

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF:	: Case No.
	:
SKYLAND HOLDINGS, LLC	: 09-03A
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Thursday,
June 13, 2013
Hearing Room 220 South
441 4th Street, N.W.

Washington, D.C.

The Public Hearing of Case No. 09-03A by the District of Columbia Zoning Commission convened at 6:33 p.m. in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001,

Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
MARCIE COHEN, Vice Chair
MICHAEL G. TURNBULL, FAIA,
Commissioner (AOC)
PETER MAY, Commissioner (NPS)
ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,
Development Review & Historic Preservation

MAXINE BROWN-ROBERTS

DISTRICT DEPARTMENT OF TRANSPORTATION STAFF

PRESENT:

JAMIE HENSON

FLEMING EL-AMIN

The transcript constitutes the
minutes from the Public Hearing held on June

13, 2013.

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Modification of an Approved Planned Unit
Development

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

6:33 p.m.

CHAIRPERSON HOOD: Good evening, ladies and gentlemen. We're ready to get started. This is the public hearing of the Zoning Commission for the District of Columbia for Thursday, June 13th, 2013.

My name is Anthony Hood. Joining me are Vice-Chair Cohen, Commissioner Miller, Commissioner May and Commissioner Turnbull. We're also joined by the Office of Zoning staff, Ms. Sharon Schellin; Office of Planning, Ms. Steingasser and Ms. Brown-Roberts; the District Department of Transportation, Mr. Henson and Mr. Fleming.

This proceeding is being recorded by a court reporter and is also Web cast live. Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room.

The subject this evening's hearing is Zoning Commission Case No. 09-03A. This is

1 a request by Skyland Holdings, LLC for
2 approval of a PUD modification for various
3 lots in Squares 5632, 5633, 5641, 5641-N and
4 Parcels 213/52, 213/60 and 213/61.

5 Notice of today's hearing was
6 published in the D.C. Register on April 26th,
7 2013 and copies of that announcement are
8 available to my left on the wall near the
9 door.

10 This hearing will be conducted in
11 accordance with the provisions of 11 DCMR 3022
12 as follows: Preliminary matters, Applicant's
13 case, report of the Office of Planning, report
14 of other government agencies, report of the
15 ANC; in this case I believe we have 7B and 8B,
16 organizations and persons in support,
17 organizations and persons in opposition. Then
18 we'll have rebuttal and closing by the
19 Applicant.

20 The following time constraints
21 will be maintained in this meeting: The
22 Applicant will have 30 minutes, organizations

1 5 minutes, individuals 3 minutes. The
2 Commission intends to adhere to the time
3 limits as strictly as possible in order to
4 hear the case in a reasonable period of time.

5 All persons appearing before the
6 Commission are to fill out two witness cards.
7 These cards are located to my left on the
8 table near the door. Upon coming forward to
9 speak to the Commission, please give both
10 cards to the reporter sitting to my right
11 before taking a seat at the table.

12 When presenting information to the
13 Commission, please turn on your microphone and
14 speak into the microphone, first stating your
15 name and home address. When you are finished
16 speaking, please turn your microphone off so
17 that your microphone is no longer picking up
18 sound or background noise.

19 Be mindful that the decision of
20 the Commission in this case must be based
21 exclusively on the public record. To avoid
22 any appearance to the contrary, the Commission

1 requests that persons not engage the members
2 of the Commission in conversation during any
3 recess or at any time.

4 Please turn off all beepers and
5 cell phones at this time so not to disrupt
6 these proceedings. The staff will also be
7 available throughout the hearing to discuss
8 procedural questions.

9 Would all individuals wishing to
10 testify please rise and take the oath?

11 Ms. Schellin, would you please
12 administer the oath.

13 MS. SCHELLIN: Please raise your
14 right hand.

15 (The witnesses were sworn.)

16 MS. SCHELLIN: Thank you.

17 CHAIRPERSON HOOD: Okay. At this
18 time the Commission will consider any
19 preliminary matters. Does the staff have any
20 preliminary matters?

21 MS. SCHELLIN: Yes, sir. First we
22 have two party status requests in opposition,

1 one from Ronald Cole and -- find the other
2 name. I believe it's Chelsea. Cherise. So
3 Ronald and Cherise Cole. And then we have a
4 second one from Joanne Harris and Gary
5 Puckrein. So we have those to consider.

6 And then when we get to the next
7 phase, we have some expert witnesses.

8 CHAIRPERSON HOOD: Okay. Thank
9 you, Ms. Schellin.

10 Commissioners, we have Exhibit 31
11 and Exhibit 33 in front of us, requests for
12 party status. Let me go to you, Mr. Tummonds,
13 first. Do you have any objections on either
14 one of these petitions for party status?

15 MR. TUMMONDS: Thank you, Mr.
16 Chair. Paul Tummonds, Gouldston & Storrs.

17 I would note that specifically
18 with Mr. Cole's and Mrs. Cole's request for
19 party status, they referred to the previous
20 PUD case, and in fact there is a reference to
21 the fact that granting the PUD application
22 will change the abutting and transitional R-5-

1 A Zone District to the C-3-A Zone District.

2 I think that the party status
3 request of all of the parties really needs to
4 be focused on the implications of this PUD
5 modification we're talking about, not the
6 general discussion we had last time in the
7 four public hearings that resulted in the
8 original approval of the case.

9 So for those reasons I do not
10 agree that either of the requests for party
11 status should be granted.

12 CHAIRPERSON HOOD: Okay. Thank
13 you very much. Commissioners, let's open it
14 up for discussion on -- let's actually take
15 both of them, Exhibit 31 and Exhibit 33.

16 Okay. Let's do Mr. Cole first,
17 Exhibit 31. Open it up for any discussion.

18 COMMISSIONER MAY: Mr. Chairman,
19 in terms of proximity and impact, ordinarily
20 I would say yes this is fairly open and shut,
21 although there might be some utility in the
22 two parties joining forces. But since much of

1 the argument seems to be about what has
2 already been approved, I'm not sure that
3 there's really a reason for party status to be
4 granted. I guess that's about all.

5 CHAIRPERSON HOOD: Okay. Anyone
6 else? Commissioner Turnbull?

7 COMMISSIONER TURNBULL: Yes, thank
8 you, Mr. Chair. Yes, I would agree with
9 Commissioner May in that normally someone this
10 close you would agree it would make sense that
11 they would have party status. But in this
12 case, at least items 1, 4 and 5 refer back to
13 the original PUD, which has been approved,
14 which is not what we're talking about tonight.

15 We're talking about the
16 modifications to that PUD, but what's
17 referenced is things that are water under the
18 bridge. And I don't want to make light of
19 someone's impact on this, but we've already
20 discussed this.

