

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC HEARING

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THURSDAY

JULY 17, 2025

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The Public Hearing of the District of Columbia Zoning Commission convened via teleconference, pursuant to notice at 3:01 p.m. EDT, Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Zoning Commission Chairperson
ROBERT E. MILLER, Zoning Commission Vice Chair
JOSEPH IMAMURA, Zoning Commission Commissioner

OFFICE OF ZONING STAFF PRESENT:

ELLA ACKERMAN, Secretary
MIKE SAKINEAD, Zoning Data Specialist

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

JACOB RITTING, Esquire

The transcript constitutes the minutes from the Regular Public Hearing held on July 17, 2025

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25

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

OPENING STATEMENT:

Anthony J. Hood. 4

PRELIMINARY MATTERS:

Ella Ackerman. 7

PRESENTATION:

Zoning Commission Case No. 13-14E
Modification with Hearing to Consolidated, 1st Stage, and
2nd Stage PUDs at Parcels 2 and 4 of the Reservoir
District (Square 3128, Lots 809, 814 &
815)11

APPLICANT'S REPORT:

Cary Kadlecek, Esq.
Goulston and Storrs Law Firm. 12

Ruth Hoang, Senior Vice President of Development
Jair Lynch Real Estate Partners.14

Ben Becker, Retail Leasing
KLNB. 23

Kalinda Gathinji, Architect
MV&A. 26

Shane Dettman, Urban Planner
Goulston and Storrs.30

COMMENTS AND QUESTIONS:

Commissioners 37
Cary Kadlecek, Esq. 41
Ben Becker. 42

OAG REPORT:

Maxilian Tondro, Esq.58

DDOT REPORT:

Noah Hagan, District Department of Transportation . . .63

OFFICE OF PLANNING REPORT:

Maxine Brown-Roberts65

ANC REPORTS READ INTO THE RECORD:

Robert E. Miller, Vice Chair - ANC 5E.69

Anthony J. Hood, Chairman - ANC 1E70

WITNESSES IN SUPPORT:

Cheryl Cort, Coalition for Modern Growth.72

WITNESSES IN OPPOSITION:

Chris Mahony76

Chris Otten84

Peter Stebbins.88

Daniel Wolkoff.. . . .100

WITNESSES UNDECLARED:

Annie Jones91

Kevin Rapp93

CLOSING STATEMENT:

Cary Kadlecek, Esq.106

ADJOURNMENT:

Anthony J. Hood, Chairman116

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

(3:01 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. Today's date is July the 17th, 2025. We are convening and broadcasting this public hearing by video conferencing. My name is Anthony Hood. I am joined by Vice Chair Miller, Commissioner Imamura, and Commissioner Wright. Commissioner Stidham will be joining us momentarily, as well as the Office of Zoning staff, Ms. Ella Ackerman, and Mr. Mike (phonetic) Sakinejad. Also, our Office of Zoning Legal Division, Mr. Jacob Ritting. I will ask all others to 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 platform is used -- 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 sign up, all participants will complete the oath or affirmation required by Subtitle C, 48.7 (phonetic).

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 appropriate time. When called, please state your name before

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1 providing your testimony. When you are finished speaking,
2 please mute your audio. If you experience difficulty accessing
3 Webex with your telephone call-in or have not signed up, then,
4 please call our OZ hotline number at (202) 727-0789.

5 If you wish to file written testimony or additional
6 supporting documents during the hearing, then, please be
7 prepared to describe and discuss it at the time of your
8 testimony. The subject of this evening's hearing is -- hold
9 one second -- I have gotten something mixed up. This evening's
10 hearing -- okay. That's not what I --

11 Mr. Ritting, what are the credentials for this
12 evening's hearing? Do you have that in front of you because
13 what I have is not matching?

14 MR. RITTING: Commission Case No. 13-14E. It's the
15 application for the McMillan Parcel --

16 CHAIRPERSON HOOD: Okay.

17 MR. RITTING: -- 2 Owner LLC.

18 CHAIRPERSON HOOD: Perfect. I got it. But I'm
19 looking at the date. I have has June 23rd and I know the
20 date --

21 MR. RITTING: Yeah, that was my error. I apologize.

22 CHAIRPERSON HOOD: Okay.

23 MR. RITTING: I sent an updated one after that.

24 Sorry --

25 CHAIRPERSON HOOD: All right.

1 MR. RITTING: -- about that.

2 CHAIRPERSON HOOD: No problem. So you know, I read
3 earlier. So anyway, let me just say this. Okay. So thank
4 you. Zoning Commission Case No. 13-14E, McMillan Parcel 2
5 Owner LLC and McMillan Parcel 4 Owner LLC modification with
6 hearing to consolidated first stage and second stage PUDs at
7 Parcels 2 and 4 at Square 3128, Lots 809, 814, 815, 2750 Platt
8 Court Northwest, 2727 Hazen Court Northwest.

9 Again, today's date is July the 17th, 2025. The
10 hearing will be conducted in accordance with provisions of 11-
11 Z D.C.M.R. Chapter 4 as follows: Preliminary matters,
12 Applicant's case. Applicant has up to 60 minutes. I don't
13 think they need the full time, but we'll see. Our report of
14 other government agencies, report of Department of
15 Transportations, and the Office of Planning. The report of the
16 ANC, testimony of organizations, five minutes, and individuals,
17 three minutes.

18 And we will hear in the following order from those
19 who are in support, opposition, and undeclared. Then, we'll
20 have rebuttal in closing by the Applicant. Again, the OZ
21 hotline number is (202) 727-0789 for any concerns during
22 these -- during this proceeding.

23 Again, the ANCs this evening will be ANC 1E and ANC
24 5E.

25 So with that, Ms. Ackerman, do we have any

1 preliminary matters?

2 MR. RITTING: I understand that Ms. Ackerman's
3 microphone isn't working properly.

4 Is that still the case, Ms. Ackerman? You could just
5 nod your head. In that case, I understand that Mr. Sakinejad
6 is going to help fix it. So (indiscernible) if -- there he is.
7 So perhaps a small postponement to allow that to get sorted out
8 might be a good idea.

9 CHAIRPERSON HOOD: A postponement until next week or
10 a postponement --

11 MR. RITTING: No, no, no. Just a five-minute break.

12 CHAIRPERSON HOOD: All right.

13 Let's take five minutes.

14 Thank you, Mr. Ritting.

15 Let's take five minutes. We'll come back at 4 --
16 we'll come back at 4:10. Thanks.

17 (Whereupon, there was a brief recess.)

18 CHAIRPERSON HOOD: Okay. We're back in session.

19 Ms. Ackerman, do we have any preliminary matters?

20 MS. ACKERMAN: Yes, we do. And I'm also sorry
21 there's a filter of some sort I cannot get off my face today.
22 We'll ignore that.

23 So at Exhibit 28, we have a motion that was filed by
24 the Applicant to waive the deadline to file updates regarding
25 retail commitment. The Applicant requested that the two

1 accompanying documents be allowed into the record to reflect
2 these proposed updates. We also have two expert witnesses to
3 be proffered. I apologize if I mess up this name, Kalinda
4 Gathinji (phonetic). Sorry. That resume is at Exhibit 12D.
5 And at Exhibit 19F, we have somebody named Ben Becker for
6 retail leasing. That is all for now.

7 CHAIRPERSON HOOD: Okay. Let's take the first issue
8 about the updated plans into the record.

9 Any objections? Okay. I'm not seeing any
10 objections. We will so order. We will accept all that for the
11 record. Let's bring up counsel -- the Applicant's counsel.
12 I'm just going to say Mike for the day.

13 Mike, could you bring up the Applicant's counsel,
14 please?

15 MR. SAKINEJAD: It is coming up right now.

16 CHAIRPERSON HOOD: Okay. Well, I guess they're all
17 together because it says Teams, so.

18 MR. SAKINEJAD: Thank you.

19 CHAIRPERSON HOOD: Yep. Okay. Give me one second.
20 File closed on me. So who are we proffering as experts?
21 Again, can we do those one by one while my filing -- file back
22 up.

23 MS. ACKERMAN: Yes. That was Ben Becker. His resume
24 is at Exhibit 19F. And at Exhibit 12D, we have Kalinda
25 Gathinji.

1 CHAIRPERSON HOOD: Okay. All right. Give me a
2 moment. Commissioner Stidham is going to be joining us very
3 shortly. There are a few moving parts going right now.

4 Mr. Kadlecek, let me --

5 Ms. Ackerman, let me go over this with Mr. Kadlecek.

6 Mr. Kadlecek, who is your -- let's go through --
7 let's walk through your expert witnesses, please.

8 MR. KADLECEK: No problem. Good afternoon,
9 Commissioners.

10 For the record, I'm Cary Kadlecek with Goulston and
11 Storrs on behalf of the Applicant. We are proffering three
12 expert witnesses, as Ms. Ackerman mentioned. Kalinda Gathinji
13 as an expert in architecture, Ben Becker as an expert in retail
14 leasing, and then, Shane Dettman, of course, who's in
15 (indiscernible) as an expert in (indiscernible).

16 CHAIRPERSON HOOD: Okay. Thank you, Mr. Kadlecek.

17 Now, we already know about Mr. Dettman so I don't
18 think we need to rehash that unless my colleagues object? Give
19 me one second. My file just closed on me. It's bad timing.
20 The first name was Gathinji?

21 MR. RITTING: It's Gathinji.

22 CHAIRPERSON HOOD: Gathinji. Okay. As a expert on
23 architecture?

24 MR. RITTING: Yes.

25 CHAIRPERSON HOOD: Thank you.

1 Commissioners, any objections? I'm looking to all of
2 my Commission.

3 Commissioner Imamura, any objections? Okay.

4 Anybody else? All right.

5 So Ms. Gathinji will be profit as an expert.

6 And what was the other one, Mr. Kadlecek?

7 MR. KADLECEK: That's Ben Becker who is proffered as
8 an expert in retail leasing.

9 And if Mike could please pull up Ben Becker. He's
10 not sitting with us. He's separately logged on.

11 CHAIRPERSON HOOD: So I need my colleagues to help
12 me, especially those who have been around. Have we proffered
13 people in the retail leasing before? I don't remember that.

14 MR. RITTING: Not to my recollection we have.

15 CHAIRPERSON HOOD: I don't think we do retail leasing.

16 MR. RITTING: Not to my recollection either, but I
17 would have no objection, no.

18 CHAIRPERSON HOOD: Well, unless my colleagues object,
19 we would hear his testimony. Well, let me -- hold on.

20 Commissioner Wright, do you want to comment?

21 COMMISSIONER WRIGHT: No, I think that it's given
22 that that's one of the major topics of conversation for today.
23 I think it is important to, you know, take a look at his resume
24 and make a decision on whether to accept him as an expert or
25 not because I'm sure he'll offer some comments that may be

1 helpful in one of the most (indiscernible) --

2 CHAIRPERSON HOOD: Mr. Ritting, do you know why we
3 have not done that over the years?

4 MR. RITTING: Well, you can have an expert in any
5 topic. So there's no reason that you couldn't consider him an
6 expert provided he satisfied you that he'd -- has sufficient
7 expertise. I always find it interesting that we spend so much
8 time talking about us expert witnesses because the purpose for
9 qualifying an expert in court is only experts can offer
10 opinions, and there is no such limitation before the
11 Commission. So the only difference would be how much weight
12 you'd give to his testimony.

13 My personal belief is you've never considered an
14 expert in this field is it's never come up before so you've
15 never developed any kind of specific standards or traditions
16 about it. But there's no reason that you couldn't consider him
17 as an expert if you were satisfied he met the qualifications.

18 CHAIRPERSON HOOD: Okay. I actually know for a
19 fact -- you may not have been around -- we've dealt with this
20 before -- not just retail expert, but with -- previously, there
21 are certain things that we don't deal with. And there's a
22 reason behind it, and eventually, I'll figure it out or I'll
23 ask Michelle and the others who have to check the record of why
24 we have not done it over -- this goes back to '98.

25 But if everybody else is fine with the resume, we

1 will accept it. But it's some -- I'm sure I'm right. Anyway,
2 if everybody is fine with it, we will accept that.

3 Any objections?

4 We'll accept it this time, okay? All right. And
5 yes, we need to take time and do our due diligence. That's why
6 we spend so much time in anything we do.

7 All right. Mr. Kadlecek, you may begin.

8 MR. KADLECEK: Thank you, Chairman Hood, and members
9 of the Commission.

10 Again, for the record, my name is Cary Kadlecek from
11 the law firm of Goulston and Storrs on behalf of the Applicant.
12 I'm also a Bloomingdale resident.

13 The proposed PUD modification is for Parcels 2 and 4
14 of the McMillan Reservoir Slow Sand Filtration Site
15 Redevelopment, now known as the Reservoir District. This
16 development is nearly two decades in the making, and now, 11
17 years after the PUD was first approved, we are requesting
18 modifications and flexibility to best facilitate beginning
19 construction and delivering these two mixed use parcels.

20 At this point, nearly every stakeholder has the same
21 goal. Get these buildings built as quickly as possible without
22 compromising on the commitments made to the District and the
23 community. The requested modifications are critical to the
24 Applicant's ability to do that. To be clear, the Applicant is
25 not proposing to eliminate the ground floor retail or the

1 grocery store. Under any circumstances, both parcels will
2 include ground floor retail and parcel floor will include a
3 grocery store.

4 Indeed, since this process began more than a year
5 ago, the Applicant has significantly increased its commitments
6 for retail and grocery store with the grocery store minimum now
7 22,500 square feet. The proposed modified Parcels 2 and 4 are
8 premised on the entire process moving as quickly as possible,
9 which necessitates the Applicant needing to nimbly adapt if
10 conditions change again. This is why the requested flexibility
11 is essential to progressing the development.

12 While it may seem extraordinary, the flexibility is
13 justified by this project's extraordinary history of extensive
14 appeals and delays, changes in the financing market, and
15 construction cost increases that caused, at a minimum, the loss
16 of two grocery stores.

17 The Applicant's goal is to provide as much retail as
18 possible, but the retail flexibility is critical to the
19 Applicant's ability to deliver the buildings and avoid vacant
20 ground floor spaces. Even with the requested modifications and
21 flexibility, parcels two and four will deliver the mixed-use
22 community expected by the PUD. The Applicant is not reneging
23 on its commitments, but focusing on numbers alone will not
24 guarantee that. The vision of a diverse commercial, retail,
25 and residential community for the Reservoir District still will

1 be realized, even with the approval of the modifications and
2 flexibility.

3 Before our first witness begins, I note that we're
4 pleased to have the Office of Planning's report recommending
5 approval at Exhibit 22; a report from DDOT confirming they have
6 no objection to approval at Exhibit 23; and support from OAG at
7 Exhibit 21. Also, both ANCs 5E and 1E submitted reports in
8 support at Exhibits 11 and 20. And with that, I will turn it
9 over to Ruth from the development team.

10 And Mike, if you could also please bring up our
11 presentation?

12 CHAIRPERSON HOOD: Let me just add, the reason we
13 don't because it's not -- leasing is not our -- within our
14 purviews. That's why we don't accept it. And I want to thank
15 people for jogging my memory. But anyway, we've got it now.
16 We'll continue. We'll continue this -- to this case. Thank
17 you.

18 MS. HOANG: Good afternoon, Commissioners. Chairman
19 Hood. My name is Ruth Hoang, Senior Vice President of
20 Development at Jair Lynch Real Estate Partners. Thank you for
21 your time this afternoon to present our application for the PUD
22 modifications.

23 Chairman Hood and Vice Chair Miller, I know you've
24 been with us through this long journey, but I would like to
25 take a few minutes to recap the project history for the other

1 Commissioners.

2 Could we advance the slides, please? Carey kind of
3 covered the modifications and some of the flexibility.

4 So if you can go to slide 8, please? Thank you.

5 Back to my project background.

6 One more. Sorry. Go backwards. Yes, perfect.

7 Okay. Thank you.

8 In 2008, in partnership amongst Jair Lynch, Trammell
9 Crow, the EYA was awarded the (indiscernible) rights to this
10 project in the District. We are responsible for P4 and P2, the
11 two multifamily parcels, which have the primary community
12 benefits of a grocer and affordable housing funds. The Zoning
13 Commission approved the current PUD in 2014, which included a
14 large grocery store.

15 And the approval triggered appeals and years of
16 delays through the courts from the opposition, including
17 opposition to the demolition work which started in 2016, and
18 again, delayed progress until the fall of 2021 when the
19 District was finally able to restart demolition. Now, between
20 2014 and 2021, the first grocer fell through and we secured a
21 lease with the second grocer.

22 In September of 2022, we closed on the land, but two
23 months later, grocer number 2 terminated their lease. We
24 marketed the site for 16 months without any requirements or
25 limitations, and two grocers, both in the 20- to 25,000 square

1 foot range, expressed interest. We did not hear from a single
2 grocer larger than that. We selected one and negotiated the
3 lease for 12 months, and successfully executed a lease
4 (indiscernible) and submitted the PUD of modification.

5 Now, all of you know, during this time, the community
6 center was completed, the park was done, and the horizontal
7 development of the site was completed earlier this year. And
8 now, you see townhomes going up, and there are several new
9 residents living at the site.

10 Next slide, please.

11 So it's been a long journey. We faced some tough
12 challenges, both with this project due to appeals in the
13 commercial real estate industry in general, had two grocers
14 back out over the years, costs have gone through the roof.
15 Hard costs alone have jumped 25 percent in the last few years.
16 And like everyone else, we felt the impact of COVID.

17 It changed how people shop, how retailers operate,
18 and which affects the project with a significant amount of
19 retail space. And if you've tried to buy a home lately, you've
20 seen how interest rates have skyrocketed. Since '21, rates are
21 up 350 basis points, making financing way more expensive, if
22 you can even get a construction loan, and equity partners are
23 now looking for higher return thresholds.

