our OZ hotline number at 202-  
7 727-0789. If you wish to file written testimony or  
8 additional supporting documents during the hearing, then  
9 please be prepared to describe and discuss it at the time of  
10 your testimony.

11           The subject of this evening's case is Zoning  
12 Commission Case Number 22-35, UM 500 Penn Street NE, LLC,  
13 NYA4 Associates, LLC, and HH Brooks, LLC. Sorry about all  
14 the acronyms. Consolidated PUD-related map amendment and  
15 air rights to Square 3592, Lots 19 through 23, 802 and  
16 Parcel 129 through 45. Address is 1329 through 1345 4th  
17 Street Northeast and 1344 5th Street Northeast.

18           Again, today's date is December the 23rd (sic),  
19 2023. The hearing will be conducted in accordance with  
20 provisions of 11 Z DCMR Chapter 4 as follows. Preliminary  
21 matters. Applicants case. The applicants I believe asked  
22 up to 40 or 45 minutes. Report of any other government  
23 agencies. Report of the Department of Transportation.  
24 Afterwards we will hear the report of the Office of  
25 Planning, report of the ANC, in this case ANC 5D. Testimony

1 of organizations five minutes and individuals three minutes.  
2 And we will hear in the following order from those who are  
3 in support, opposition, and undeclared. Then we will have  
4 rebuttal and closing by the applicant.

5           Again, the OZ hotline number is 202-727-0789 for  
6 any concerns during these -- this proceeding.

7           At this time, the Commission will consider any  
8 preliminary matters. Does the staff have any preliminary  
9 matters?

10           MS. SCHELLIN: Yes, sir. Expert witnesses. First  
11 we have three have that have previously been accepted --  
12 actually four. Michael Marshall in urban architect and  
13 urban design; David Rubin, landscape architecture; Daniel  
14 Solomon in transportation; and Shane Dettman in urban  
15 planning. If the Commission would accept those four in this  
16 case as experts, then we can move on to those who have not  
17 been previously accepted.

18           CHAIRPERSON HOOD: Yeah, thank you, Ms. Schellin.  
19 An objections to continuing the expert status in this case?

20           (No response.)

21           CHAIRPERSON HOOD: Not hearing, so ordered. We  
22 will continue the status, Ms. Schellin.

23           MS. SCHELLIN: Okay. Then I have Navid Tehrani in  
24 architecture and urban design. I'm sure I totally messed up  
25 his name. And then -- actually, that's the only one. Yes.

1 And his Exhibit 21D, as in David, Page 6 is the resume.

2 CHAIRPERSON HOOD: Okay, we're going to look to  
3 Mr. Tehrani as our architect. Any objections?

4 (No response.)

5 CHAIRPERSON HOOD: Not hearing any, so we will --  
6 unless I hear from anybody, we will give him expert status.  
7 It seems like he -- especially in the DMV, he's registered  
8 and all with the DMV. So anyway, unless I hear any  
9 objections, I will give him expert status.

10 Okay, anything else, Ms. Schellin?

11 MS. SCHELLIN: Okay. No, that's it.

12 CHAIRPERSON HOOD: All right, let's bring up Mr.  
13 Utz and his team and we can go ahead and gets started. And  
14 I will ask Mr. Utz to hit the highlights. The -- any issues  
15 that OP, or DDOT, or even the OAG (audio disruption) OAG  
16 information as well. Thank you.

17 Mr. Utz, I turn it over to you. Mr. Utz, you're  
18 on mute.

19 MR. UTZ: Can you all hear us now?

20 CHAIRPERSON HOOD: Say something again, Mr. Utz.

21 MR. UTZ: (Audio disruption.)

22 CHAIRPERSON HOOD: It sounds like you're at  
23 Niagara Falls, Mr. Utz, so I don't know if somebody else  
24 needs to cut off or -- that's what I like about (crosstalk)  
25 --

1 MR. UTZ: Can you all hear us now?

2 CHAIRPERSON HOOD: Always get something different.  
3 Go ahead, try it again.

4 MR. UTZ: Can you hear us now?

5 CHAIRPERSON HOOD: Yeah, I can hear you now.

6 MR. UTZ: Okay, great. I just want to thank you,  
7 Chairman Hood and members of the Commission. My name is  
8 Jeff Utz, I'm with Goulston & Storrs, I'm counsel for the  
9 applicant today, which is an affiliate of Edens. I would  
10 like to start by introducing our team, but I guess before I  
11 do that, if we could please post the presentation to the  
12 livestream, Mr. Young, it would be appreciated. Thanks so  
13 much.

14 So with us today are representatives of Edens on  
15 behalf of the applicant, with today's testimony to be led by  
16 Emalia Tamanikwa and Will Couch. There are two buildings in  
17 this PUD. Each building has been designed by separate  
18 architecture firms. The architects are Michael Marshall of  
19 Michael Marshall Design and Navid Tehrani of HKS, who you  
20 just approved as an expert witness. Thank you for that.

21 We also have David Rubin of the Land Collective  
22 who has presented to the Commission previously for PUDs for  
23 from Edens and the Union Market District, including for the  
24 PUD immediately across the street on 4th Street, which was  
25 improved just last year. Also available today are Daniel

1 Solomon of Gorove Slade and Shane Dettman of Goulston &  
2 Storrs, the experts in transportation and land use planning,  
3 respectively.

4 Finally, we also have available for questions Sara  
5 Link-Bohler, who will be the civil engineer for the project,  
6 and Hailee Griesmar with Lorax, who is the sustainability  
7 consultant.

8 I'll pause for a moment here for Emalia to  
9 introduce herself and Edens. Emalia.

10 MS. TAMANIKWA: Good evening. For the record, my  
11 name is Emalia Tamanikwa and I'm speaking on behalf of the  
12 applicant and affiliate of Edens Development. First off, I  
13 want to thank you all for taking the time out to hear us  
14 today. And also the support from OP, DDOT, and DOEE, and  
15 other district agencies for being great partners and  
16 providing reviews and feedback to help improve this project.  
17 We are excited to be here today to bring this PUD in front  
18 of the Commission and execute on one of the most exciting  
19 projects at Union Market.

20 I wanted to make a very short introduction to  
21 Edens and our involvement at Union Market. You may already  
22 be familiar with some of this, so I'll keep it brief. Edens  
23 is a national owner and operator of retail places, including  
24 stand-alone retail centers and mixed use retail districts.  
25 Our goal is to build community. We have approximately 1500



1 national and local retail tenants in our portfolio and we  
2 have partnered with many for decades now.

3           Edens has been involved in Union Market for more  
4 than 15 years. We purchased our first property in 2007 with  
5 the Market at 1305 to 1329 5th Street. Since that time, we  
6 have partnered with ANC 5D and others in our communities,  
7 other developers, retail partners, and district agencies to  
8 execute on the small area plan vision laid out by OP in 2009  
9 and then approved by the council, and have played an  
10 important role in spearheading the development of Union  
11 Market District.

12           We have helped create an ecosystem for small and  
13 locally owned businesses. Specifically we have helped  
14 launch dozens of new businesses, including over 85 -- or 15  
15 minority-owned businesses and almost 20 women-owned  
16 businesses, many of which have scaled out of Union Market  
17 into the rest of D.C. and the country, which we are so proud  
18 of. Recently, we moved our headquarters to Union Market in  
19 South -- from South Carolina.

20           Please proceed, Mr. Young, to the next slide.

21           To give you a little more insight about the site  
22 itself, this is a significant part of the gateway experience  
23 that should -- that is happening in Washington, D.C., but  
24 specifically for New York Avenue. We think it's an  
25 opportunity to provide an iconic architecture at the

1 entrance of Union Market District and the city.

2 I'm going to pivot off to Jeff right now.

3 MR. UTZ: Great. Thank you, Emalia.

4 The application seeks to approve a consolidated  
5 PUD and map amendment for PR179. The image on the screen  
6 provides some context for where the property is located, and  
7 Emalia and the rest of the team can discuss that more in a  
8 minute. The Commission has seen and approved many of these  
9 PUDs and related map amendment applications in the Union --  
10 in Market District in the past.

11 The one unique wrinkle to this case has is that we  
12 are also seeking an air rights development approval for a  
13 small portion of the projects below-grade garage underneath  
14 the public alley. We're happy to discuss the specifics of  
15 that request if it would be helpful. We view it as a mostly  
16 technical request given the small portion of the alley  
17 that's occupied by the project and the matter in which it  
18 unlocks the ground plan of the project, but we wanted to  
19 raise it early for your awareness.

20 Next slide, please. Thank you.

21 This application was filed more than a year ago,  
22 and since that time the development and design teams have  
23 worked very hard to improve the project through outreach  
24 with the District agencies, ANC 5D, and the affected  
25 community. Emalia can give some additional information

1 regarding the ANC and community outreach in a bit.

2 I wanted to take a few minutes to talk through our  
3 responses to the comments in the record from DDOT, OP, and  
4 DOEE. Considering the scale and complexity of this project,  
5 it is a very short list of comments at this point, which we  
6 believe is a testament to the level of involvement of  
7 agencies themselves and the degree of responsiveness of the  
8 team along with the project itself. We greatly appreciate  
9 the time and thoughtfulness of the agencies, as Emalia  
10 mentioned.

11 Starting at the top of this slide, responding to  
12 DDOT's comments, which are Exhibit 22 in the record, DDOT  
13 had a few additional requests beyond what the applicant set  
14 forth in its CTR. First, DDOT asked Edens to commit to  
15 construct ADA curb ramps at Neal Place and 4th Street, which  
16 Edens has agreed to do.

17 Second, DDOT asked Edens to commit to requiring  
18 future commercial tenants to comply with the District's  
19 parking cash-out law as part of its condition in the order,  
20 which Edens also agreed to do. As is typical in a case of  
21 this size, particularly which -- with -- one with as much  
22 focus and interaction with the public space, the development  
23 and design teams will also continue to work with DDOT  
24 throughout the public space permitting process.

25 Relating to OP's report, which is Exhibit 23 of

1 the record, OP had a few comments. First, OP asked for a  
2 greater PDR commitment in terms of the amount of space and  
3 the period of time dedicated to PDR uses. The PDR commitment  
4 in this package I think was the same as that was approved in  
5 the PUD across the street, which is Zoning Commission Case  
6 19-29. Our team believes that that same package is  
7 appropriate here. The other piece of this is that the  
8 buildout of the ground floor to PDR specifications.

9 Next slide, please.

10 This slide shows the ground floor of the project  
11 and the portions that are anticipated to be commercial in  
12 blue. So in addition to the 10 percent reservation of this  
13 blue area for PDR/Maker uses, Edens plans to construct 50  
14 percent of that same area to the PDR/Maker spec which is a  
15 significantly enhanced component that can accommodate future  
16 PDR/Maker (inaudible). This is a significant upfront  
17 forward-looking investment, and we can drill more into this  
18 -- the specifics of this concept if you would like.

19 Next slide, please.

20 Second, OP asked about the retail tenants that  
21 exist on the property today. Edens has obtained five  
22 letters of support, which are in the record as Exhibits 27  
23 through 31, and has reached agreement with the tenant. The  
24 parties did not agree to share publicly the overall terms of  
25 the agreement, but Edens can note that it has taken actions

1 to mitigate project-related impacts such as allowing tenants  
2 to remain in their existing locations after their originally  
3 scheduled end of lease term for approximately two years or  
4 more.

5 Third, OP asked for commitments regarding  
6 balconies. The applicant is in agreement with the comment  
7 that the percentage of balconies -- of units with balconies  
8 shall remain fixed, even if there are modest demising or  
9 related design changes in the future. Similarly, Edens  
10 agrees that the total area of the balconies will not drop  
11 below what is shown.

12 Fourth, OP asked about potential penthouse uses  
13 and residential uses on the ground floor. There is no plan  
14 to have units in the penthouse, but Edens would like the  
15 ability to add units there in the future, if necessary,  
16 which would be subject to the penthouse affordable housing  
17 requirements. There are residential supported similar uses  
18 on the ground floor, but no plans for residential units on  
19 that floor.

20 Finally, there was one comment from OP -- OP's  
21 design division that came up during discussions with OP  
22 leading up to the hearing. This comment isn't in the OP  
23 report, but we wanted to raise it now. Anyway, OP expressed  
24 some concerns about the height of the canopies of the ground  
25 level along 4th Street given the change in grade.

1               Next slide, please, Mr. Young.

2               This elevation shows that the north end of the  
3 building, which is the left side of this drawing, clearances  
4 of about 13 feet between the ground and the bottom of the  
5 canopy. That clearance increases to 18 and then 22 feet  
6 moving from north to south, but the grade drops, so just  
7 increasing clearance height, Edens and HKS added another  
8 line of canopies with a clearance of about 12 to 13 feet at  
9 the southern end of this building shown on the right side of  
10 this image. The team can address this more if there are  
11 more questions for that.

12              Next slide, please.

13              DOEE included a few pages of comments in the OP  
14 report following the project's interagency meeting and we  
15 wanted to go over a few of these comments since the design  
16 and sustainability team can fill in additional details if  
17 there are questions. The first DOEE comment has to do with  
18 the LEED program that the project is seeking.

19              Next slide, Mr. Young.

20              The team has identified LEED new construction  
21 version 4, that the gold medal is the right program. DOEE  
22 has suggested LEED midrise multifamily rather than new  
23 construction as the preferred program. The concern for our  
24 team with midrise is that the standards for the program  
25 identify if it's appropriate for four to eight stories. The

1 project has nine and 13 stories. LEED new construction, on  
2 the other hand, is expressly four projects greater than nine  
3 stories, so we think that's the right program here. Our  
4 team also believes that the sustainability benefits of the  
5 new construction program are significant for the residents  
6 in the surrounding community.

7           Next slide, please.

8           DOEE also recommends investigating making the  
9 building fully electric. Edens has agreed to do that as to  
10 all the residential units, although the building will still  
11 have some limited gas connections for commercial kitchens,  
12 backup generators, and potentially some rooftop amenity  
13 elements. DOEE suggested adding electric vehicle charging  
14 capacity, and the applicant has agreed to preinstall the  
15 conduits to make that possible.

16           The next item is that DOEE suggested exploring new  
17 -- I'm sorry, net zero energy construction. The project is  
18 going a long way to achieving that goal with all electric  
19 units and on-site solar power generation.

20           Relatedly, DOEE also suggested maxing out the  
21 rooftop solar installation. The project had previously  
22 identified approximately 2,000 square feet of solar panel  
23 potential. As part of that premier analysis in response to  
24 DOEE's request, the design team has been able to increase  
25 that number by about 15 percent and 2300 square feet, which

1 equates to the maximum square footage for solar that can be  
2 identified on the roof.

3           Next, DOEE also suggested looking at climate  
4 resiliency strategies and evaluating the project according  
5 to those items. The applicant continued to assess to find  
6 the resilient strategies for the project and submitted this  
7 and the appendix with this presentation yesterday. We can  
8 bring that up at the end if that would be helpful or of use.  
9 The upshot of the evaluation is that the project does  
10 incorporate many of the relevant resilient strategies in its  
11 design and buildout.

12           Finally, DOEE suggested looking at the  
13 deconstruction and life cycle of analysis of the project.  
14 Unfortunately, the buildings on the site don't readily lend  
15 themselves to deconstruction, but Edens will have a waste  
16 diversion plan. The life cycle analysis is part of the LEED  
17 credit system, so Edens will evaluate that analysis and can  
18 potentially include that as part of its LEED assessment.

19           Next slide, please.

20           The last agency that submitted comments was OAG,  
21 which submitted comments after the 10-day deadline for  
22 agency comments. If the Commission is inclined to consider  
23 these late submitted comments, we would like to note that  
24 OAG is again suggesting an IZ+ that is -- that they are  
25 suggesting an IZ+ as the appropriate baseline for PUD



1 proffers.

2           As the Commission has determined repeatedly in the  
3 past, and as set forth the in the zoning regulations, that  
4 is simply not correct. As was discussed during the  
5 significant consideration of the IZ+ regime, IZ+ is not  
6 relevant to PUDs. The cases where the Commission has  
7 addressed the concept are listed on this slide.

8           In addition, the IZ set aside and the MFI levels  
9 proposed by the project are at the high end of IZ levels to  
10 prove for market finance PUD, 15 percent overall with three  
11 percent of that being at 50 percent MFI and the remainder at  
12 60 percent MFI is a significant amount of affordable  
13 housing.

14           In my comments about the OAG report, there I  
15 attempt to note that the affordable housing program for this  
16 case was worked out with OP and ANC 5D more than a year ago,  
17 and it would simply be unworkable for any project to have  
18 such a significant discussion about affordable housing with  
19 only such a short time before the hearing, in this case  
20 three business days. More generally, their proposal is  
21 simply not financially realistic and upend PUD in the  
22 process.

23           With that, I'd like to again turn it over to  
24 Emalia.

25           MS. TAMANIKWA: Thank you, Jeff. Next slide,

1 please.

2           So this is a two-building site that is separated  
3 by a public alley, and you can see there is a Motel 6 site  
4 which is in the parking lot at grade, and in the more east  
5 parking lot site, which is the parking lot at grade, as  
6 you're on the intersection of Penn and 5th.

7           Next slide, please.

8           This block elevation offers a detailed perspective  
9 of 4th Street, the gateway view, Penn Street, and 5th  
10 Street, showcasing the exterior experiences, crucial for  
11 drafting the site aesthetics and design.

12           Next slide, please.

13           We are proposing 351 units of housing, including  
14 approximately 46 units of affordable housing plus ground  
15 floor and rooftop, and retail and PDR/Maker uses, and the  
16 potential for lodging uses on this site. We are proud to  
17 have ANC 5D support this project. Edens has a long history  
18 of maintaining a strong relationship. Edens and a partner  
19 built the building where ANC 5D has its main community room  
20 as part of one of the first new developments in Union Market  
21 District.