21 In fact, the order, when they talk
22 about the mitigation to construction, I mean

1 it's clearly called out in the order. And in
2 the order it clearly says the Applicant --
3 here, let me -- on item 12 under -- the
4 Applicant takes that the construction
5 mitigation as stated in Exhibits 112 and 120
6 of the record. These measures include
7 monitoring the construction activity,
8 monitoring the vibrations from construction
9 activity, the Applicant agreeing to take
10 responsibility for damage to adjacent
11 properties and pay for damage.

12 I mean this has all been vetted at
13 the hearing. The Applicant has agreed that it
14 will do seismic testing when it's under
15 construction and verify any damage that's done
16 and make anybody who's harmed whole.

17 So I can't see revisiting all
18 this. We're here for the modification, so I
19 would agree with Commissioner May. In this
20 particular case I'm reluctant to grant party
21 status.

22 CHAIRPERSON HOOD: Okay. Any

1 other Commissioners who haven't spoken?
2 Commissioner Miller?

3 COMMISSIONER MILLER: Yes, I would
4 share the concerns of Commissioners May and
5 Turnbull. I mean unless the persons are able
6 to focus on the modification and unless they
7 join together, because they both have that
8 same abutting property ownership interest, I
9 would not be supportive. Maybe there's a way
10 to find out if they're able to focus on what's
11 before us as opposed to the original case.

12 CHAIRPERSON HOOD: Okay. I would
13 agree with my colleagues.

14 Let me ask, are the two applicants
15 who asked for party status present? Ronald
16 Cole and Joanne Harris and Gary Puckrein --
17 are you present?

18 (No audible response.)

19 CHAIRPERSON HOOD: Okay. Well,
20 going onto submissions, Commissioners. And
21 you know, I also too think that -- the reason
22 I asked for them, because I wanted to see if

1 they could focus on the three or four issues
2 that we have in the modification, not in the
3 case that we had previously. I didn't know
4 there was four nights. Was it four nights you
5 said, Mr. Tummonds?

6 MR. TUMMONDS: (No audible
7 response.)

8 CHAIRPERSON HOOD: We had quite a
9 bit. I didn't know we did this case four
10 nights. I can think of some others, but not
11 this one.

12 But anyway, and also when I look
13 at their submissions -- well, the argument for
14 me they made, they're the three closest the
15 neighbors, I could go along with that, but the
16 rest of it, as my colleagues have already
17 eloquently mentioned, we've already went
18 through that. We've passed it out. We put in
19 the mitigation methods. The order has been
20 written for the original case. We're just
21 talking about modification.

22 So since they're not here and I

1 cannot kind of ask them if they could just
2 focus on these three issues, I would agree
3 with turning both applications down for party
4 status. So I would move that Exhibit 31 and
5 33 will be denied and ask for a second.

6 VICE-CHAIRPERSON COHEN: Second.

7 CHAIRPERSON HOOD: It's been moved
8 and properly seconded. Any further
9 discussion?

10 (No audible response.)

11 CHAIRPERSON HOOD: All those in
12 favor?

13 (Chorus of ayes.)

14 CHAIRPERSON HOOD: Not hearing any
15 opposition.

16 Ms. Schellin, would you please
17 record the vote?

18 MS. SCHELLIN: Yes, staff records
19 the vote 5-0-0 to deny party status to Ronald
20 Cole and Cherise Cole, and to deny party
21 status to Joanne Harris and Gary Puckrein.
22 Commissioner Hood moving; Commissioner Cohen

1 seconding; Commissioners May, Turnbull and
2 Miller in support of denial.

3 COMMISSIONER TURNBULL: Mr. Chair,
4 I would just state also, going back, during
5 the case it was a very -- it was a contested
6 case. It was very complicated. I mean we
7 looked very carefully at the ravine. The
8 Applicant did balloon tests. We looked at the
9 heights of the buildings. It was very
10 carefully analyzed. The presentation from the
11 Applicant, the input from the neighbors, the
12 ANC. There was a lot of input on this at the
13 time. And I think, you know, the record
14 stands for what was presented and how we
15 decided that.

16 CHAIRPERSON HOOD: Okay. Thank
17 you, Mr. Turnbull. I just don't remember four
18 nights. That's what I'm still having -- I
19 thought it was one night.

20 But anyway. Okay. So --

21 COMMISSIONER MAY: I remember it
22 like it was yesterday.

1 (Laughter.)

2 CHAIRPERSON HOOD: Okay.

3 COMMISSIONER MAY: Of course I
4 can't remember much about yesterday. It's all
5 just a blur. But, no, it was a really long
6 one. I agree with Mr. Turnbull. We went into
7 this quite thoroughly and we were very
8 concerned about the impacts to the neighbors
9 on -- presumably next door neighbors of the
10 two groups that wanted party status. And, you
11 know, we were quite exhaustive, exhaustive and
12 exhausted.

13 CHAIRPERSON HOOD: Well, I
14 remember the hearing, but I just don't
15 remember it taking you guys that long, four
16 nights, to get through a hearing. You guys
17 need to speed it up.

18 Okay. Let's go to expert
19 witnesses.

20 MR. TUMMONDS: Yes, in our May
21 24th submission we had proffered two expert
22 witnesses. The first is Cheryl O'Neill, the

1 project architect. She had previously been
2 admitted as an expert in this case. The
3 second expert is Gabriel Massa, MMA
4 Architects. He is the architect for Block 1,
5 the Walmart structure. His r, sum, was
6 attached to the May 24th file.

7 CHAIRPERSON HOOD: Okay.
8 Colleagues, Cheryl O'Neill we've seen before
9 and we've accepted here, so I don't think we
10 have any objections with Ms. O'Neill.

11 What about with Mr. Massa?

12 COMMISSIONER MAY: Well, I count
13 at least six abbreviations after his name, so
14 he must be well -- acronyms or -- no, I
15 actually reviewed this fairly carefully and I
16 have no problem whatsoever with Mr. Massa
17 being admitted as an expert.

18 CHAIRPERSON HOOD: Do I hear any
19 objections?

20 (No audible response.)

21 CHAIRPERSON HOOD: Okay. So we
22 will accept both as experts.

1 Do we have anything else, Ms.
2 Schellin?

3 MS. SCHELLIN: (No audible
4 response.)

5 CHAIRPERSON HOOD: Okay. Mr.
6 Tummonds, we're ready when you are.

7 MR. TUMMONDS: Thank you. Good
8 evening. On behalf of Skyland Holdings, LLC
9 we are pleased to be here this evening to
10 bring the development of the Skyland Town
11 Center one step closer to fruition.