24 All of this is said to explain why we need to submit
25 for a modification and added flexibility to our request.

1 First, we need the ability to adapt to market conditions
2 quickly. Parcel 4 cannot move forward without a grocer. And
3 if this third grocer lease is terminated, we must be able to
4 secure another one. Flexibility on the deepest retail spaces,
5 which have more limited marketability, which will allow us to
6 repurpose the space to residential and activate street
7 frontages.

8 And lastly, flexibility to go to a lodging use on P2
9 West had -- has also been requested. And this is a highly
10 desirable alternative to the community, given proximity to the
11 hospitals, and we see that this can be a -- potentially a great
12 fit for the submarket.

13 Next slide, please.

14 Now, the main reason we submitted a modification to
15 allow our new grocer to fit in at our site. The project cannot
16 proceed without a grocer. The proposed design includes the
17 22,500 grocer in the orange you see for the grocer we have an
18 executed lease with at least 21,000 square foot of other retail
19 space in purple. This is the diagram on the right. The left
20 represents the current existing PUD approvals.

21 We believe this new plan on the right will bring a
22 more -- a livelier, more vibrant destination to the
23 neighborhood, one that truly reflects what the community wants.
24 Instead of a single large grocer, the updated design allows for
25 a wider mix of retail options, creating a place where neighbors

1 can gather, shop, and connect. This plan makes room for those
2 types of business -- businesses a community desires.
3 Pharmacies, restaurants, coffee shops, daycares, and soft
4 goods.

5 It will be more engaging in a convenient space that
6 will serve the needs of the community and create a sense of
7 place we're all proud of. Our retail brokers have already
8 received interest with several interested retailers for the
9 project and we're excited to hear the names in that
10 (indiscernible). It is our strong desire and intent to bring
11 this plan to reality.

12 We have the best brokers in the business spearheading
13 the retail leasing. They've brought three grocers to us over
14 the years. They've already been speaking to many interested
15 tenants. But leasing a project is not easy, and it's mostly
16 dictated by the business plans, priorities, and desires of the
17 tenants. We, as developers and landlords, do our best to
18 navigate this reality, all the while balancing the financial
19 requirements of the project so we can proceed into
20 construction, and ultimately avoid jeopardizing our ability to
21 pay our loans to the banks, and keep the lights on for the
22 entire project.

23 Because of this, we've asked for flexibility to
24 convert portions of the retail space to residential if we are
25 not able to secure new tenants in the spaces.

1 Next slide, please.

2 Our original application back in December of 2024
3 included this flexibility and was shared broadly with the
4 community. Based on all the feedback we've received, we have
5 updated our proposal and are willing to commit to a minimum of
6 22,500 square feet on the grocer, and 11,000 square feet on the
7 other retail, for a total of 33,500 square feet.

8 And you can see these two spaces here. On the left
9 diagram, you can see the purple for the other, and then, the
10 grocer, which is the same footprint we saw in the previous
11 image. And down below, in the hatched yellow, is the area
12 we're seeking flexibility. Previously, we had greater areas
13 for flexibility where that hatched area went up further, kind
14 of into the purple longer space.

15 That's marked 11,000 square feet but we have reduced
16 that amount of flexibility and really limited it to the space
17 that has the deepest place in our plan. As you can see, that
18 hatched area with the purple goes right to the middle of the
19 space, which is a very difficult -- could be a difficult space
20 to lease potentially.

21 And in all honesty, if we were starting from scratch
22 in the beginning, we would not design retail space with this
23 kind of depth with limited windows on the exterior along the
24 street. And it's likely -- has to be a single-user that is
25 comfortable with space that's not daylight towards the middle to

1 the back of the space. So the drawing on the right shows how
2 this may play out if we aren't able to secure a single tenant
3 for the yellow hatch space and if it were converted to
4 residential.

5 The project will still have our current grocer, plus
6 long frontage with several retail shops and restaurant, in the
7 purple that you see on the right side.

8 Next slide, please.

9 Given our history on this project, with two grocers
10 walking away from the project and the years of delay it causes,
11 we requested flexibility for a smaller store. In our original
12 filing, we requested flexibility to go down to 10,000 square
13 feet for the grocer. We've updated this request, based on
14 community feedback, to only trigger this if the new grocer
15 lease is terminated.

16 This would allow us to pivot quickly and market that
17 site broadly with the goal of landing the same sized grocer to
18 slot into the position. Finding a new grocer to slot into the
19 existing space would be the most economical and speedy way to
20 opening a grocery store. Smaller grocers would only be
21 considered after we exhaust efforts to find a same sized
22 grocer. Retail revenue is also more beneficial to a project
23 than residential revenue. We need to avoid situations like the
24 45,000 square (indiscernible) on Capitol Hill that has been
25 vacant since January of 2022.

1 So to reiterate, this grocer flexibility is only
2 triggered if the current lease is terminated. Otherwise, the
3 minimum commitment is to the 22,500 square foot grocer with the
4 tenant that we have secured, and a 33,500 square foot overall
5 retail footprint at Parcel 4. Overall, we have increased our
6 minimum proposal from a 10k grocer to a 22,500 square foot
7 grocer, with only a reduction if the lease is terminated, and
8 increase the other retail from 6,000 to 11,000 square foot.

9 Next slide, please.

10 One of the other key changes in our application is
11 the movement of the 85 senior affordable units out of Parcel 4
12 and into its own tower in Parcel 2 East. We're proposing to
13 remove a pedestrian bridge and bifurcate the towers with only a
14 connection to the garage below grade. This allows us to
15 provide approximately 141 senior affordable homes in P2 West,
16 and deeper affordability levels, as you can see here.

17 Overall, this increases the total percentage of
18 affordable units from 20 to 23 percent for our parcels. This
19 bifurcation also allows the affordable building to move forward
20 on its own. It does not have to wait for a grocer release to
21 be in place. Additionally, we have an opportunity to provide
22 one-third of the market rate units at an average of 80 percent
23 of AMI should our requested tax exemption be approved by the
24 city in this year's Budget Support Act.

25 With this additional set aside, 50 percent of the

1 units would have some level of affordability, at this.

2 Next slide, please.

3 As a firm, we remain deeply committed to creating a
4 high quality, truly special place here in the Reservoir
5 District. One that reflects the spirit and needs of the
6 community.

7 Next slide.

8 For more than 25 years, we've been honored to work in
9 this city delivering a wide range of projects from libraries
10 and office buildings to housing and retail spaces. In every
11 project, our goal has always been to connect meaningfully with
12 the neighborhoods we serve.

13 Next slide, please.

14 Our engagement with the community over the years, and
15 especially throughout this PUD modification, has both been
16 extensive and enriching. And as we can see here, we've
17 started -- this has been about a year-long process, starting
18 over here on the left, and reaching all the way over here on
19 the right, in green, to where we are today.

20 We're sincerely grateful for the thoughtful feedback,
21 honest concerns, and support we have received from the ANCs,
22 the Bloomingdale Civic Association, the McMillan Advisory
23 Group, and many individual neighbors we've had the pleasure to
24 meet with, even as recently as this week. We've continued
25 listening and integrating community input into our proposal.

1 Their voices matter deeply to us, and they're helping to shape
2 a place we can all be proud of. So together, we remain focused
3 on moving forward with care, collaboration, and a sense of
4 purpose.

5 I'll now turn it over to Ben Becker, our retail
6 broker with KLNB.

7 Next slide.

8 CHAIRPERSON HOOD: Mr. Becker, I believe you're on
9 mute.

10 MR. BECKER: Sorry about that.

11 Can everyone hear me now?

12 Thank you, Chairman Hood, and Commissioners for
13 hearing my testimony. I've been a retail leasing broker for 20
14 years and very much appreciate the opportunity to provide some
15 context today.

16 Next slide, please.

17 So just to zoom out very briefly and to provide
18 some -- some context. Retail has changed so much over the
19 course of my career, and over the course of the time that this
20 project has been under consideration and development. So
21 obviously, I'm not breaking any news here, but we've all
22 obviously seen brands that we grew up with, that were
23 ubiquitous in the region, and in the city are no more.

24 People's shopping habits have changed drastically,
25 particularly with the rise of ecommerce and direct to consumer

1 models. They've reshaped how consumers shop and what their
2 expectations are with price and convenience and speed.

3 Next slide, please.

4 So these changes have definitely been felt in the
5 world of grocers, as well, and how consumers shop grocery. So
6 the first piece, obviously, is, you know, the rise of online
7 shopping for commodities, and I'll discuss that a little more
8 in a moment. But also, the rise of delivery services, and
9 online shopping, and pickup for grocers. Consumers are
10 spending less time in grocery stores because of -- they're
11 shopping for less when they're there. And oftentimes, they
12 aren't even setting foot in the stores when they are buying
13 their groceries.

14 And the other very key point is that there are a
15 whole host of categories that were once very common under the
16 roof of a typical grocery store. You know, paper goods,
17 housewares, light bulbs, toys, pharmacies that are often
18 shopped elsewhere, either online or in stand-alone locations
19 themselves.

20 Next slide, please.

21 So in the retail leasing landscape, the overwhelming
22 majority of retail -- of new retail activity is in categories
23 where consumers can't get online. Food and dining, first and
24 foremost. You can't go out to a restaurant online. You
25 can't -- yeah. You know you can't consume food online.

1 Fitness and wellness, obviously, you can't -- there's no way to
2 do that online. Personal services, things like, you know,
3 massages, getting your nails done, et cetera. Children's
4 activities, day care, there's no -- obviously, we saw during
5 COVID that online day care doesn't work.

6 And then, the category that's been called medtail
7 now, which is really -- the way we've seen a lot of medical
8 uses move into retail space, whether that's urgent care,
9 wellness clinics, primary care clinics, et cetera. Those are
10 categories where we're seeing the bulk of the retail leasing
11 activity.

12 Next slide, please.

13 So as consumer habits have changed, so have the
14 footprint of grocery stores. What this map shows is,
15 basically, we've got two sections. In blue, we've got newer
16 grocers. In green, we have older grocers. And it's a very
17 representative sampling of how the footprints of grocers have
18 changed. So the new Trader Joe's that's opened in Brookland
19 and the one that is coming to Friendship Heights, those are
20 both 15,000 feet and below.

21 The Lidl's that have opened in the City are in the
22 mid-20,000. MOM's Organic Market, Streets Market in that 10 to
23 15,000 square foot range. And that, again, is a direct result
24 of what I just talked about where consumers are buying just as
25 many groceries as they used to. They're just not buying the

1 things in grocery stores that they once did, and that's why
2 grocers aren't building large scale stores of this size
3 anymore.

4 And so as we have worked on this project for the last
5 decade-plus, we've seen these changes, and it's why we think
6 that the ability to adapt to -- excuse me -- to however
7 consumer habits may change in the future is very important.
8 We're -- based on the feedback that we continue to get from the
9 market, we're very excited about the vibrant project that this
10 neighborhood is going to become and appreciate your time.
11 Thank you.

12 MS. GATHINJI: Yes. Hi. My name is Kalinda
13 Gathinji, and I'm a senior associate at MV&A and I'll be
14 testifying regarding the architecture of the project. Oh, yes.
15 Thank you. And we'll start with Parcel 2.

16 Next slide, please.

17 So just going back down to the ground level of Parcel
18 2. The proposed is substantially similar to the previously
19 approved design in terms of the massing, the layout, and the
20 use configuration. The primary change is the removal of the
21 bridge connection on the upper floors, which was due to the
22 senior affordable -- which is due to the senior affordable
23 residential program moving to the east building of Parcel 2 and
24 needing to function entirely independently.

25 Next slide, please.

1 And this is a 3D view from the north service port,
2 which illustrates the bridge being removed. In the upper
3 right-hand corner, you can see the previous design, which had
4 the glassy bridge, which connected both sides of what was
5 previously a single residential building. And on the larger
6 image, you can see that that bridge has now been removed
7 because the buildings are not connected anymore.

8 Next slide.

9 And then, here we have another view from the north
10 service court, which is showing the approved and proposed
11 substantially similar. So again, from a massing and exterior
12 design concept perspective, very little has changed. And then,
13 it's good to note that the proposed design has already been
14 approved by HPRB.

15 Next slide, please.

16 And then, speaking a bit to the flexibility for
17 Parcel 2, again at the ground level, the proposed retail
18 flexibility would allow for the retail to go from 17,000 square
19 feet down to 5,000 square feet, with all of the retail located
20 in the P2 West Building. And the senior affordable amenity, in
21 this case, would move up to the north service court to activate
22 the street there.

23 Additionally, the loading dock for the east building
24 would not need to service the retail at the north end and could
25 be moved south, adjacent to the garage entrance, and the other

1 back of house functions. Additional flexibility would also
2 allow lodging in the place of residential in the west building
3 to service the nearby hospital and the surrounding community.

4 Once again, the massing and the exterior design
5 concept would remain substantially similar.

6 Next slide, please.

7 Moving over to Parcel 4.

8 Next slide, please.

9 Once again, the Parcel 4 massing and design is
10 substantially similar to what was previously approved. The
11 prior grocer wanted a much larger footprint and volume of
12 space, while the new grocer needs less space. So the
13 reconfigured grocery store allowed us to line Hazen Court with
14 retail and commercial functions to better activate the street.
15 The market rate residential lobby shifted to the south as you
16 can see. That's in the -- in yellow.

17 And then, the residential -- the senior residential
18 lobby, which was previously in orange, has now moved over to
19 the Parcel 2 building and so the balance of that square footage
20 went back into the retail in the scheme.

21 Next slide, please.

22 So here you can see a view of the exterior of Parcel
23 4 from the northeast, which shows that the massing and the
24 design is substantially similar. And once again, the proposed
25 design has been approved by HPRB.

1 Next slide, please.

2 And then, this view is from the north service court
3 looking down Hazen Court, which shows the proposed storefronts
4 of the additional retail. And then, the upper floors are also
5 substantially similar.

6 Next slide, please.

7 And these enlarged views down Hazen Court show the
8 previously approved largely blank facade of the grocer.
9 Grocers generally do not want much glazing where they need to
10 stack goods against walls, so they didn't want much storefront
11 in the previous design. The proposed scheme has the
12 opportunity to introduce storefronts and entrances to activate
13 Hazen Court and to further activate the north service corridor
14 so you can see that the street activation is very different
15 between these two schemes.

16 And then, moving on to the next slide.

17 So going back down to the ground floor, in terms of
18 flexibility, the parcel floor flexibility includes an option to
19 turn the deep retail and commercial space into residential with
20 minimum impacts to the originally approved massing and facades.
21 There is no change to the grocery and retail occupying the
22 entire north service court area and continuing down Hazen
23 Court. But the previous residential lobby would be converted
24 to residential units.

25 Before, where we had the market rate and the senior

1 affordable, we only have the market rate now so that area is
2 now converted to residential units.

3 Next slide, please.

4 And then, once again, if the grocery lease
5 terminates, the flexibility would maintain the grocery and
6 retail functions along the north service court and down Hazen
7 Court with residential filling the balance behind. In this
8 case, the loading dock for the grocery and retail would need to
9 move north to directly service those spaces. So you can see on
10 the right-hand side, the loading dock has moved up off of Hazen
11 Court. And then, the residential loading, which remained on a
12 gatehouse court where previously all of the loading was off of
13 gatehouse court in the south.

14 Next slide, please. Thank you.

15 MR. DETTMAN: Good afternoon, Commissioners. Good to
16 be with you again.

17 I'm going to very quickly get through a series of
18 slides that kind of places the proposed PUD modification within
19 the context of the PUD standard of review.

20 Next slide.

21 And so per the regs, we did a full blown evaluation
22 of the modification with the PUD standard, and particularly
23 with the consistency of the comprehensive plan. And per the
24 regs, we kind of focused our evaluation, as you'll see in the
25 records, the scope of that evaluation was really focused on the

1 modification itself. But we did, as we were conducting that
2 evaluation, made sure that the overall PUD -- as you know, this
3 is just a fairly small portion of the overall larger site to
4 make sure that the overall PUD remained consistent with the PUD
5 standard and to make sure that the overall PUD remained
6 consistent with the intent of the Commission when it approved
7 the McMillan PUD over a decade ago.

8 Next slide.

9 I'm not going to spend any time on the future land
10 use map or the generalized policy map. We're not proposing
11 anything that would disrupt these two parcels or the overall
12 PUDs consistency with the future land use map. There are no
13 changes proposed to the site's CR or MB-9 (phonetic) community-
14 related zoning. The height and density that's proposed on
15 these two parcels are consistent with the future land use map
16 and the one that was previously included.

17 Next slide.

18 In terms of the generalized policy map, again, the
19 whole site is identified as a land use change area, and over
20 the course of over a decade, again -- but really more so now,
21 now that there's progress being made on the site, the land use
22 of the site is changing. It's sort of changing from south to
23 north, as we'll see in some photographs.

24 Next slide.

25 But again, there's really great momentum on this

1 site, as you know. The community center has now been
2 delivered, the indoor pool, the playground, the substantial
3 parks and open space on the south. South service court's been
4 fully renovated. And as Ruth mentioned, EYA, the townhouse
5 developers now delivering phases and we have people actually
6 living on the site, which is just very exciting. We want to
7 continue that progress as we move north on the site.

8 Next slide.

9 At set down, there was a comment about how the
10 Commission really wants to make sure that the changes that are
11 being proposed here are better for the community, as opposed to
12 taking away from the community. And sort of -- that comment
13 kind of resonated as we were doing the comp plan evaluation in
14 terms of the comp plan policy guidance. And what you see here
15 on this slide are sort of buckets of policies that you'll find
16 in the comprehensive plan.

17 And these were the ones that really are further
18 advanced by the proposed modification in terms of the use of
19 large sites in the District of Columbia for new housing,
20 employment opportunities, and that'll even grow now with the
21 potential for lodging at the site, enhancing the neighborhoods
22 and enhancing neighborhood services, providing a range of new
23 housing, specifically for development on McMillan.

24 We look at retail. There's policies about expanding
25 the retail sector, including new grocery stores, new hotels in

1 outlying areas, and sort of to allow visitors to come into the
2 city and sort of experience, you know, sort of the nonfederal
3 district, these sort of unique aspects of district
4 neighborhoods. And McMillan is one of those areas with its
5 great history.