22           Now that Union Market District is its own single-  
23 member district in ANC 5D, we have worked with the  
24 Commissioner to hear about his concerns and preferences, and  
25 those of his constituents, and this project benefits package

1 reflects that decision and that discussion. Part of the  
2 ANC's comments were to increase affordable housing  
3 commitments where we did here. This project sets the high  
4 watermark for affordable housing in a new project in Union  
5 Market District. This project has 15 percent set aside,  
6 which is substantially above the 11 percent that the  
7 Commission approved a couple of weeks ago for another new  
8 building in the neighborhood.

9 Another part of ANC's comments were to increase  
10 the number of three-bedroom units, which is a comment that  
11 we have addressed since our initial filing. There has --  
12 the final comment that ANC -- where they're concerned with  
13 is the balance between the right parking cap, and we say  
14 that we have been able to strike that balance here.

15 Next slide, please.

16 So I'm really excited about the public benefits  
17 for Penn and 4th Project. We have been working to make sure  
18 that we are able to provide the level of affordability  
19 because it's the centerpiece of this project's benefit. As  
20 I mentioned, this project reserves 15 percent of the  
21 residential GFA as affordable to the household earning, a  
22 mix of 50 and 60 percent MFI.

23 The project has increased its three-bedroom  
24 commitment to 20 total, and we have had an addition of  
25 housing for the project -- in addition to housing, we've had

1 the project build out a public space and provide the  
2 characteristics amenable to design, achieving LEED -- LEE --  
3 LEED, my apologies, Gold in delivering solar panels.

4 Finally, the project includes the previously  
5 approved PUD commitment for PDR/Maker space, including  
6 building out 50 percent of the commitment to reserve 10  
7 percent of the Commercial Phase 2 PDR/Maker uses for a  
8 period of five years.

9 I'm going to pass it over to Navid and Michael.

10 MR. RUBIN: Actually, (crosstalk) --

11 MS. TAMANIKWA: Oh, I'm sorry (crosstalk).

12 MR. RUBIN: That's all right.

13 (Laughter.)

14 MR. RUBIN: Good afternoon, everyone. My name is  
15 David Rubin, landscape architect and founding principal of  
16 Land Collective.

17 If I could have the next slide, Mr. Young.

18 Land Collective has been engaged by Edens to  
19 develop the connective tissue of Union Market. We have been  
20 working strategically for the development company to  
21 strategize how to deal with significant grade changes, how  
22 to deal with the Union Market's standards, and how to create  
23 greater connectivity in and between the various sites within  
24 the Union Market itself.

25 In this plan on screen, you can see that we're --

1 with this -- the project before you, we're working not only  
2 to deal with a significant grade change on 4th and 5th, but  
3 we're trying to create connectivity east and west between  
4 those two streets and develop an attitude towards the alley  
5 which focuses at the center of the project.

6           Next slide, please.

7           It's -- because of the significant grade change,  
8 the vista that is most prominent is the corner of 4th and  
9 Penn. It is a highly visible corner not only from New York  
10 Avenue as vehicles and pedestrians enter that location, but  
11 it's also a significant vista up to that location from areas  
12 along Neal Place further south on the development. We are  
13 also working strategically to ensure that the views from  
14 strategic locations within the Market are understood from  
15 the connective tissue, that 20-foot experience on the  
16 streetscapes that occupy the site.

17           Next slide, please.

18           Taking advantage of the six percent fall from Penn  
19 Street down 4th and down 5th, we've been working with Edens  
20 in particular on the site known as PNC, which was approved  
21 last year, and thinking comprehensively about the connective  
22 tissue in and through Union Market. You'll see here an  
23 aspiration to take advantage of the tangencies of entries  
24 and occupied spaces in the public areas that, for all  
25 intents and purposes, ping-pong across 4th Street, which

1 begin to set up the experience of the public realm in and  
2 through the development before you today.

3 We are also working strategically to connect east  
4 and west, and you can see our first attempts at that in the  
5 site area called paseo linking 4th Street to 5th Street over  
6 time.

7 Next slide, please. Navid?

8 MR. TEHRANI: Yeah. Thank you, David.

9 This is Navid Tehrani from HKS. Michael Marshall  
10 from MMD and I will tag team to describe different parts of  
11 the project today from the architecture standpoint and its  
12 relationship to the neighborhood that it sits in.

13 As you know, the overall development is comprised  
14 of two buildings, one that sits on M6 (phonetic), the Pascal  
15 side that is more linear, and the second one that sits on  
16 Maurice (phonetic) side that is more squarish type. These  
17 next few slides, we are going to walk you through the  
18 overall design approach of the project, which has been very  
19 much influenced by urban design aspects of the place at the  
20 neighborhood level scale and how we can enhance the human  
21 experience around and through our site.

22 Starting with that diagram on the left, everything  
23 in blue is mainly a retail program that activates the ground  
24 plan around the site. You also see these two paseos that  
25 break down the scale of the -- these long blocks. These

1 breezeways allow -- and it might -- oh, sorry, we have to go  
2 to the next slide.

3 UNIDENTIFIED SPEAKER: Two back.

4 MR. TEHRANI: Oh, two back, please. Or one --

5 UNIDENTIFIED SPEAKER: There you go.

6 MR. TEHRANI: Yeah, there -- perfect, thank you.

7 Like I mentioned, everything in blue is mainly  
8 retail program that activates the ground plan around the  
9 site. You also see these two paseos that break down the  
10 scale of these two long blocks that were originally designed  
11 for industrial purposes. These breezeways allow and invite  
12 the public to come into our site.

13 The diagram on the right highlights the area that  
14 we carved out of the building and offered it as public  
15 space. These open spaces allow a more gradual and pleasant  
16 transition from sloped sidewalk to a flat platform and into  
17 our original spaces.

18 Next slide, please.

19 Now these items show how larger aspirations of  
20 this site (inaudible) and architecture of these towers. We  
21 have sculpted and thinned down the tower on 4th Street based  
22 on two main forces. One, this special arrival moment from  
23 New York Avenue and the gateway aspect of the corner; and  
24 two, the main paseo at the mid building block to accentuate  
25 and reinforce the idea of the opening we have at the ground

1 plan.

2 Next slide, please.

3 Highly expressive balconies are another layer of  
4 design that accentuate the massing moves and add the  
5 boldness and signature architecture that we have at this  
6 corner. They also offer generous outdoor spaces to  
7 residents to maximize their access to fresh air and natural  
8 light and aligns itself with transports, healthier  
9 buildings, and wellness of its users.

10 Next slide.

11 MR. MARSHALL: Thank you. My name is Michael  
12 Marshall, Michael Marshall Design. We're architects of the  
13 Maurice parking lot building. What you see in the drawing  
14 on the left is kind of the idea of reducing the height of  
15 this building at Marice -- at the Maurice parking lot in  
16 relationship to the historic fabric to the south of the --  
17 of this site.

18 We have also carved out of the -- a courtyard that  
19 faces both south and onto 5th Street, and so that, again, to  
20 sort of mediate the difference in the volumes of the  
21 historic building and this building at the corner of 5th and  
22 Penn. The drawing on the right shows the sort of sculpted  
23 gateway, in particular the corner of 5th and Penn Street  
24 that we're trying to accentuate and make a corner statement  
25 for this building, not unlike buildings typically in D.C.



1                   Next.

2                   MR. TEHRANI: So now going from the diagrams, now  
3 we're going to show you a few renderings that speak to the  
4 more realistic view of the architecture itself. This is the  
5 view, that arrival moment from New York Avenue that we have  
6 been talking about that gives our site and project high  
7 visibility and a gateway role that within its context, which  
8 we have expressed with a signature design in architecture.  
9 You see the bend in the tower and expressive balconies that  
10 define the character of this building.

11                  Next slide, please.

12                  Our project also has high visibility from south  
13 side and proximity to the lower height buildings to the  
14 south. Opens up incredible views towards Capitol building  
15 and the monument. You also see the sculpted massing that  
16 has a unique articulation with balcony expressions we have.

17                  Next slide.

18                  MR. MARSHALL: This image conveys lines spoke of  
19 earlier about the corner statement at the -- on Penn Street.  
20 We sort of splayed the facade back to make that statement  
21 and then pulled it back again onto Penn Street with the  
22 normal grid of the city.

23                  Next image. This image shows the historic fabric  
24 on the left -- on the left of this image and how we carved  
25 out of the mapping at the 5th and Penn Street building to

1 accept the height difference between the historic fabric and  
2 our building at the corner.

3 Next.

4 MR. TEHRANI: So now we are back on Fourth Street.  
5 This is the main paseo moment from 4th Street at -- again,  
6 we've been talking about, you know, carefully crafted this  
7 part of the project to have multiple layers of interest for  
8 both pedestrians and residents of the project. The  
9 activation starts at street level but extends up on Level 2  
10 and 3 of the building above with the carveout and also even  
11 through the block.

12 Next slide, please.

13 Here we are standing on the sidewalk of PNC side.  
14 You see the continuous ground floor retail that grows in  
15 height as the street drops. You can also see that the data  
16 on -- we've established both the retail podium expression  
17 and the canopy that humanizes the experience of -- for  
18 pedestrians.

19 Next, please. And last one on this side, you see  
20 the second paseo on the right? Here we have almost a two-  
21 story programming of the retail space that responds to the  
22 nature of the site and how it drops and the retail spaces  
23 grow. We have also added a secondary canopy as mentioned  
24 earlier as the response to a valid concern that we heard  
25 from Chris Shaheen of Office of Planning.

1           The Commission also really mirrors the idea we  
2 have on PNC side and how both in plan, and elevation, and  
3 façade, and expression of retail, these two sides really  
4 unify that part of the Union Market.

5           Next slide.

6           MR. MARSHALL: This image shows a view further  
7 south down 5th Street. On the right you can see Union  
8 Market in the foreground and you see the historic buildings  
9 marching up the hill towards 5th and Penn Street. And once  
10 again, it's how we are trying to mediate the difference in  
11 the heights from the historic fabrics to our new building at  
12 5th and Penn.

13           Next image. So here, as David pointed out  
14 earlier, we're looking at the porosity of the site and also  
15 the amount of retail to make this a very active and lively  
16 part of the neighborhood. You can see the focus here of the  
17 services for the north on Pascal Way and then the yellow is  
18 for the entries to the residential, and again the reddish  
19 color is for the retail.

20           Next image. And this just shows again and in more  
21 detail where the service is located on Pascal Way close to  
22 Penn Street, and then we expect more pedestrian activity in  
23 paseos.

24           Next. Let's see here. So this is the plan at the  
25 second floor that shows again on the Maurice site the cutout

1 and carveout of the massing to receive the historic  
2 buildings as the courtyard that faces onto 5th Street. And  
3 the yellow again shows residential and possible lodging at  
4 some point. And again, the red on the bottom right shows  
5 retail at the second level and the residential in the yellow  
6 at the corner of 4th and Penn.

7           Next. And as you move through the building, the  
8 yellow indicates where we anticipate having residential.

9           Next. And again, to continue the same  
10 configuration of the buildings with residential. And as you  
11 get to the top of the penthouse on the Maurice site, you  
12 start to see the amenity spaces, that there's a pool that  
13 looks out, there's some green roof, and there's spaces on  
14 the Maurice site that looks out both to the north and the  
15 east and then to the south. And on the left you see the 4th  
16 and Penn building continues through with the residential,  
17 and the drawing on the right shows then the roof deck of the  
18 Maurice site and the continued residential on the 4th and  
19 Penn Street building.

20           Next.

21           MR. TEHRANI: So now we are at the highest point  
22 of the project on the M6 and Pascal side. The Penthouse  
23 level of this site is really the home for most of the  
24 amenity programs we have, mostly inside and some towards the  
25 south of the outdoor spaces we have. And then right above

1 that we have all the -- we have the rooftop on top of the  
2 penthouse where it's the home for all the equipment, the  
3 mechanical equipment that this project needs. And we've  
4 also utilized everything else around it for green roof that  
5 contributes to the stormwater management program of the  
6 site.

7           Next. Here is quick exhibit talking about -- you  
8 know, we were just talking about how we have been utilizing  
9 the rooftops as efficiently as we can and then we have been  
10 able to achieve on the blue on the right on the Maurice  
11 side, horizontal solar panels. And then on the Maurice --  
12 on the Pascal and M6 side on the left because of the linear  
13 aspect of the site and the rooftop, we have to be creative,  
14 so we have the vertical panels that shows that -- on the  
15 east and south of the project are essentially defining the  
16 solar panels that also act as a screen to the mechanical  
17 space.

18           More recently, we have also added another 15  
19 percent of area to the solar panels shown in orange that is  
20 essentially anything that we have left besides the equipment  
21 that we've added to the solar panel program.

22           Next slide.

23           So we're going to go quickly over the parking  
24 garage. We are back down at just below the retail space.  
25 This project offers 162 spaces of parking, 141 spaces for

1 bicycles. And this level is essentially a transition level  
2 and ramping down right under the retail space and takes you  
3 to two levels of garage that you can see in the next slide.

4           So as you take the ramp and go down under Maurice  
5 -- maybe if you go back one slide. Sorry. As you go down  
6 the ramp, you have a point of connection that takes you  
7 under the alley and onto the M6 side or -- or if you go to  
8 the next slide, you can continue ramping down under the  
9 Maurice side where -- which is the square part, just one  
10 level up garage there, and as you connect to the M6 side,  
11 you have two levels of deck of garage in a very kind of sort  
12 of challenge with the condition that we have been able to  
13 put enough parking spots for the project.

14           Next.

15           MR. RUBIN: The next one. Yes, thank you, Navid.

16           If you'll go to the next slide, please. Giving  
17 form to what both Michael and Navid have described in the  
18 context of architecture, Land Collective has been focusing  
19 on bringing to life the approved Union Market vision plan in  
20 the context of the streetscape, focusing very much on the  
21 challenge of the six percent slope of both 4th Street and  
22 5th Street to find points of tangency that will allow for  
23 public engagement, not only along on the streetscape but to  
24 signify entry and passthrough in the context of not just 4th  
25 Street, and Penn Street, and 5th Street, but also Pascal Way

1 and the connection to -- through to the center alley.

2           Next image, please. The nature of the Pascal Way  
3 will be one of those supporting infrastructure and  
4 pedestrian forward retail and experience. We're very  
5 excited about the prospect of what the quality and character  
6 of this alley can be in the context of transforming it not  
7 just for efficiency for delivery and for infrastructure but  
8 for human-engaged experience throughout.

9           Next slide, please.

10           And the paseos, which link east and west, add to  
11 the quality and character of that connective tissue, this  
12 sort of beautiful, gritty urban context where gathering, and  
13 retail, and experience are all taking place on the  
14 connective tissue.

15           Next slide, please.

16           So our aspirations for Pascal Way are to have a  
17 human-engaged space that offers both efficiency and  
18 experience where it is a lively contributor to the  
19 connective tissue of the site offering a unique experience  
20 in the context of both Union Market and the adjacent  
21 neighborhoods.

22           Next slide, please.

23           This image gives you a sense of the slopes  
24 associated with 4th Street. What we're defining here is the  
25 accessible public way along the building. You'll see how

1 the street itself is sloping. That is acknowledged in the  
2 dash line, whereas the landscape and connective tissue of  
3 the building site is responding to what would potentially be  
4 an entry and egress along the way.

5           Next, please. Now we're taking a cross section in  
6 that same area to give you a sense of those points of  
7 tangency and how the landscape itself is expressing not just  
8 from the curbless street of 4th Street connecting through  
9 the nine-foot flex zone, 10-foot circulation zone, and then  
10 the 10 -- seven-foot tenant zone but also into this engaging  
11 cross section of retail setback. That allows for movement  
12 in and through and a seamless engagement between wholly  
13 public and publicly-accessible private throughout.

14           Next slide, please.

15           MR. UTZ: Thank you, David.

16           MR. RUBIN: You're welcome.

17           MR. UTZ: So we do have Daniel Solomon from Gorove  
18 Slade and Shane Dettman of Goulston to talk about the  
19 traffic study, the traffic management, interactions with  
20 DDOT. I already summarized it at the beginning, so I think  
21 we can stand on the record unless there are questions in  
22 that regard.

23           Similarly, regarding the Comprehensive Plan  
24 review, racial equity analysis, community standards, and the  
25 balancing tests, we do have quite a bit of information in



1 the record about that. There are quite a few slides that  
2 speak to it as well, so if there are any questions about  
3 that, we can absolutely have Shane give an overview or  
4 answer any that might exist. But otherwise, that would  
5 bring our presentation to a conclusion, and we're happy to  
6 answer any other questions that you might have.

7 CHAIRPERSON HOOD: Thank you. Mr. Utz, why don't  
8 we take five minutes and let's give -- let's hear from Mr.  
9 Solomon of how good the traffic's going to be, and also  
10 let's hear from --

11 (Laughter.)

12 CHAIRPERSON HOOD: Yeah, because I'm really being  
13 funny. And let's hear from Mr. Dettman as well. About five  
14 minutes for the record, if you don't mind.

15 MR. UTZ: Sure.

16 MR. SOLOMON: Ready to proceed?

17 MR. UTZ: Sure. Yeah, let's do it.

18 Mr. Young, can we pull the presentation back up,  
19 please, to Page 46?

20 CHAIRPERSON HOOD: It doesn't --

21 MR. UTZ: (Crosstalk.)

22 CHAIRPERSON HOOD: Mr. Utz, it doesn't need to be  
23 the whole -- it doesn't need to be the whole blown-out, just  
24 hit the highlights for me. Tell me how good the traffic's  
25 going to be. I like to hear that.

1 (Laughter.)

2 MR. UTZ: Okay.

3 MR. SOLOMON: Okay. Good afternoon,  
4 Commissioners. For the record, I'm Daniel Solomon, a  
5 transportation planner and principal of Gorove Slade. We  
6 have been working with Edens on the the project, even DDOT  
7 related to the transportation aspect of the 1345 4th Street  
8 NE PUD. This afternoon, I'm going to touch on the  
9 highlights of our review and coordination with DDOT. Navid,  
10 and Michael, and David walked through the site plan earlier,  
11 but we'll just recap quickly the transportation elements of  
12 the plan.