12 The modified PUD project that is
13 the subject of this hearing proposes a series
14 of refinements and enhancements to the Skyland
15 Town Center project that was approved in
16 Zoning Commission Case No. 06-03. The major
17 components of the approved PUD project: A
18 town center with a main street shopping
19 experience and a significant residential
20 community in five distinct and self-sufficient
21 development parcels were made.

22 The proposed PUD modification is

1 not proposing significant changes to the
2 approved PUD project. The number of
3 residential units remains in the range of 450
4 to 500 units. The amount of retail and
5 service-related uses will be approximately
6 342,000 square feet and no changes are
7 proposed to the community benefits and
8 amenities package.

9 Since we are here this evening
10 presenting predominantly design-related
11 changes, we only have two witnesses, Ms.
12 O'Neill and Mr. Massa. We know that the
13 Office of Planning and the Department of
14 Transportation submitted reports which
15 supported the requested modification
16 application subject to a few conditions.

17 The Office of Planning asked that
18 the Applicant provide more information
19 regarding the landscape screening for the
20 retaining walls adjacent to Block 1. Mrs.
21 O'Neill will address those issues in her
22 testimony this evening.

1 With regard to the Department of
2 Transportation, they noted that they had no
3 objection to the PUD modification application
4 provided that the new site driveway from Good
5 Hope Road to Block 2 is: (1) limited to right
6 in, right out only, (2) the driveway is
7 designated for truck use only; and (3) the
8 turning movements for this driveway are
9 restricted to off-peak travel hours and off-
10 peak plaza hours. We have agreed to limit the
11 restriction from Good Hope Road into Block 2
12 to the right turn out, right turn in only.

13 And in discussing the two other
14 operational issues with DDoT staff, we believe
15 that these issues can be effectively dealt
16 with during the separate DDoT Public Space
17 Committee hearing process as those two
18 operational issues will not have any impact on
19 the building layout or site plan approval that
20 we are asking for your approval this evening.

21 In addition to the two witnesses
22 that I have mentioned, we also have

1 representatives of the design team and the
2 Applicant who are here this evening to answer
3 any questions that you may have.

4 With that, I'll now have Ms.
5 O'Neill present her testimony

6 MS. O'NEILL: Good evening,
7 Commissioner Hood and Commissioners. Again,
8 I am Cheryl O'Neill with Torti Gallas Urban
9 and I'm here to present to you an overview of
10 the minor modifications made to the originally
11 approved PUD.

12 You see here on the screen, this
13 is the original site plan for the approved PUD
14 containing a mixed-use development anchored by
15 a central main street with a large format
16 retail store anchoring that Main Street, three
17 mixed-used blocks transitioning to smaller
18 scale town houses towards the north and the
19 Akron Place neighborhood beyond.

20 This slide indicates the minor
21 modifications to all five of the blocks. In
22 Block 1, which will be the home of the Walmart

1 store, there are some minor modifications to
2 the parking. And underground parking garage
3 that was originally located below Block 1 has
4 been eliminated with a reduction of
5 approximately 225 parking spaces. In
6 addition, there have been some minor
7 refinements and enhancements to the retaining
8 walls and the landscaping surrounding the
9 block, particularly on the north and the east
10 elevations.

11 Block 2, we've had some
12 reconfigurations to the retail layout on the
13 ground floor, and in particular made
14 alterations to the parking so that the central
15 parking garage now located in that block
16 accommodates all of the parking for the retail
17 within the development. We think this makes
18 a more sensible parking strategy for the
19 development, will enhance the activity along
20 Main Street and will really improve the layout
21 of that block. That block also has two alley
22 loading kind of situations accessing the

1 loading and the parking, and we'll talk about
2 those a little bit more when we get to look at
3 that block.

4 In Block 3 and Block 4, because
5 all of the retail parking is now accommodated
6 in Block 2, we've been able to eliminate the
7 parking garages that were previously located
8 on those two blocks and those have been
9 replaced with surface parking lots. And we
10 think this greatly improves, particularly with
11 Block 3, the relationship between that block
12 and the neighbors along Fort Bake Drive.

13 Lastly, in Block 5 we've made some
14 minor alterations to the units located along
15 the residential street, have eliminated the
16 RCN switching station which was previously
17 located here, which is no longer necessary,
18 eliminated some of the town houses located
19 here in the plan along that street, and
20 replace it with a green buffer, which we think
21 makes a wonderful transition between the
22 mixed-use town center and the Akron Place

1 neighbors to the north.

2 This is a slide showing
3 comparisons between the approved Block 1 plan,
4 the proposed Block 1 plan. Again the layout
5 of the store is very similar. Improvements
6 have been made to the landscaping and the
7 retaining walls on the north and the east.
8 There have also been modifications to the
9 loading and receiving at the front of the
10 building along Naylor Road, and that has had
11 some impact on the Naylor Road elevation which
12 Gabriel Massa will talk about in his
13 presentation.

14 This is a comparison of the
15 approved PUD elevations of Block 1 along Main
16 Street, the proposed elevations along Block 1.
17 There have been minor modifications to the
18 embellishments along that fa#ade, but
19 basically the character of it has been
20 maintained in our proposed modifications.

21 This is a comparison of the
22 elevations along Naylor Road. Again the

1 spirit of the elevation, the kind of
2 repetitive bay façade, the significant tower
3 at the corner have all been maintained, but
4 there have been modifications to that
5 elevation to accommodate the change in layout
6 of the store inside. And again, Mr. Massa
7 will talk about that in a moment.

8 This is our proposed refinements
9 to the east elevation, which this is the
10 elevation which again faces Fort Baker Drive.
11 And here we've had some significant impacts in
12 terms of the scale of the building as it faces
13 Fort Baker Drive. In the approved PUD we
14 actually had that half level of underground
15 parking garage here which resulted in a
16 building façade that was approximately 40 feet
17 tall. It also meant because of the
18 arrangements of the retaining walls that the
19 landscaping was located below the height of
20 walls.

21 Because of the elimination of the
22 parking garage, the building façade is now

1 roughly only 26 feet tall, a substantial
2 reduction in height. Also because of changes
3 to the retaining wall design, we've been able
4 to locate the landscaping closest to the
5 building at the level of the building so it
6 will much more effectively screen the
7 building. And then we were supplementing that
8 with additional landscaping, screening the
9 retaining walls as they come down the slope.
10 I should note that this slide above is
11 presenting the landscaping at mature growth,
12 some 10 to 15 years out when it will fully be
13 screening the building and the retaining
14 walls.