6 And of course, housing. You know, while, you know,
7 Ben may have testified that maybe retail demand generally --
8 retail patterns have changed. Perhaps retail demand for brick
9 and mortar demand has sort of decreased. What hasn't decreased
10 since 2014 when the -- when the Commission approved this PUD is
11 the demand for greater housing and for the affordable housing.

12 Next slide.

13 And that's what this diagram shows. This is in the
14 record. I won't go through it in detail. But you know, as
15 currently approved, approximately 660 units are approved across
16 the site. That's on Parcels 2, 4, and Parcel 5, which is the
17 for sale component. And what Jair Lynch is trying to do with
18 this application is to advance the multi-family rental
19 component of the overall PUD. And what you can see there in
20 the proposed PUD diagram, as well as the proposed PUD diagram
21 with the Parcel 2 East flexibility, is that the amount of
22 housing on the site will increase as a result of the community
23 modification.

24 Next slide.

25 These are also in the record, but -- and I won't go

1 through them in detail. But essentially, what these next two
2 slides show is kind of a summary, in table form, of the
3 proposed modifications and also the flexibility. But just part
4 of the summarize -- while the amount of retail space, sort of
5 on a square footage basis, across the site will be reduced, I
6 think a really good way to describe it is sort of the retail
7 component of the overall PUD is going to be right sized,
8 including the -- including the grocery store.

9 Again, increase in housing, that response to the
10 continued housing demand that has continued to grow since 2014.
11 Increased affordable housing for seniors, as well as the
12 potential addition of lodging, and the jobs, and the support
13 for the -- that that would provide to the community, as well as
14 the adjacent institutional facilities.

15 Next slide.

16 This is just sort of rounding out the summary of
17 modifications and flexibilities.

18 Next slide.

19 And so now, we get into sort of, like, how does that
20 all land within the PUD standard of review. What this
21 diagram -- these next two slides show is a comparison of the
22 public benefits between -- in the categories that are listed in
23 the order. And you can see the large majority of the public
24 benefits that are set forth in the order are not changed. And
25 many of them are actually complete already.

1 Next slide.

2 But there are three public benefit categories that
3 will be modified in housing. We see that that will be modified
4 with approximately -- going from 660 units across the entire
5 site to about 683 or 730 units. That's depending upon the
6 ability to obtain additional financing for the increase in
7 senior units. There may be a need to sort of pull back to the
8 existing approved 88 units if the financing is not there.

9 But while the number of units may go up and down, the
10 number of affordable units on the site will always remain
11 consistent. There will be no reduction in the number of
12 affordable units on the site. And in any scenario, the
13 affordable housing program will get to deeper levels of
14 affordability. And then, of course, there you see the retail
15 across the site. Next slide.

16 CHAIRPERSON HOOD: Mr. Dettman, can I interrupt you
17 one second?

18 MR. DETTMAN: Sure.

19 CHAIRPERSON HOOD: Mike, could promote Commissioner
20 Stidham? Can you bring her up, please? She just notified me
21 that she needs to be brought up. I do see her in the audience.

22 And Ms. Ackerman, can you make sure that that happens,
23 please?

24 Okay. Mr. Dettman, you may continue.

25 MR. DETTMAN: Thank you, Mr. Chairman.

1 The last couple of slides here. So taking the
2 summary of public -- or the summary of modifications and
3 flexibilities, and kind of putting that next to the development
4 incentives, and the benefits and amenities, and sort of that
5 balancing test in the PUD, that's what you see in this slide.
6 I think it's important to sort of view the proposed
7 modification within the context of the larger PUD because
8 that's really where the balancing happens.

9 And you can see on the left there the long list of
10 public benefits and amenities that are set forth in the order.
11 And the ones that are in red are the ones that would be
12 modified as a result of this application. And on the right,
13 you can see kind of the development incentives that were
14 obtained through the PUD process for the McMillan site. And
15 you can see a number of those there, we've asked for a little
16 bit of additional technical zoning flexibility.

17 Some of them, because of the time when the PUD was
18 approved, you didn't have to expressly ask for it. We're
19 actually making sure, just out of abundance of caution, that
20 we're making sure that that technical zoning flexibility that's
21 already been in the approved plans shows up in the order moving
22 forward.

23 Next slide.

24 So just sort of -- to conclude, I'd -- I would submit
25 to the Commission that the proposed modification to the

1 approved PUD, it is -- remains consistent with the intent of
2 the Commission's prior approval back in 2014. But the overall
3 McMillan PUD, as modified by what's proposed and before you
4 today, will remain not inconsistent with the comprehensive plan
5 and what as a whole will not -- individually, these two parcels
6 or collectively across the site, cause any unacceptable adverse
7 impacts, and rather will cause impacts that are favorable.

8 And then, also, we'll continue to provide public
9 benefits that are not inconsistent with the comprehensive plan
10 and other adopted policies. The public benefits of the overall
11 PUD will continue to balance, if not outweigh, the degree of
12 development incentives that have been requested as part of this
13 PUD and as part of this application. Thank you, Commissioners.

14 MR. KADLECEK: That concludes the Applicant's
15 presentation, and we are happy and available to answer
16 questions.

17 CHAIRPERSON HOOD: Thank you, Mr. Kadlecek, and to
18 your team. I think it was very well to the point, very well
19 done, and I appreciate not getting any -- hearing any feedback.
20 So you guys have got that down pat. I'm going to call the
21 other firm that we get the feedback from. So let me see if my
22 colleagues have any questions or comments.

23 Commissioner Imamura?

24 COMMISSIONER IMAMURA: Chairman.

25 Mr. Kadlecek and team, I'll be brief. I don't have

1 many questions or many comments other than originally, I
2 thought as you walked us through some of the changes and
3 challenges, I thought oh, this is sort of a nightmare scenario,
4 but perhaps we shouldn't use that word. Maybe it's a collision
5 of challenges. So I applaud the team for your
6 sticktoitiveness. For the general public -- and you've already
7 mentioned HPRB support, those that are looking at the
8 aesthetics, in general. I had to take a second look, and a
9 closer look, a detailed look. They're incredibly subtle design
10 moves. So in general, I think the design intent still remains
11 so I think that's pretty successful.

12 Essentially, what this is, is a space planning, sort
13 of, gymnastics. It's one of those scenarios, if this, then
14 that. And so again, for the design team, I applaud them for
15 working through some of these scenarios. Nothing that I think
16 is unreasonable. And clearly, we have OAG support in the
17 record there so that demonstrates for those that are focused on
18 affordable housing, the benefit that comes from this.

19 I think also from projects that go through this
20 iterative design solutions and challenges, sometimes the
21 outcome is much better. I will say, the image of the glass
22 bridge, while some might have thought that was really great, I
23 think it's fantastic that it was removed. So boy, does that
24 open it up, and so it's much better. And some of the other --
25 the storefronts, I think, look much better.

1 I think to the team's point about activating the
2 streetscape is, in fact, going to take place and come to
3 fruition. It's just, I think, an improvement here. So while I
4 know this has been difficult, I think what you've put before us
5 is an even better outcome for the community as -- even though
6 it's taken some additional time here to reach this stage, I
7 think Mr. Dettman might have mentioned -- and others too --
8 that there is momentum here, and so there's this level of
9 urgency. And I certainly share that and think that hopefully
10 we can get this development moving forward and completed within
11 a reasonable time frame so that everybody can benefit from it.

12 So with that, again, Mr. Kadlecek, I don't have any
13 questions, just those general comments. Keep leaning forward
14 into this. This certainly has my support and interested to
15 hear what my colleagues have to say.

16 So thank you, Mr. Chairman.

17 CHAIRPERSON HOOD: Okay. Thank you.

18 Commissioner Wright?

19 COMMISSIONER WRIGHT: Thank you.

20 I agree completely with Commissioner Imamura that
21 removing the bridge between the two buildings is a very
22 positive move, and I think that the project is greatly improved
23 by removing that. I did have one question. And you know,
24 before I ask my question, I will say that, you know, I really
25 do understand that retail is determined by the market, not by

1 zoning requirements.

2 You can require something and what you end up with is
3 empty space. And so I really do understand the need for
4 flexibility. I also understand the community's desire for a
5 real full-service grocery store. And that could be a small
6 full-service grocery store, like some of the examples that you
7 gave of, you know, MOM's Organic or some of the smaller Trader
8 Joe's or whatever. I hope it will end up being the one that
9 you currently have a letter of intent with the -- I'm assuming
10 you have a letter of intent with the grocery store that's
11 22,500 square feet.

12 Because if you go as small as ten, one of the other
13 negative aspects of that is -- that I noticed is that you end
14 up putting your grocery loading dock on your main walking
15 street. I don't remember the name of it. It's where you had
16 the bridge, but you end up having to break that important
17 walking street by putting in a grocer's loading dock. And that
18 would really, from an urban design standpoint, be unfortunate.

19 One of the things I did wonder -- and I don't know if
20 it's Mr. Becker or who would address this -- is most of the
21 smaller grocers were around 15,000 square feet. I know a
22 streets-type grocer is, like, ten. But I think, you know,
23 again, that is the least optimal because it sort of feels more
24 like a, you know, a small neighborhood bodega then it feels
25 like a full-service grocery store. I have a Streets grocery

1 store in my neighborhood. It's great, but it is definitely
2 different than a Giant or a Lidl or a, you know, Trader Joe's,
3 you know, whatever.

4 Why did you pick 10,000 as your backup number rather
5 than -- and so this is my question. Why did you pick 10 rather
6 than 15000 as your backup? Because the 15,000, again, feels a
7 little bit more like one of the small MOM's -- or the small
8 Trader Joe's or whatever. When you get down to ten and you're
9 more in the realm of like a Streets, I think that's a little
10 bit what the community is afraid of. So if you could address
11 that question, I'd appreciate it.

12 MR. KADLECEK: Yeah. I'll give a little bit of
13 context, and then, maybe Ruth can get some more color to it.
14 So first thing is, there's -- there is, in fact, a lease signed
15 for the current close so it's more substantial than a letter of
16 intent. There is a signed lease with the current 22,500 square
17 foot portion. So it is the hope, desire, and intent of the
18 developer that that's the grocer that will (indiscernible).

19 The 10,000 request is really in order to allow them
20 to pivot in the extraordinary case of this third grocer pulling
21 out and canceling and terminate -- and the lease being
22 terminated, right? So it's really to accommodate that
23 situation. And then, in terms of the analysis to where 10,000
24 came from, if you look at those slides, there are a number of
25 grocers that -- it is of the development team's opinion, and I

1 think if Mr. Becker wants to weigh in on this, that there are
2 plenty of grocers that fall within that 10 to 15,000 range,
3 that it is our estimation and understanding would service the
4 daily and regular grocery needs of neighborhood residents.

5 Keeping in mind that, as opposed to 2014 when this
6 was approved, there are now two more grocery stores within a
7 mile. So that also helps change the landscape.

8 But Ruth, if you have anything to add there?

9 MS. HOANG: No.

10 MR. KADLECEK: Maybe if Mr. Becker has anything to
11 add in terms of that 10 to 15,000 range and the service of --
12 of groceries that can be provided by that.

13 MR. BECKER: Sure. I would just add that we don't
14 know what we don't know. And so if you had told any of us 20
15 years ago that the amount of online shopping that we would all
16 do, and the way that commerce has changed, we -- we wouldn't
17 believe you. And we wouldn't believe it, and so I think the
18 request for that flexibility to 10,000 -- should the unforeseen
19 happen with this existing grocer -- reflects a -- if there are
20 further changes in the market, such that grocery footprints
21 change, and they are able to meet consumer demand -- because
22 ultimately, the gross -- the size of the grocers a reflection
23 of their ability to meet consumer demand.

24 And so if they decide that the efficient way for them
25 to service the market is to shrink their footprint, that's why

1 it would be optimal to have that ability to pivot.

2 COMMISSIONER WRIGHT: Thank you. I mean, I think
3 that's a good explanation. You know, again, I think that we're
4 all thinking about worst case scenario because we really do
5 hope that the current grocery store that you have under lease
6 will move forward. And I understand you want to give yourself
7 enough flexibility in the worst case scenario so that you
8 aren't having to come back and go through this process again
9 because it's a lengthy process.

10 And so you know, I'm supportive. Again, I understand
11 retail is dictated by the market, not by what we do here in a
12 zoning action. But you know, I would just point out that in
13 addition to the negative of having a smaller grocery store, it
14 also affects your building design and your urban design because
15 it really changes your primary walking street. But those were
16 my only questions. I just wanted to, you know, sort of put that
17 out there and get a little more information, and I appreciate
18 what -- shared. So thank you.

19 CHAIRPERSON HOOD: Okay. Thank you. Vice Chair Miller?

20 VICE CHAIR MILLER: Thank you, Mr. Chairman. I'm
21 turning off my video because it's better connectivity for some
22 reason these days. I'm going to get to Apple one day.

23 Thank you to the Applicant's team for your perseverance
24 throughout this long saga of getting the McMillan Reservoir
25 District development -- I've got to get used to that -- Reservoir

1 District development, and commend you on what has been developed
2 there thus far: the community center, the indoor pool, all the
3 public open spaces, and the townhouses that I didn't realize that
4 was -- already have come online, and you got some residents there.
5 That's great.

6 And I appreciate the community engagement. You've
7 garnered the support of both ANCs 1E and 5E, and have consistently
8 met throughout this long process with the McMillan Advisory
9 Group. And you've garnered the support of the Office of Planning,
10 DDOT, and OAG and others.

11 And I agree with my colleagues that the -- well, I
12 support the modifications that have been proposed. I do have
13 some pause about the flexibility that's been proposed, which is,
14 as you've acknowledged and OP states, is extraordinary and unique
15 somewhat. I believe that the modifications are warranted and
16 would result in improvements, both design improvements and more
17 housing, actually. And that's all great. If you factor in the
18 flexibility, the housing may drop to where you have the
19 flexibility to convert all the lodging on one of the parcels, I
20 think, permanently -- all the residential to lodging and 20
21 percent on the other -- yeah, west and east are the parcel, too.
22 But it drops the housing and so that's somewhat of a concern.

23 And I agree with all of the colleagues and the comments
24 and appreciate their insight into the modifications that have
25 been made. And I agree with them in general.

1 Let me ask you. Do you -- on the OAG approval, they
2 had two -- well, let's start with DDOT, an easy one. I think
3 you agreed to the DDOT conditions with the revised TDM and the
4 revised transportation improvement program. You agreed to all
5 of DDOT's conditions. You've worked with them throughout.

6 MR. KADLECEK: Yes. We agreed to DDOT's conditions.

7 VICE CHAIR MILLER: Yeah. And the OAG conditions,
8 which were suggested -- I don't know if it was really conditional
9 approval, but they were suggestions -- that we should have a
10 condition, I guess, that would require the affordable housing to
11 be done concurrently, or before, the market rate housing. Do you
12 have any comment on that, as well as the condition that said that
13 the part of the parcel that would allow residential to be
14 converted to lodging permanently should be only temporary, like
15 the other side of the parcel? The five-year temporary and then
16 we could evaluate it at that point. Do you have any comment on
17 either of those recommendations from the Office of Attorney
18 General?

19 MR. KADLECEK: Yes. So I'll start with the last one
20 first, in terms of lodging. So to clarify that, in Parcel 4,
21 which is the one where the grocery store would be, the lodging
22 in that would be a temporary use, like a Placemkr hotel or what
23 used to be called WhyHotel. So that would never be permanent
24 lodgings. The only potential flexibility for permanent lodging
25 is in Parcel 2 West. So we agreed to the five-year limit that

1 OAG suggests on the temporary use in Parcel 4. But of course,
2 if Parcel 2 West becomes lodging use, it's not going to be
3 temporary. That's what that building would be. So that's where
4 we differ slightly on that, relative to what OAG is proposing.

5 And then in terms of the order of the buildings
6 constructed, the Applicant can't commit to the affordable senior
7 building in (indiscernible) being built at any one particular
8 time. That comes from two reasons. One is the LDDA that was
9 recently amended sets forth the timelines by which the buildings
10 need to be permitted and constructed. Those are also the proposed
11 timelines that we're proposing as part of the order for this case
12 as well, to align the two. And the second reason is the
13 financing. As we discussed, the financing is different for the
14 affordable building. And as we just saw, for example, last year
15 with DHCD, financing for affordable projects sometimes can
16 disappear pretty quickly. And so we can't say that the affordable
17 building would be built first when we don't know necessarily what
18 the financing landscape will be.

19 But I say all that in the context of the LDDA does set
20 out a timeline by which everything would need to be completed,
21 and that would include the affordable building being constructed.
22 And remember, if the tax abatement is approved as part of the
23 Budget Act, there would be affordable units spread throughout.
24 So there would be some affordability built throughout the
25 project.

1 VICE CHAIR MILLER: Right. The HANTA tax abatement,
2 the -- I forget the acronym, what it stands for, but it was
3 approved, I think, on first reading or -- sorry, the dollar
4 amount. It wasn't approved specifically necessarily for this
5 project, is that correct, or was it directed at this project?

6 MR. KADLECEK: It was approved on the first reading.
7 And it actually is separate from HANTA, although the
8 affordability language model is being passed. So basically, what
9 it says is that it's 30 percent of the units, a third of the
10 units have to be an average of 80 percent MFI. So you'll have
11 some that are higher, some that are lower, that would average out
12 to 80 percent MFI.

13 VICE CHAIR MILLER: And what's the timeline in the LDDA
14 for the delivery of affordable and market rate? You alluded to
15 that.

16 MR. KADLECEK: Yes. So we have to file for permit for
17 at least one of the buildings within two years and then start
18 construction within three, which is consistent with the zoning
19 regulations. And then a complete of construction of everything
20 has to be done within 12 years under the LDDA. All the buildings,
21 tenants, et cetera.