13 Next slide, please.

14 So at the site level, vehicular and loading access  
15 to the development will be from the public alley that runs  
16 north/site through the site. It can be accessed both from  
17 Penn Street and Neal Place Northeast. All four existing  
18 curb cuts on 4th Street and Penn Street will be closed and  
19 the public realm will be greatly enhanced as part of the  
20 project.

21 The image on this slide shows the circulation to  
22 vehicular parking in yellow and alerting -- loading  
23 circulation in dark green. Anticipated bicycle circulation  
24 is shown in light blue, and pedestrian circulation is shown  
25 in dark blue. Bicycle access is primarily envisioned to

1 take via -- place via the public alley connecting to long-  
2 term bicycle parking spaces in the basement level and on  
3 4th, 5th, and Penn for short-term on-street bicycle parking  
4 spaces, which will be available at multiple locations along  
5 the perimeter of the site. Pedestrian access will primarily  
6 take place from 4th, 5th, and Penn.

7           Next slide, please.

8           Regarding parking, there will be 162 vehicular  
9 parking spaces located in the below-grade parking garage.  
10 Three spaces will be equipped -- actually, maybe more than  
11 that, but three spaces will be equipped with electric  
12 vehicle charging capabilities, meaning zoning requirements  
13 and DDOT standards for vehicular parking for both potential  
14 development schemes.

15           The project will include 141 long-term and 30  
16 short-term bicycle parking spaces, which is higher of the  
17 two requirements for Scheme A and Scheme B, meeting zoning  
18 and DCMR requirements. Additionally, the secure bicycle  
19 room will include at least seven cargo/tandem bicycle spaces  
20 and at least 14 spaces with access to electrical outlets  
21 meeting DDOT guidelines. DDOT is supportive of the amount  
22 of bicycle parking provided by the project.

23           On-street parking will be provided along the  
24 site's frontage on 4th and 5th consistent with existing  
25 conditions with details further coordinated with DDOT as

1 part of the public space process.

2 Next slide, please.

3 Loading will be accommodated by two 30-foot  
4 loading berths and two service and delivery spaces,  
5 exceeding zoning requirements and meeting the needs of the  
6 project. These facilities will be accessible from the  
7 public alley. Loading facilities are highlighted in purple  
8 in the middle of the image with trash rooms located nearby.  
9 All loading maneuvers will be head in/head out from the  
10 public roadway network consistent with DDOT standards.

11 Next slide, please.

12 Here we have the TDM plan that includes many of  
13 the typical components expected of such a package and it is  
14 detailed in the CPR. The additional hotel TDM plan is  
15 applicable only if Scheme A is implemented. We believe that  
16 the TDM package is appropriate for the set project and also  
17 encourages non-single occupancy vehicles and non-auto trips  
18 over the life of the project. DDOT finds the TDM plan to be  
19 robust and is supportive of it.

20 Next slide, please.

21 Mr. Utz covered a lot of this, but I'll just  
22 briefly go over our coordination with DDOT. For the  
23 project, we performed a comprehensive transportation review  
24 which was scoped and approved with DDOT. Our study  
25 concluded that the development of the site will not have a

1 detrimental impact on the surrounding transportation  
2 network, with appropriate mitigations, and it minimizes  
3 impact by providing short and long-term bicycle parking  
4 spaces, accommodating loading at a public roadway network,  
5 significantly improving the streetscape conditions, and  
6 implementing a robust TDM plan.

7           We coordinated extensively with DDOT during the  
8 review and received conceptual public space approvals in  
9 July of this year for the parking garage vault in the center  
10 of the alley. We're pleased to have their support in the  
11 form of a no objection staff report. DDOT did have two  
12 conditions which Mr. Utz covered previously, which the  
13 applicant has agreed to. Finally, the applicant will  
14 continue to coordinate with DDOT at goDCgo, urban foresee  
15 (phonetic) division, and various stakeholders regarding  
16 public safety improvements.

17           That concludes my testimony, and I'll be available  
18 for any questions. Thank you. And I'll pass it on to  
19 Shane, Mr. Dettman.

20           MR. DETTMAN: Thank you, Daniel, and good evening,  
21 Commissioners. Mr. Young, can we go to the next slide,  
22 please? Thank you.

23           Commissioners, I'll take just a couple minutes to  
24 summarize the project's consistency with the Comprehensive  
25 Plan as well as the PUD standard of review. As you can see

1 here, the Zoning Commission, in reviewing and approving the  
2 PUD, shall find the project to be not inconsistent with the  
3 Comprehensive Plan and that upon the valuation of the  
4 project's impact, must find that it does not result in any  
5 unacceptable impacts but rather the project must result in  
6 impacts that are favorable, capable of being mitigated, or  
7 acceptable given the quality and quantity of the public  
8 benefits being offered, and then also that it results in  
9 specific public benefits and project amenities that are  
10 consistent with the Comp Plan.

11 In the end, the Commission, as the regulation  
12 states, shall judge, balance, and reconcile the relative  
13 value of the public benefits and amenities, the degree of  
14 development incentives being requested, as well as any  
15 adverse effects of the project.

16 Mr. Young, can we go to Slide 56, please? Thank  
17 you.

18 Commissioners, as you know, as part of the Comp  
19 Plan evaluation for a PUD, applicants are required to  
20 utilize the Commission's published racial equity tool which  
21 is a four-part tool that looks at what policy guidance is  
22 provided in the Comprehensive Plan as it applies to the  
23 project. Emalia spoke to the extensive community guidance  
24 and the community input that was received through the  
25 applicant's community engagement process. The Office of

1 Planning is responsible for providing the Commission with  
2 its aggregated data related to the planning area within  
3 which the project is located. And then, of course, we apply  
4 a number of equitable development indicators related to the  
5 project.

6 Next slide.

7 This is set forth in the record as well. These  
8 are the equitable development indicators that are applied to  
9 a project, and as the record reflects and as this table  
10 shows, the project does score highly in terms of having  
11 positive -- potential positive advancements in racial equity  
12 when it comes to housing, potential displacement, both  
13 direct and indirect, employment opportunities in the roughly  
14 31,000 square feet of ground floor commercial space, 10  
15 percent of that will be devoted to PDR/Maker space,  
16 improvements to infrastructure as well as transportation.

17 The environmental benefits that will result from  
18 this project being a commitment to these goals. Improve  
19 stormwater management, rooftop solar, as well as extensive  
20 use of green roofs.

21 Next slide.

22 This just states, as is set forth in the record,  
23 the PUD balancing test again, having to judge, balance, and  
24 reconcile the value of public benefits, the degree of  
25 development incentives being requested, and any potential

1 impacts.

2 Next slide.

3 This is a table just showing a summary of the  
4 public benefits and project amenities. I won't get into it  
5 in detail, but there's several significant impact -- or  
6 specific benefits as it relates to urban design and  
7 architecture, site planning, the efficient use of land  
8 within the Union Market area and in close proximity to  
9 transit. Several streetscape improvements that will improve  
10 the public realm around the site and through the Union  
11 Market area.

12 Housing. As Emalia mentioned, the project will  
13 provide approximately 350 units of new housing. 15 percent  
14 affordable housing at both 60 and 50 percent MFI and a  
15 commitment to three-bedroom units, including three-bedroom  
16 IZ units. There will be space set aside for PDR/Maker space  
17 which is another critical issue that the Comprehensive Plan  
18 identifies for the District as well as, as I mentioned,  
19 sustainability benefits and transportation benefits.

20 Next slide.

21 So those are the public benefits that are being  
22 proffered, and we have to balance those with the development  
23 incentives that are being requested by the applicant. Here  
24 we have a PUD related map amendment from PDR, which is a  
25 zone that does not allow housing whatsoever on the site to



1 MU-9. As a result of that PUD related map amendment, we  
2 gain additional flexibility as it relates to height and  
3 density. You can see the additional height and density  
4 that's being engaged in a PUD. And on the technical side,  
5 the applicant's requesting minor technical zoning  
6 flexibility in rear yard, court, as well as some small  
7 penthouse setback flexibility.

8 Next slide.

9 Finally, these next two slides go through an  
10 evaluation of potential impacts of the projects organized  
11 according to the Comprehensive Plan citywide elements.

12 Next slide.

13 I won't get into the detail, they're there for  
14 your review, but in the end we find that the project will  
15 not have any unacceptable impacts. The majority of the  
16 impacts will be favorable, and what impacts are not  
17 favorable are favorably mitigated. We did not find that  
18 there would be any unacceptable impacts, nor did we find any  
19 potential for impacts where we had to find that they were  
20 acceptable because of the quality of the benefits that are  
21 being provided. They were all favorable or capable of being  
22 mitigated.

23 Next slide.

24 And so here we just list the benefits and  
25 amenities on the left and we balance that with the

1 incentives and potential adverse effects of the project.

2 Next slide.

3 And then in the end we find that the project is  
4 not inconsistent with the Comprehensive Plan when read as a  
5 whole through a racial equity lens, will not create any  
6 unacceptable impacts, but rather again would be -- impacts  
7 would be favorable, favorably mitigated, and acceptable  
8 given the quality of the public benefits.

9 The substantial public benefits are directly  
10 informed by the Comprehensive Plan, the Mayor's Housing  
11 Equity Report, the Florida Avenue Market small area plan, as  
12 well as community input. And the project is far superior to  
13 what would otherwise be able to be developed on the subject  
14 property as a matter-of-right under an existing PDR zoning  
15 of the site.

16 And with that, I'll conclude my testimony and hand  
17 it back to Jeff. Thank you, Commissioners.

18 MR. UTZ: Thank you, Shane.

19 That concludes our direct presentation. We're  
20 happy to answer any questions that the Commission might  
21 have.

22 CHAIRPERSON HOOD: Thank you, Mr. Utz and team. I  
23 -- we appreciate the testimony -- I mean, the presentation.

24 Let me just ask this first before I go to a  
25 Commissioner Imamura first. Mr. Utz, as far as I know,

1 there's really no opposition other than a rationale of why  
2 we should approve it from OAG. Is there any other  
3 opposition in this record that I know of -- that you know  
4 of?

5 MR. UTZ: There is not.

6 CHAIRPERSON HOOD: Okay. So this --

7 MR. UTZ: We do not have any oppositions.

8 CHAIRPERSON HOOD: I saw the ANC, and I saw one --  
9 and particularly one of the Commissioners who obviously you  
10 all have been working with very -- quite a bit, and I don't  
11 take lightly anybody's recommendation, but when I people who  
12 I know are sticklers and who really push back on stuff, and  
13 I see a letter from -- of support from them, then, you know,  
14 as far as making you -- thinking, okay, well I think we have  
15 some -- I do want to go back, once my colleagues finish,  
16 let's talk a little bit about OAG because OAG has been --  
17 well, I don't know -- I want to ask them.

18 I'm going to let OAG know that I'm going to ask  
19 them where they've been because there was a case where I  
20 really wanted them to weigh on and I got absolute -- we got  
21 nothing. But anyway, I'll leave it at that. I'll come back  
22 and ask my questions later.

23 Commissioner Imamura, any questions or comments?

24 COMMISSIONER IMAMURA: All right. Thank you, Mr.  
25 Chairman. I do have a few comments and maybe a question or

1 two. I also want to thank the Chairman for acknowledging  
2 Mr. Solomon and Mr. Dettman and giving them some air time.  
3 Architects and landscape architects always seem to get more  
4 air time, so I'm glad to see transportation and urban  
5 planning get some air time there.

6 (Laughter.)

7 COMMISSIONER IMAMURA: As (audio disruption) -- I  
8 know that Mr. Chairman's comments about any opposition, I do  
9 want to note that I saw somewhere in the record about the  
10 positive and productive communication you've had with  
11 business tenants -- existing business tenants. And before I  
12 dive into it, this project has everything that I like to  
13 talk about: architecture, landscape architecture, urban  
14 design, and even want to hear a little bit about stormwater  
15 management and sustainability.

16 But I would like to ask Mr. Utz about any plans to  
17 -- and this might have already been mentioned, about  
18 business tenant relocation efforts and where that stands at  
19 the moment. So if you could just expand on that a bit.

20 MR. UTZ: Sure. Sure.

21 MS. TAMANIKWA: So when -- this is Emalia  
22 Tamanikwa. I'm sorry, my video is not working. One thing  
23 that I think that we have been figuring out, what is the  
24 best strategy, is to make sure that these tenants are --  
25 their voices are activated. And so what we've done is we've

1 reached an agreement for those tenants to remain in their  
2 current location, generally capped their current lease  
3 expiration date, and this is until this project begins  
4 construction.

5           We expect that many of the tenants will find new  
6 locations once the project gets under construction, and we  
7 won't move -- we won't move them out yet with that notion.  
8 And I think it's important to also note that there is plenty  
9 of vacancies available at -- for -- at the District  
10 currently, and outside of it, we think that a lot of the  
11 tenants, based on the preliminary conversations that we've  
12 had with them, a lot of them are interested in relocating to  
13 Maryland because that's where their base of consumers are  
14 currently located.

15           We're still having robust conversations with them  
16 and ways that we can support them, and we've come up with a  
17 variety of different approaches, whether it be helping them  
18 with lease negotiations, because that is a big part of how  
19 these tenants can continue to thrive and grow their  
20 business.

21           COMMISSIONER IMAMURA: Terrific.

22           MR. UTZ: I think that's --

23           COMMISSIONER IMAMURA: All right, thank you, Ms.  
24 Tamanikwa, I appreciate that response. I'm glad to hear  
25 that those robust conversations continue and that you also

1 continue to support those businesses in their relocation  
2 efforts, so I'm glad that that's on the record. Thank you  
3 very much for that.

4 In terms of architecture and urban design,  
5 landscape architecture, landscape design, and streetscape  
6 plans, I think this project is a model example of superior  
7 urban design and architecture. Superior streetscape plans,  
8 landscape design all across the board. In fact, I think I'm  
9 even more impressed with this project than the one across  
10 the street at 1348 4th Street.

11 So -- and I was delighted to see Mr. Rubin was  
12 retained to help facilitate the landscape design for both.  
13 I think his testimony -- his discussion about connective  
14 tissues, creating connectivity, the tangencies of public  
15 spaces. So I think it's pretty evident, as you mentioned,  
16 Mr. Utz, the record is full, and I was pleased to see the  
17 number of plans and drawings that were included in the  
18 record to substantiate the placemaking and streetscape  
19 design that you all are proffering.

20 I'm also impressed and would like to -- impressed  
21 by the grade change and how that's been handled along 4th  
22 Street and 5th Street, a six percent fall. I was impressed  
23 with how Mr. Rubin handled that across the street and  
24 expected the same here.

25 I also want to acknowledge -- not just talk about

1 the architecture of this but also -- or the landscape  
2 architecture of this but also the architecture. I really  
3 appreciated Mr. Tehrani and Mr. Marshall and how you walked  
4 through the massing and sculpting (audio disruption) of the  
5 form and how you arrived at the final design solution. So  
6 appreciate your explanation of the façade and demonstrations  
7 with expressive balconies. And I would certainly say they  
8 are expressive balconies. I think something to the effect  
9 of 50 percent of the units have balconies. I was impressed  
10 by that. So certainly the articulation of the façade.

11           Also your choice of materiality I was very pleased  
12 to see as well. So overall, I think the architectural  
13 vocabulary, the expression, the horizontality I was very  
14 impressed with and pleased to see. So surprisingly, I do  
15 not have any comments architecturally or with landscape  
16 design.

17           I also want to acknowledge, Mr. Utz, you and your  
18 team have also noted this early in your presentation, which  
19 I appreciated, also how you organized your presentation to  
20 address OP, DOEE's comment. I do want to make a comment  
21 about new construction versus midrise LEED Gold. I think  
22 either way, it's going to be substantial no matter what  
23 program, and I think from my point of view, I can certainly  
24 see why new construction would be more appropriate.

25           I guess, Mr. Tehrani or Mr. Marshall, I noted LEED

1 Gold, your preliminary assessment of 62 points with 23  
2 maybes, which you would in a perfect world grab all those  
3 and put you in platinum, but I'm curious to hear how  
4 confident you are to stick to the 62 points that you already  
5 have and how many more you think you might grab.

6 MR. RUBIN: You want Hailee to speak to that?

7 MR. UTZ: Sure.

8 MS. GRIESMAR: This is Hailee Griesmar with Lorax  
9 who has been working on the LEED in sustainability. I think  
10 we're still, you know, working through the strategy of the  
11 designables. I think we feel confident that we can get to  
12 LEED Gold. And, you know, we're evaluating. We still need  
13 to get (inaudibl) modeling and, you know, all of the kind of  
14 the specifics of the site.

15 We're hopeful that we'll pick up more than 62  
16 points getting to platinum, which requires 80 points, is a -  
17 - you know, a much bigger ask, and I think it's something  
18 that, you know, we can certainly explore but are not  
19 committing to at this point.

20 COMMISSIONER IMAMURA: Sure thing. Thank you.  
21 Certainly aspirational for sure, but it sounds like you're  
22 confident in your 62 points and that you might grab a few  
23 more, so I'm pleased to hear that.

24 I think the only questions that I have here --  
25 well, I'm interested in hearing a little more about your



1 building envelope, but more so I'm interested in getting  
2 your civil engineer. Mr. Utz, your project team has your  
3 civil engineer available. I'm interested to hear about your  
4 stormwater management plan, the way you're storing -- the  
5 two different ways that you're storing stormwater  
6 management. Certainly hope that Mr. Rubin has been involved  
7 in those conversations as well as the landscape architect.

8 MR. UTZ: Sure. So I think we have our civil  
9 engineer joined by phone, if I'm correct. Sara, are you on  
10 the line right now?

11 (No response.)