15 This is another comparison of the
16 approved PUD. This is the north elevation
17 which faces onto 28th Street, which is a dead-
18 end street but abuts an adjacent apartment
19 complex. Again, changes to the layout of the
20 retaining wall. Some minor changes there.
21 The parking garage below again has been
22 eliminated, so the building height is

1 significantly shorter. And we are introducing
2 substantial landscaping to screen the
3 retaining walls along that north face.

4 Changes to Block 2. Again the
5 major change is that the parking is now
6 consolidated in a central parking garage, and
7 that accommodates both the residential parking
8 for the 260-odd units in this building as well
9 as all the retail parking for the complex.
10 But similar to below, the block is
11 continuously ringed by retail around the
12 ground floor facing onto Main Street and onto
13 Naylor Road.

14 Again, we have two kind of
15 alleyways coming through the building, one
16 here and another one over here. And this is
17 where we were proposing the right turn in into
18 this alley, both for loading for the mixed-use
19 building as well as access to the parking
20 garages.

21 Also a significant improvement in
22 Block 2 has been the elimination of the slip

1 lane which used to connect from Good Hope Road
2 into Naylor Road. That has been eliminated
3 and significantly improved we think the
4 intersection that results because of that.

5 This is a comparison of the layout
6 of the residential buildings above. Again,
7 the kind of character of the residential is
8 very similar to before, but it's been made
9 slightly more efficient with two kind of major
10 buildings on either side of the parking garage
11 and with the residential almost completely
12 lining the perimeter of the block.

13 A significant addition to Block 2
14 has been the addition of a very large and
15 expansive green roof on top of the parking
16 garage. We think this is a wonderful new
17 sustainable feature for the project. It also
18 will create great new amenities for the
19 residences, a pool here, as well as a large
20 amenity space with a trellis overlooking the
21 city down below. You'll get quite spectacular
22 views from that location.

1 Block 3 the major change here is
2 the elimination of the structured parking
3 garage in the center of the block and its
4 replacement with a surface parking lot. And
5 we think this will make the situation with the
6 residential units much improved.

7 We've also made a minor
8 modification to these units here, exchanging
9 the deeper town houses for something that
10 we're calling a carriage house unit, which is
11 basically a unit with parking on the ground
12 floor and living units up above. We think the
13 character of those, as you can see here,
14 better fits the adjacent Akron Place town
15 houses and also accommodates the kind of
16 situation that they are in relative to the
17 block better.

18 Block 4. Again, similar to Block
19 3. The major thing is the elimination of the
20 structured parking garage and its replacement
21 with the surface parking lot. And again, we
22 think this greatly improves the relationship

1 between the building here and the Fort Baker
2 Drive residences to the north.

3 As you can see in this section --
4 this is from the approved PUD -- where you
5 could see a two-and-a-half-story parking
6 garage was within 50-odd feet of our property
7 line. That parking garage has been eliminated
8 making the building face now some 175-odd feet
9 from the property line on Fort Baker Drive.
10 And we think that will greatly improve the
11 relationship between the Fort Baker Drive
12 residences and the project.

13 Lastly, along Block 5, the layout
14 of this street, which we call Residential
15 Street, has been slightly altered to make the
16 intersection here slightly more efficient.
17 We've also chosen to eliminate the town house
18 units that were previously located here and
19 replaced them with a green buffer, which we
20 think makes a nicer relationship to the Akron
21 Place houses to the north.

22 Also the RCN switching station

1 which was previously located here is no longer
2 required, so that has been eliminated as well.
3 And all this stretch of the street has been
4 replaced with a green landscape buffer.

5 I'll now it turn over to Mr. Massa
6 to talk about Block 1.

7 MR. MASSA: Chairman Hood, members
8 of the Commission, my name is Gabe Massa and
9 again I want to thank you for giving me the
10 opportunity to be here to present the
11 modifications to Block 1.

12 Back in December I attended the
13 set down hearing and I listened to some of the
14 comments that you had made regarding the
15 Walmart building. I'm here tonight to
16 specifically address those comments, and let
17 me just reiterate what I think those comments
18 were.

19 One was to soften the north end of
20 Naylor Road, the brick work there. Second was
21 to improve on the screening of the parking
22 deck on the upper level. And third and fourth

1 were to develop some line of sights from
2 Naylor Road and from Main Street to ensure
3 that the cars on the roof would not be seen.

4 I'm going to address those four
5 things this evening. We also implemented and
6 made an additional improvement, and that was
7 changing the roof shading cover from a
8 perforated metal to a polycarbonate which
9 really has great lighting transmittance, as
10 low as about 16 percent.

11 So the first was the north end of
12 Naylor. We had a lot of brick material at
13 that end. We wanted to soften it as we went
14 to the residential end, and we were asked to
15 improve the aesthetics of that north end. We
16 added some glazing window wall to the north
17 end wall. Here are a few different
18 perspectives. This is looking north as well,
19 just to give you an idea of what the
20 improvement looks like. This is looking
21 towards the corner.

22 Next was the screening. Initially

1 we had a mesh-type screening and we had
2 changed that to a perforated metal which is
3 widely used for screening material on parking
4 decks. And as you can see; this is very close
5 up, but it becomes a lot more dense so we can
6 control the size of the perforations to even
7 tighten them more. I have some material
8 samples and some presentation boards to kind
9 of show you what it looks like on a completed
10 building.

11 The roof shading devices were
12 perforated metal as well and we thought that
13 a polycarbonate would actually work better.
14 It's more conducive to this application and it
15 also gives an opportunity to reflect light in
16 the evening as well.

17 So here's a perspective of the
18 corner of Naylor and Main in the day and just
19 to give you an idea of what happens when it
20 starts to become night and light is on the
21 building. The great thing about the canopies
22 is they prevent light from going up, but they

1 reflect it down. You know, we have all LED
2 lighting up on the roof and it really helps
3 enhance the roof areas. And then from a
4 different perspective, from being a pedestrian
5 on the street.

6 This is a line of sight from
7 Naylor Road. As you can see from across the
8 street from a pedestrian looking above the
9 screen, your line of sight, you can't see the
10 car. Same thing from Main Street.

11 I've also brought a material
12 palette with me. I had Andrew -- it's up
13 there -- bring a box of materials to kind of
14 give you an indication of the material palette
15 that we're going to be using on his building.
16 The first material is Quik-Brik. Brick.
17 We're actually using this material right here
18 in D.C. on our Georgia Ave. store. This is
19 actually a sample, a mockup sample that was
20 made for us. It's colored grout.

21 This is the wall under
22 construction, not being cleaned yet. This is

1 a wall under construction as well. There are
2 two different colors that we're using. On the
3 east side of the Walmart entrance we're using
4 this promenade and on the right side we're
5 using more of a lighter tan blend. I believe
6 there are samples that were brought up here.
7 On the main entrance of the Walmart for the
8 banding and the corner elements we're using a
9 precast stone with a very soft finish on it.