22 VICE CHAIR MILLER: Okay. Well, thank you for that
23 response and the other responses. So I do recognize what everyone
24 said about the grocery stores, that it's a different market now
25 than it was certainly 11 years ago. And you stated that there

1 were two -- I guess I could ask Chairman Hood this too. There
2 are two grocery stores that are a mile away -- or could you just
3 cite what grocery stores at approximately what square footage are
4 a mile away that might be a part of your rationale for -- although
5 there's other rationale -- for having a smaller grocery store?

6 MR. KADLECEK: Yes, Vice Chair Miller. We're getting
7 that information. So the two that are within or -- and Mr. Becker
8 can answer, but correct me if I'm wrong. The Brookland Trader
9 Joe's that just opened recently is around 12,000 square feet.
10 And then the Whole Foods on Florida Avenue in Shaw near Howard
11 is about -- that Whole Foods is about 36,000 square feet. 46,
12 I'm sorry. 46,000.

13 VICE CHAIR MILLER: Right. That fits in with a lot of
14 Whole Foods. Although the Whole Foods closest to me along the
15 Wisconsin Avenue corridor, and there are two. Two. Ridiculous.
16 Although there's a third up in Friendship Heights, if you want
17 to include that one. They are actually at the 20 -- they're in
18 the low 20s as I understand it. So I don't -- they would fit
19 into the modification you're asking at 22,500, and I understand
20 they might be doing a smaller format -- Whole Foods -- in the
21 future.

22 I'm a little concerned, you know, we have such a luxury
23 along the neighborhood we live in, too much of a luxury, of both
24 large format and small format grocery stores. So I go to all of
25 them for what I need. But this is right there at the site that

1 we wanted to create a community in a neighborhood that doesn't
2 have the luxury of all these grocery stores that other
3 neighborhoods have. And so it seems to me that the 22,000 --
4 I'd be more comfortable not going with the flexibility at this
5 point or going down to not as quite a low number as 10,000. So
6 you could get the Trader -- well, I guess that would be a very
7 small Trader Joe's. A smaller Trader Joe's. But I just have
8 some concern -- I have some concern about -- we started out at
9 54 or whatever it was. So I just have some concern about that.
10 Is there a timeline for that development, or is that just
11 dependent on the market? The grocery store development.

12 MR. KADLECEK: The grocery store, yes. So it's set
13 forth in the lease that they have with the current grocery store
14 tenant. There is a timeline. (Indiscernible). But there is a
15 timeline. But there is a timeline by which construction has to
16 start, by when they have to deliver the shell, et cetera. So
17 that's all set forth in the lease. I mean, is a -- we want to
18 be clear. This is a real tenant that has a real stake in this
19 project at this point, and it is certainly the intent and the
20 hope of the developer that that is a grocery store that will
21 open.

22 VICE CHAIR MILLER: Yeah, and I hope so too. And I
23 just don't want, by having a flexibility in there, to go all the
24 way down to ten, that you're creating some kind of incentive or
25 disincentive for the 22,000 to remain that way or creating an

1 incentive for the 10,000 square foot grocery stores to come
2 forward as an alternative. I understand the flexibility, but I'm
3 just concerned about how the incentive and disincentive works by
4 building it into our zoning commission order.

5 So I realize, you know, this is because of all the
6 really unacceptable litigation by some members of the community,
7 even though the larger community and all elected officials have
8 supported this project from the outset. That is, you lost two
9 grocery store leases that were larger, and then that's certainly
10 at the top of everybody's mind, and we don't want you to lose
11 this one. But I don't want to create an incentive for them not
12 to stay at 22 or for somebody else to come forward and say, well,
13 they said you can do ten -- or for you to have an incentive that
14 it's more profitable or something. We have a couple opposition
15 letters from neighbors that state that they're concerned that it
16 creates some kind of incentive.

17 Mr. Becker, you have something to say about that?

18 MR. BECKER: At risk of speaking for my client, the
19 incentive is to have the largest grocer possible both from a --
20 from several standpoints. From the rents it generates, from
21 what's already baked into the plan, from the amount of regular
22 trips it's going to drive to the project. There's no incentive
23 to pivot. And in fact, based on what's already been agreed upon
24 in this lease, and I think that's reflective in what they're
25 asking for, which is just in the event of the unforeseen that

1 none of us want, should habits change and the market no longer
2 support a grocer of this size, that's where the flexibility is
3 coming from.

4 MR. KADLECEK: Yeah, and I just want to underscore that
5 that flexibility will go down to 10,000. First of all, 10,000
6 is like the very, very floor. But beyond that, it is only if
7 the current grocer meets targets. So no one wants to exercise
8 that flexibility. That is certainly not an incentive. It's just
9 allowing the developer to pivot and get this thing built in the
10 worst-case scenario that the current grocer can't
11 (indiscernible).

12 VICE CHAIR MILLER: Okay. Well, thank you for those
13 responses. And thank you for bringing this -- for your stick-
14 to-itiveness with this project and for delivering what you've
15 delivered thus far. And hopefully, that will continue going
16 forward. So I have no further questions, Mr. Chairman. Thank
17 you all for all your work on this throughout the years.

18 CHAIRPERSON HOOD: Thank you. Commissioner Stidham?

19 COMMISSIONER STIDHAM: Can you hear me?

20 CHAIRPERSON HOOD: Yeah, we can hear you. Yes.

21 COMMISSIONER STIDHAM: Okay. Great.

22 First of all, apologize to the Commission and to the
23 Applicant for joining late. But for the record, I did join before
24 the presentation started. So I've heard the entire discussion
25 and all of the presentation.

1 And first of all, I appreciate the presentation. As I
2 was going through the record and preparing for tonight's hearing,
3 I was extremely concerned about the significant flexibility that
4 was being requested. But your presentation did a great job of
5 going through each of those items and describing why you're asking
6 for what you're asking for. So I appreciate that. That provided
7 me with some clarity for why you are asking for such extraordinary
8 flexibility.

9 For the modifications, I can't agree more with
10 Commissioner Imamura related to the glass bridge. That is
11 definitely the rule. That is a great improvement. And I think
12 that can be said for the other modifications as well.

13 The grocery store does give me pause, as well as my
14 other commissioners. And I understand, and I really appreciated
15 the walkthrough of the retail. And I recognize that the way
16 people shop, even for groceries these days, has greatly changed.
17 And so the needs of those stores need to be able to pivot with
18 that change as well.

19 But the grocery store still needs to be a meaningful
20 space. It still needs to provide the majority of what a grocery
21 store needs to provide for a healthy community. So I am concerned
22 about going down to the 10,000 square feet. And I appreciate
23 Commissioner Miller's questioning about that level because I
24 think it needs more thought and more discussion, so that this
25 does not turn into a bodega or a 7-Eleven type operation. That

1 it really is a meaningful grocery store, which this development
2 will surely need and deserves, frankly. So that is -- I did not
3 have any questions. Those are really just my comments. And
4 again, appreciate the amount of detail that you went through in
5 the presentation.

6 CHAIRPERSON HOOD: Okay. Thank you.

7 I will be very brief. I would agree with the comments
8 I've heard from all of my colleagues, and I appreciate their
9 asking those questions and dissecting the information we have
10 before us.

11 I certainly am not one to hold up McMillan. And as I
12 sit here and think about all the people who wanted to see McMillan
13 develop and see it going on, a lot of them -- who I actually know
14 and have worked with over the years, they're much older than I
15 was -- are now deceased. And I sit here and think about them as
16 we're going through this case. So as the Vice Chair knows, this
17 has been a long time coming. A long time coming.

18 But I do want to go back to a question that the Vice
19 Chair has already asked about the OAG comments. Maybe I missed
20 the answer or I didn't understand it. One of their
21 recommendations, or one of their -- what they'd like to see us
22 impose as a condition was that the affordable and the market rate
23 be either done simultaneously or the affordable be done first.
24 Mr. Kadlecsek, I didn't hear your answer on that. Or maybe I
25 just -- it might have blew by me. What was your response?

1 MR. KADLECEK: Yeah. The response was that, basically
2 because the affordable building is under a different financing
3 scheme, they can't commit to it going in a certain order. They
4 can commit to what the LDDA and what we proposed, in terms of
5 when the first building permit application will be filed and
6 then, of course, when the full development of all three buildings
7 would have to be done. But in terms of the order, they can't
8 hamstring themselves because the financing is just too uncertain,
9 especially in terms of that affordable building and kind of the
10 whims of the District financing.

11 CHAIRPERSON HOOD: Okay. Well, I want us to do some
12 more discovery now. I don't know all about the financing, how
13 it works, but I understand the leverage. And I appreciate OAG.
14 Maybe I'll continue to follow with them, when they come up.

15 I do want to talk about what the Vice Chair has been
16 talking about, the grocery store. He mentioned in his
17 neighborhood he has a luxury. I don't know if you use that word
18 luxury, but you have a choice. In my neighborhood, we don't have
19 a choice. And it's not about our neighborhoods, but I do live
20 in Ward 5 where this is being proposed. So I'm very concerned
21 about the 10,000 square feet, and I get it. I get it. And I'm
22 trying to think if we were to go -- if we have to go there, it
23 sounds like that's not where we want to be. And I get the
24 leasing. I get the tenant. I get all that. But it sounds like
25 the last resort is to go down to 10,000 if we have to get there.

1 So I think we need to have some language in the order.
2 And I would like for OAG and -- I mean, our legal counsel, you,
3 Mr. Kadlecek, and OAG, I think we need some language in the order
4 stipulating as that being the last resort. It may already be
5 there, but I think we need to spell out how we end up getting
6 there because I kind of agree with the Vice Chair. If we know
7 we can go there, a lot of times, that's where we end up. So, it
8 needs to be a task to get to 10,000. It almost needs to be a
9 last resort because I agree with the community.

10 They want some of those luxuries. That particular area
11 wants some of those same luxuries that everybody else is enjoying
12 in the city. Not only that, I believe our Mayor, and the
13 Administration, and our Council are trying to do the exact same
14 thing. But I get it. I understand the economics. I appreciate
15 Mr. Becker's analysis, but I think we need to have it a little
16 stronger than to just say, oh, you go down to 10,000 because it
17 could be profitable somewhere else. And we want to make sure we
18 do the rationale. I'll leave that to the legal minds, but I do
19 want to see something of that nature. Hopefully, I can garner
20 my colleague's support on that.

21 Other than that, I don't have any questions or
22 comments. I really agree with the modifications. I think it's
23 a better project. And as I was thinking about how we got to
24 these modifications, it reminds me when I was a child and I used
25 to work on my car. Sometime when I would start working on my

1 car, I didn't know what I was getting into until I started. In
2 my case, I had to take it to the shop and get somebody to repair
3 what I had already done. But in this case, you all have made
4 the adjustments, and that's how I equate what I see that has been
5 done here. So thank you. Sometimes you don't know what you're
6 doing ten years ago until you get into it, and I think you all
7 have come out with a greater project. So I'll leave it at that.

8 Any other questions, follow-up questions, or comments?
9 Commissioner Wright.

10 COMMISSIONER WRIGHT: So, two things. I just want to
11 be clear that the Applicant submitted something today into the
12 record, which was a statement about the going down to 10,000 as
13 sort of a last resort. And I wonder if the Applicant can talk
14 about what that very brief document was.

15 And the second thing that I want to throw out there
16 just for discussion is would you consider changing your baseline
17 worst case scenario to 15,000 rather than 10, which would be more
18 in line with some of the examples we were given of grocery stores
19 like, you know, a small Trader Joe's, a small MOM's, et cetera,
20 which were around 15. So those are my two questions that I'd
21 love the Applicant to address.

22 CHAIRPERSON HOOD: Before you address that,
23 Commissioner Wright, are you talking about Exhibit 28A, or are
24 you talking about something else? And if they've submitted today,
25 I do work. But --

1 COMMISSIONER WRIGHT: Yeah. I don't have it in front
2 of me, but we --

3 VICE CHAIR MILLER: I think it is 28A.

4 COMMISSIONER WRIGHT: Yeah, we received something --

5 CHAIRPERSON HOOD: That does not do it for me. But
6 anyway. Okay. Go right ahead.

7 COMMISSIONER WRIGHT: Okay. But I mean, I just wanted
8 to bring that up and let the Applicant address it, but then also
9 address the idea of having 15 be the minimum.

10 MR. KADLECEK: Yes. Thank you, Commissioner Wright.
11 So with regard to that document, yes, we submitted it yesterday,
12 and that's the document that we asked for the waiver of the filing
13 deadline. That one is one in which we've committed to increasing
14 the minimum retail to 33.5, of which 22.5 is the grocery as
15 currently proposed. And then we added the caveat because
16 before -- I'll just back up. Before we had just asked for
17 flexibility to go down to 10,000 square feet. So now what we're
18 asking for is the 10,000 square feet is the last resort of the
19 current lease -- grocery lease being terminated. That is the
20 only situation under which we would have the flexibility to go
21 down to 10,000 square feet.

22 That, of course, leads me into your next question,
23 Commissioner Wright. It's something we need to look at. I
24 don't -- well, certainly, something we can consider, the 15,000.
25 But it's something we need to study, and I don't know that we

1 can commit to anything right now, but we certainly can study it
2 and follow up.

3 CHAIRPERSON HOOD: Okay. Thank you. And I still want
4 some rationale. I did see what Commissioner Wright was talking
5 about. That, to me, doesn't get it for me, but we can discuss
6 that as we continue to move forward. Thank you.

7 Any other follow-up questions or comments? Anybody?
8 Okay. All right. And again, thank the Applicant for the
9 presentation.

10 Ms. Ackerman, do we have representatives from ANC 1E
11 or 5E?

12 MS. ACKERMAN: No, we do not.

13 CHAIRPERSON HOOD: We don't have either one of them?

14 MS. ACKERMAN: No. I notified them today that no one
15 had signed up to testify, but I did not receive a response.

16 CHAIRPERSON HOOD: So my friend Alice Thompson didn't
17 show up now. I didn't mean to bust her out like that. Anyway,
18 okay. Thank you. Thank you very much.

19 All right. Let's go to Office of Attorney General.

20 MS. ACKERMAN: Yep. He is here.

21 CHAIRPERSON HOOD: Mr. Tondro. Maximilian Tondro.
22 Haven't seen you in a while.

23 MR. TONDRO: Good afternoon, Chair Hood, Vice Chair
24 Miller, and Zoning Commissioners. My name is Maximilian Tondro,
25 and I'm representing the Office of the Attorney General's

1 Equitable Land Use Section in today's hearing on the proposed
2 modification to the McMillan PUD for Parcels 2 and 4. And if I
3 can have Exhibit 21, our PowerPoint on display, that would be
4 wonderful. Thank you.

5 I will note that my testimony tonight is based on our
6 filing in the record at Exhibit 21. OAG -- thank you - OAG
7 supports the modification as it relates to proposed changes to
8 the approved PUDs affordable housing proffer, as I will explain.
9 If I can have the next slide, please. Thank you.

10 Specifically, OAG believes that the additional
11 affordable housing proffered by the modification more than
12 compensates for the loss of the inclusionary mixed-income housing
13 of the approved PUD. As you can see on the slide, on the left-
14 hand side, the modification proposed to add at least three new
15 affordable units and even more importantly, to dramatically
16 deepen the affordable levels of 25 of those affordable units.
17 These will be reserved for the extremely low-income households
18 that earn up to 30 percent of the median family income. This
19 expanded affordable housing proffer advances key provisions of
20 the comprehensive plan and its goal to build an inclusive city.
21 The comprehensive plan defines affordable housing as a high
22 priority public benefit for residential PUDs, and emphasizes the
23 need for affordable units at different income levels,
24 particularly at the lower levels of affordability.

25 Furthermore, the Applicant has stated that it will

1 expand its affordable proffer if it is successful in obtaining
2 district funding, adding a further 26 new affordable units. I
3 will note that the PowerPoint was made before the last filing by
4 the Applicant and therefore shows only 20 additional units. Their
5 most recent filing at 28A, added an additional six affordable
6 units, for a total of 26, if they get district funding. And with
7 a further deepening of affordability levels for the units, as you
8 can see on the screen on the middle left.

9 OAG believes that this significantly expanded
10 affordable housing proffer makes up for the loss of the approved
11 PUDs inclusion of affordable units in mixed-income buildings, as
12 you can see on the right-hand side. These buildings, originally
13 they were mixed-income buildings on both Parcels 2 and 4. All
14 of the affordable units, at least under the minimum proffer,
15 assuming without consideration of whether they get district
16 funding, all of those affordable units will be consolidated into
17 a single building on Parcel 2. However, we believe that this
18 consolidation and separation of affordable from market rate will
19 remain. Since that new affordable building is going to be close
20 to the market rate buildings, this will limit the impact on that
21 loss of inclusion by separating the affordable and market rate
22 units.

23 However, as I think this discussion has already been
24 heard tonight, OAG is concerned that the separation of affordable
25 market rate units may lead to the affordable units being built

1 after the market rate units that actually trigger those
2 affordable units. We therefore propose that the Commission limit
3 the flexibility request for phasing to require that the
4 construction of the affordable building start at the same time
5 or before the construction of the market rate buildings.

6 We understand -- we have heard both what the
7 applicants' response to that. We still -- and we understand the
8 difficulties of financing the separate financing streams,
9 especially those for affordable units. And so -- but at the same
10 time, we think that the -- it is very important to provide those
11 affordable units concurrently at the very least, or with some
12 other good faith alternative. If there is another means by which
13 they could be -- that can be addressed, OAG believes that the
14 modification advances the policies of the comprehensive plan and
15 it satisfies the PUD balancing test and, as a result, supports
16 the modification.

17 That concludes my testimony. I'm happy to answer any
18 questions you may have. Thank you.

19 CHAIRPERSON HOOD: Thank you, Mr. Tondro. Let's see
20 if we have any questions. Commissioner Imamura? Commissioner
21 Wright?