12 MR. UTZ: She might need to unmute or be unmuted.

13 UNIDENTIFIED SPEAKER: Was it Tom that was going  
14 to --

15 MR. UTZ: I think Tom and Sara were both going to  
16 monitor. Is there a Tom or a Sara -- Tom Mays or a Sara  
17 Link in the --

18 UNIDENTIFIED SPEAKER: (Crosstalk.)

19 MR. UTZ: Oh, great. I think she was --

20 MS. LINK: Yes.

21 MR. UTZ: Oh, there we go.

22 MS. LINK: Hello. I could not unmute myself, but  
23 I am here now. My name is Sara Link. I am with Bohler, the  
24 civil engineer.

25 So, yes, to answer your question, we have

1 coordinated heavily with the landscape architect team as  
2 well as the entire team on the stormwater management and  
3 GAR. So we are meeting the various requirements for GAR,  
4 stormwater, hada-beam (phonetic) retention, and the  
5 detention requirements with green roof of variable depths on  
6 both buildings, as well as bioretention facilities on the  
7 buildings.

8 COMMISSIONER IMAMURA: All right, thank you, Ms.  
9 Link.

10 MS. LINK: Mm-hmm.

11 COMMISSIONER IMAMURA: Is there anything you'd  
12 like to highlight that's exceptional about your plan?

13 MS. LINK: I don't know if this is in the  
14 presentation, if there's an overall view with it, I didn't  
15 see it, but there is significant amount of green roof on the  
16 site that is -- and, David, feel free to speak on this as  
17 well. There's been so much coordination. It is -- we are  
18 meeting the requirements, but it is -- it's a very green  
19 site.

20 MR. RUBIN: Yeah, so I'll build on Sara's  
21 comments. This is David Rubin from Land Collective. In the  
22 context of the work that we have been doing in coordination  
23 with Sara and the rest of the team, it is a very, very good  
24 site. And for something that is supposed to be so post-  
25 industrial and gritty, it is also poriferous and variable,

1 and that is the beauty of this particular project, both  
2 along 4th Street on both sides and the work that Navid and  
3 Michael Marshall have been doing with the buildings  
4 specifically.

5           Wherever there is a possibility of having some  
6 expression of urgency, we have taken the opportunity, and  
7 that's important to understand. We are trying to balance it  
8 out, of course, with renewable resources, but the notion is  
9 that the human experience should be one that is focused on  
10 wellness, belonging, and in the context of infrastructure,  
11 superior stormwater management.

12           COMMISSIONER IMAMURA: Terrific. Thank you, Mr.  
13 Rubin. Thank you, Ms. Link. Both of you for your response.

14           I do want to note, too, that the project team did  
15 mention the 2300 square feet of PUD. So I think from my  
16 point of view, from the chair that I sit in, the entire  
17 project team, Mr. Dettman, Mr. Solomon, Mr. Rubin, Ms. Link,  
18 Ms. Griesmar, Mr. Tehrani, and Mr. Marshall, and the rest of  
19 your team, this is a terrific example of an integrative  
20 design solution, and a project of this scope, scale, and  
21 complexity is certainly not easy and has its challenges, in  
22 addition to the site itself, grading. But I'm really  
23 pleased to see that the entire team has pulled this  
24 together, and I'm really pleased by the design solution that  
25 you put forward tonight.

1           So with that, I'm prepared to vote in support of  
2 this, and I'm interested to hear my fellow commissioners and  
3 their questions. I also want to note, too, the affordable  
4 units, too, that's pretty substantial, 15 percent -- 12  
5 percent (audio disruption), and the three-bedroom (audio  
6 disruption). And certainly there's many, many more.

7           But, again, thank you all for your hard work  
8 behind this to improve the neighborhood and the District of  
9 Columbia with this project.

10           Mr. Chairman, I yield back.

11           CHAIRPERSON HOOD: Thank you. And to the team,  
12 you all have a rising support from Commissioner Imamura, so  
13 if I --

14           (Laughter.)

15           CHAIRPERSON HOOD: -- had a design question after  
16 what he just said, I don't know if I would ask it anyway.

17           (Laughter.)

18           CHAIRPERSON HOOD: Ms. Stidham, do you have any  
19 questions or comments?

20           COMMISSIONER STIDHAM: Just a couple. In OP's  
21 report, they had suggested some minor refinements, and I  
22 didn't pick up in your presentation, and I -- maybe I missed  
23 it, that specifying the number in the total area balconies,  
24 that they should not be reduced below what is shown in the  
25 approved plans was one thing that they wanted to see you

1 include moving forward. And that the portions of the  
2 penthouse, which I believe at the moment you're not planning  
3 any residential use, but you are suggesting that in the  
4 future that may be, so my question there is related to is  
5 the way that you're -- is what you're asking for related to  
6 the penthouse related to that potential future use? And  
7 then my last question is a little bit more about the PDR  
8 uses and how they relate to what you're planning.

9 MR. UTZ: Okay, so I can take the first of those.  
10 I might need to task some others from our team. We did  
11 commit to the request from the Office of Planning regarding  
12 the balconies. That is an area of focus where the team has  
13 been working to maximize the number and the degree of them.

14 So the -- we've been in touch with OP since they  
15 submitted their report and have agreed to committing to the  
16 number of units with balconies being the same as reflected  
17 on the plans, no less than is reflected on the plans, and  
18 then the square footage of the balconies with what's on the  
19 plans to be the minimum as well. So on that item, we do  
20 agree with their request.

21 Regarding the potential for units in the  
22 penthouse, there are none that are currently shown in the  
23 plan, but we would like to reserve the ability to put units  
24 in the penthouse. Yeah, that would kickoff the additional  
25 requirement for 50 percent MFI on IZ units, and the

1 constraint would just be that it wouldn't change the design  
2 of the penthouse to bring those units in, we would keep it  
3 within the design of the penthouse that would hopefully be  
4 approved by the Commission.

5           And then on the ground floor, there will be  
6 support, back-up house, amenities and similar uses, but  
7 there are not units that are planned for the ground floor.

8           And then on the PDR front, the kind of PDR package  
9 that is proposed is taken from the PNC PUD across the  
10 street, 19-29, so it is the 10 percent of the ground floor  
11 commercial area will be set aside for PDR/Maker uses for  
12 five years, and then that half, 50 percent of that ground  
13 floor commercial space will be designed for that PDR/Maker  
14 specification, which is detailed on that slide, but it is  
15 pretty hard to read on that slide.

16           So there are some additional pages in the record  
17 that really show the difference between a typical buildout  
18 of that ground floor strata of the project versus this  
19 PDR/Maker concept and kind of the elements that go into it  
20 to make it this conducive environment for PDR/Maker to come  
21 in to a building that has enhanced, has more extensive, more  
22 significant buildout to it. So it's really that 10 percent  
23 and 50 percent concept that drives the PDR concept behind  
24 this project.

25           COMMISSIONER STIDHAM: Okay. And that -- I'm

1     sorry, that 50 percent was for five years?

2                 MR. UTZ:    So the 50 percent is in perpetuity.  The  
3     50 percent is a design spec that will be built out right out  
4     of the gate and for the life of the project.

5                 COMMISSIONER STIDHAM:  Okay.  Thank you for that.  
6     I have no other comments or questions and am prepared to  
7     support.  And I agree with Commissioner Imamura, you know,  
8     beautiful structure.  It really will be a nice addition to  
9     the city.  So thank you for all of your work there.

10                CHAIRPERSON HOOD:  All right, thank you,  
11     Commissioner Stidham.

12                Vice Chair Miller?

13                VICE CHAIR MILLER:  Thank you, Mr. Chairman, and  
14     thank you to all of the members of the Edens team that is  
15     here and has worked on this project and the responsiveness  
16     that you've shown to the ANC 5D who you've worked with  
17     throughout the process of this development, and Office of  
18     Planning, and our own comments previously, and others --  
19     other agency comments.  I think all of the responses that  
20     you have given are very reasonable.

21                I appreciate my commissioners -- my fellow  
22     commissioners' questions and comments.  Commissioner Imamura  
23     was very thorough, so I don't think I have a lot of  
24     additional questions or comments.  I associate myself with  
25     all of his and Commissioner Stidham's comments.

1           Let me ask -- and thank you, I think I heard at  
2 the beginning of your presentation, correct me if I'm wrong,  
3 maybe it was just wishful thinking, that you're moving your  
4 Edens headquarters from South Carolina to Union Market, is  
5 that correct?

6           MS. TAMANIKWA: Yeah, so we actually -- we did  
7 actually already move to the D.C. office. We're actually  
8 above The Village, a coffee shop, which is right next to  
9 Politics and Prose.

10          VICE CHAIR MILLER: Okay. Well, congratulations  
11 on that and thank you for -- nothing against South Carolina  
12 --

13          (Laughter.)

14          VICE CHAIR MILLER: I do a beach week every summer  
15 there, but glad that you're headquartered here in the  
16 District and all that you've contributed to the  
17 revitalization of this -- of this market. It's really quite  
18 phenomenal, and it was appropriate and a reminder that I had  
19 forgotten about how that alley or thoroughfare -- or that --  
20 is it an alley or a street, that the name Pascal Way in  
21 memory of -- in honor of Paul Pascal who represented so many  
22 of the food wholesalers and liquor store wholesalers for so  
23 many years. I think his wife, Brenda, had a -- family had a  
24 poultry business there back in the day, so that's a very  
25 appropriate naming. It's always important to remember our



1 history and those who have helped make our city what it is  
2 today.

3 Let me just ask a couple questions that are  
4 different -- maybe -- or in addition to what my fellow  
5 commissioners have asked. And I appreciate -- I mean, I  
6 appreciate all the design, affordable housing, the PDR,  
7 other public benefits that are -- the architectural, the  
8 materials, the balconies, love the balconies, you increased  
9 the balconies.

10 Let me ask about just the height. The 130-foot  
11 height, I assume -- I think there are other 130-foot height  
12 buildings in the immediate area, but could you just remind  
13 me of that just since this is a -- I think it's designated  
14 medium residential, high commercial PDR on the Comp Plan.  
15 High commercial certainly would lead you to believe that you  
16 could get the maximum density and height. But you're not in  
17 the historic district but you're adjacent, and you did do  
18 the step-downs on the part of the building that's closest to  
19 the historic district, I think you're down to 90 feet there.

20 So just tell me about that relationship and the  
21 other -- just remind me briefly that there are -- you're  
22 very close to New York Avenue, too, I mean, so just to  
23 remind me about the other maximize height buildings that are  
24 in this vicinity.

25 MR. UTZ: Sure, so I can start to answer that. If

1 anyone else wants to jump in, please feel free. But in the  
2 immediate vicinity, there are two PUDs that are already  
3 approved in various forms of proceedings. There is a 130-  
4 foot PUD to the north of Penn Street, immediately to the  
5 north of 550 Penn, that is approved and underway. It's  
6 actually just built.

7           And then to the west of 4th Street, there's a 130-  
8 foot PUD that's approved as well that's a PUD project that  
9 is really intended to architecturally relate to this  
10 project, so that -- there is kind of a purposeful  
11 interaction between those two buildings being 130 feet.

12           To your point about the adjacency of the historic  
13 district, there is a bit of a buffer or a bit of a design  
14 response to the adjacency of the historic district depending  
15 on where exactly it is and where it relates to this project.  
16 On the west side, there is a fairly significant property  
17 that Edens actually owns between the 130-foot building and  
18 the history district. So there is a bit of a buffer there.

19           And then on the east side on the Maurice parking  
20 lot side, that was the actually the intent because that is  
21 immediately adjacent to the historic district, so that was  
22 part of the intent in suppressing the height there to 90  
23 feet but then also the setback to the south, it is intended  
24 to set back and step down to that historic district  
25 immediately to its south. And then as you mentioned, there

1 is a kind of supported Comp Plan and then the supported  
2 small area plan that indicates this in the high median  
3 component in the small area plan as well as sketches out the  
4 height that can go up to 130 feet.

5 VICE CHAIR MILLER: Right. Well, I appreciate you  
6 just reminding me of that. I didn't want people to think  
7 that this was an outlier. I mean, it's a lot of -- there's  
8 a lot of density and height in this develop -- in this Union  
9 Market area, a lot more than what was there previously when  
10 they were, you know, the wholesale retailers, one, and two,  
11 three-story buildings at most. So it's quite a change, but  
12 this isn't standing out -- or in a bad way in terms of  
13 fitting into the fabric that you're creating there -- that  
14 you have created there.

15 The residential amenities space that you have on  
16 the penthouse, you say you might have units in the future,  
17 but there is residential amenity space there, I think it's -  
18 - is it a fitness lounge -- fitness club lounge area, and  
19 what square footage is that currently under the plan? And  
20 that's triggering -- that would trigger additional 50  
21 percent median family income housing square footage, as I  
22 understand it, beyond what you've stated here.

23 MR. UTZ: So the 50 percent requirement would be  
24 generated if there are units up there or if the use is  
25 converted to commercial use, which is not the intent here.

1 The amenities space or actually the -- outside of the  
2 concept of additional 50 percent MFI generation for that  
3 particular strata. I think we can show, if you would want  
4 us to show more detail, we're happy to walk through the roof  
5 plan development and show the current scheme if you can  
6 bring up the slide.

7 VICE CHAIR MILLER: Yeah, it might be (crosstalk)

8 --

9 (Crosstalk.)

10 VICE CHAIR MILLER: -- to bring that up because I  
11 have one more question related to the -- how you're not able  
12 to meet the -- you did remove the trellis, you did -- are  
13 making compliant the trellis and guardrails with the one-to-  
14 one setback but you aren't able to make the rear of the  
15 penthouse, as I understand it, totally compliant with the  
16 one-to-one setback, and that's not very visible, I don't  
17 think. But -- so if you can address that when you draw --  
18 when you bring that up as well, if we're going to bring up  
19 that slide.

20 MR. UTZ: Great. Mr. Young, could you please show  
21 Slide 36 of the presentation? I think that one is -- there  
22 you go, perfect. Thank you.

23 MR. TEHRANI: Yeah, okay. Well, in terms of the  
24 program, everything you see in orange is the the -- what we  
25 are designating as amenity program that is interior space

1 right now. You also see other components like the cooler  
2 and other elements that -- and support spaces that are shown  
3 in gray, and there is also a small portion of mechanical  
4 yard that needs the full height that is closer to 18 feet,  
5 so it actually starts at -- on this floor and goes all the  
6 way to the -- sort of the roof penthouse for the mechanical  
7 equipment.

8           In terms of a square foot space that we have, the  
9 overall footprint is around 12,000 square feet up here. And  
10 as you see what we are showing on that corner -- so  
11 everything on the north, and the west, and south is actually  
12 complying with that one-to-one setback. The ask that we've  
13 had as it relates here is where we are showing that four-  
14 inch dash line, so that would have been where you would need  
15 to setback on the -- on that rear side of the project. And  
16 as we can see, in order to get any sort of usable interior  
17 space, we really needed that kind of width.

18           The project and the site is already on the very  
19 tight side for residential so it's 92 feet, and then we also  
20 have this sort of shaping of the footprint toward the  
21 alleyway just to give the alley side a little bit more air  
22 and room there, so we have done that setback as a overall  
23 footprint of the project. But if we really did extra one-  
24 to-one setback on that rear side, there's really not much to  
25 work with in terms of width for any usable spacing, whether

1 it's amenities, support space, anything that you want to  
2 place there, there would not be any usable space.

3 VICE CHAIR MILLER: Well, thank you for that.

4 MR. TEHRANI: And that's for the -- that's for  
5 amenity program, and if you look at the same thing on the  
6 rooftop, there is really not much -- it wouldn't have been  
7 any much left to have the green roof that we were talking  
8 about, the solar panels that we want to place, and the  
9 mechanical equipment on the plan to the right as well. So  
10 it impacts both programs.

11 VICE CHAIR MILLER: Well, I -- and I appreciate  
12 the solar panels and the green roof, and I think that's a  
13 reasonable explanation as to why the setback can't be met in  
14 that particular location, so thank you for that.

15 My last question is just about following up on  
16 Commissioner Imamura's question about the existing -- you're  
17 working with the existing retail tenants. How -- and I  
18 appreciate that effort and the letters of support that we've  
19 gotten in our record from them. What -- how many existing  
20 businesses actually are there right there?

21 MS. TAMANIKWA: There is a total of seven existing  
22 businesses there right now.

23 VICE CHAIR MILLER: How many --

24 MS. TAMANIKWA: Four of them are -- seven.

25 VICE CHAIR MILLER: And what -- and just what are

1 they generally in terms of the --

2 MS. TAMANIKWA: So they -- oh, okay, I'm sorry.

3 Are you saying in terms of the type of use?

4 VICE CHAIR MILLER: Yes. Because they're --

5 MS. TAMANIKWA: Yeah, so they're generally --

6 VICE CHAIR MILLER: At least I think that we want

7 to get back into the whole market area PDR use.

8 MS. TAMANIKWA: Right. So they're typical retail,  
9 they're not necessarily PDR/Makers, and so we have been  
10 trying to figure out ways that make sense for us to -- for  
11 the PDR/Maker spec and commitment to make sure that they're  
12 truly PDR/Makers that are involved in this project.

13 VICE CHAIR MILLER: So they don't -- they don't  
14 fit into the PDR/Maker -- none of them fit into the PDR?

15 MS. TAMANIKWA: They do not.

16 VICE CHAIR MILLER: I see.

17 MR. UTZ: They don't.

18 VICE CHAIR MILLER: You are working through -- you  
19 had vacant ground -- vacant retail space that's already  
20 built out in the market that is available for them if they  
21 choose to move there if you give them a reasonable rent I  
22 guess.

23 MS. TAMANIKWA: Well, so there is vacant -- we're  
24 -- we want them to have the option to make a choice, so  
25 whether they choose to be at Union Market District or if

1 they choose to go somewhere else, we want to help support  
2 them with that approach. And so one thing that we have  
3 found to be really helpful during these times is to be a  
4 champion in negotiating their leases with whoever they end  
5 up having as a landlord. We have found that that has been  
6 one of the best ways that we have been able to support them  
7 to get them a reasonable deal to help their business  
8 continue to thrive in an environment that's changing.