10 The canopies, you know, we wanted
11 to really create an art deco feel, and I think
12 up there we've included a sample of the
13 durability of that material as well. This is
14 the polycarbonate, and we have a sample of
15 that that's included in our packet.

16 And lastly, the screening. I
17 really wanted to have a sample here tonight,
18 and I apologize. We've asked for it numerous
19 times. Hopefully it will come shortly. But
20 this is an example of what the panel looks
21 like in an installed installation. That's
22 really dense.

1 One thing I wanted to mention, you
2 know, initially just thinking back, this
3 corner tower used to be really a staircase and
4 an elevator shaft up to the upper level of the
5 parking deck. We moved those functions over
6 here to the side, and we thought it would be
7 a really important element for our corner line
8 of retail to have a part of their store. And
9 that concludes my presentation.

10 MR. TUMMONDS: Thank you. One
11 additional matter that we would like to
12 address is with regards to the former
13 condition No. 3 of the previous order.
14 Condition No. 3 was the order that discussed
15 what would happen if the financial
16 contributions as part of the community
17 benefits and amenities package had not been
18 completed.

19 As potential retail tenants took a
20 look at that condition, including Walmart and
21 other tenants, it became really aware that
22 that would be a problem, in that the existing

1 condition No. 3 states that failure of the
2 Applicant to make any of the financial
3 contributions required as a part of the
4 community amenities package shall, quote,
5 "result in the denial of any pending
6 application for a building permit or
7 Certificate of Occupancy and shall be grounds
8 for the revocation of any building permit or
9 non-residential Certificate of Occupancy then
10 in effect."

11 So what you'd have the situation
12 of a Walmart would be up and operational, or
13 another retail tenant would be up and
14 operational. They would have a C of O. Then
15 through no fault of their own because future
16 development phases did not occur their
17 Certificate of Occupancy could be revoked.

18 I don't think that that was
19 necessarily the intent of the Zoning
20 Commission. I think that this is certainly a
21 concern now for tenants looking at financing,
22 looking at their lease terms. So with that we

1 are asking for certain revisions to proposed
2 conditions No. 3 and 17, and that's what I
3 have submitted to you. We're not really
4 asking for anything to change from the
5 original intent, but I do think it fits more
6 with the real world practice of how retail
7 tenants will look at this and their ability to
8 move forward.

9 With that, that concludes our
10 presentation and we're available to answer any
11 questions that you may have.

12 CHAIRPERSON HOOD: Okay. We
13 really appreciate your presentation. Thank
14 you.

15 Let's open it up and see if we
16 have any questions on this modification before
17 us tonight. Okay. Vice-Chair?

18 VICE-CHAIRPERSON COHEN: Mr.
19 Tummonds, what is the status of the proffers
20 that were offered?

21 MR. TUMMONDS: All of them remain
22 exactly the same. We are not looking to make

1 any changes to any of those proffers. We have
2 not moved forward with any of the development
3 activity, any of the triggers that would
4 require any of the payment of those initial
5 amenities.

6 To kind of give you a sense of
7 what's occurred in three years since we were
8 last year, the eminent domain cases with the
9 city and the previous property owners, those
10 have now been disposed of. Those are now
11 done. That has I think taken most of the
12 time. But now I think, as I mentioned in our
13 opening statement this process, this PUD
14 approval, the street and alley closing
15 applications and the hearing that we had in
16 front of the City Council a few weeks ago --
17 we are now near the end of our entitlement
18 process such that construction activity can
19 start in earnest in 2014.

20 VICE-CHAIRPERSON COHEN: And just
21 for my own edification, the District doesn't
22 have a quick-take authority, does it?

1 MR. TUMMONDS: This eminent domain
2 process I think, if you would ask my client,
3 was far from quick, and so, no, I think -- but
4 they are at the end of that. So legal title
5 is in the hands of the District of Columbia
6 and all of the avenues for further appeal have
7 been exhausted.

8 VICE-CHAIRPERSON COHEN: A concern
9 that I have with, you know, any of the parking
10 is -- well, there's two concerns, security and
11 lighting. So can you address that? You
12 modify for Block 3, I believe it is, the
13 parking. And can you discuss that, how safe
14 it will be for residents now who will be
15 parking their cars possibly further away from
16 their homes?

17 MS. O'NEILL: Well again, it's
18 only the retail parking that is going to be
19 accommodated in Block 2. Okay? Block 3 and
20 Block 4, residences will be parking in the
21 block in which their building is. So it's
22 within their own surface parking lot. They

1 will have key card access to their own
2 development. And so we think that actually is
3 a relatively safe and secure situation. And
4 obviously the surface parking lots and the
5 parking garage will be adequately lit for
6 security purposes.

7 VICE-CHAIRPERSON COHEN: The
8 drawings show, and you did specifically
9 mention that the landscaping is out 10 to 15
10 years, the landscaping coverage for the
11 façades. Is there any way you could add
12 mature trees? Is there a reason why that, you
13 know, you're not doing that to at least begin
14 to protect the view?

15 MR. TUMMONDS: Our landscape
16 architect, Doug Hayes, is here to answer that
17 question.

18 MR. HAYES: Good evening. My name
19 is Doug Hayes. I'm with Michael Vergason
20 Landscape Architects. One of the problems
21 that we're going to be having is that we've
22 got some very steep slopes, and so we're going

1 to be -- it's going to be difficult to put in
2 large mature trees on the steep slopes. So we
3 are proposing to put them in a relatively
4 reasonable size for their initial
5 establishment. Most of the trees that we'll
6 be putting in for evergreen purposes will be
7 in the 8 to 10-foot range and most of the
8 trees will be in the 3-inch caliper range.

9 VICE-CHAIRPERSON COHEN: Next
10 question for the architect of Walmart.
11 Polycarbonate. Can you explain to me what the
12 substance of that is, because anytime I see
13 polycarbon with vinyl, I get very concerned
14 about the sustainability of that material.

15 MR. MASSA: You know, we looked at
16 numerous materials for the shading of that
17 roof. And as I mentioned, we initially
18 started with a perforated metal. And the more
19 we thought about it, that allowed no light
20 transmission through there and it kept the
21 space darker than it really needed to be. Not
22 only that, with the perforated metal water

1 would come through and drip and, you know,
2 constantly dripping in after it would rain.