22 COMMISSIONER WRIGHT: No questions.

23 CHAIRPERSON HOOD: Okay. And Vice Chair Miller?

24 VICE CHAIRPERSON MILLER: I appreciate OAG's thoughtful
25 testimony in this case.

1 CHAIRPERSON HOOD: Commissioner Stidham?

2 COMMISSIONER STIDHAM: No questions for me either.
3 Thank you.

4 CHAIRPERSON HOOD: Okay. I do have a request, Mr.
5 Tondro, because one of the things about the market rate and the
6 affordable housing being done simultaneously, you -- I'm sure
7 you've heard the conversation with Mr. Kadlecsek. And you said
8 some other -- and I heard you acquiesce, okay, if that's the
9 financing -- I would like for you to -- if you all would be
10 inclined to -- because I agree with that. I agree with that.
11 But I just need to know how to get there.

12 So if you all can make, maybe, a submission and just
13 come up with a way that we can recommend, and I'll see if my
14 colleagues would buy into that, because I think that's very
15 important. If you all could submit that, and Ms. Ackerman, I'm
16 asking for that from OAG as well. And I'll ask from Office of
17 Planning too.

18 So I don't have any questions. Let's see if there's
19 any questions. Does the applicant have any questions of OAG?

20 I believe we can do this. I can't remember.

21 So does the applicant have any questions of OAG? Mr.
22 Kadlecsek?

23 MR. KADLECEK: No questions. Thank you.

24 CHAIRPERSON HOOD: Okay. And again, Ms. Ackerman, I
25 don't think we have ANC 1E or 5E here, correct? Okay.

1 Again, thank you, Mr. Tondro. We appreciate the OAG's
2 thoughtful testimony.

3 MR. TONDRO: Thank you.

4 VICE CHAIRPERSON MILLER: Thank you.

5 CHAIRPERSON HOOD: All right. Let's go to DDOT. I
6 think we have Mr. Hagen? I think that's who I saw. Mr. Hagen?
7 DDOT?

8 MR. HAGEN: -- Chairman Hood and members of the
9 Commission. For the record, I'm Noah Hagen with District
10 Department of Transportation. DDOT is supportive of the
11 application to modify the approved PUD for Parcels 2 and 4 of
12 the Reservoir District development. In our July 7th report,
13 which is in the record as Exhibit No. 23, we recommended approval
14 with two conditions: the first condition was implementation of
15 the applicant's revised Transportation Demand Management and
16 Loading Management Plans, and the second condition was that the
17 applicant continues to work with DDOT and WMATA to revise the
18 Transit Improvement Plan from the original 2014 approval.

19 The applicant has agreed to the modified TDM plan and
20 Loading Management Plan. However, despite the applicant's
21 statement in their presentation that DDOT and WMATA have agreed
22 to the modified Transit Improvement Plan, the involved parties
23 are still working towards a mutually agreeable plan and DDOT
24 expects that an agreement will be reached soon. With the
25 conditions included in the voting order, DDOT has no objection

1 to the approval of this application. We look forward to
2 continuing to work with the applicant on finalizing the details
3 of the transit improvement plan. Thank you, and I'd be happy to
4 answer any questions.

5 CHAIRPERSON HOOD: Thank you, Mr. Hagen. Let's see if
6 we have any questions. Commissioner Imamura?

7 COMMISSIONER IMAMURA: No. Thank you, Mr. Hagen.

8 CHAIRPERSON HOOD: Commissioner Wright?

9 COMMISSIONER WRIGHT: No.

10 CHAIRPERSON HOOD: Vice Chair Miller?

11 VICE CHAIRPERSON MILLER: No questions. Thank you, Mr.
12 Hagen, for all your work on this case.

13 CHAIRPERSON HOOD: And Commissioner Stidham?

14 COMMISSIONER STIDHAM: No questions. Thank you, Mr.
15 Hagen.

16 CHAIRPERSON HOOD: I don't I don't have any questions
17 as well, Mr. Hagen. Thank you.

18 Let's see if the applicant -- does the applicant have
19 any questions of DDOT?

20 MR. KADLECEK: No questions. Thank you.

21 CHAIRPERSON HOOD: Okay. And again, the ANCs are not
22 here.

23 Thank you very much, Mr. Hagen, for all your hard work,
24 all the time. Thank you.

25 All right. Let's go to the Office Of Planning. Ms.

1 Ackerman, can you bring the Office of Planning up? I think it's
2 Ms. Brown-Roberts, or let's find and ask -- Ms. Brown-Roberts,
3 probably.

4 MS. BROWN-ROBERTS: Yes.

5 CHAIRPERSON HOOD: Okay.

6 MS. BROWN-ROBERTS: Good evening, Mr. Chairman.

7 CHAIRPERSON HOOD: Good evening.

8 MS. BROWN-ROBERTS: Good evening, Mr. Chairman and
9 members of the Zoning Commission. I'm Maxine Brown-Roberts, from
10 the Office of Planning, on Zoning Commission Case 13-14E. The
11 McMillan Reservoir Project, also known as Reservoir District,
12 D.C., was approved several years ago and has been the subject of
13 appeals and other delays which has affected the development
14 market since the approval of the original PUD and has resulted
15 in delays in the overall project development.

16 However, as stated by the applicant tonight,
17 development is underway and to assist in moving towards final
18 development, the applicant has requested several areas of
19 modification and flexibility. As outlined in our report, there
20 are several modifications requested with significant areas of
21 flexibility in order to quickly adapt to incidents which may
22 result in changes to the residential and retail markets. Overall,
23 the development would still maintain residential use and
24 commercial use, one of which is a supermarket which was a
25 significant amenity of the PUD. The supermarket will be provided,

1 albeit smaller than originally proposed. Of significance also
2 is the flexibility to introduce a lodging use.

3 The applicant addressed the OP questions presented at
4 set-down related to the reduction in retail use and its location,
5 the location of the grocery store, clarification on the
6 operations of the lodging use, and the amount of housing and
7 affordable housing provided, and the location of the loading dock
8 on Parcel 2 East building in relation to the residential entrance
9 on Parcel 2 West building.

10 We also support the additional details on the retail
11 usage, which was presented tonight subsequent to our report. The
12 proposal would not be inconsistent with the FLUM designation for
13 mix of Medium Density Residential, Moderate Density Commercial,
14 and Parks Recreational Open Space for the overall development.
15 In its original approval, the Commission determined that the
16 proposal would not be inconsistent with the comprehensive plan,
17 and from our review that remains true.

18 When viewed through a racial equity lens, the proposal
19 would continue to expand housing, affordable housing, at a level
20 that was originally planned for the overall development and
21 currently exceeds, and would provide a supermarket to serve the
22 neighborhood.

23 Mr. Chairman, we do find that this is an unusual amount
24 of flexibility for a PUD, but also find that the requested
25 modification and flexibility will allow the applicant to more

1 quickly adjust to external forces in the marketplace.

2 OP therefore recommends approval of the requested
3 modification, flexibility. and modification to conditions of
4 submitting permits and commencing construction.

5 Thank you, Mr. Chairman and I'm available for
6 questions.

7 Regarding the OAG report, I think we are supportive of
8 the applicant stance. But I think, Mr. Chairman, you also
9 requested that we may look at an alternative that was supported
10 by OAG. If I could get some clarification on that, I would
11 appreciate it. Thanks.

12 CHAIRPERSON HOOD: Ms. Brown-Roberts, I think I'm going
13 to a pull that request back and not ask OP to do it, but I'm
14 gonna ask OAG to do it. I'm going to also talk to my legal
15 counsel, as opposed to Office of Planning.

16 What I was trying to do is, after I heard Mr. Kadlecsek's
17 response to something that was recommended about doing affordable
18 use and marketing use simultaneously, we heard about the
19 financing piece and -- I'm just looking to make sure -- the way
20 I view it is the market rate may get done and the affordable may
21 not. So I just want to make sure, because that's what I think
22 is more important to me in that project than anything, that the
23 affordable piece gets done. So --

24 MS. BROWN-ROBERTS: Okay.

25 CHAIRPERSON HOOD: So I'll pull that back from you all.

1 I was thinking as you talked, I'm not going to ask you all to do
2 any more work, at least that time.

3 MS. BROWN-ROBERTS: Okay.

4 Let's see see if we have any additional questions or
5 comments. Commissioner Imamura?

6 COMMISSIONER IMAMURA: Thank you, Ms. Brown-Roberts.

7 MS. BROWN-ROBERTS: You're welcome.

8 CHAIRPERSON HOOD: Commissioner Wright?

9 COMMISSIONER WRIGHT: No. Thank you again.

10 MS. BROWN-ROBERTS: Thank you.

11 CHAIRPERSON HOOD: Vice Chair Miller?

12 VICE CHAIRPERSON MILLER: -- Brown-Roberts for all your
13 work for a long time on this case.

14 CHAIRPERSON HOOD: And Commissioner Stidham?

15 COMMISSIONER STIDHAM: No questions. Thank you, Ms.
16 Brown-Roberts, for your report. It's, as always, done very well.
17 Thank you.

18 MS. BROWN-ROBERTS: Thank you.

19 CHAIRPERSON HOOD: I, too, thank you, Ms. Brown-
20 Roberts. Always an excellent report, and we appreciate you
21 providing us your report.

22 Let me see. Does the applicant, Mr. Kadlecsek --

23 Okay. And again, let me just state for the record, so
24 far, we do not have anyone from the ANC 1E or 5E. So thank you,
25 Ms. Brown-Roberts. Have a great evening.

1 MS. BROWN-ROBERTS: Thank you, Mr. Chairman.

2 CHAIRPERSON HOOD: Okay. Ms. Ackerman --

3 Vice Chair, can you do the -- since we don't have anyone
4 from there, do you have the ANC reports handy? I saw with 5E,
5 1E, and 5 -- I think I read 5 --

6 COMMISSIONER WRIGHT: It was ANC 5E at Exhibit 11 and
7 ANC 1E at Exhibit 20.

8 CHAIRPERSON HOOD: Do you have those handy, Vice Chair?
9 If not, I'll get them. Yeah. I'll tell you what, you do 1E,
10 I'll do 5E.

11 Oh, Commissioner Wright, you do 1E, and then the Vice
12 Chair, do 5E. I'm really mixing it up now.

13 VICE CHAIRPERSON MILLER: 5E, but okay.

14 CHAIRPERSON HOOD: Go ahead and do 5E. And one of my
15 colleagues, get ready for 1E.

16 VICE CHAIRPERSON MILLER: It'll just take me a second
17 here because I've got to pull up something. Okay.

18 Okay. Can you hear me?

19 CHAIRPERSON HOOD: Yes. We can hear you.

20 VICE CHAIRPERSON MILLER: Okay. At Exhibit 11, we have
21 a submission from Advisory Neighborhood Commission 5E, in which
22 they -- it's dated March 26, 2025, signed by Huma Imtiaz. I
23 probably ruined that last name. Huma Imtiaz, the chair or vice
24 chair, I'm not sure which one. And the substance of the
25 submission states that they've adopted six to zero this

1 submission, which -- I'll just read it.

2 "The development will establish conveniently located
3 pedestrian access based on Stage 1 PUD. The transportation plan
4 clearly outlines pedestrian, bicycle, and vehicle access to
5 Parcels 2 and 4. The TDM for Parcels 2 and 4 will be implemented
6 for the life of the development. The owners also provided a
7 Loading Management Plan for Parcels 2 and 4 to be implemented for
8 the life of the project. Parcels 2 and 4 proposed a reduction
9 in parking supply compared to Stage 1 PUD approvals. They have
10 been updated to reflect current best practices. The new
11 transportation proposal for Parcels 2 and 4 has been shared with
12 the McMillan Advisory Group Committee. They have no objections
13 and are in full support."

14 And so they had -- I think they just concentrated on
15 this transportation issue, but they adopted this report in
16 support of the case by six to zero vote at Exhibit 11. Thank
17 you, Mr. Chairman.

18 CHAIRPERSON HOOD: Thank you for giving that report.
19 Does anybody have 1E up? If not, I have it.

20 COMMISSIONER WRIGHT: I have it. If you want me to do
21 it, I'm glad to.

22 CHAIRPERSON HOOD: Sure. Thank you.

23 COMMISSIONER WRIGHT: So in a report dated June 25th,
24 2025, ANC 1E described that the applicant has requested the
25 following changes:

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1 One, reduction in the retail space to accommodate a
2 smaller grocery than originally planned;

3 Two, removal of the pedestrian walkway between the
4 Parcel 2 buildings;

5 Three, consolidation of the affordable senior units in
6 Parcel 2 East building;

7 And four, the option for lodging use in Parcel 2 West
8 building, or within Parcel 4.

9 The ANC received an update from the applicant on these
10 changes, and they answered community questions. They also
11 provided additional meeting times to address neighbors who could
12 not attend the ANC meeting.

13 ANC 1E did not identify any additional concerns and is
14 not the primary ANC for this project. The ANC recommends approval
15 of the application and supports any recommendations that the
16 primary ANC may have for this application.

17 And the recorded vote, I believe, was seven to zero to
18 zero. And the report was submitted on June 25th, 2025.

19 CHAIRPERSON HOOD: Okay. Thank you, Commissioner
20 Wright and Vice Chair Miller, for reading the ANC reports.

21 Ms. Ackerman, I think we're ready now to move forward
22 with testimony from those in the organizations of persons in
23 support. Opposition is undeclared. How many do we have, sorry?

24 MS. ACKERMAN: Two people in support, and then we have
25 five people in opposition.

1 CHAIRPERSON HOOD: Okay. Let's bring up the two in
2 support first, and then we'll bring the opposition.

3 MS. ACKERMAN: So first is Emily Alexander and Cheryl
4 Cort.

5 CHAIRPERSON HOOD: Okay. We'll bring them up. And Ms.
6 Alexander -- did I forget something, Mr. Kadlecek?

7 MR. KADLECEK: Sorry, but Emily Alexander is with our
8 team, so she will not --

9 MS. ACKERMAN: Sorry about that. Just Cheryl Cort,
10 then.

11 CHAIRPERSON HOOD: Is Emily Alexander in support?

12 MR. KADLECEK: Certainly hope so.

13 CHAIRPERSON HOOD: All right. Let's bring up Ms. Cort
14 then. All right. Ms. Cort, you may begin.

15 MS. CORT: Thank you. I'm Cheryl Cort, with the
16 Coalition for Modern (sic) Growth. We advocate for walkable,
17 bikeable, inclusive transit-oriented communities as the most
18 sustainable and equitable way for the Washington region to grow
19 and provide opportunities for all.

20 We wish to express our support for the proposed
21 modifications to this plan unit development, for the 13-14E, for
22 the Reservoir District to allow greater flexibility due to
23 changing conditions over the 11 years since the original plan
24 unit development was approved. And we're encouraged that it
25 increases affordable housing overall and actually gets to deeper

1 affordability. In our 2014 testimony, we asked for 30 percent
2 median family income housing as a part of this, and so we are
3 very pleased that it's now included when it was not before.

4 And so -- and one note I wanted to make is that
5 through -- with the Public Land Addition law, which requires an
6 in-perpetuity affordability term for the affordable units, I'd
7 ask that -- I'm not exactly sure how these 30 percent MI units
8 showed up in the newest proposal, I would just ask that we have
9 permanent affordability for the affordable units in inclusionary
10 zoning.

11 As you know, it's life of the development, and for
12 public land dispositions, it's in perpetuity. Those are the two
13 ways that we guarantee the public investment going forward for
14 affordability.

15 I just wanted to note, I live around the corner from
16 the 14th Street -- Streets grocery store. I go there all the
17 time. I often do all of my grocery shopping there. I was
18 surprised to see it's a 9,000 square foot store. It's an amazing
19 store. I love it. Our whole family uses it all the time. And
20 so I would, you know, I think that this community would do very
21 well to have something like the Streets Grocery Store, which is
22 even just 9,000 square feet, where you can really -- you get a
23 lot done there. And so I -- we are concerned that the uncertainty
24 around financing for -- and the dynamics of retail, that we just
25 support moving forward with this to make sure that this project

1 is implemented.

2 I actually wrote written testimony, but I understand I
3 cannot submit it. And so I'm requesting to the Commission that
4 you perhaps accept my written testimony as well, just to have
5 written record for it.

6 So that's all. I just urge the Zoning Commission to
7 move forward and support this application. Thank you.

8 CHAIRPERSON HOOD: Thank you, Ms. Cort. Yes, we will
9 accept your -- I'm sure there's no objections. We will accept
10 your testimony. I won't ask you why you can't submit it. It
11 must be a new regulation that they put in place, but I won't even
12 ask that question.

13 MS. CORT: I was late.

14 CHAIRPERSON HOOD: I'm sorry? Oh, you were late? Oh,
15 okay. Okay. I was giving you an out. Okay. All right. But
16 yeah, you can submit it.

17 Let's see if we have any questions or comments.
18 Commissioner Imamura?

19 COMMISSIONER IMAMURA: No. No questions. Thank you.

20 CHAIRPERSON HOOD: Commissioner Wright?

21 COMMISSIONER WRIGHT: Thank you.

22 CHAIRPERSON HOOD: Vice Chair Miller?

23 VICE CHAIRPERSON MILLER: No questions. Thank you, Ms.
24 Cort, for your testimony here today.

25 CHAIRPERSON HOOD: Okay. And Commissioner Stidham?

1 COMMISSIONER STIDHAM: Thank you.

2 CHAIRPERSON HOOD: I, too, thank you, Ms. Cort. Mr.
3 Kadlecek, do you have any questions for Ms. Cort?

4 MR. KADLECEK: No questions. Thank you.

5 CHAIRPERSON HOOD: Okay. And again, we don't have
6 either one of the ANCs.

7 So thank you, Ms. Cort. We appreciate your testimony.
8 Yes. You can submit your testimony, please.

9 All right. That's all we had in support, Ms. Ackerman?
10 Can we bring up three of the opposition? We'll do three at a --
11 well, three, and then I think you got two.