9           And we're still figuring out different approaches  
10 that could be unique to each business type as well, and  
11 we're going to continue having these conversations for the  
12 unforeseeable (sic) future until this project is fully  
13 developed.

14           VICE CHAIR MILLER: Well, thank you for your  
15 continuing engagement with them, and with the ANC, and  
16 community at large, I appreciate that, and for all your work  
17 on bringing this project forward.

18           I don't have any further questions or comments at  
19 this time, Mr. Chairman. Thank you very much.

20           CHAIRPERSON HOOD: Thank you to all my colleagues  
21 for your very thoughtful and thought-out -- well thought-out  
22 questions.

23           I, too, want to associate myself with the Vice  
24 Chair. I, too, have been around the market, and when you  
25 think about how it's evolving over the years, when the Cho



1 Brothers owned it, and also I appreciate the tribute that's  
2 being pad -- paid to Mr. Pascal. I'm sure Craig Pascal will  
3 be very happy about that.

4 I think -- one thing I appreciate about the  
5 preservation of history is that market just in short be what  
6 it is today. For years, we used to go down there, I was  
7 little boy and my father took me to that market, so when I  
8 look at how it's evolving and what it's becoming -- and the  
9 reason I asked the traffic questions is because there was a  
10 part that this Commission helped vote on, and I went to an  
11 event there, and then I didn't even know it was even there,  
12 and it's grand.

13 (Laughter.)

14 CHAIRPERSON HOOD: So I just want to say how I  
15 think that whole piece is -- and I remember at the event I  
16 was at I kept saying, man, I didn't even know this was here,  
17 and I -- and then somebody said, well I heard you all voted  
18 on it, and I said, this is crazy. But anyway, that just  
19 shows how that's evolving.

20 So I do want to commend you. I appreciate all the  
21 support that I see. And the reason I do want to ask -- I  
22 did ask the question, Mr. Solomon, is because -- I wanted to  
23 hear about traffic is because that's a designation point.  
24 That's where people want to go. You go down there on  
25 Saturdays, the whole traffic pattern has changed, even in

1 the wintertime. Everybody wants to go to Union Market.

2 But I do want to ask Ms. Tam -- I don't want to  
3 mispronounce your last name.

4 MS. TAMANIKWA: Tamanikwa.

5 CHAIRPERSON HOOD: Tamanikwa, okay. Oh, I  
6 probably could have done that if I had tried. Ms.  
7 Tamanikwa, first --

8 (Laughter.)

9 CHAIRPERSON HOOD: Is this your first -- if this  
10 your first case in front of us representing Edens?

11 MS. TAMANIKWA: It is.

12 CHAIRPERSON HOOD: Okay, okay. Well, I want to  
13 commend you, and you've been --

14 MS. TAMANIKWA: How am I doing?

15 CHAIRPERSON HOOD: I'm sorry?

16 MS. TAMANIKWA: I said how am I doing.

17 (Laughter.)

18 CHAIRPERSON HOOD: Well, if I commend you, you  
19 must be doing pretty good right now.

20 (Laughter.)

21 CHAIRPERSON HOOD: I want to commend you because I  
22 do know -- I'm very familiar with Chair Guzman and that ANC,  
23 and I appreciate the work he does, he's no nonsense. I've  
24 been around him enough and worked with him on other things,  
25 not zoning, but other things, and I appreciate his attitude,

1 his forthrightness, and I see that -- I looked at his  
2 letter, and I saw where you all had been working together  
3 for a while, and that's a hat off to you.

4 But I do have one piece I want to back -- my only  
5 question is, Mr. Utz, and I'm going to bring this one to  
6 you. So, Ms. Tamanikwa, I just wanted to commend you. I  
7 didn't have -- necessarily have a question for you. You and  
8 your team --

9 MS. TAMANIKWA: Thank you.

10 CHAIRPERSON HOOD: -- at Edens as well. So keep  
11 doing -- I guess what I want to say is keeping doing -- I  
12 know you have some other things coming, but keep doing what  
13 you're doing and working with the neighborhood and you'll go  
14 a long way.

15 I will say this, though, Mr. Utz, let's talk about  
16 OAG's letter. You alluded to it, and I do want to --  
17 sometimes for me where there's smoke, there's fire. They  
18 keep bringing it back to us, the same thing. I know we have  
19 elaborated about the PUD and IZ+. We have been back and  
20 forth about that maybe a hundred times. Commissioner May  
21 definitely -- he would handle that and we'd move on.

22 But I will tell you that they keep bringing the  
23 same thing back to me. I don't know if they want us to  
24 bite, and I will talk to Ms. Cain when she comes on, but I  
25 always believe where there's smoke, there's smoke. Mr. Utz,

1 and I'm not putting you on -- putting you out there, but I  
2 just want to know, do you think that there is some validity  
3 to that argument? Do you think that the Zoning Commission  
4 and all the hearings we've had, did we get that wrong?

5 MR. UTZ: No. Simply no. So we were heavily  
6 involved with you all in the IZ+ creation and the concept of  
7 even breathing life into that as a tool that would take  
8 advantage of the Comprehensive Plan amendment that became  
9 effective in August of 2021. And as part of that long  
10 journey that it took, there was very particular attention  
11 paid to keeping IZ+ separate from the PUD journey. They are  
12 very, very I would say elegantly drawn tools to be two  
13 totally different ways to benefit the city.

14 The map amendment was noted throughout the  
15 discussion hearings, filings, what have you, everything that  
16 went into the IZ+ submission as a tool that stood apart from  
17 and was not actually intended to influence PUD. And PUDs  
18 are noted as a holistic, all-encompassing, balancing  
19 undertaking where all the, frankly, great things that have  
20 been mentioned during this hearing can come to life and be  
21 measured, and be this, you know, year plus long journey that  
22 can create the fantastic, complicated, interrelated project  
23 that we're finally able to present to you.

24 They are intended to be two separate things, and  
25 they both work really well unto themselves. There are map

1 amendments that are stand alone. IZ+ does work well, and in  
2 some cases it even expedites them getting to that point.  
3 But in PUDs, IZ+ did not.

4 CHAIRPERSON HOOD: Okay. All right, thank you,  
5 Mr. Utz, because I would agree, as we've already stated, the  
6 PUD, we have other tangible benefits just, you know,  
7 affordable housing is key, but there are other tangible  
8 benefits to that, so thank you for your explanation. And I  
9 also want to just get that on the record. I don't expect  
10 for that question to go anywhere, but I think if OAG keeps  
11 asking me enough, if I keep hearing it, I believe there's  
12 smoke, there's fire, but I appreciate your analysis just  
13 now, and that gives me -- that makes me step back even  
14 further, so thank you.

15 I don't necessarily have any other questions. Let  
16 me see if my colleagues have any follow-up. I think they've  
17 exhausted all the ones I would have had but -- or might  
18 have, could have thought of. And even if I wanted to ask a  
19 architectural question, I think Commissioner Imamura, he  
20 really covered that very well, so I won't go down --

21 (Laughter.)

22 CHAIRPERSON HOOD: I won't even go down that line.  
23 All right, let's see, any follow-up questions or comments?

24 (No response.)

25 CHAIRPERSON HOOD: Okay, Ms. Schellin, do we have

1 Chair Guzman on the line or anyone from -- well, the Chair  
2 or Vice Chair from ANC 5D?

3 MS. SCHELLIN: I do not see anyone from the ANC.

4 CHAIRPERSON HOOD: Okay. And I -- if Chair Guzman  
5 --

6 MS. SCHELLIN: Mr. Guzman is definitely not on.

7 CHAIRPERSON HOOD: Okay, I will read his letter --  
8 well, I will read part of it because it's a very, very well-  
9 written letter, so I don't want to read all of it.

10 Okay, so let's go to I guess Office of Attorney  
11 General now, Ms. Cain.

12 MS. SCHELLIN: Yes. And then Mr. Hagen from DDOT  
13 and Matt Jesick from OP.

14 CHAIRPERSON HOOD: Okay. I just know we usually  
15 don't have OAG, so I didn't want to -- well, we haven't had  
16 them recently, and I didn't want to bypass them, so --

17 Ms. Cain?

18 MS. CAIN: Good evening, Chairman Hood, members of  
19 the Commission. If I could ask Mr. Young to pull up our  
20 presentation?

21 CHAIRPERSON HOOD: Ms. Cain, before you get  
22 started, let me ask, I have not seen OAG in a while, and I  
23 had a case where I really wanted you all to weigh in and you  
24 all are MIA, but I won't get into that. But it's good to  
25 see you again and you may proceed.

1 MS. CAIN: Good to be back. I'll just note for  
2 the record, I'm Alexandra Cain, I am representing the  
3 Equitable Land Use Section of the Office of the Attorney  
4 General here tonight. Our written statement is in the  
5 record at Exhibit 33 through 33(b), and a copy of this  
6 presentation is in the record at Exhibit 34.

7 I will just note quickly as a housekeeping note,  
8 we did file earlier on November 28th. That exhibit is at  
9 Exhibit 25. It is almost identical to the one at Exhibit  
10 33. The one at Exhibit 33 just makes some minor adjustments  
11 to some of the census tract numbers that we were utilizing  
12 to adjust them for inflation, so that's the only difference.

13 Next slide, please, Mr. Young.

14 So OAG is testifying in this case, as we have on  
15 prior PUD --

16 MS. SCHELLIN: I'm sorry. I'm sorry, Chairman  
17 Hood, I just saw that there is someone here from 5D, Hector  
18 Arbuckle.

19 CHAIRPERSON HOOD: Okay, let's go back to --

20 MS. SCHELLIN: I'm sorry, Ms. Cain.

21 CHAIRPERSON HOOD: Okay, I'm sorry, Ms. Cain.

22 Let's go back to --

23 MS. SCHELLIN: I don't want to mess up --

24 CHAIRPERSON HOOD: -- Mr. Arbuckle.

25 MS. SCHELLIN: Yes. I don't know if he's the

1 Chair or Vice Chair, but I do see that he is from 5D.

2 CHAIRPERSON HOOD: Okay, well let's keep Ms. Cain  
3 up and let's bring the Commissioner up.

4 MS. SCHELLIN: Yes. He may be the Chair or Vice  
5 Chair.

6 CHAIRPERSON HOOD: No, I --

7 MR. ARBUCKLE: Hello.

8 CHAIRPERSON HOOD: Are you the Chair now?

9 MR. ARBUCKLE: I am not the Chair nor the Vice  
10 Chair, I am just the Commissioner for SMD01 which is the SMD  
11 where this project is.

12 MS. SCHELLIN: Did they give you --

13 CHAIRPERSON HOOD: So you're --

14 MS. SCHELLIN: -- authorization to testify on the  
15 ANC's behalf?

16 MR. ARBUCKLE: No.

17 MS. SCHELLIN: Okay, that's what we needed to  
18 clarify.

19 CHAIRPERSON HOOD: I -- yeah, okay. Mr. Arbuckle,  
20 let me just ask this, do you have any cross -- so you -- let  
21 me ask this, though, first. You took Commissioner Rhodes  
22 place, right, because she was 5D01 at one time?

23 MR. ARBUCKLE: Yes, and there was this one --  
24 there was one commission in between us, too, who resigned.

25 CHAIRPERSON HOOD: Oh, okay. Recently I think.



1 MR. ARBUCKLE: Mm-hmm, very recently.

2 CHAIRPERSON HOOD: Okay, okay, I'm familiar with  
3 that. Okay.

4 MR. ARBUCKLE: Mm-hmm.

5 CHAIRPERSON HOOD: What are -- just hold tight.  
6 Let me ask you this first, and I'm going to do it this. Do  
7 you have any cross examination -- I mean, any cross  
8 questions of the applicant?

9 MR. ARBUCKLE: Me?

10 CHAIRPERSON HOOD: Yes.

11 MR. ARBUCKLE: No.

12 CHAIRPERSON HOOD: Okay.

13 MS. SCHELLIN: He said he wasn't authorized to  
14 represent the full ANC, Chairman Hood.

15 CHAIRPERSON HOOD: Okay. All right, well I'm sure  
16 Guzman would have -- I don't know if that was -- was that an  
17 oversight? Were you sent here to authorize?

18 MR. ARBUCKLE: (Inaudible response.)

19 CHAIRPERSON HOOD: Were you -- oh, you weren't?

20 MR. ARBUCKLE: No.

21 CHAIRPERSON HOOD: Okay. All right, well I --  
22 we'll come back to you. We will hear from you. We'll come  
23 back to you.

24 All right, Ms. Cain, we apologize. You can go  
25 right ahead. Sorry about that. You can start over.

1 MS. CAIN: Not a problem. Okay, can you pull up  
2 the slide presentation, Mr. Young? And, yeah, that slide is  
3 perfect. Okay.

4 So OAG is testifying in this case, as we have on  
5 prior PUD cases, on the basis of a single issue, affordable  
6 housing. In this case, OAG believes that the PUD's  
7 inclusionary zoning proffer of 15 percent of the residential  
8 gross floor area is insufficient and that the Commission  
9 should not approve the PUD unless the offer is increased to  
10 24.2 percent.

11 PUD's current proffer is contrary to the directive  
12 of the Comprehensive Plan to prioritize the creation of  
13 affordable housing through the recapture of density that the  
14 District increases through the zoning process. Unlike the  
15 PUD's current proffer, the increase set aside proposed by  
16 OAG is directly related to the significant increase in  
17 density being obtained through the PUD process and  
18 represents a truly commensurate public benefit to the  
19 District.

20 Next slide, please.

21 The District has the ability to increase the value  
22 of private land through a variety of means: through  
23 subsidies, through surplussing of public land, or most  
24 relevant to us tonight, through the award of additional  
25 density through the zoning process in the form of either a

1 map amendment or a PUD. Framework element of the  
2 Comprehensive Plan, specifically Section 229.3, states that  
3 when the District increases the value of a property, that  
4 the increased value of the land should be leveraged or  
5 recaptured to meet the District's equity needs in the form  
6 of affordable house.

7           So at its core, this is a principle of reciprocal  
8 benefits. The District is providing the developer with  
9 additional density which increases the value of the  
10 property, and in return the developer has to give back a  
11 portion of that added value in the form of affordable  
12 housing.

13           So this is the principle that underlies the PUD  
14 balancing test which requires PUDs to proffer public  
15 benefits commensurate with the development incentives that  
16 they seek. It is also the underpinning of the basic IZ  
17 regulations which provide bonus density, typically 20  
18 percent, in exchange for specific IZ set aside, eight to ten  
19 percent. And finally, this same logic is what underpins the  
20 IZ+ program which establishes a metric to recapture a  
21 portion of the bonus density gain through a map amendment  
22 for an increased IZ set aside that is proportional to the  
23 amount of density that is gained.

24           Next slide, please.

25           So as I noted, the Comprehensive Plan's principle

1 of value to recapture applies to all the methods by which  
2 the District can increase land value. But the Comp Plan  
3 specifically prioritizes the provision of affordable housing  
4 through PUDs, designating affordable housing as the only  
5 high priority PUD benefit.

6 Next slide, please.

7 So why the focus on affordable housing? This is  
8 in direct response to the District's ongoing affordable  
9 housing crisis, which the Comp Plan notes that the rising  
10 cost of housing is one of the most pressing and critical  
11 issues facing the District and the region. So for the  
12 purposes of our presentation tonight, we are focusing on  
13 rent costs. So you can see here, renters make up the  
14 majority of District residents at about 60 percent, and that  
15 split is even more extreme in the census tract that includes  
16 the PUD. It's almost 90 percent renters.

17 Now this is not a recent trend. Going back to  
18 2000, the population of the census tract has gone between 80  
19 and 90 percent renters, which means that this is an area  
20 that is going to be more severely impacted by increases in  
21 rental prices.

22 Next slide, please.

23 So looking at the District as a whole to try and  
24 understand the increasing costs, as you can see, annual rent  
25 in the District since 2000 has increased by 70 percent.

1 Meanwhile, median household income has only increased by 45  
2 percent, meaning it's becoming more and more difficult for  
3 District residents to afford rental costs in the city.

4           Next slide, please.

5           Going a step down to the planning area, this is in  
6 line with what the Comprehensive Plan notes has been going  
7 on in the upper northeast planning area. The Comp Plan  
8 notes that there is an increased need for affordable housing  
9 here because the housing market is becoming increasingly  
10 unaffordable and also because this area has a higher  
11 proportion of people living in poverty and in unemployment  
12 than the rest of the District. I will note that to date the  
13 planning area is only at 64.4 percent of its housing goal  
14 under the Housing Equity Plan, and at the rate that they are  
15 currently going up, which is approximately 174 units a year,  
16 they will probably come up slightly short of that goal by  
17 the time the clock runs out in 2025.

18           Next slide, please.

19           So now looking at the census tract. So as we saw  
20 a moment ago, District-wide, median income is lagging behind  
21 median annual rent. However, there's a different story  
22 being told in the census tract. As we can see here, median  
23 household income jumped by a whopping 148 percent between  
24 2020 and '21, but the rents also increased over 100 percent  
25 during that period.

1           What these numbers speak to is an area of the city  
2 that has rapidly become much more expensive and much more  
3 exclusive. And as I think everyone here tonight who has a  
4 passing understanding of Union Market knows, this has been a  
5 development hotspot, and it has changed dramatically over  
6 the past 20 years. The result of this development boom is  
7 that the rents have increased and it is now limiting  
8 residency in this area to the people who can keep up with  
9 those rising rents, thereby keeping people who are on the  
10 lower end of the income spectrum out.

11           Next slide, please.

12           This pattern of increasingly expensive and  
13 exclusive development is exactly what the Comprehensive Plan  
14 is seeking to address as part of its overall goal of  
15 creating a more equitable and inclusive city that tries to  
16 make all of its neighborhoods accessible to all of its  
17 residents. As we know, income has disparate impacts based  
18 on race, and we can see that in the census tract here.