3 We looked at a Kalwall system. My
4 experience over the years with a Kalwall
5 system, it tends to --

6 COMMISSIONER MAY: I think you
7 need to explain what a Kalwall system is. I
8 know what it is. Mr. Turnbull knows what it
9 is. But I don't --

10 MR. MASSA: Well, it's a composite
11 plastic-type material. The polycarbonate
12 tends not to yellow. From the due diligence
13 we've done, the material doesn't yellow.
14 That's why the polycarbonate is widely used in
15 shading devices. You'll see them at airports.
16 I don't really know the makeup of the
17 polycarbonate to the detail that you may be
18 looking for, but it's a great coverage and it
19 lets light transmit through it. You can
20 control the amount of light that comes through
21 it to allow shading of your vehicles.

22 VICE-CHAIRPERSON COHEN: So

1 basically it doesn't turn yellow, you're
2 saying.

3 MR. MASSA: Right.

4 VICE-CHAIRPERSON COHEN: And the
5 history of the product, we don't really know
6 what its long term --

7 MR. MASSA: Well no, the history
8 of the product has been known. It's been
9 utilized for, you know, at least 10 to 15
10 years and you see it widely used at airports,
11 on covered walkways, on exterior commercial
12 buildings. It's a lightweight product also,
13 which is great for the roof, so we didn't have
14 to put additional loading on that roof.

15 But more importantly, Vice-Chair
16 Cohen, I think what it was also helpful for is
17 that it helped us control the light that left
18 as we were shining light up and it allowed
19 light to reflect back down to provide a more
20 comfortable secure environment for the
21 customer going back to their car.

22 VICE-CHAIRPERSON COHEN: Yes, I

1 just, you know, have been reading a lot about
2 Walmart's desire to be more sustainable, so
3 that's why I was just trying to understand
4 this particular material.

5 So those would be my questions,
6 Chairman.

7 CHAIRPERSON HOOD: Okay. Any
8 other questions? Commissioner May?

9 COMMISSIONER MAY: Okay. So I'll
10 follow on the polycarbonate. Is this the
11 polycarbonate sample?

12 MR. MASSA: That's the actual
13 sample. Yes, sir.

14 COMMISSIONER MAY: Okay. So I
15 mean this doesn't seem to block very much
16 light at all. Does it come in different
17 shading?

18 MR. MASSA: Right. Yes, there are
19 different shadings. The one we're selecting
20 is only allowing in 16 percent light to
21 transmit through it.

22 COMMISSIONER MAY: Sorry?

1 MR. MASSA: Sixteen. Sixteen
2 percent.

3 COMMISSIONER MAY: Sixteen
4 percent? So that's coming in? Now what about
5 going the other direction? Is it the same?

6 MR. MASSA: It's the same.

7 COMMISSIONER MAY: Okay. Because
8 I'm not sure I'm really fond of the idea of
9 having those glowing wings on the roof. Did
10 you look at other lighting systems that were
11 a bit more direct and a bit more -- I mean,
12 because you get a lot of spill. It looks like
13 there's a lot of spill downward. Granted
14 that's not as much as a problem as the spill
15 going up, but, you know, seeing that kind of
16 a halo over the building is not necessarily
17 the image that many of the people in the
18 neighborhood might want to see. They may not
19 want to see the glowing Walmart at night.

20 MR. MASSA: Commissioner May,
21 that's a good point. You know, right now on
22 the roof we have LED lighting, full cutoff.

1 We can control the amount of life that's
2 reflected off that surface. So we can reduce
3 that light.

4 COMMISSIONER MAY: Right. I would
5 strongly suggest that, because I think, you
6 know, having adequate lighting in the parking
7 lot is absolutely essential. But I think the
8 amount that spills down on the sidewalk from
9 there or is visible from a distance, things
10 like that, I don't think we really want that.

11 MR. MASSA: That's an excellent
12 point, Commissioner May. We will definitely
13 when we do our -- because we'll do a full
14 lighting study and we'll reduce the amount of
15 light up on that surface.

16 COMMISSIONER MAY: Okay. So while
17 we're on materials, tell me more about Quik-
18 Brik. It's a concrete block, right?

19 MR. MASSA: It is. It's a
20 concrete block.

21 COMMISSIONER MAY: Okay. And is
22 it just used as a veneer, or is it the --

1 MR. MASSA: No, it's a full -- it
2 comes in 6, 8, 10s, 12s.

3 COMMISSIONER MAY: Okay.

4 MR. MASSA: Currently we're using
5 it again, as a I mentioned, on Georgia Ave.
6 Walmart, probably not the darker color. And
7 we think it's a great material. It's a
8 single-wythe --

9 COMMISSIONER MAY: I can
10 understand why you think it's a great
11 material. My question is this is a change I
12 think from what we had before. I think we had
13 brick before. Right?

14 MR. TUMMONDS: That's correct.

15 COMMISSIONER MAY: I mean I assume
16 that was a brick veneer and a block wall
17 behind it. I don't recall anything about the
18 samples. As much as I like to look and touch
19 the samples, I don't remember them all from
20 case to case. I mean I think generally
21 speaking the proportions of it are nice. I'd
22 be very disturbed if you came up here with an

1 8 by 16 module and tried to pretend that that
2 was going to be as good as a brick wall.

3 So I like the way it generally
4 looks sort of looks more brick-like, oversized
5 brick granted, but I'm just curious more about
6 what we were promised the first time around,
7 because clearly this is going to be a
8 significant cost savings to you. We don't
9 want it to be at the expense of a significant
10 lowering of the quality of the appearance.
11 I'm not sure that it is, but that would be my
12 concern.

13 Let's see. So the carriage house
14 units. Explain to me again how they work.

15 MS. O'NEILL: It's basically a
16 two-story building. The ground floor of the
17 building is actually a garage that
18 accommodates three cars, and one of those
19 would be for the inhabitant or the person
20 that's living in the unit up above. And the
21 unit up above is basically a two-bedroom flat
22 and it has a foyer, an entryway actually from

1 the street and also internal access from the
2 garage into the unit.

3 So it functions -- you know, you
4 get the unit -- the address on the street. It
5 activates the street. You have the
6 convenience of the rear-access parking, but
7 it's a better unit in this situation where we
8 can't really provide a rear yard to those
9 units. It's too shallow. But at the same
10 time, you know, it's a nice unit and will
11 create frontage on the street that completes
12 the residential street.