12 MS. ACKERMAN: Yes. Chris Mahony, Matthew Kastner, and
13 Daniel Wolkoff.

14 CHAIRPERSON HOOD: Okay. Let's bring them up.

15 MS. ACKERMAN: I don't know if all three are here,
16 so --

17 CHAIRPERSON HOOD: Well, let's make sure we bring up
18 three at least.

19 MS. ACKERMAN: Let's bring up Chris Otten. He's here.

20 MR. MAHONY: Hello? I'm here. I'm sorry. My
21 apologies. This is Chris Mahony.

22 CHAIRPERSON HOOD: Okay. So who do we have exactly?
23 We have Mr. Chris Mahony, we have Chris Otten, and who else?

24 MS. ACKERMAN: Matthew Kastner. I don't see him
25 anywhere here.

1 UNIDENTIFIED SPEAKER: Opposition is testifying now,
2 so I should be called up --

3 CHAIRPERSON HOOD: I'm not sure who that is.

4 MS. ACKERMAN: I'm not sure who that is either.

5 UNIDENTIFIED SPEAKER: (indiscernible.)

6 CHAIRPERSON HOOD: Whoever it is, don't say nothing bad
7 about us. Put yourself on mute.

8 All right. Ms. Ackerman, let's go with --

9 Mr. Mahony, can you go first? And then we'll figure
10 out who everyone else is.

11 MR. MAHONY: Certainly. Hi, everybody. I had decided
12 that I was in opposition, but I mean, generally, I'm opposed --
13 in favor of most of these modifications, and very much an advocate
14 for this fantastic project.

15 UNIDENTIFIED SPEAKER: When we get home, we can figure
16 out what we should do next, but I've got to focus on that --

17 CHAIRPERSON HOOD: Can we mute that person? I'm not
18 going to call the person's voice. I've heard that voice many
19 times.

20 MS. ACKERMAN: I actually don't see -- the only
21 person's mic who could be on is Kalinda's. I'm not sure if that's
22 hers --

23 CHAIRPERSON HOOD: What about by telephone?

24 MS. ACKERMAN: -- who's speaking.

25 CHAIRPERSON HOOD: What about by telephone?

1 MS. ACKERMAN: Peter -- no. That's the only one. It
2 must be Kalinda. I'm not sure.

3 CHAIRPERSON HOOD: Okay. I'm sorry, Mr. Mahony. Let's
4 try it again. Go right ahead.

5 MR. MAHONY: No problem at all. Yeah. So generally,
6 I'm very much in favor and grateful to the developer for the
7 sticking with it in order to pursue this fantastic development
8 that we're already benefiting from, right? You know, the pool,
9 the park, the playground.

10 I have -- and I attended two of the meetings that
11 they -- that the developer organized in order to get feedback
12 from the community. And despite my enthusiasm, a lot of the
13 material that they shared, sort of, felt a bit deliberately
14 misleading, honestly. Even the slides that were present -- like,
15 some of the slides that were presented today, they had old grocery
16 store versus new grocery stores. And they had two, for example,
17 new grocery stores from 2014 that were 16,000 and 9,000 square
18 foot. And then in the old grocery stores, they had three, also
19 from 2014.

20 So you have 2014s that are new, 2014s that are old. Of
21 the 2014s that are old, one of them is 56,000 square foot, one
22 of them is 62,000 square foot, and one of them is 50,000 square
23 foot. And then they also had a grocer labeled as old, I think
24 it was the eleventh that they had, which was in 2020. And it's
25 still -- it's labeled as old, perhaps because it is 46,000 square

1 foot.

2 And so I share the Chairman's concerns, and I have to
3 say the some of the comments and concerns raised caused many in
4 the community, and I attended -- and it was the prime -- the
5 number one issue was the fact that, okay, they're telling us that
6 this only happens if the lease falls over. But of course, we
7 all know this only happens if the lease falls over, and they
8 don't do the work to find someone else to come in with a big
9 enough grocery store, right?

10 And actually, there's a number of people in the
11 community with significant experience, you know, in doing this.
12 We feel like if effort was put into some of this basic material --

13 UNIDENTIFIED SPEAKER: We're home --

14 MR. MAHONY: -- as it could be.

15 UNIDENTIFIED SPEAKER: (Indiscernible.)

16 MR. MAHONY: -- providing -- shall I stop? I believe
17 there's someone else speaking at the same time. I'll take your
18 direction, Mr. Chair.

19 CHAIRPERSON HOOD: I'm trying to see who it is.

20 MR. MAHONY: Uh-huh.

21 CHAIRPERSON HOOD: But they are very good. Eventually,
22 we're going to fish them out, but they're very good. Let's, if
23 you can, try to keep going.

24 MR. MAHONY: Sure thing. So I mean, in effect, we
25 didn't really receive what we felt was a logic- or evidenced-

1 based explanation.

2 They also showed us a map that showed Washington D.C.
3 with all these grocery stores. And where McMillan is is enormous,
4 right? The size of, sort of, the food desert in which we live.

5 Now for me, it's not going to be so bad. I can go to
6 that Whole Foods that you mentioned, but you know, we have some
7 elderly people living in our neighborhood that really struggle.
8 You know, just a few doors up from me and both -- and down from
9 me in both directions, I know a number of them, they're taking
10 one, sometimes two buses, right, to go and get grocery stores.
11 And if we have one of these 12 or 13,000, you know, 15,000 even,
12 frankly, sized grocers, you know, things that they need, you
13 know, whether it's tin foil or, you know, some kind of cream for
14 their skin -- they're citing these things. They're saying, okay,
15 like, if they just have one of these small ones, yeah, we'll be
16 able to get food. You know, that's fine.

17 But there are things they also need to go and get quite
18 often, and it just costs them hours, right? And so while it
19 might not so negatively affect someone like myself, I really
20 worry for those that are more vulnerable in our community that
21 maybe aren't as mobile physically, but also may not have a car,
22 right?

23 And then the other -- the final point was also one, I
24 believe, that the Chairman raised about affordable housing. And
25 we asked the question of the colleagues from the developer in one

1 of the meetings, and it was about, okay, so you had affordable
2 housing for elderly people and non-elderly people in the
3 development. And why is there no more -- why did you remove
4 affordable housing for non-elderly people, right? As we know,
5 in Washington D.C., you know, there are those people who are
6 poorer, lack housing, particularly housing, in these sort of
7 gentrifying parts of town, such as this Bloomingdale
8 neighborhood, right? And so what was a little bit disappointing
9 was to see, okay, we're going to have more affordable housing for
10 elderly people, that's great. But we are excluding from access
11 to affordable housing younger people who are poor, you know, and
12 in Washington, D.C., also commonly of historically marginalized
13 and excluded groups, such as African American people, right?

14 And so that's not really the type of neighborhood --
15 it might be good for our, you know, for our house prices. I live
16 in the block below, right? And it might be good for rents, and
17 it might be good for the amount of income that a developer is
18 able to derive from alternative use of that space. But in the
19 long run, it's actually going to push even more younger people
20 and historically excluded people into those parts of town that
21 are already poor. They're gonna grow up seeing more and more
22 poverty. And actually, in the long run, that means we're all
23 more exposed to risk of crime. So while it might benefit our,
24 like, our pockets and our equity in our house in the short term,
25 it doesn't serve, in my humble opinion, the benefit of the

1 community in the medium-to-long term.

2 So those are my two grievances, and I would implore and
3 hope that you, the Commissioners, would, you know, would take
4 forward and maybe even take further, if I could be so bold, the
5 Chairman's suggestion that there is some kind of legal
6 requirement if the lease falls over for the developers to actually
7 put in good faith, genuine efforts, even perhaps with
8 representatives of the community, in order to try to acquire the
9 kind of of grocer and source of food and daily supplies that that
10 a larger grocer would -- and one of these others would leave, the
11 poorer, less mobile, more vulnerable people are still having to
12 take multiple hours out of their day to in order to get to such
13 a location.

14 And of course, we believe that it was one of the key
15 cornerstones of the case made to the City in order to elicit its
16 original support for this, right? And so a), in substance, I
17 think it's wrong. And b), I think, you know, the deliberate --
18 like, what we can only interpret as the deliberately misleading
19 nature of the content presented as well, right? We can't assume
20 these people are confused about 2014.

21 CHAIRPERSON HOOD: Mr. Mahony. Mr. Mahony. Mr. Mahony.
22 I don't have a clock, but I know you went over your time, but
23 I'll let you do that.

24 MR. MAHONY: My apologies for going over my time. I
25 yield --

1 CHAIRPERSON HOOD: Just give us your closing thought
2 because I don't see the clock. So just give us your closing
3 thought.

4 MR. MAHONY: My closing thought is I don't think that
5 the commission should allow a grocery store to be below 20,000
6 square foot. I think it would exclude and harm, and has caused
7 significant damage to the community. And we would love to see
8 some of the most more vulnerable low-income people in our city
9 have access to low-income housing, not just those that are
10 elderly. Thank you.

11 CHAIRPERSON HOOD: Okay. Thank you. Let's see if we
12 have any -- before we come to you, can somebody tell me the name
13 of the store that Ms. Cort mentioned? I should have asked her.
14 Didn't she say the street? The streets? Streets?

15 VICE CHAIRPERSON MILLER: Yes.

16 CHAIRPERSON HOOD: Can we bring Ms. Cort back up,
17 please? I just have one question for her. And then if we can
18 bring her back up -- I'm sorry, because I should've asked her
19 this while she was up. Okay. Let's go to the next person --
20 Ms. Cort, I think she's still here. Let's go to the next person,
21 Mr. Otten.

22 MR. OTTEN: Hello. Can you hear me, Chairman Hood?

23 CHAIRPERSON HOOD: Yes, we can hear you. Go right
24 ahead.

25 We can hear you, Mr. Otten. Go right ahead. Can you

1 hear us?

2 MR. OTTEN: Can anybody hear me?

3 CHAIRPERSON HOOD: Yeah. We can hear you. Can you
4 hear us? You want to log off and come back on? Log -

5 MR. OTTEN: Yes. I'll log off and come back. I'll
6 log off and come back. Sorry about that.

7 CHAIRPERSON HOOD: All right. Just let me --

8 Ms. Ackerman, is there anybody else besides Chris
9 Otten?

10 MS. ACKERMAN: I believe we have --

11 CHAIRPERSON HOOD: Okay. While you're working on --

12 MS. ACKERMAN: -- Peter Stebbins.

13 CHAIRPERSON HOOD: Okay. While you're working, let me
14 ask Ms. Cort a question.

15 You said you go to the Streets, and you were talking --
16 I guess you said it's 9,000 square feet. Do you find yourself --
17 that gets you to there -- I'm trying to figure out how to --
18 I've got to be careful how I -- because last time I talked about
19 no shows, got in trouble. But the 9,000 square feet -- the
20 Streets that you go to, do you get all of your needs there or do
21 you find yourself from time to time having to go somewhere else
22 to get something? Or is that 9,000 square feet store of the
23 Streets enough, is my question.

24 MS. CORT: It is enough. I do go to a larger full-
25 service grocery store when I have the time. But frankly, I can

1 get tinfoil, I can get basic drugs. It's not a pharmacy. I can
2 basically get any -- and the grocer actually is quite
3 intentional. It's not just like, you know, organic expensive
4 things. It's also very basic products as well. I think it,
5 basically, I think it does a good job of, kind of, serving a
6 breadth of needs, not just, kind of, niche, you know, organic or
7 whatever.

8 So anyway, I -- like, basically, we -- it's just really
9 important that we move forward with this, and to have the Streets
10 in your neighborhood is a great asset.

11 CHAIRPERSON HOOD: Okay. All right. Well, thank you.
12 That was one of the things I thought of after you left. So thank
13 you for coming back and sharing that with us, Ms. Cort.
14 Appreciate it.

15 All right. Mr. Otten, are you ready?

16 MR. OTTEN: I think so. I hope this is working.

17 CHAIRPERSON HOOD: Yeah. Go right ahead.

18 MR. OTTEN: Okay. Thank you, Mr. Hood. And I also
19 have to submit, if I could, in writing, my testimony.

20 CHAIRPERSON HOOD: Sure. Okay. Sure.

21 MR. OTTEN: Okay. Okay. Mr. Hood, as you know, and
22 Commissioners, it's been going on for a long time. Tonight, I'm
23 representing D.C. for Reasonable Development, and ancillarily, I
24 think others from the State-McMillan Action Coalition are here.
25 But proudly, I'm happy to see that the City lived up to its

1 promises on its deliverables.

2 We bonded our funding and timely built a nice
3 recreation area and preserved some of the amazing water cells for
4 viewing. I also acknowledge the amazing hydrophilic aspects of
5 McMillan yet still in the site, to this day collect significant
6 amounts of water evidenced by the massive pooling in the now
7 private lots for the past several years. You know, we had 20
8 acres of historic cisterns there, which once made McMillan and
9 the City far more resilient in 2020 than it is today. It could
10 store -- McMillan could store not only massive stormwater runoff,
11 but fresh-water reserves during times of drought, reserves we may
12 soon desperately need as a city and people regardless of how much
13 so-called affordability is included in the project.

14 Acutely for tonight though, the revised application for
15 Parcels 2 and 3 introduces flexibility for up to 70 additional
16 residential units, effectively the size of another apartment
17 building on-site. I'm stunned neither OP, OAG, DDOT, frankly,
18 anyone has even acknowledged this fact central to the changes
19 being asked.

20 The bitter irony here is that while population density
21 would increase around this area and this site, as such, the
22 commercial amenities that would serve all of this new density as
23 originally promised are shrinking. The retail, the full-size
24 grocery store that was begged for by the community, not just to
25 serve the future residents of this large neighborhood but as a

1 much-needed asset for the surrounding communities long
2 underserved as a food desert, that promise appears to be quietly
3 eroding and unjustly so without a factual rationale.

4 For it's unfair and inaccurate for people like
5 Commissioner Miller or anyone else to cast blame on those who
6 have rightly challenged this project over the years, for this
7 project and site has been unencumbered for several years now, and
8 yet we still see massive holes in the ground. Several years that
9 any seasoned real estate speculator could line up the funding and
10 leasing arrangements needed to get this project going towards
11 completion, and that's not the fault of the community advocates.
12 It's a symptom of something much deeper, something that everybody
13 on this call and all City officials must consider seriously.

14 We argue that this delay and the changes that are before
15 you tonight stem from the hidden financial burden of privatizing
16 public land. Private developers like Mr. Lynch and EYA apparently
17 must rely on high-cost capital from global private equity firms,
18 firms demanding a return on investment in the 20 percent to 35
19 percent range. That level of profit extraction is now inevitably
20 distorting the original vision and declared expectations and
21 promises for the McMillan project. Indeed, the recent CFO report
22 documents EYA's request for fifty-eight million dollars more in
23 taxpayer dollars to help complete this project. That report
24 highlights the return on investments, ROIs, driving the need for
25 the requested tax gift and now these substantial project changes

1 before you. These changes are clearly tied to financing
2 pressures, not to community needs.

3 The private equity profit-driven model that's being
4 deployed here now erodes the original McMillan development master
5 plan and damages the quality of life from nearby residents.
6 Again, adding flexibility to allow another small apartment
7 building's worth, size of new units will certainly mean increased
8 traffic. The changing loading zones near vulnerable seniors is
9 equally troubling, and are adversely impact with the complete
10 lack of attention to DDOT to pedestrian safety concern, also
11 acknowledged by commissioners here tonight. Additionally, with
12 more residential units comes need for greater emergency services
13 capacity. No such analysis offered here. The planning feels
14 missing in afterthought. This seems to be a theme. The adverse
15 irony here being that this change increases population density
16 while simultaneously shrinking the commercial amenities
17 originally promised.

18 So let me conclude. These PUD changes before you
19 completely undercuts the stated goal of building a livable,
20 walkable community. I mean, for obvious reasons, we oppose this,
21 and we submit that the proposed amendments are illegally
22 premature in light of BZA Case No. 20191, which we formally adopt
23 all pleadings and exhibits for these testimonial purposes.

24 Without a second-stage PUD approval for the master
25 plan, these kinds of major changes can and will likely continue,

1 endangering the surrounding community with unplanned density,
2 traffic, noise, public health burdens, and future delays, not on
3 our fault, but by these financial burdens. We urge you to deny
4 or delay action until these issues are fully reviewed, mitigated,
5 and aligned with the promises originally made to the public.
6 Thank you.

7 CHAIRPERSON HOOD: Thank you. Okay. Thank you, Mr.
8 Otten. Ms. Ackerman, do we have anybody else who's here in
9 opposition?

10 MS. ACKERMAN: Yes, we do. A Peter Lebbins (sic).

11 CHAIRPERSON HOOD: Peter Rebbins?

12 MS. ACKERMAN: Stebbins. I'm sorry. I'm looking at
13 so many names over here.

14 CHAIRPERSON HOOD: Peter Debbins (sic), you may begin.
15 Let me see. I don't see him. Oh, I see him. Peter Stebbins.

16 MR. STEBBINS: Hi.

17 CHAIRPERSON HOOD: You may begin. Hi. Good evening.

18 MR. STEBBINS: Okay. I'm Peter Stebbins, I live in
19 Mount Pleasant. I'm a member of the Save McMillan Park Action
20 Coalition, and I'm the president of the Lily and Earle M. Pilgrim
21 Art Foundation. The house I live in is granted by the third
22 amendment of the Charles N. Mason, Jr. Trust for the Display of
23 Artwork by David Bethuel Jamieson, a black Washingtonian artist
24 who died of AIDS in 1992.

25 And I am stating my opposition and quoting David Bethel

1 Jamieson, who said greed is a terrible thing. I'm exacerbated
2 with the fact that most of the expected retail, including the
3 famous grocery store, will be far less than half of what was
4 promised and replaced with more, wait for it, luxury housing and
5 a pittance of affordable housing. In Mount Pleasant, we lost our
6 longtime neighborhood grocery store that really wouldn't compare
7 with what should be at the McMillan site, and it has been replaced
8 with a Streets.

9 The Streets, since it has opened, has never had more
10 than three high-cost proteins freshly available. It has, in
11 addition to that, several packaged, frozen, processed sources of
12 protein. So I can't imagine that Streets is a good idea for a
13 grocer in that development. I think there would be a need for a
14 more full-service store that would have all of the options that
15 the largest footprint would allow for. Is there a pharmacy there?