19           Next slide, please.

20           So as I said, while median income in the census  
21 tract has increased overall, as you can see from this slide,  
22 that is not uniform across the board. White household  
23 median income is significantly higher than the income of  
24 non-white households by almost \$30,000. The impact of that  
25 means that white households are going to be less

1 economically burdened by the median annual rent in this  
2 area, which is approximately \$20,000, than non-white  
3 households.

4           Next slide, please.

5           So this is looking at that same data in a slightly  
6 different way as median housing cost is a percentage of  
7 median household income. So we can see here, median -- or  
8 sorry, non-white households are more likely to be paying 30  
9 percent of their income and housing costs, meaning that they  
10 are housing cost burdened. This comports with what other  
11 studies looking at the impacts of rising housing costs along  
12 racial lines have found.

13           A study was published just last month by the Urban  
14 Institute looking at housing insecurity, which is a slightly  
15 broader metric, but which found that 12 percent of all  
16 District residents are housing insecure. And out of that  
17 housing insecure population, 68 percent identify as black  
18 not Hispanic. And the primary cause for this housing  
19 insecurity is unaffordability.

20           Next slide, please.

21           So we've established that there is an  
22 affordability crisis in the District and in the area  
23 immediately surrounding the PUD, so the question tonight is  
24 how can the PUD address it. As I discussed in the  
25 beginning, the Comprehensive Plan calls for discretionary

1 density increases to be leveraged with a portion of that  
2 added value of the density recaptured and returned to the  
3 District in the form of affordable housing. It follows that  
4 the affordable housing proffered should bear some relation  
5 to the additional density gained through the project in  
6 order to constitute a commensurate benefit.

7           Next slide, please.

8           So what is the PUD getting? In terms of height, a  
9 map amendment to the MU-9A would result in an increase of 50  
10 feet over the buy right maximum in the PDR-1 zone. The PUD  
11 is gaining an additional 30 feet for a total increase of 80  
12 feet over the existing zone or 160 percent increase. That  
13 additional 30 feet of height is of significant value to the  
14 developer. It equates to approximately three additional  
15 stories, and as you heard earlier, those stories are going  
16 to have a spectacular view of the Capitol Building, the  
17 Washington Monument. They will facilitate the provision of  
18 high-end amenity space. All things that increase the value  
19 of the property for the developer.

20           Next slide.

21           In terms of density, the PUD is similarly gaining  
22 significant gains. A map amendment to the MU-9A would  
23 result in -- excuse me, would more than double the permitted  
24 maximum FAR on the site, going from 3.5 FAR to 7.8. The PUD  
25 is proposing to utilize an additional 1.51 FAR for a total



1 increase of approximately 260,000 square or a 166 percent  
2 increase over the existing zone.

3 Next slide.

4 So through the District zoning process, the PUD is  
5 going to increase the buildable density on the site by 166  
6 percent. But in exchange for all that density, it is only  
7 increasing the IZ set aside 88 percent, roughly half the  
8 increase in density. Putting it another way, the PUD is  
9 only proffering an additional seven percent over the  
10 resident -- of the residential GFA, over the eight percent  
11 that is required as a baseline by the zoning regulations.

12 When compared to the significant increase in  
13 density, and more critically the additional value that is  
14 resulting from that density, this proffer is woefully  
15 insufficient.

16 Next slide, please.

17 So to put this in greater context, we wanted to  
18 consider what would be required for a non-PUD map amendment  
19 to be MU-9A subject to the IZ+ program. This map amendment  
20 would result in a 123 percent increase in the buy right  
21 buildable density over the existing zoning. In exchange,  
22 the IZ+ regulations would require a project in the new zone  
23 to set aside 20 percent of its residential GFA for IZ. This  
24 represents a 150 percent increase over that eight percent of  
25 residential GFA required as a baseline by the IZ

1 regulations.

2           So to be clear, a standalone non-PUD map  
3 amendment, which would result in less density than a PUD,  
4 would result in a greater increase in IZ than the PUD is  
5 currently proposing.

6           Next slide, please.

7           So to put this in terms of units since I know  
8 talking about percentages can get kind of confusing, to me  
9 as well, if you were to assume that a project built out on a  
10 property subject to the MU-9A and IZ+, the lesson maximum,  
11 assuming for the sake of comparison that is was providing  
12 the same amount of non-residential GFA as the PUD, which is  
13 roughly 56,000 square feet, it would provide approximately  
14 233 market rate units and 58 IZ units.

15           The PUD is providing approximately 300 market rate  
16 units and based on these -- our original calculations, it  
17 was 54. You heard tonight that it is actually going to be I  
18 believe 46. So the map amendment would be getting 67 fewer  
19 market rate units and still provide 12 more IZ units than  
20 the PUD. If I've done my math right.

21           Understanding this, how can the PUD's proffer be  
22 consistent with the direction of the Comprehensive Plan to  
23 recapture that value of the bonus density it's getting and  
24 use it for high-priority affordable housing, or satisfy the  
25 PUD balancing test which requires that the PUD's public

1 benefits be commensurate with its development incentives.  
2 The fundamental issue that we see is that the PUD's IZ  
3 proffer bears no relationship to the proposed density  
4 increase. At the end of the day, it is an arbitrarily  
5 selected percentage that is not based on any metric and does  
6 not come with any background evidence to support it.

7 Next slide, please.

8 So this is why OAG maintains that the IZ+ metric,  
9 which establishes a proportional relationship between added  
10 density and affordable housing in order to satisfy the  
11 Comprehensive Plan's directive to recapture the density's  
12 added value should be used to establish the appropriate set  
13 aside for PUDs. In this case, and as explained in detail in  
14 our filings, IZ+ requires a set aside of 24.2 percent on the  
15 residential GFA. That would be commensurate with the PUD's  
16 166 percent increase in density.

17 The result would be a project with 272 market rate  
18 units and 87 IZ units, which is, again based on these old  
19 numbers, 33 more than the PUD is currently proposing to  
20 provide, but now it would be more since their IZ -- number  
21 of IZ units is now lower. This result would be in alignment  
22 with the directives of the Comp Plan. A PUD with a 24.2  
23 percent set aside would gain roughly 40 more market rate  
24 units and a straight map amendment. It would also provide  
25 29 more IZ units.

1           This we think is a much more rational result than  
2 the current PUD, which is getting so much more in terms of  
3 its market rate units and providing so much less in terms of  
4 IZ.

5           Next slide, please.

6           So just to recap, the -- with -- a set aside of  
7 24.2 percent would result in a project with 272 market rate  
8 units and 87 IZ units.

9           Next slide, please.

10          Now the counterargument that we have heard in  
11 other cases, and as we have heard a little bit here tonight,  
12 is that unlike map amendments, PUDs can provide public  
13 benefits other than affordable housing. This is true, but  
14 the Comprehensive Plan designates affordable housing as the  
15 only high-priority public benefit. Nothing else is  
16 identified as being as critically important to the district.  
17 As such, the substitution of any other benefit requires a  
18 justification as to why that should be prioritized and  
19 should be truly extraordinary in its nature.

20          Next slide, please.

21          In reviewing the benefit package that PUD has  
22 proffered, OAG does not believe that any of the other  
23 benefits warrant substitution for the additional IZ units.  
24 They're great features of the project, they are certain  
25 benefits, but we do not believe that they compensate for that

1 shortfall in affordable housing. As we've noted in prior  
2 cases, the design flexibility and the design benefits we  
3 believe effectively balance or pay for one another and  
4 therefore cannot be used to substitute for IZ.

5           The PUD's other main proffered benefit, the  
6 provision of PDR space, is a requirement of the future land  
7 use map and is fairly minimal in both its size and duration.  
8 We'll note that the Office of Planning did also request that  
9 the applicant consider enlarging the space. So again, yes,  
10 these are benefits, but they do not rise to that  
11 extraordinary level to merit substitution for additional  
12 affordable house.

13           Next slide, please.

14           So to conclude, the District is clearly in a  
15 housing crisis, and the Comprehensive Plan calls for bonus  
16 density that is awarded through the zoning process to be  
17 leveraged to address that crisis through the creation of  
18 additional high-priority affordable housing. The developer  
19 in this PUD is receiving a substantial benefit from the  
20 District, a 166 increase in density. That requires an  
21 affordable housing benefit of commensurate scale, and the  
22 PUD's current proffer is woefully short of that. As such,  
23 OAG maintains that the Commission should not approve the PUD  
24 unless the affordable housing proffer is increased to 24.2  
25 percent.

1           That concludes my testimony. We've provided our  
2 section's contact information on the next slide, if you can  
3 go to that, Mr. Young. And with that, I'm happy to answer  
4 any questions.

5           CHAIRPERSON HOOD: Thank you, Ms. Cain. Let's see  
6 if others have questions. I have a few follow-up, but let  
7 me see. Commissioner Imamura, any questions or comments?

8           COMMISSIONER IMAMURA: Thank you, Chairman Hood,  
9 and thank you, Ms. Cain, for your presentation. I listened  
10 intently, and I agree that the city is challenged by the  
11 need for more affordable housing. I think we all agree that  
12 -- with that.

13           To your point that affordable housing is the only  
14 high-priority public benefit that's stated in the Comp Plan,  
15 and that any other, as you call them, features for public  
16 benefits should be truly extraordinary, and I'm of the  
17 belief that there is a nexus between good design,  
18 architectural design, landscape design, and public health,  
19 and I think public health is extraordinary and of equal  
20 importance to the need for more affordable housing.

21           Again, I appreciate your renewed approach tonight,  
22 and I will say that you have me thinking. But for tonight,  
23 I still am in support of this application, but we'll give  
24 your presentation some more consideration and more thought.  
25 And I want to thank you for your efforts and time that you

1 put into it, and I hope that you, too, will also think about  
2 the connection between good design and public health because  
3 I think that's real and tangible there.

4 All right, Mr. Chairman, those are all my  
5 comments.

6 CHAIRPERSON HOOD: All right, thank you. Good  
7 point.

8 Commissioner Stidham, any questions or comments?

9 COMMISSIONER STIDHAM: No, no questions or  
10 comments. Thank you, though, very much for your  
11 presentation, it did give us some food for thought moving  
12 forward, so thank you.

13 CHAIRPERSON HOOD: And -- thank you.

14 And, Vice Chair Miller, any questions, comments?

15 VICE CHAIR MILLER: Thank you, Mr. Chairman, and  
16 thank you, Ms. Cain, for bringing forward OAG's written and  
17 verbal testimony here tonight. I appreciate all the  
18 arguments that you are making.

19 You know, I think you know that my heart and, not  
20 that this is relevant, the Commission's heart is where you  
21 are in terms of the principles of -- and the goals of  
22 affordable housing and increasing affordable housing. But I  
23 think in at least four previous orders, we have basically  
24 agreed to disagree with the OAG argument that IZ -- the IZ+  
25 metric applies in PUD cases because it just does not. It

1 maybe should and maybe you should bring forward a case that  
2 clarifies that it should, which then would lead to a very  
3 fulsome discussion amongst all stakeholders going forward as  
4 to the appropriate metric that should be applied in planned  
5 unit development cases.

6           But there was a lot of discussion about that at  
7 the time that IZ+ was adopted, and encouraging PUDs, which  
8 at the time were being litigated against by various  
9 community groups and creating incentive for map amendments  
10 to happen without PUDs but not creating a disincentive for  
11 PUDs come -- to come forward with other public benefits in  
12 addition to, yes, the high priority -- not -- it doesn't say  
13 the only high priority, but it is the only public benefit  
14 where it's listed in the Comp Plan as a high priority, but  
15 there are a lot of public benefits associated with PUDs that  
16 are part of that balancing test.

17           So I don't want to send you on a work mission that  
18 -- to bring forward a case, but we have agreed to disagree  
19 in the past in terms of the IZ+ metric being applied to  
20 planned unit development cases. And, yes, there's an  
21 incredible amount of density -- increased density and height  
22 as almost in all of the Union Market cases that have been --  
23 that have come forward, and we've evaluated the public  
24 benefits and the increased IZ affordable housing beyond the  
25 baseline that matter of right requires and found them to be



1 commensurate.

2           So anyway, I think your presentation was with a  
3 visual -- with the visual present -- the visuals that you  
4 provided was very helpful for the record, but I think we  
5 just continue to agree to disagree that that IZ+ metric  
6 application in PUD cases, we have a fundamental  
7 disagreement, and you may want to bring forward a clarifying  
8 text amendment where we can thrash that out and maybe change  
9 the way we're interpreting the regulations to be more  
10 consistent -- more in line with the way you -- the OAG  
11 equitable land use section is interpreting it.

12           But for now, I think our reasoning has been sound.  
13 I think this is a good project, it has the support of the  
14 community. It was a PUD so that they got to work with --  
15 they had to work with ANC 5D and got more three-bedroom  
16 units. There are other public benefits that are involved  
17 here and other public benefits, mitigation issues that they  
18 worked on and that they're incorporated into the application  
19 that's before us.

20           So I guess that's all I have to say, Mr. Chairman,  
21 at this point. But thank you, I appreciate the  
22 thoughtfulness of OAG, the less adversarial tone and  
23 combativeness that existed in prior years, but all the same  
24 players, we're all still here, but we learned how to maybe  
25 agree to disagree on this particular issue, and maybe there

1 will be a different interpretation going forward if we  
2 clarify that in the future.

3 But there are upsides and downsides to that and  
4 that should be debated in a fulsome debate in terms of what  
5 we're trying to accomplish in the city to allow development  
6 projects to go forward, facilitating them in a way that  
7 benefits the adjacent communities and the District of  
8 Columbia as a whole, and I think on balance we've got a  
9 project here that is doing that here tonight in our existing  
10 regulations, so I'm inclined to support it as it is right  
11 now. But I do appreciate the thoughtfulness of your  
12 comments.

13 Thank you, Mr. Chairman.

14 CHAIRPERSON HOOD: Thank you. Thank you to my  
15 colleagues.

16 Ms. Cain, I do agree. I want to get to where you  
17 are, and I was sitting here thinking about how we get there.  
18 But I will tell you that I know Councilman Nadeau actually  
19 put that element in the framework of the Comp Plan, and the  
20 Comp Plan -- and I've been trying to find it. But I know  
21 when I first got on the Zoning Commission it was about the  
22 Comp Plan being a guidance document. It's very general for  
23 us. Our regulations and what we put in place is what we go  
24 by and deal with.

25 But my issue is I want to be where you are and as

1 we move through this, this app is dealing with what we have  
2 in place. But I agree with that, but that -- like others  
3 have said and Vice Chair has mentioned, there is some  
4 unintended consequences to this that -- we've went through  
5 this before, and it's almost as though -- and I'm not being  
6 adversarial because we've gotten beyond that, we had a  
7 transition to deal with and we've gotten beyond that point.  
8 Now -- and actually, I'm in line with that and always have  
9 been, but it's just how we get there. And I don't think  
10 using the Comp Plan the way you all are using it is the way  
11 to go because, you know.

12           And I'm almost up to the point I don't want to ask  
13 about a specific case that's happening in zoning, but I  
14 would like to ask Councilman Nadeau, and I may do that.  
15 She's a friend of mine. And ask her what was her  
16 legislative intent because she was the one who made that --  
17 the -- if I'm not mistaken, and you can correct me if I'm  
18 wrong, the Comp Plan 224.9 identifies affordable housing as  
19 the only high-priority PUD public benefit. Is that all it  
20 says or does it say more? Because I don't have time to look  
21 it up right now. Does it say any more than that?

22           MS. CAIN: It describes high-priority HUD benefits  
23 as the provision of affordable housing and anti-displacement  
24 measures. But anti-displacement measures review is the flip  
25 side of additional affordable housing, so basically one in

1 the same.

2 CHAIRPERSON HOOD: Okay.

3 MS. CAIN: I would just note, Commissioner Hood,  
4 just the Comprehensive Plan is law and the regulations that  
5 guide the Zoning Commission come out of that law, so any  
6 decision that the Zoning Commission makes does need to be  
7 consistent with the Comprehensive Plan, so it does feed into  
8 it that way.

9 CHAIRPERSON HOOD: Right. And it said -- and I  
10 was -- I've been around a while, and it says not to be  
11 inconsistent. That was a whole three, four, five-month  
12 discussion, not to be inconsistent. As we thought about --  
13 and, Vice Chairman Miller, you may remember this. We  
14 thought about changing it from saying not to be inconsistent  
15 to talking about it should be inconsistent. That was a  
16 three-month discussion, and I happened to be around. I was  
17 still trying to learning this.

18 But I do know that the Comp Plan -- you're right,  
19 the Comp Plan is law, but it is -- you know, and I'm not  
20 going to sit here and argue with a lawyer, but I do know --  
21 I've been around enough to know that it's very general, and  
22 just like what you see in the Comp Plan -- well -- here's  
23 the thing, I'm not even go to that point, because I've  
24 served on two task forces with the Comp Plan.

25 But what I will say is everybody wants to be where

1 you are. And what strikes me the most is when I hear about  
2 the racial who is going to be able to go to this site and  
3 who is not going to be able. I have a problem with that.  
4 But I think this applicant is working with what they have in  
5 front of us. They worked very diligently with the ANC.

6 But again, Ms. Cain, I think we need to find a  
7 better way than something that we already wrote for our IZ+  
8 and equate it to PUD benefit, which we have other benefits,  
9 and then I think one of my colleagues mentioned design and  
10 other things. But the key -- this is the most priority, and  
11 I would agree with that. I don't disagree with that.

12 But I don't know, let me think. I don't want to  
13 start rambling on, but let me think some more about this. I  
14 just don't think -- I think we all want to be in the same  
15 place, I just don't think we're doing -- we're going down  
16 the right road to get there. That's where I am.

17 All right, any other questions or comments?

18 (No response.)