13 COMMISSIONER MAY: Okay. But
14 they're not garage door enclosed spaces, are
15 they from the back?

16 MS. O'NEILL: From the back, yes.

17 COMMISSIONER MAY: There are going
18 to be garage doors on them?

19 MS. O'NEILL: Yes.

20 COMMISSIONER MAY: Okay. And so
21 it's like three separate garages?

22 MS. O'NEILL: Yes.

1 COMMISSIONER MAY: Okay. That's
2 interesting, and not something I think we've
3 seen much before.

4 So what do you see on the front
5 side of that? Because you're going to have
6 windows on that first floor, right?

7 MS. O'NEILL: Yes, there's windows
8 actually into the garages.

9 COMMISSIONER MAY: Right.

10 MS. O'NEILL: And then there's the
11 front door. So it has the character of a
12 building that's appropriate for the street,
13 but not --

14 COMMISSIONER MAY: Yes, so you're
15 going to look through it and see the inside of
16 the garage?

17 MS. O'NEILL: Yes, you will.

18 COMMISSIONER MAY: Yes. Okay. Is
19 it going to be at exactly the same grade
20 level? Is there going to be any kind of grade
21 difference?

22 MS. O'NEILL: There's no grade

1 difference. They're more or less on the same
2 grade.

3 COMMISSIONER MAY: Yes. Okay.

4 Well, I'm not sure what you'd do in that
5 circumstance. I mean generally speaking
6 people along the streets aren't going to
7 necessarily see that much into those units,
8 but then again I can picture the worst
9 circumstance with people leaving the light on
10 in the garage and at night you can see all the
11 junk and it's not necessarily attractive, and
12 it also invites people breaking the window and
13 going into it. So those are minor issues, but
14 I think it's a very interesting idea and I
15 don't have any really good constructive
16 comments. I just have comments.

17 So what's the proportion of
18 parking that's now available for the
19 residential units now that you've gone to
20 these on-grade surface parking lots as opposed
21 to the structures? Do you have exactly the
22 same units in approximately the same location?

1 MS. O'NEILL: It's roughly the
2 same.

3 COMMISSIONER MAY: It's roughly
4 the same? Okay. The slip lane. Do we have
5 a drawing that shows, now that it's gone, how
6 it would actually be landscaped?

7 MS. O'NEILL: Yes. Give me a
8 moment.

9 You can get a little sense of it
10 in this plan. And Doug can talk about it a
11 little bit.

12 COMMISSIONER MAY: But basically
13 it looks like grass and trees. Is that pretty
14 much it?

15 MR. HAYES: That's it. That's a
16 continuation of the street tree pattern. It's
17 the continuation of the walkway along the
18 retail. And then it's a lawn. It's a fairly
19 steep slope there that will remain that's
20 flowing down to the intersection of Naylor and
21 Good Hope. So it's mainly buffering and lawn
22 area.

1 COMMISSIONER MAY: Okay. And

2 so --

3 MR. HAYES: And trees.

4 COMMISSIONER MAY: -- the paving

5 directly in front of the retail looks like a

6 very broad sidewalk. And what is that?

7 What's that material?

8 MR. HAYES: It will be standard

9 DDoT concrete, scored concrete.

10 COMMISSIONER MAY: Standard DDoT

11 concrete?

12 MR. HAYES: Yes.

13 COMMISSIONER MAY: Okay. And that

14 maybe be sidewalk caf,s and things like that?

15 It seems pretty broad.

16 MR. HAYES: That's correct. We've

17 left that fairly broad so that there can be

18 retail as well as --

19 COMMISSIONER MAY: What's the

20 dimension?

21 MR. HAYES: It's 20 feet.

22 COMMISSIONER MAY: Twenty feet?

1 Okay. Ms. O'Neill, you can go ahead.

2 MS. O'NEILL: But in the end I
3 think we're thinking that the real, you know,
4 activity in terms of caf,s and whatnot is
5 really going to happen along Main Street.
6 Because of the amount of traffic and stuff on
7 Naylor Road we really don't think we're going
8 to get it there. So we really wanted to keep
9 this really quite simple and really have that
10 greenery there to buffer that sidewalk from
11 the considerable traffic on Naylor and Good
12 Hope.

13 COMMISSIONER MAY: Right. That
14 makes sense.

15 Okay. So I'm going back to the
16 Walmart building. Sorry for skipping around.
17 Let's look at the Naylor Road façade. You had
18 a drawing early on that showed a comparison,
19 comparing the old to the new.

20 Okay. So here's the thing that
21 bothers me about this is that -- has the
22 module changed, because it looks like there

1 are a lot more bays in the new improved
2 version than the old version?

3 MS. O'NEILL: Yes, the module has
4 changed.

5 COMMISSIONER MAY: Okay. So it's
6 an illusion that the building has grown an
7 extra 20 percent?

8 MS. O'NEILL: Correct.

9 COMMISSIONER MAY: Okay. Now I
10 believe in the OP report they raise the issue
11 of how much retail would be along that façade,
12 and I saw somewhere kind of a rebuttal of that
13 or basically saying that we weren't really
14 promised in the original order that much
15 retail along Naylor Road. Did I understand
16 that correctly?

17 MR. TUMMONDS: Yes, I think during
18 the course of the previous case the original
19 application did so, in-line retail along
20 Naylor Road. When the building was pushed
21 back to increase the setback from Fort Baker
22 Drive, that in-line retail along Naylor Road

1 was removed. But the idea was that there
2 would still be -- I'm not going to call them
3 necessarily show windows, but the fa#ade
4 treatment along Naylor Road was intended to
5 enliven and enhance the space. But the final
6 approved plans for Block 1 did not include any
7 in-line retail along Naylor Road.

8 COMMISSIONER MAY: And that's
9 reflected in the plans? Because I mean it
10 seems to me like the plans that were showing
11 tonight included the ability to have retail
12 right up to -- yes, I mean that looks like all
13 it's all -- all that red stuff is retail,
14 right?

15 MS. O'NEILL: Well, the red stuff
16 is -- I suppose the drawing is ambiguous, but
17 the red stuff is all part of the Walmart
18 store, or the --

19 COMMISSIONER MAY: But it wasn't
20 at the time, right? I mean the time that the
21 drawing on the left was approved it wasn't
22 Walmart?

1 MS. O'NEILL: No, it was a large
2 format retail store and the kind of --

3 COMMISSIONER MAY: Right.

4 MS. O'NEILL: So there were no
5 specific requirements for loading,
6 receiving --

7 COMMISSIONER MAY: Right.

8 MS. O'NEILL: -- for us to address
9 at that time.

10 COMMISSIONER MAY: Right.

11 MS. O'NEILL: So the internal
12 layout of the store is not really described in
13 that drawing.

14 COMMISSIONER MAY: Okay. But what
15 we see here is a circumstance where, at least
16 to my eye, it looks like the loading could
17 actually move in a little bit, not that we
18 necessarily need to have retail running along
19 the entire facade. But the in-line retail is
20 kind of pushed into the corner and it would be
21 highly advantageous to have a little bit more
22 of that wrap around the corner. And since

1 your receiving space is right there, it seems
2 that the loading dock would have to move up on
3 this picture.