16 I'm going to conclude with my opening statement, greed
17 is a terrible thing. I oppose these changes. Thank you for your
18 time.

19 CHAIRPERSON HOOD: Thank you. Let's see if we have any
20 questions of this panel. Commissioner Imamura?

21 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. No
22 questions. Just appreciate each of you contributing to the public
23 process, and just want to comment on Mr. Mahony's impassioned and
24 earnest testimony tonight. I appreciate it. Thank you.

25 CHAIRPERSON HOOD: Thank you. Commissioner Wright?

1 COMMISSIONER WRIGHT: Thank you.

2 CHAIRPERSON HOOD: Commissioner Stidham?

3 COMMISSIONER STIDHAM: Sorry, I couldn't find you. No
4 questions for me. Thank you.

5 CHAIRPERSON HOOD: Okay. And Vice Chair Miller?

6 VICE CHAIRPERSON MILLER: All right. No questions.
7 Thank you each for your testimony.

8 CHAIRPERSON HOOD: Okay --

9 MR. MAHONY: May I also just say, I know that Kevin
10 Rapp is also waiting to be let in, and I believe he was going to
11 make testimony as well. He's trying to get in, but has not
12 been --

13 CHAIRPERSON HOOD: We'll do another search in a moment.
14 I don't have any questions in this panel. Let me see. Mr.
15 Kadlecek, do you have any questions? Okay. Thank you. And
16 again, ANC 1E and 5E not present, but they have submitted
17 testimony. Ms. Ackerman, do we have anyone else?

18 MS. ACKERMAN: Yes. We have two undeclared
19 individuals.

20 CHAIRPERSON HOOD: Okay. Let's bring them up.

21 MS. ACKERMAN: Annie Jones and Kevin Rapp.

22 CHAIRPERSON HOOD: Okay.

23 MS. ACKERMAN: And that is our last two.

24 CHAIRPERSON HOOD: Okay. Jones, who -- what's the
25 first name? I'm looking for them. Sorry.

1 MS. ACKERMAN: Annie.

2 CHAIRPERSON HOOD: Annie Jones. Okay.

3 Ms. Jones? Annie Jones, you may begin.

4 Okay. Well, let me go to Kevin. I don't see the last
5 name printed, but Kevin, you may begin.

6 MR. RAPP: Just to start off -

7 MS. JONES: Yes, I'm here.

8 MR. RAPP: Okay.

9 MS. JONES: I'm here, Ms. Annie Jones.

10 CHAIRPERSON HOOD: Okay. Mr. Kevin, if you can hold
11 tight. Ms. Jones, you can go right ahead, please.

12 MS. JONES: Yes. Thank you. It's been a long time
13 coming. I can't see you or anything. Hello?

14 CHAIRPERSON HOOD: Yeah. We can see you, and we can
15 hear you.

16 MS. JONES: Oh, okay. Well, I can't see -- all right.
17 Here we go.

18 I live in the area, and I'm a former ANC commissioner,
19 Ms. Annie Jones. Okay? Ward 5. And I had went to a meeting, I
20 say, back when in 2013 or later within this same project of these
21 two modifications that you all have voiced opinions about and
22 said that you're in agreeable and so for, because during that
23 meeting -- and Commissioner Hood, a lot of members of folks that
24 you said that is deceased, I'm one of them. Thank God that I'm
25 still alive. And I'm over 67. I've been in that area for 55

1 years.

2 And in all of the times, I know that the McMillan, they
3 probably couldn't really realize what did they wanted to do with
4 the area. And a lot of things that the commissioners now, other
5 than myself, within another area that are ANC commissioners,
6 quote and unquote, I don't see what they're in agreeable as far
7 as putting in the modifications as the retails, commercials,
8 housing.

9 My question is, is that when I heard Miller and some
10 of the other ones, Chris Mahone (sic) and a few others, that was
11 in reference as yourself to affordable housing, I would like that
12 question to be explained because by living in that area and still
13 there present as of this time in 2025, that is very convenient,
14 is quite marketable area, which the homes are very, very
15 expensive. So if someone can answer that question for me of
16 affordable housing, I'd like that question to be asked. What do
17 they mean? That they are in the process as preparing for
18 affordable housing. Can someone answer that question for me?
19 One of the commissioners whom is available or yourself?

20 CHAIRPERSON HOOD: So what we're going to do, Ms. Jones,
21 I'm going to direct you to who's going to answer the question.
22 We don't answer questions like that.

23 MS. JONES: Oh.

24 CHAIRPERSON HOOD: I'm going to give you a little
25 homework. But before I do that, I want to talk to Mr. Kevin.

1 And I'm sorry, Mr. Kevin. I don't have your last name.

2 But we're going to come back to you, Ms. Jones. Give
3 me one moment, please.

4 MR. RAPP: Thank you, Chairman Hood. And if possible,
5 I'd like to submit written testimony as well, and I'll try to go
6 quickly here.

7 So good afternoon, Commissioners. My name is Kevin
8 Rapp. I'm an outgoing ANC commissioner for ANC 5B05, which
9 encompasses the parcels in question today, Parcels 2 and 4 of
10 Reservoir District. I've actively supported Reservoir District's
11 development for years, living directly across from the site and
12 engaging daily with its progress, whether it be communicating
13 with Jair Lynch (phonetic), the Mayor's Office, DPR, DGS, EYA and
14 others. I've also served for five years as a member and vice
15 chair of McMillan Advisory Group.

16 I have and continue to be among the project's strongest
17 advocates in the community. I even co-founded the neighborhood
18 group, Develop McMillan. Today, however, I must testify in
19 opposition to the zoning modifications proposed by Jair Lynch.

20 My concerns revolve around significant flexibility
21 requests, repeated misleading communication that at times appears
22 intentional, as well as substantial changes that undermine
23 previously-made community commitments. While the development
24 team and associated representatives have focused almost entirely
25 on their best-case proposal today, which I think is great, I will

1 focus on their lesser-mentioned request for flexibility. What
2 representatives have continuously referred to as their proposal
3 and commitment is one option, not the only option and not what
4 Jair Lynch is requesting today.

5 This zoning modification request scope is far greater
6 than just a change in grocer size. The current zoning for Parcel
7 2 and 4 mandates a minimum of 74,000 square feet of ground floor
8 retail. Under Jair Lynch's proposed modifications, this could
9 shrink dramatically to as little as 26,000 square feet of ground
10 floor retail total, converting substantial retail space into
11 housing. This isn't merely a numerical change. It would
12 significantly reduce community amenities and potentially
13 eliminate 80 to 100 local retail jobs. There was a mention today
14 of this project creating more job opportunities for the
15 community. This proposal would drastically reduce those job
16 opportunities. All of the talk about increased affordable
17 housing, as with the OAG's report today, must be predicated by
18 juxtapositioning it against the retail loss that it creates and
19 the subsequent substantial job and community losses that the
20 retail loss would lead to.

21 Another troubling request is the elimination of the MU-
22 10 Plaza zoning requirement, an obligation to dedicate 8 percent
23 of the total lot area as publicly accessible space. This would
24 further diminish community benefit. I don't believe this was
25 mentioned by any Jair Lynch representatives today. Again, I

1 don't believe any representative from Jair Lynch mentioned or
2 addressed a request to eliminate their obligation to get dedicate
3 8 percent of total lot area as a publicly accessible space.
4 However, there was a mention today of removing the pedestrian
5 bridge, which is pretty much irrelevant. But for some reason,
6 again, no mention of this substantial MU-10 Plaza zoning
7 requirement elimination request.

8 I also don't believe there was a verbal mention of the
9 potential loss of a hundred parking spaces. It looked like a
10 slideshow to propose change from 222 to 122 parking spaces, but
11 the presenters skipped by that slide after maybe five seconds.
12 Throughout this process today included, Jair Lynch's
13 communication has consistently been ambiguous and misleading.
14 Whether intentional or not, slides presented to the community
15 often juxtaposed against original minimum retail figures -- they
16 juxtapositioned original minimum retail figures against new
17 maximum retail numbers, omitting crucial context and creating
18 confusion.

19 For example, Parcel 2 presentations initially suggested
20 a minor retail reduction from 15,000 to 14,000 square feet, only
21 later revealing a fallback scenario allowing as little as 5,000
22 square feet of retail with the remainder converted to
23 residential.

24 In Exhibit 29, page 15, there's a mention of
25 communication from Jair Lynch with new ANC 5E Single-Member

1 District Rep Alice Thompson, who is not in attendance today. I
2 received correspondence via email last week from Ms. Thompson in
3 which she thought that this proposal included the possible
4 elimination of all retail on-site. I informed her this was
5 incorrect.

6 There was also a mention on the same page of
7 communication with me directly when I was a single-member
8 district ANC representative for this site. The document
9 mentioned today as an ANC 5E approval was regarding a DDOT
10 transportation plan, not any of the requested zoning changes
11 other than parking reduction.

12 ANC 1E does not border the site in a meaningful way and
13 should not be included in any official capacity in the zoning
14 conversation. ANC 1E includes the 81-acre McMillan reservoir as
15 well as Howard University, which separates it from this site.
16 Any mention of community and/or ANC support should be read with
17 an asterisk, a big one.

18 The developer has repeatedly emphasized a commitment
19 to certain retail sizes while simultaneously retaining broad
20 flexibility that could reduce retail drastically. Commitments
21 were often communicated without clearly stated contingencies,
22 creating misunderstanding and misplaced confidence with the
23 community. An email from Jair Lynch dated June 11th highlighted
24 a 22 -- or July 11th, highlighted a 22,500 square foot grocer
25 commitment. This email came directly to me after I'd been back

1 and forth a little bit on emails. I was very excited on Friday
2 to get that commitment, but then when I had a conversation on
3 Monday, I was informed that that fallback to the 10,000 square
4 foot grocer still remained a part of their request. They had
5 decided to omit that from the email to me last Friday.

6 Exhibit 29 from the developer further illustrates these
7 concerns. The summary of modifications on page 4 is misleading
8 when isolated from the proposed flexibility on page 5.
9 Additionally, ground floor plans across page 9, 10, and 11, as
10 presented today, are confusingly ordered, presenting one proposed
11 design without clearly stating it as one among several proposed
12 scenarios. This subtle but misleading presentation style
13 contributes significantly to community confusion. That's a
14 tremendous understatement.

15 As mentioned in earlier testimony today, previously,
16 the developer lost grocer commitments primarily due to project
17 delays, not solely due to market conditions, as suggested.
18 Despite these losses, the developer successfully secured another
19 grocer over 20,000 square feet, and they had a second one that
20 was interested. Thus, the argument that flexibility down to
21 10,000 square feet is necessary lacks credibility.

22 And further, a 10,000 square foot space is a market or
23 a bodega, as Commissioner Wright mentioned. Streets market is a
24 bodega. A 10,000 square foot space is not a grocer in commonly-
25 used phrasing. I urge the Committee to closely scrutinize the

1 provided chart of DC grocers Mr. Mahony mentioned, that's in
2 Exhibit 29, slide or page 20, that expert witnesses covered today.
3 On top of what Mr. Mahony mentioned, they also list a grocer in
4 the old grocer category, which should have actually been
5 categorized as large square footage grocers that opened in 1981.

6 The site's unique location near three hospitals, new
7 residential developments and underserved neighborhoods like
8 Bloomingdale and Stronghold makes it ideally suited for robust
9 retail, as the current zoning demands. The historic nature of
10 the site, the potential for vibrant community events such as
11 farmers markets, and proximity to existing residential and
12 medical facilities support the argument for a significant retail
13 presence, not to mention the two bordering universities.

14 In summary, the developers' communication style and
15 repeated emphasis on minimum retail flexibility obscure a
16 broader, unacceptable shift from the community's original
17 expectations and approved zoning. The flexibility request
18 presented today fundamentally altered the nature and benefits of
19 the development, transforming it into an entirely different
20 project with far, far less community value.

21 Therefore, I respectfully ask the Commission to reject
22 Jair Lynch's current zoning modification proposal unless it is
23 revised to guarantee a minimum grocery size of 20,000 square feet
24 without exceptions; guarantee approximately 21,000 square feet
25 of additional retail space on Parcel 4 -- this is the grocer

1 parcel -- protected against residential conversion; maintain at
2 least 14,000 square feet of retail space on Parcel 2 -- this is
3 a separate parcel, this is not the grocer parcel. Parcel 2
4 currently is zoned for 15,000 retail square feet at a minimum --
5 and protect that from residential conversion; and also retain the
6 MU-10 Plaza requirement, which again was not mentioned today at
7 any point by anyone. This would preserve a minimum 55,000 square
8 feet of ground level retail space and uphold the project's
9 original community-oriented vision, albeit with 19,000 less
10 ground level retail space than -- 19,000 less square feet of
11 ground level retail space in the currently zoned minimum of 74,000
12 square feet of ground floor retail. Anything less is not a
13 compromise. It's a loss for the community.

14 Thank you for your consideration. I'd also like to
15 point out just as a side note, Blockbuster and Kmart were
16 mentioned as reasons that retail was difficult. Blockbuster went
17 out of business in September 2010, Kmart filed for bankruptcy in
18 2002, and this was before Jair Lynch was even a part of the
19 project. This is just the kind of representation that you see
20 riddled throughout what we've received from Jair Lynch. And
21 unfortunately, I take a huge amount of blame for not discovering
22 this earlier.

23 CHAIRPERSON HOOD: Thank you, Commissioner Rapp. We
24 appreciate it. And before I forget, I meant to say this earlier,
25 Ms. Ackerman, let's make sure that even though Michelle is not

1 here, that we also exercise our clock, because I -- we don't
2 have -- I don't see the clock. So anyway, let me -- okay. So
3 thank you. Let me back up and go to Ms. Jones.

4 MS. ACKERMAN: We do have somebody else that just came
5 on, and if you would like to let them see --

6 CHAIRPERSON HOOD: Okay. So -- that -- this is the
7 last person because I think people are being called in. I'm
8 starting to notice that. This is going to be the last person,
9 and I'd like for you to hold this person to three minutes, please.
10 Who is -- who is this person?

11 MS. ACKERMAN: This is Daniel Wolkoff.

12 CHAIRPERSON HOOD: Oh. I think his name --

13 MR. WOLKOFF: Yes, ma'am. Thank you.

14 CHAIRPERSON HOOD: Go right ahead.

15 MR. WOLKOFF: Yes. The 25-acre historic site was
16 transferred to the developers with collusion between successive
17 D.C. administrations. The Office of Historic Preservation
18 manipulated everything they could to get around historic
19 covenants that required no conversion to the development. It was
20 the biggest land theft since the Dutch stole Manhattan from the
21 Lenape for 24 guilders and a bag of beads.

22 Our central park was a critical need for the people of
23 D.C. We could have done adaptive reuse. The developers have
24 wedged in everything they can to make it more profitable to them,
25 and now JARE is looking at \$57 million, apparently. The Zoning

1 Commission did its job to push the development through, and the
2 D.C. City Council destroyed our Constitutional right to petition
3 for grievances when they got me personally thrown out of federal
4 court.

5 So this whole thing is a scam, a rip off, a fraud, and
6 the Zoning Commission is a big part of that. Even the D.C.
7 appeals court is part of it. Everybody's corrupt, let's not kid
8 ourselves. Thank you, Anthony Hood, for your 40 years of service.
9 Been a long time. And look at the -- look at that hideous
10 development we've got there. And it's a flood zone on the -- on
11 the climate change survey. It's costing a fortune and we're
12 going to have -- what was it -- 600 buses a day to get to the
13 Metro. It's a big pollution mess. Biggest land theft since the
14 Dutch stole Manhattan.

15 Thank you, Mr. Hood; appreciate it. You got your way.
16 You crushed the -- the Friends of McMillan in the zoning hearings.
17 You wouldn't even look at documents that the attorney asked for,
18 and you push her around, too. Anyway, that's D.C. We're not
19 going to have parks. We're not going to have fresh air. We're
20 just going to have a whole bunch of heat islands that are
21 uncomfortable. We should have had a concert stage and beautiful
22 views and --

23 CHAIRPERSON HOOD: Mr. Wolkoff --

24 MR. WOLKOFF: -- historic parks.

25 CHAIRPERSON HOOD: -- can you -- can you give us your

1 closing thought pertaining to zoning? Or -- because this is --
2 that's not -- your testimony is not helpful.

3 MR. WOLKOFF: Maybe you don't think it's helpful. Some
4 of us do. We wanted a completely different --

5 MS. ACKERMAN: It's been --

6 MR. WOLKOFF: -- outcome.

7 MS. ACKERMAN: -- three minutes.

8 CHAIRPERSON HOOD: All right. Thank you.

9 MR. WOLKOFF: Thank you.

10 CHAIRPERSON HOOD: All right. Thank you. Let me,
11 first of all -- see, I wanted to go back to Ms. Jones because
12 Ms. Jones asked a question. And Ms. Jones --

13 I will tell you that we have members on this Commission
14 that are very well respected around the City who could answer
15 that question, but that's not what we the Commission does. So
16 what I would like for you to do, Ms. Jones, is to contact the
17 Office Of Planning and tell them you want to know about affordable
18 housing, what the federal law says, what the District law says,
19 and how that's -- how that's interpreted. So I think that would
20 be very helpful for you to do that.