19 CHAIRPERSON HOOD: All right, thank you, Ms. Cain,  
20 we appreciate your testimony.

21 Let's see if -- does the applicant -- Ms. Cain  
22 don't go nowhere.

23 Does the applicant have any cross?

24 MR. UTZ: Not at this time. Thank you.

25 CHAIRPERSON HOOD: Okay. And we don't have

1 anybody from ANC. Not -- well, we have a commissioner we're  
2 going to call on.

3 Thank you, Ms. Cain.

4 All right, Ms. Schellin, let's go to Mr. Hagen,  
5 DDOT.

6 MS. SCHELLIN: Mr. Young, could you bring Mr.  
7 Hagen up, please?

8 MR. HAGEN: Hi. Good evening, Chairman Hood and  
9 members of the Commission. For the record, I'm Noah Hagen  
10 with District Department of Transportation. DDOT is  
11 supportive of the applicant's PUD application to redevelop  
12 the property at 1345 4th Street Northeast.

13 In our November 22nd report, excuse me, which is  
14 in the record as Exhibit Number 22, we recommended approval  
15 with one condition which is the implementation of a  
16 transportation demand management plan with two additions.  
17 And as you heard in the applicant's presentation, they've  
18 agreed to this -- excuse me, the implementation of a TDM  
19 plan with two additions, and the applicant has agreed to the  
20 condition, and with those included in the zoning order, DDOT  
21 has no objection to the approval of this PUD application.  
22 And we look forward to continuing to work with the applicant  
23 on the streetscape design and curbside management plan as  
24 they go through public space permitting.

25 Thank you, and I'd be happy to answer any

1 questions.

2 CHAIRPERSON HOOD: Thank you, Mr. Hagen.

3 Let's see if we have any questions of Mr. Hagen.

4 Commissioner Imamura?

5 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

6 No questions for Mr. Hagen.

7 Mr. Hagen, thank you for your report. They're  
8 giving you a lot of practice coming before the Zoning  
9 Commission. You're doing great. Thank you. Keep up the  
10 good work.

11 CHAIRPERSON HOOD: Thank you.

12 Commissioner Stidham, any questions of Mr. Hagen?

13 COMMISSIONER STIDHAM: No questions, but thank  
14 you, Mr. Hagen, for your report.

15 CHAIRPERSON HOOD: And Vice Chairman, any  
16 questions of Mr. Hagen?

17 VICE CHAIR MILLER: No question.

18 Thank you for the DDOT report and all your work on  
19 this case.

20 CHAIRPERSON HOOD: And, Mr. Hagen, I don't think  
21 I've ever told you this because you were relatively new and  
22 you're not new anymore, so I'm going to tell you that when I  
23 go down the -- to the market and I'm in traffic, I'll be  
24 thinking of you and this applicant. I just want you to know  
25 that. Okay. Thank you, Mr. Hagen.

1 Does the applicant have any questions of Mr.  
2 Hagen?

3 MR. UTZ: We do not, thank you.

4 CHAIRPERSON HOOD: Okay. All right, thanks again,  
5 Mr. Hagen.

6 Let's go to the Office of Planning. I think that  
7 -- who is this, Mr. Jesick, Ms. Schellin?

8 MS. SCHELLIN: Yes.

9 CHAIRPERSON HOOD: Yes. Okay.

10 Mr. Jesick, you may begin whenever you're ready.

11 MS. SCHELLIN: And probably Mr. Lawson, too.

12 CHAIRPERSON HOOD: And Mr. Lawson.

13 MR. JESICK: Thank you, Mr. Chairman, and members  
14 of the Commission. The Office of Planning recommends  
15 approval of the proposed PUD and related map amendment. We  
16 also recommend approval of the requested zoning flexibility  
17 and the associated air space development.

18 We did note some recommendations in our report and  
19 those include the design utilizing the DOEE recommended LEED  
20 system, providing more information in the record about  
21 tenant relocation, and we feel the applicant has addressed  
22 that this evening. And as the Commission knows, on all of  
23 these cases, we always recommend greater and longer  
24 commitment to PDR uses in the retail space. However, we are  
25 very supportive of the architecture of the building and the



1 site design, including the creation of the paseo and the  
2 activation of the alley.

3 We appreciate all the balconies included in the  
4 design and the continuing efforts of the applicant to  
5 maximize the number of units with access to a balcony. We  
6 also thank the applicant for continuing to work with our  
7 urban design division in refining the design of the canopy  
8 along 4th Street.

9 With the applicant's discussion this evening, OP  
10 is also fully supportive of the requested design  
11 flexibility, and in our report we had suggested some minor  
12 refinements to that language, but we've continued our  
13 discussions with the applicant on those points and that  
14 concern has been resolved.

15 OP also finds that the project benefits would be  
16 commensurate with the amount of flexibility gained through  
17 the PUD and that includes a variety of benefits, including  
18 urban design and architecture, housing and affordable  
19 housing, three-bedroom units, environmental benefits, and we  
20 thank the applicant for increasing the amount of solar power  
21 on the roof, even since our report was written, and also the  
22 PDR construction specifications.

23 And finally, OP finds that the project would not  
24 be inconsistent with the Comprehensive Plan, including when  
25 viewed through a racial equity lens. The project would not

1 be inconsistent with the Plan's land use maps and would  
2 further a number of written policies related to equity,  
3 including policies on housing and affordable housing,  
4 housing provided near transportation options, enhanced  
5 walkability, environmental equity, and support for small  
6 local businesses. My complete equity analysis against the  
7 Commission's racial equity tool can be found both in our set  
8 down report and in our public hearing report.

9 That concludes my verbal testimony, but again, OP  
10 recommends approval of the PUD, and I'm available for any  
11 questions. Thank you.

12 CHAIRPERSON HOOD: Thank you, Mr. Jesick.

13 Before I forget, Mr. Utz, did you provide Comp  
14 Plan Policy Element 224.9? The -- I would like to know what  
15 the legislative history is on that. If you could provide  
16 that for --

17 MR. UTZ: Sure, we're happy to -- sure, we're  
18 happy to provide that.

19 CHAIRPERSON HOOD: Okay, thank you. Okay, thank  
20 you, that would be great. That will save me from having to  
21 search around and go ask the councilman.

22 All right, let's see if we have any questions.  
23 Thank you, Mr. Jesick, for your report.

24 Let's see if we have any questions of Mr. Jesick.  
25 Commissioner Imamura?

1                   COMMISSIONER IMAMURA: Thank you, Mr. Hood -- Mr.  
2 Chairman.

3                   Mr. Jesick, I do not have any questions, just a  
4 comment. Thank you for your work on this project as well as  
5 the work that you and your peers do to make the city a  
6 better place to live, work, and play.

7                   Thank you, Mr. Chairman.

8                   CHAIRPERSON HOOD: Okay, thank you.

9                   Commissioner Stidham?

10                  COMMISSINER STIDHAM: No questions or comments.  
11 Thank you so much.

12                  CHAIRPERSON HOOD: And Vice Chair Miller?

13                  VICE CHAIR MILLER: Thank you, Mr. Chairman, and  
14 thank you, Matt Jesick, for your work on this case, and your  
15 report, and all of your recommendations, all of which I  
16 agree with and would encourage the applicant to follow your  
17 encouragement.

18                  I guess my one question would be could you respond  
19 to the Office of Attorney General's argument that IZ+ metric  
20 should apply in this type of a case, that general issue, if  
21 you could just provide a brief response, if you're able --  
22 if you're prepared to do that at this point or you can do it  
23 in writing if you are more comfortable, but I think you  
24 probably could do it here.

25                  MR. JESICK: Sure, I'm happy to provide a brief

1 response. You know, I think the IZ+ program was created to  
2 capture some benefit for the city at a time when we were  
3 seeing an increase in the number of map amendments and we  
4 wanted to get a benefit out of those zoning actions, and the  
5 IZ+ program is a great way to realize a high level of  
6 affordable housing when the Zoning Commission changes the  
7 zoning on a particular site.

8           The PUD, however, is different in that it's a  
9 specific project. The Commission has the ability to  
10 evaluate the design, other benefits that may be present with  
11 that particular project. Just to take the current project  
12 as an example, you know, the applicant is committing to  
13 provide three-bedroom units. That's not something that we  
14 would necessarily be guaranteed through a map amendment.

15           Similarly, we know what the environmental  
16 performance of this building is going to be, also something  
17 that we would not know when it comes to a map amendment. So  
18 I think there's a variety of benefits that through the PUD  
19 process the Commission can evaluate and weigh in addition to  
20 the critical benefit of affordable housing.

21           VICE CHAIR MILLER: Well, thank you for that, and  
22 if you want to -- if the Office of Planning wants to  
23 supplement that in any way, feel free to do so, but I think  
24 that sums it up pretty well. So thank you very much, Mr.  
25 Jesick, for your work.

1 I can't hear you, Mr. Chairman.

2 CHAIRPERSON HOOD: I just put myself on mute. I -  
3 - maybe I -- you didn't want to hear what I was just getting  
4 ready to say. I also want -- also leave the record open,  
5 Ms. Schellin, for the applicant to respond to OAG as well as  
6 these Comp Plan policies in which the OAG responded to in  
7 their report.

8 Even -- Mr. Utz, even what I asked for, I'd still  
9 like for you all to leave the record open to respond to  
10 that. I'm going to leave the record open for those things.

11 All right, Mr. Jesick, I don't necessarily have  
12 any questions for you. Thank you again always for a very  
13 thorough report, and I appreciate your response to all my  
14 colleagues.

15 Mr. Utz, do you have any questions of Office -- I  
16 mean, cross of Office of Planning?

17 MR. UTZ: We do not, thank you.

18 CHAIRPERSON HOOD: Okay, thank you.

19 All right, Ms. Schellin, I guess I -- do I have to  
20 read the ANC report or can the ANC -- well, you know what, I  
21 can make that decision.

22 Let me bring the ANC Commissioner up, please.

23 Okay, Commissioner Arbuckle, were you going to -- were you  
24 going to -- were you thinking you were coming to do the ANC  
25 report or are you just going to speak on your own?

1 MR. ARBUCKLE: I was coming to speak on my own.

2 CHAIRPERSON HOOD: Okay. Well, hold tight, hold  
3 tight.

4 All right, anyway, ANC 5D, including Commissioner  
5 Arbuckle, I believe you were on this at the time, if not,  
6 forgive me, but this is from ANC 5D, Chair Guzman. They are  
7 in support of this application and they have a lot to say  
8 about the innerworkings, but he -- the specific, they had a  
9 five-dealer motion made by Commissioner Rhodes. The ANC  
10 voted -- oh, you were not there, okay. The ANC voted to  
11 support the above-referenced on December 13, 2022, by a vote  
12 of five yay, zero nay, and one abstaining. So -- and that's  
13 our Exhibit Number 10 from the ANC.

14 All right, Commissioner Arbuckle.

15 COMMISSIONER ARBUCKLE: Hello.

16 CHAIRPERSON HOOD: Okay. Hello. You may go right  
17 ahead. Are you here to support or opposition?

18 COMMISSIONER ARBUCKLE: I am in support of the  
19 project.

20 CHAIRPERSON HOOD: Okay, go right ahead.

21 COMMISSIONER ARBUCKLE: So I would like -- my name  
22 is Hector Arbuckle. Thank you so much for letting me  
23 present today. And I'm the single-member district  
24 commissioner for ANC 5D01 which is where Commissioner Rhodes  
25 used to represent.

1           So as you just saw, ANC 5D -- well, I personally  
2 am also in support of what ANC 5D wrote while Commissioner  
3 Rhodes was still the representative. And I would just like  
4 to second what Commissioner Rhodes said. She was the one  
5 who negotiated the most with the developer over the period -  
6 - over the several year period where she worked with Edens,  
7 and I just wanted to say that as the current commissioner, I  
8 also am in support of this project and -- as it would be a  
9 very nice addition to the Union Market area.

10           And even though the 15 percent affordable housing  
11 proffer, while it may be lower than OAG would like, is still  
12 higher than most other affordable housing proffers in the  
13 Union Market area and would deliver substantially. The  
14 additional density allows the 15 percent to be more total  
15 units than it would be if it were a lower density.

16           So I'm just in support of this development. Thank  
17 you very much.

18           CHAIRPERSON HOOD: Thank you, Commissioner  
19 Arbuckle. I will tell you that it is -- we appreciate you  
20 coming down to endorse what your predecessor -- your one  
21 predecessor and the Commission did prior to your -- it means  
22 a lot that you agree with them and come down and endorse.  
23 And I wish you well as you do your tenure as the  
24 commissioner. But let's see if we have any questions of  
25 you.

1 Commissioner Imamura?

2 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

3 Commissioner Arbuckle, thank you for coming down  
4 and sharing your views with us this evening. I also  
5 appreciate your work in the community for the city.

6 CHAIRPERSON HOOD: And also, Vice Chair Miller, do  
7 you have any questions?

8 VICE CHAIR MILLER: No questions.

9 Thank you for your testimony and your service to  
10 your community.

11 CHAIRPERSON HOOD: And Commissioner Stidham, do  
12 you have any questions?

13 COMMISSIONER STIDAM: (No response.)

14 CHAIRPERSON HOOD: Okay, she may have -- okay.  
15 All right, thank you -- oh, I'm sorry, Mr. Utz, do you have  
16 any questions of Commissioner Arbuckle?

17 MR. UTZ: I do not, thank you.

18 CHAIRPERSON HOOD: Okay, thank you.

19 Commissioner Stidham, did you have any questions  
20 of Mr. -- Commissioner Arbuckle?

21 COMMISSIONER STIDHAM: No, sir.

22 CHAIRPERSON HOOD: Okay, great.

23 All right, thank you, Commissioner. Appreciate  
24 it.

25 Ms. Schillin, I think I can go now to the witness



1 list?

2 MS. SCHILLIN: And there are no witnesses other  
3 than Mr. Arbuckle. In any category, there's no more  
4 witnesses.

5 CHAIRPERSON HOOD: Okay, so there are no  
6 witnesses.

7 Mr. Utz, can you do the rebuttal? And you know  
8 what we've asked for. I hope you remember what we've asked  
9 for.

10 (Laughter.)

11 CHAIRPERSON HOOD: All right, Mr. Utz, let me turn  
12 it over to you.

13 MR. UTZ: Great, thank you, Chairman Hood. We do  
14 understand the requests for the post-hearing submission, and  
15 we will gladly submit that. We do have some comments on  
16 rebuttal in response to the OAG presentation. Mr. Dettman  
17 will respond to some of the PUD balancing tests and Comp  
18 Plan elements relevant to the issues raised by OAG because  
19 we think there are elements of that discussion that need to  
20 be addressed and in some cases corrected. We'd like to make  
21 sure that the record clearly reflects how the zoning  
22 regulations address the PUD analysis and how the  
23 Comprehensive Plan addresses affordable housing, and we'll  
24 also reflect that in our post-hearing submission.

25 Mr. Dettman?

1 MR. DETTMAN: Thanks, Jeff.

2 And again, good evening, Commissioners. Before I  
3 get into some of the specific Comp Plan provisions that the  
4 Office of Attorney General notes in their filing, I just  
5 wanted to make one comment about some of the numbers that  
6 were presented to you, specifically some of the numbers  
7 about the census tract.

8 I think it's important to keep in mind kind of how  
9 numbers can be used when you're trying to kind of conduct an  
10 analysis, and present analysis, and make a point.

11 Commissioner's you'll remember that I think in four recent  
12 projects in the same planning area, the upper northeast  
13 planning area, the Tacoma Park Metro PUD, the map amendment  
14 at 701 Michigan Avenue, the Brooklyn Plaza voluntary design  
15 review project. That's just on the other side of the  
16 Charles Richard Drew Memorial Bridge, Chairman Hood.

17 (Inaudibl.)

18 And then the -- and then I think it was last week  
19 or two weeks ago the All Affordable Senior Project volunteer  
20 design over at 1800 Hamlin, you may recall that I presented  
21 -- or noted a study that was done by Maryland-National  
22 Capital Park and Planning Commission that looked at  
23 neighborhood change in D.C. and the surrounding  
24 jurisdictions between 2000 and 2019. And that analysis,  
25 which is an interactive map that you can go to, it's done at

1 the census tract level, which is how OAG presented its  
2 numbers today.

3           And in the upper northeast area, you may recall  
4 like in the Tacoma Park PUD, that census tract, if you look  
5 at it from 2000 to 2019, that census tract is experiencing  
6 displacement. The census tract that the Union Market area  
7 is in is not one of those census tracts. As a matter of  
8 fact, if you look at the census tract, what happened between  
9 2000 and 2019, that study shows using the same data that the  
10 Office of Planning used in its racial equity analysis and  
11 the same day that that's cited to in the OAG submission,  
12 that census tract experienced moderate inclusive growth  
13 between 2000 and 2019.

14           And if you think about it, that census tract  
15 includes the Union Market area, Gallaudet University, and  
16 the area of Ivy City where you have the pro fish --  
17 industrial uses, commercial uses, so nobody lived there in  
18 2000. And over the past 20 years through several actions of  
19 the Zoning Commission, you all have approved multiple mixed  
20 use projects that have significantly increased the  
21 population of that census tract, and in each of those  
22 projects have substantial affordable housing in it.

23           And so that study showed that that census tract  
24 experienced moderate inclusive growth because even though  
25 the median to high income residents grew in that area over

1 19 to 20 years, so did the population of low-income  
2 residents. So I just wanted to just make that point that,  
3 you know, numbers can be used in all sorts of ways, but I  
4 think we have a study out there that shows that this area,  
5 at least in this small census tract, is moving along in a  
6 fairly good direction. Is it an ideal direction? Possibly  
7 not. But it did experience inclusive growth.

8 In terms of the Comprehensive Plan, specifically  
9 Section 224.9, and this goes to Chairman Hood's question,  
10 it's important to note that the framework element expressly  
11 states that the framework element does not contain any  
12 policies whatsoever. It stated that in Section 206.