21 MS. JONES: May I speak now, sir?

22 CHAIRPERSON HOOD: No. I'm responding to your
23 question. Just hold tight. This is just the Commission's time.
24 I'm responding to your question to tell you where you can get
25 your answer from --

1 MS. JONES: Well, what --

2 CHAIRPERSON HOOD: -- what you asked. You asked about
3 a --

4 MS. JONES: -- what I was going to state to you is that
5 it's not so much of me knowing. Okay? I do know what affordable
6 housing is. My question is -- as well as a statement, but you
7 can only get one answer because like I stated, I've been in that
8 area for 55 years. I'm opposing with what the A -- for --ANC's
9 stated, and this is part of my testimony. And I'm not even going
10 to mention about how rude you were to me, but that is well --

11 CHAIRPERSON HOOD: Oh, rude. Okay.

12 MS. JONES: -- because I know your position and -- and
13 that there is someone else that does. And there -- there was a
14 gentleman, like I said, Kevin, that if he wasn't a commissioner
15 or an opposing, his testimony was way out of line -- over spoken.
16 An individual is only given three minutes, which is myself. Being
17 the -- considering that I live in that area, I know about that
18 area, and as I stated during my testimony, that I had been to a
19 hearing with the residential -- residents, that a homeowner such
20 as myself, that lives at that location -- because it's right
21 across the street from my house, and I do oppose of a lot of
22 these modifications, which is only two, that Mr. Becker
23 (phonetic) now mentioned about. And I know it had been a long
24 time coming.

25 CHAIRPERSON HOOD: Okay. Ms. Jones. You -- you have

1 voiced --

2 MS. JONES: Okay.

3 CHAIRPERSON HOOD: -- you have voiced to us that you're
4 upset, and you said I was rude. You made a phone call how rude
5 I was. I'm fine with that. The record will speak for itself.
6 I was answering your question of where you can go and get your
7 information about your question that you have. You -- I can't
8 help you no more than that. So we're going to keep moving.

9 MS. JONES: I know. I'm very aware of that, sir.

10 CHAIRPERSON HOOD: Okay.

11 MS. JONES: I know exactly where can I go.

12 CHAIRPERSON HOOD: Okay. All right.

13 MS. JONES: You obviously --

14 CHAIRPERSON HOOD: Let me go through this proceeding,
15 Ms. Jones. Let me finish the proceeding, please.

16 Does anyone have any questions of this panel?
17 Commissioner Imamura? Okay. Commissioner Wright?

18 COMMISSIONER WRIGHT: The issue about the 8 percent
19 Open Space is a new issue that was raised by one of the speakers.
20 And I am going to ask for someone to address that. I don't know
21 if it's the Office of Planning, or the applicant, or who the
22 right person is, but that was a new piece of information that I
23 would like to get more information on and a better understanding
24 of.

25 CHAIRPERSON HOOD: Okay. All right. We will ask the

1 applicant to take care of that. Commissioner Stidham?

2 COMMISSIONER STIDHAM: No questions. Thank you.

3 CHAIRPERSON HOOD: Okay. And Vice Chair Miller.

4 VICE-CHAIRPERSON MILLER: Thank you, Mr. Chairman.

5 Yeah. I was going to also ask the applicant on rebuttal if --
6 or -- to provide us information about the plaza relief that's
7 being requested here. And I appreciate that Kevin, however I
8 don't remember his last name --

9 CHAIRPERSON HOOD: (Indiscernible.)

10 VICE-CHAIRPERSON MILLER: -- that Kevin brought up.

11 CHAIRPERSON HOOD: Rapp is --

12 VICE-CHAIRPERSON MILLER: -- and I appreciate his -- I
13 appreciate his other testimony as well.

14 CHAIRPERSON HOOD: Okay. Again, I want to thank that
15 panel. We appreciate it, regardless of what you said, I still
16 appreciate it. I'm going to leave it at that. Let me see --

17 MS. JONES: Questions.

18 CHAIRPERSON HOOD: Let me go to -- hold -- hold, Ms.
19 Jones? Come on now. I'm going to -- I'm going to run this
20 hearing now. Now, I'm going to run this hearing the proper way
21 because when it goes to court, they're not going to remember Ms.
22 Jones, they're going to remember Anthony Hood.

23 Does the applicant have any questions of this panel?

24 MR. KADLECEK: No questions. Thank you.

25 CHAIRPERSON HOOD: Okay. All right. So thank you all

1 very much. We appreciate your testimony.

2 All right. Mr. Kadlecek, do you have any -- I know you
3 have some rebuttal, and then we'll do closing.

4 MR. KADLECEK: Yeah. I think I'll wrap and get into
5 every -- the closing and the rebuttal as one. And if -- if it
6 would be helpful to Commissioner Wright and Commissioner Miller,
7 I'm happy to address the MU-10 plaza relief issue that was raised.
8 So that is something we identified in our filings. It asked for
9 zoning flexibility from that. It's important to note that the
10 requirement for 8 percent Open Space was a requirement for the
11 zone back in 2014 when this -- when this PUD was approved.

12 The building didn't meet it back then. It's just that
13 back then, you didn't have to specifically identify the relief
14 you were seeking. It's just that the PUD approval gave you what
15 you needed. The regulations changed in 2016 and said you have
16 to identify specific relief. So we are now just identifying the
17 relief that has always been part of this application. This is
18 not new. The building is not anything different in terms of open
19 space.

20 And as we pointed out in our application, the North
21 Service Court is effectively functioning as the open space. That
22 is a wide open space that creates a pedestrian throughway, and
23 it effectively functions as the open space requirement, or the
24 plaza requirement, that the (indiscernible) supposed to. But the
25 most important takeaway is it's always been part of the building

1 and the design. It's just that we're asking for it now because
2 of the regulations.

3 I'll turn now to the issue of the extent of the
4 flexibility, and I think that relates to the comments about
5 misleading communication. So in terms of the flexibility, I want
6 to state that the extent of flexibility that we're requesting has
7 always been part of the application materials. I think the record
8 is clear and speaks for itself. I believe that the presentation
9 that we've given tonight is clear that the amount of flexibility
10 we've asked for has been transparent throughout.

11 From the very beginning, starting in June of 2024, the
12 development team has been very clear about the extent of
13 flexibility. And in fact, the range of flexibility was even
14 greater a year ago when the applicant first went to the community.
15 We've shrunk the range in response to community comments. So it
16 has never been -- certainly, it has never been the intent, but
17 it has not, in fact, been the case that the flexibility has been
18 unclear or misleading. The applicant has been very clear about
19 the extent of it. As you'll recall from my opening of this
20 hearing, we understand that this flexibility is extraordinary.
21 We are calling it out as being extraordinary, but the situation
22 warrants it, and that has never been something that has been
23 misleading or unclear.

24 Turning now to the ANC 5(B), I just want to make a
25 point of clarification about that. While that report did talk a

1 lot about transportation issues because that was of the most
2 concern to the ANC, the report itself and the motion and the vote
3 was to support the application as presented to the Zoning
4 Commission. So I just want to make that clear for the record.
5 That is, in fact, what the ANC voted for and that is what is
6 memorialized in their report, despite what a lot of the language
7 says. So I want to just make that clear.

8 The last thing that I want to conclude with is we
9 definitely hear and understand and respect a lot of the comments
10 tonight about the size of the grocery store. We hear where the
11 Commission is coming from. We hear where the community is coming
12 from. And so we can definitely say that we are able to come up
13 from 10,000 square feet. I'm not sure that we can give an exact
14 number now, but we are able to come up from the 10,000 square
15 feet. And so that is something that we are able -- we will submit
16 to the record because we need to study it a little bit more in
17 terms of how much we can come up. But we -- I do want to make
18 it clear and reassure the Commission that we hear you and that
19 it's something that we are able and willing to do as it's clearly
20 understood as something that's important.

21 Finally, I will just conclude that, as we've stated
22 throughout, the ability to pivot is really paramount to the
23 success of this development. There's no grocery store now at
24 all. And so the only way this grocery store comes is if this
25 development happens. And part of that is the ability to pivot

1 so that a grocery store can be developed in this site. And that's
2 what everyone wants to happen, that's what the developer,
3 especially, wants to happen. As Ruth testified, there's no
4 incentive here -- and I think Mr. Becker, as well -- there's no
5 incentive here to create a smaller space. It's better to have
6 the bigger space, and that's what everyone is aiming towards, and
7 that is certainly the intention.

8 I will note, finally, that under the lease with the
9 current grocer, they need to start construction in a year. So
10 that is why it's paramount to have the ability to be nimble and
11 to be flexible and to get a building permit and to start
12 construction as quick as possible so that the 22,500 square foot
13 grocer that will serve the needs of the community in a very
14 meaningful way can be delivered as part of this project.

15 So with that, I'm happy to any -- answer any further
16 questions, but that concludes my rebuttal and thoughts. Thank
17 you very much for your time, and we look forward to moving forward
18 with this project.

19 CHAIRPERSON HOOD: So I'm going call that, Mr.
20 Kadlecek, your closing statement because typically we don't
21 question lawyers on rebuttal. So I've been around long enough I
22 know how that works. But let me see if my colleagues have any
23 questions on the closing. Commissioner Imamura?

24 COMMISSIONER IMAMURA: No questions.

25 CHAIRPERSON HOOD: Commissioner Wright? Commissioner

1 Wright?

2 COMMISSIONER WRIGHT: No. Thank you for the
3 explanation about the open space. That was very helpful.

4 CHAIRPERSON HOOD: Commissioner Stidham? Vice Chair --

5 COMMISSIONER STIDHAM: No questions.

6 CHAIRPERSON HOOD: Vice Chair Miller?

7 VICE-CHAIRPERSON MILLER: Yeah. Thank you, Mr.
8 Kadlecek, for your closing statement. That was helpful.

9 CHAIRPERSON HOOD: Okay. I want to thank everyone on
10 the applicant's team, the community, my colleagues, everyone for
11 being patient. Sometimes these issues are passionate. As those
12 of us who've been around a while, especially for McMillan and
13 other cases in the City, they're very passionate. People get
14 very upset. But at the end of the day, I think it's always a
15 win-win. I'm not sure what the Commission's going to do, but at
16 the end of the day, it's always a win-win for the City. And I
17 know that by the people who are against Costco, because now every
18 time I go to Costco, I can't get in there because they're there.
19 So I'll leave it at that.

20 Let me try -- I'm going to ask Ms. Ackerman, I'm going
21 to ask Mr. Ritting to help me with what we have to do here. And
22 then I want to see what my colleagues -- this is a one-vote case.
23 So I know we did ask for some things, right? Mr. Ritting, this
24 is one vote, right?

25 MR. RITTING: Yes, we did. Yeah. It's -- it's a HUD

1 modification with no change to the zoning text or maps, so no
2 proposed action.

3 CHAIRPERSON HOOD: Okay. So I think we have -- Mr.
4 Ritting, I know you'll try to help me get it straight. Ritting
5 response to -- from -- to OAG proposed condition. We've
6 considered, I think a number of us considered the 15,000 lower
7 limit instead of the 10,000. But I don't even know what -- if
8 we're going to put a number on that. Proposed conditions --
9 anything else that I'm leaving out, colleagues or Mr. Ritting?

10 MR. RITTING: And with the preface that I believe that
11 those are questions for the applicant to respond to, the response
12 to the OAG proposed condition relating to affordable housing,
13 considering as an alternative to the 10,000 square foot lower
14 limit for the grocery store, 15,000 square foot, I believe, was
15 Ms. Wright's proposal. In addition, there were couple other
16 issues. Ms. Cort asked a question -- raised an issue about
17 whether the affordable housing would be reserved in perpetuity
18 versus for the life of the project. And then there were the
19 issues raised by Mr. Rapp's testimony, which I believe the
20 applicant partially addressed in his closing, but there -- was
21 some others that I believe the applicant should respond to in
22 writing. And then finally, it would be very helpful for
23 consideration of the full list of proposed conditions to be
24 submitted. So then the Commission could consider the applicant's
25 response to all of those things before considering action on the

1 application.

2 CHAIRPERSON HOOD: Okay. And I did ask for the Office
3 of Attorney General to -- and I'm sure they remember what I asked.

4 MR. RITTING: Sorry, I forgot that. Yes, the Attorney
5 General to also respond. So the next step would be to set some
6 dates.

7 CHAIRPERSON HOOD: Ms. Ackerman, do you have any dates?
8 Thank you, Mr. Ritting.

9 MS. ACKERMAN: I do --

10 MR. KADLECEK: Can I make a request in terms of dates?
11 Maybe it may all add up in the (indiscernible), but I just wanted
12 to make a request in terms of dates.

13 MS. ACKERMAN: Okay.

14 CHAIRPERSON HOOD: We'll, hear our dates first, and
15 then we'll work with you. Ms. Ackerman?

16 MS. ACKERMAN: So I have, by August 4th, all requested
17 information be submitted. August 14th, parties in the ANC can
18 respond to additional information. And by August 21st, we can
19 have the draft -- sorry -- we can have the draft order submitted.
20 Does that work for you?

21 MR. KADLECEK: Well, so I was going to suggest if it's
22 possible that we could -- we can probably file the additional
23 information that we need in the next couple of days --

24 MS. ACKERMAN: Okay.

25 MR. KADLECEK: -- which then would hopefully give

1 anyone to respond within a week.

2 MS. ACKERMAN: That --

3 MR. KADLECEK: That way, we can hopefully be on the
4 agenda for the July 31st meeting. As mentioned, there's a hard
5 deadline we're trying to meet here with construction starting in
6 a year, and so the loss of August would be challenging.

7 MS. ACKERMAN: Yeah. If you could --

8 CHAIRPERSON HOOD: Ms. Ackerman?

9 MS. ACKERMAN: Yeah?

10 CHAIRPERSON HOOD: -- let me ask this question. How
11 does our agenda look for August? I mean --

12 MS. ACKERMAN: That's what I was going to say. For --

13 CHAIRPERSON HOOD: -- as opposed to July.

14 MS. ACKERMAN: For the 31st, our agenda is pretty full.
15 Let me check it again in case anything has been moved. We can
16 put it on there if the timeline works. So what -- what do you
17 think? When's the soonest you could have your information in?

18 MR. KADLECEK: I think we could get something probably
19 by Wednesday at the latest, maybe Tuesday -- actually, end of day
20 Tuesday we could probably do.

21 MS. ACKERMAN: Yeah. Okay. Okay. So by July 23rd,
22 you're saying?

23 MR. KADLECEK: Yeah. So we could get something --
24 yeah -- by the end of the day, July 23rd, and then hopefully then
25 I would give other -- ANC and (indiscernible) respond.

1 MS. ACKERMAN: Yeah. Maybe they could respond by the
2 30th. Does that work for you tentative?

3 CHAIRPERSON HOOD: I'm more concerned, does it work for
4 the ANC? Do you -- you know for sure --

5 MS. ACKERMAN: I'm concerned about it well.

6 CHAIRPERSON HOOD: -- can you check if works for the
7 ANC?

8 MR. KADLECEK: I don't know that it works for them, but
9 I'm just putting that out there. I don't know. But I don't --

10 MS. ACKERMAN: I think if you could get it to us by
11 Monday, we could do that.

12 MR. KADLECEK: Okay.

13 MS. ACKERMAN: Does that work for you?

14 CHAIRPERSON HOOD: I have the time. I just want to
15 make sure everybody has their access --

16 MS. ACKERMAN: Yeah. If you could get an end by July
17 21st, I would feel more comfortable with that amount of time for
18 the ANC to respond --

19 CHAIRPERSON HOOD: Monday's fine for -- for what -- but
20 I'm just talking about everybody else. I know OAG will have it,
21 but I'm talking about ANC, if they need to respond --

22 MS. ACKERMAN: I just feel like maybe we're pushing it,
23 and I know that works for you, but I don't know if it's fair to
24 everybody else to respond. You could go on the first meeting in
25 September.

1 MR. KADLECEK: Yeah. I mean, it's a month. And
2 unfortunately, when we're on the tight deadline like -- like we
3 are, a month is meaningful. So that's why, you know, I don't --
4 I understand what you're saying, but that's why we're -- we can
5 get our stuff in as quickly as possible and get people to make
6 the response.

7 CHAIRPERSON HOOD: Ms. Ackerman, try to go with it. If
8 it doesn't work out --

9 MS. ACKERMAN: Okay.

10 CHAIRPERSON HOOD: -- (indiscernible) -- if it does not
11 work out, we're going to push it to September.

12 MS. ACKERMAN: Okay. If you can have your stuff in by
13 July 21st, and then I'll give to the ANCs and everyone else to
14 respond by July 28th. Does that work for you?

15 MR. KADLECEK: Yeah. That works. Thank you.

16 CHAIRPERSON HOOD: So Mr. Kadlecek, other than that,
17 you're going to have to make -- you're going to have make sure
18 it works too. That way we can deal with it in July. Okay?

19 MR. KADLECEK: Yeah. Well, so we'll -- yes, we will
20 get in all that -- all the additional information and issues --

21 MS. ACKERMAN: Okay.

22 MR. KADLECEK: -- by Monday.

23 MS. ACKERMAN: Oh, could you have the draft order
24 submitted by the 28th as well?

25 MR. KADLECEK: Well, that's going to be harder. Do we

1 need the draft order done by then? Oh, we submit that
2 (indiscernible) --

3 MS. ACKERMAN: Well, I think we need it done at least
4 by the -- Jake, does that need to be done by --

5 MR. RITTING: No.

6 MS. ACKERMAN: -- the 28th, or could we --

7 MR. RITTING: That can -- that can come later.

8 MS. ACKERMAN: Okay. All right.

9 CHAIRPERSON HOOD: So callers, you heard the time
10 schedule on this one. We have a tight -- I understand we have a
11 heavy agenda for the 30th or whatever -- 31st or whenever that
12 is -- 31st. Any objections to moving in that fashion? Okay.
13 All right. All right. So Mr. Kadlecek, I think we're good.
14 We're looking forward to the 31st and getting everything in. Ms.
15 Ackerman, do we have anything else?

16 MS. ACKERMAN: No. We do not.

17 CHAIRPERSON HOOD: Okay. Our next meeting first --
18 before I close this one out, let me say our next meeting is going
19 to be July the 21st. And that's on the Commission Case No. 20-
20 08E, Howard University on the same platform. So with that, I
21 want to thank everyone for their participation tonight. And
22 this, hearing is adjourned. Have a great weekend.

23 (Whereupon, the above-entitled matter went off the
24 record at 5:58 p.m.)

25

C E R T I F I C A T I O N

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: D.C. Zoning Commission

Date: 07-17-25

Place:

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