13 So Section 224.9, which OAG only narrowly refers  
14 to a portion of it, is not a policy. It provides guidance  
15 to the Commission, and that's important, too. It does say  
16 that affordable housing should be considered a high-priority  
17 benefit; however, it doesn't say that it's the only high-  
18 priority benefit nor does it say that the Commission has to  
19 justify acceptance of other public benefits in lieu of  
20 affordable housing when it's conducting a review of the PUD.

21 There is a policy in the housing element, that is  
22 Policy H 1.2.7 which has very similar language as Section  
23 224.9 of the framework element, but if you look at that  
24 policy, it has the same language. It just says that  
25 affordable housing is a -- one of a high-priority public

1 benefits, it does not say it's the only one. And, in fact,  
2 recently the Commission in response to OAG taking this high-  
3 priority benefit position, in Case Number 22-11, the  
4 Commission specifically responded and said the fact that  
5 something is a high-priority benefit does not mean that it's  
6 the only thing that we should be taking into consideration  
7 when it comes to a PUD.

8 I'll say that OAG only cites to a narrow portion  
9 of Section 224.9. Commissioner Hood, you asked whether or  
10 not there was more to that section, and there is. It  
11 specifically acknowledges that affordable housing is one  
12 type of public benefit. But specifically it states that  
13 specific public benefits are determined through each PUD  
14 application and should respond to critical issues facing the  
15 District as identified in the Comp Plan and through the PUD  
16 process itself.

17 So the framework element specifically talks about  
18 a PUD benefits package sort of responding to critical issues  
19 of the District, of the planning area, and what you find out  
20 through engagement with the community. It takes a holistic  
21 approach.

22 So OAG's approach to affordable housing and how it  
23 factors into a PUD benefits package I think is contrary to  
24 the Comp Plan and I think it's also contrary to the  
25 Commission's racial equity tool which, you know, expects you

1 to address equity in a PUD holistically. The Comp Plan  
2 looks at equity holistically. It says that equitable  
3 development holistically considers land use, transportation,  
4 and housing, environmental, cultural conditions, employment  
5 opportunities, among other things, including, and this goes  
6 to Commissioner Imamura's comment, including health. The  
7 Comp Plan clearly states that a PUD benefit package is  
8 determined through each application and should respond to  
9 the critical issues facing the District as identified in the  
10 Comp Plan and through the PUD process.

11           So what are those critical issues that are  
12 identified in the Comp Plan? What are the critical issues  
13 that have been identified in this PUD process? So if we  
14 look sort of at the broad guidance provided by the Comp  
15 Plan, the framework element, it identifies certainly  
16 affordable housing, climate resilience, retention of PDR  
17 land and uses, and providing for more efficient, convenient,  
18 and affordable transportation for residents to access jobs  
19 in the District and the surrounding area.

20           If we look at the more specific guidance in the  
21 upper northeast element, it identifies housing preventing  
22 the continued location of unwanted industrial land uses.  
23 This is important, expansion of retail stores, and increased  
24 opportunities for employment within the planning area. So  
25 those are the planning and development priorities that the

1 community identified during the Comp Plan process as being  
2 most important to the upper northeast area.

3 And then during the PUD process, the ANC  
4 commissioner identified during that expensive process, the  
5 community identified housing and a desire for three-bedroom  
6 units. And so the applicant takes all that input into  
7 consideration when its developing its PUD benefits package.  
8 And that package does successfully respond to the critical  
9 issues that I just set forth.

10 To address affordable housing, the proffer of 15  
11 percent affordable housing is a high watermark for a PUD  
12 proffer. In addition, the applicant is also committing to a  
13 portion of its affordable housing proffer to a deeper level  
14 of affordability, 50 percent MFI, and also committing to a  
15 certain number of three-bedroom affordable units. OP in its  
16 report actually says that the applicant's affordable housing  
17 proffer is a "particularly strong" aspect of the project.

18 To address climate resilience, the applicant is  
19 proffering LEED Gold and a substantial use of green roof and  
20 rooftop solar. That goes to the public health aspects of  
21 the project.

22 To address the desire of increased retail choices  
23 in the upper northeast area, the applicant is providing  
24 approximately 31,000 square feet of ground floor commercial  
25 space, the design of which was a major driver in the overall

1 site plan of the project, as you heard this evening. The  
2 desire for expanded retail and service uses pushed the  
3 applicant to element all curb cuts, consolidate parking and  
4 loading access, and pursue the air space development for  
5 vehicular connections below the alley. That goes to the  
6 importance of design and how it impacts all sorts of things  
7 including public health, as Commissioner Imamura was talking  
8 about.

9           Finally, to address retention of PDR land and  
10 uses, the applicant is committing to 50 percent of the  
11 ground floor being built out to PDR/Maker specs, and 10  
12 percent of that ground floor being devoted to PDR/Maker uses  
13 for five years.

14           So OAG states that the applicant is required under  
15 the Comp Plan to provide these PDR uses and that they can't  
16 be a public benefit, and that is just incorrect. First, the  
17 framework element, again, expressly states that it does not  
18 contain any policies. It doesn't set any mandates for the  
19 Commission.

20           But more importantly, if you look at Policy LU,  
21 Land Use Element, 3.2.3, you will see that while areas ripe  
22 for mixed use that have a PDR stripe must provide PDR use.  
23 Sites within the floor market area, small area plan, are  
24 expressly exempt from this policy. Instead, the subject  
25 property is subject to the recommendations of the Florida



1 Avenue small area plan and the work-by-work study, which  
2 promote retention of PDR spaces but it does not mandate that  
3 they have to have it.

4           So the applicant's PDR/Maker proffer is correctly  
5 considered a PUD benefit, and a significant one at that.  
6 This proffer is consistent with other approved PDs in the  
7 Union Market area and we believe strikes the right balance  
8 between a desire for expanded retail and service uses within  
9 the upper northeast area and the interest in preserving  
10 PDR/Maker uses in the city.

11           With that, Mr. Chairman, I will conclude my  
12 testimony. I guess I'll hand it over to Jeff to speak to  
13 anything else.

14           MR. UTZ: Sure. Yeah, thank you.

15           MR. DETTMAN: Thank you.

16           MR. UTZ: Thank you so much, Shane.

17           Just a few more parting words, part of the  
18 rebuttal. We do just want to point out for the Commission  
19 that OAG's suggestions here, like the suggestions in Zoning  
20 Commission Case Numbers 22-06, 22-11, and 22-09, and most  
21 recently 96-13A, are not based on the zoning regulations and  
22 these are simply not relevant standard for PUDs. We  
23 discussed earlier during the hearing, the Zoning Commission  
24 knew and understood that when it adopted IZ+ and has  
25 reaffirmed that multiple times in the context of other

1 recent PUDs.

2 OAG's suggested the IZ proffer is simply not  
3 feasible to build mixed income housing. It would lead to no  
4 housing being constructed here. The way to address the  
5 shortage of housing is to build housing, particularly  
6 housing that includes such a robust affordable housing  
7 component as this project does. It is not in anyone's  
8 interest to require so much affordable housing that nothing  
9 gets built.

10 The Commission knows that the percentage of  
11 affordable housing is a delicate balance for a primarily  
12 market rate development, and the Commission has been  
13 listening to many different constituencies in the community  
14 for more than 15 years to get that balance right.

15 OP and Edens have also been listening to each  
16 other. Edens and OP met more than a year ago to discuss the  
17 appropriate affordable housing program for this PUD, and  
18 Edens and the ANC were in discussions, too, about the right  
19 affordability program. Members of the Commission will  
20 recall that there was a productive discussion about the  
21 right affordable housing set aside at the hearing about two  
22 years ago for the PUD across the street, 19-29, so when this  
23 PUD kicked off, Edens knew that it had to take into account  
24 the feedback from the Commission, and OP, and the ANC  
25 following that undertaking across the street, and that's

1 exactly what happened.

2           This is a sign of the community and agency  
3 dialogue process working and working well. Mr. Jesick and  
4 others at OP were in those earlier conversations and  
5 informed this project, as well as Ms. Rhodes and many other  
6 folks in the neighborhood who care about the neighborhood  
7 and housing being built. We are all working together to  
8 build on this past dialogue.

9           I would like to reinforce that the collaboration  
10 you're hearing about here is the type of consensus building  
11 that I believe the Commission is looking for with its racial  
12 equity focus. So I would like to reiterate the strong IZ  
13 commitment of the project and clarify for the record in case  
14 there are any inconsistencies of the statements of the  
15 concept. The project proposes a 15 percent IZ set aside  
16 with a two percent component of that being 50 percent MFI  
17 and the remaining 13 percent at 60 percent MFI.

18           There has to be some level of predictability about  
19 affordable housing for housing development to happen, and  
20 unfortunately, the suggestion by OAG is not predictable.  
21 Mr. Dettman has addressed some of the Comp Plan problems  
22 with the OAG's analysis and I have discussed them in the  
23 practical and process challenges. And we really appreciate  
24 the Commission's -- the opportunity that the Commission  
25 offered to respond in writing to the OAG presentation.

1           With the Commission's leave on post-hearing  
2       submissions, I will move quickly into our close.

3           In closing, the project is ready to move forward  
4       following our post-hearing submission. As noted, we have  
5       support from ANC 5D, the Office of Planning, and DDOT. We  
6       have resolved the outstanding comments from OP and DDOT as  
7       well as those from DOEE, we believe. OAG's suggestion  
8       relating to its affordable housing request is not relevant  
9       for the analysis of the PUD. We have worked with community  
10      members and others for more than a year to get this project  
11      to this point, and we think it's ripe for the Zoning  
12      Commission to approve.

13           This is one of the first PUDs that the Commission  
14      has reviewed since adopting the racial equity analysis tool  
15      earlier this year, and we think it really acts as a model  
16      for how that process should work. Edens has spent years,  
17      more than a decade in total, building a constituency and  
18      trust among the community members and it has really helped  
19      to create vibrant and inclusive place at Union Market.

20           This project advances those goals and does so in a  
21      manner that is consistent with the Comprehensive Plan and  
22      that is approvable in accordance with the zoning regulations  
23      applicable to PUD, a map amendment and an air space  
24      development application.

25           We would like to thank the Commission and the

1 agency for your time, the agency individuals who have been  
2 involved in this, and for your time and consideration this  
3 evening. And with that, we conclude our presentation.  
4 Thank you so much.

5 CHAIRPERSON HOOD: Thank you, Mr. Utz. I will  
6 tell you that I don't know if you were reading all that, you  
7 and Mr. Dettman, and I usually don't say this all the time,  
8 but you represented your client well. And I've been doing  
9 this a long time, and you represented -- I'm not saying you  
10 didn't represent the others one well, but tonight I think --

11 (Laughter.)

12 CHAIRPERSON HOOD: Don't nobody take that wrong,  
13 but sometimes -- it's always good to give somebody a  
14 compliment, and this was my time to do -- especially after I  
15 heard the way Commissioner Imamura basically gave you all  
16 his accolades about the design, architecture, and even  
17 architecture being considered from health, I learned  
18 something new, so -- and I learned that tonight from  
19 Commissioner Imamura.

20 So I would like to call it. I could keep it to  
21 myself, but I always put it out there.

22 (Laughter.)

23 CHAIRPERSON HOOD: All right, let's see if we have  
24 any follow-up questions or comments from anybody, my  
25 colleagues? Okay, we all good? All right. All right --

1                   COMMISSIONER IMAMURA: Just one comment, Mr.  
2 Chairman.

3                   CHAIRPERSON HOOD: Sure.

4                   COMMISSIONER IMAMURA: Just glad to see we've got  
5 Mr. Dettman coming in as the urban planner and closing  
6 pitcher for the team, so nicely done. Urban planners need  
7 to get a little air time.

8                   CHAIRPERSON HOOD: All right. And I really  
9 appreciate the dialogue with the community. That's so  
10 important because you all will develop and leave, and the  
11 community are going to be the ones still there. And I've --  
12 you've heard me say that a thousand times. You'll probably  
13 hear it a thousand more for the long time we're here.

14                   Let me just ask this. Ms. Schellin, how many  
15 votes is this case? Is it a one-vote case or two-vote case?  
16 (Crosstalk.)

17                   MS. SCHELLIN: It is -- this is a two-vote. It's  
18 a consolidated PUD, a related map amendment, and air rights.

19                   CHAIRPERSON HOOD: Okay. All right, since we  
20 changed that, for some reason sometimes I get confused, and  
21 we just did that a couple years ago.

22                   All right, so let me hear from my colleagues.  
23 You've heard the request, and I think -- I don't see  
24 anything for a show-stopper, even though we had some  
25 information out there we asked for, I think that could be

1 submitted in between proposed and final. Let me see what  
2 others think. Commissioner Imamura?

3 COMMISSIONER IMAMURA: I'm in agreement with you,  
4 Mr. Chairman. Prepared to move forward tonight.

5 CHAIRPERSON HOOD: Okay. Commissioner Stidham?

6 COMMISSIONER STIDHAM: I'm in the same level of  
7 agreement. I'm good to go.

8 CHAIRPERSON HOOD: Okay. All right. And Vice  
9 Chair Miller?

10 VICE CHAIR MILLER: Thanks, Mr. Chairman. Yes, I  
11 think we can get the post-hearing submissions in between  
12 proposed action tonight and final.

13 CHAIRPERSON HOOD: Okay. All right, would  
14 somebody like to make a motion? Because our schedule's not  
15 getting any lighter I don't think. Maybe for this month,  
16 but moving forward it's not going to get any lighter.

17 COMMISSIONER IMAMURA: I'll make the motion  
18 gladly, Mr. Chairman. I move that the Zoning Commission  
19 take proposed action for Case Number 22-035, UN 500 Penn  
20 Street NE, LLC, NYA4 Associates, LLC, and HH Brooks, LLC  
21 consolidated PUD, related map amendment, and air rights at  
22 Square 3592, Lots 19 through 23, 802 and Parcel 129/45 at  
23 1329 through 1345 4th Street Northeast and 1344 5th Street  
24 Northeast, and asked for a zoning second.

25 VICE CHAIR MILLER: Second.

1 COMMISSIONER STIDHAM: Second.

2 CHAIRPERSON HOOD: Okay, it's been moved and  
3 properly seconded. Thank you both -- thank you all actually  
4 because everybody voted, except for me, but I second it,  
5 too.

6 All right, moved and properly seconded. Any  
7 further discussion?

8 (No response.)

9 CHAIRPERSON HOOD: Not hearing any, Ms. Schellin,  
10 would you do a roll vote, please?

11 MS. SCHELLIN: Yes. Commissioner Imamura?

12 COMMISSIONER IMAMURA: Yes.

13 MS. SCHELLIN: I thought I heard Commissioner  
14 Miller first, so Commissioner Miller?

15 VICE CHAIR MILLER: Yes.

16 MS. SCHELLIN: Commissioner Hood?

17 CHAIRPERSON HOOD: Yes.

18 MS. SCHELLIN: Commissioner Stidham?

19 COMMISSIONER STIDHAM: Yes.

20 MS. SCHELLIN: So the vote is four to zero to one  
21 to approve proposed action Zoning Commission Case Number 22-  
22 35, the minus one being the third mayoral appointee seat  
23 which is vacant. Thank you.

24 CHAIRPERSON HOOD: And, Ms. Schellin, do we have  
25 anything we need to ask for, cutoff dates or anything like



1 that?

2 MS. SCHELLIN: Yes, we do. So we have to wait at  
3 least 30 days because we have to refer this to NCPC, so we  
4 are looking at this coming back for final action at the  
5 January 11, 2024, meeting for final. So working from that  
6 date, Mr. Utz, how much time do you think you guys need for  
7 the additional submissions?

8 MR. UTZ: Two weeks would be ideal.

9 MS. SCHELLIN: Okay, two weeks would make that  
10 3:00 p.m. on 12/18, December 18th at 3:00 p.m. And with the  
11 holidays in there, I am going to give the ANC, and OP, and  
12 DDOT, if they choose to respond, until the 29th of December  
13 to provide a response. If you could reach out to the ANC if  
14 they choose to respond.

15 Chairman Hood, I didn't hear it, but in case I  
16 missed it, were you guys looking for further response from  
17 OAG?

18 CHAIRPERSON HOOD: No.

19 MS. SCHELLIN: Okay, that's what I thought.

20 Okay, so also, Mr. Utz, if we could have a draft  
21 findings of facts and conclusions of law by the 29th of  
22 December, then we'll put this on for final action, like I  
23 said, on January 11th at 4:00 p.m.

24 CHAIRPERSON HOOD: Okay, thank you. And also, I  
25 think I did already, but I also want to thank Mr. Dettman as

1 well for his report. And let me --

2 MS. SCHELLIN: One other thing, just --

3 CHAIRPERSON HOOD: Let me just say this. And let  
4 me know that there was more to that clause that was cut off.  
5 I already knew that, that's why I asked the question. So  
6 thank you for that.

7 I'm sorry, Ms. Schellin?

8 MS. SCHELLIN: That's okay. One other thing, just  
9 to remind the applicant about the proffer and condition  
10 process that they need to go through, which starts seven  
11 days from today since proposed action was taken. Thank you.

12 CHAIRPERSON HOOD: Okay. Before I close out this  
13 -- everything's in order, right, Ms. Schellin? Okay, before  
14 I close, let me just say, the Zoning Commission actually has  
15 a day off. We will not be meeting Thursday. Don't get used  
16 to it because we'll be right back Monday, December 11th on  
17 the same platforms at 4:00 p.m., Zoning Commission Case  
18 Number 23-04. It's the Alt G Investment, LLC on these same  
19 platforms, same time.

20 Unless I hear from anyone else, I want to thank  
21 everyone for their participation tonight, and with that,  
22 this hearing is adjourned. Thank you, everybody. Good  
23 night.

24 (Whereupon the above-entitled meeting was  
25 adjourned.)

REPORTER CERTIFICATE

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