4 MS. O'NEILL: Yes. And keep in
5 mind that this is a very constrained portion
6 of the site because of the way the grades work
7 and getting a ramp up onto the roof. So
8 there's not a lot of leeway in the layout of
9 the loading.

10 COMMISSIONER MAY: But the ramp is
11 outboarded where the loading dock is?

12 MS. O'NEILL: Yes.

13 COMMISSIONER MAY: Right?

14 MS. O'NEILL: Yes, but in terms
15 of --

16 COMMISSIONER MAY: Well, how does
17 that affect it?

18 MS. O'NEILL: In terms of the room
19 for the trucks to move up back into the
20 loading dock, that's the constraint I'm
21 talking about. And the two things are related
22 to each other because they're adjacent to each

1 other on the plan.

2 COMMISSIONER MAY: Yes.

3 MR. MASSA: Commissioner May, can
4 I just --

5 COMMISSIONER MAY: Yes.

6 MR. MASSA: Can I add to Cheryl's
7 response?

8 COMMISSIONER MAY: Please, because
9 I'm not getting it yet.

10 MR. MASSA: You know, the original
11 PUD, it was basically a block plan and there
12 were four loading docks, usually three for
13 trucks and one for a compactor. The retail
14 really wasn't defined along the --

15 COMMISSIONER MAY: I understand
16 that, but --

17 MR. MASSA: But, no, I was just --
18 sorry about that. The line of retail,
19 originally when you looked at the original
20 elevation it looked like it was street
21 loading. And these loading berths actually go
22 down, while this area -- there's a line here

1 and you can drive your truck up here and drop
2 off and have a separate receiving for your
3 line of retail. So that's why we needed more
4 room within that receiving area, so the line
5 of retails could have their trucks come in
6 simultaneously with the large trucks for the
7 Walmart store.

8 MS. O'NEILL: I'd also like to add
9 that the end of Naylor Road towards I guess
10 the west side of the building isn't really an
11 ideal location for retail, because right at
12 the intersection with Main Street Naylor Road
13 really starts to transition to a completely
14 residential street at that location.

15 COMMISSIONER MAY: You mean to our
16 left?

17 MS. O'NEILL: To your left, yes.

18 COMMISSIONER MAY: Yes.

19 MS. O'NEILL: So we're really
20 trying to maximize the impact of the good
21 retail piece on the corner there.

22 COMMISSIONER MAY: Yes, I

1 understand that. The only thing I struggle
2 with is the fact that we wind up with this
3 large blank wall. And every time I -- you
4 know, around the city you run into one of
5 those large blank walls, whether it's on, you
6 know, the end of a school building or a large
7 store, or in some cases apartment buildings
8 and hotels that are strictly a front-and-back-
9 kind of arrangement. It just makes me a
10 little crazy.

11 And what you've done to try to
12 dress it up I don't think is really very good.
13 I appreciate the effort, but I think that the
14 result is not good enough. And, you know,
15 having a blank glass storefront with a buffer
16 of landscaping in front of it isn't really the
17 thing. And I'm wondering if a landscape
18 solution is better, or maybe even doing
19 something much more creative and having it
20 become some sort of linear art piece or
21 something like that.

22 Maybe you could get, you know, the

1 Commission on Arts and Humanities to sponsor
2 something there. You know, just do something
3 there that's more interesting, because it's
4 not doing it for me. And I think, you know,
5 the preferred solution would be retail that at
6 least goes back kind of halfway as opposed to,
7 you know, not even a third there. But failing
8 that, just some other solution entirely in
9 front of an otherwise uniform wall would be
10 better than what you're proposing now.

11 Okay. I also think -- the Office
12 of Planning, I think, in their report raised
13 issues about the planting and the ramp on
14 what's the top of the image that we're looking
15 at there, as I recall, and they were pointing
16 out a difference between the November
17 submission and the May submission. And it's
18 not -- it looks like some of the screen walls
19 are gone and we're seeing a lot more retaining
20 wall, I think. Elimination of the green
21 screen and more exposure of the retaining wall
22 when compared to the November drawing. It's

1 very different from what I see there. So I'm
2 wondering are they working off the wrong
3 images now or did you update it once again?

4 MR. MASSA: We updated once again,
5 yes.

6 COMMISSIONER MAY: Oh, good job.

7 MR. MASSA: So, yes, the comments
8 that were made by the Office of Planning were
9 based on the May 24th submission. In response
10 to that May 24th submission we are presenting
11 this.

12 COMMISSIONER MAY: Okay.

13 MR. MASSA: So this we think is a
14 significant improvement to the May 24th
15 submission to the Office of Planning report.

16 COMMISSIONER MAY: Okay. Well, I
17 would agree that looked better than what I saw
18 in here. And I'm sorry if I missed that in
19 your presentation that you updated it since
20 then and I will wait to hear from the Office
21 of Planning just how satisfied they are with
22 that solution. Thank you.

1 CHAIRPERSON HOOD: Okay. Anybody
2 else have any -- Commissioner Miller?

3 COMMISSIONER MILLER: Thank you.
4 Thank you, Mr. Chairman. Yes, I was going to
5 ask the same question that Commissioner May
6 asked about the Office of Planning's comments
7 about the May 24th submission. I agree that
8 what's shown in the PowerPoint is a lot better
9 than what was shown in the May 24th
10 submission. So if additional landscaping and
11 screening was provided, beyond the fact that
12 it's showing 15-year trees or whatever -- if
13 it's really there, to have that screening,
14 that's a good thing.

15 I also think a lot of the
16 modifications that are proposed here are also
17 positive developments, the reduction in the
18 height of the Walmart building facade as a
19 result of the elimination of the parking
20 garage, the consolidation of the parking on
21 Block 2 for both the residential and the
22 retail, the green roof on that structure,

1 parking structure. Is it on the parking
2 structure on Block 2? So I think all that is
3 -- are positive elements that I think will
4 also lessen the impact. And the increase in
5 the distance in Block 4 from the structure
6 between -- by over 100 -- well, about 100 feet
7 from the Fort Baker Drive.

8 MS. O'NEILL: Increase of a little
9 over 100 feet.

10 COMMISSIONER MILLER: Right. So I
11 think all those address concerns that would
12 have -- or impacts on the Fort Baker Drive
13 neighbors, which I think are all positive
14 developments.

15 Office of Planning did comment on
16 the surface parking that you're putting in
17 Block 3 -- and I guess they don't comment on
18 Block 4 surface parking, but I think it
19 probably applies there, too. They say they
20 would support the addition of more landscaping
21 including more canopy trees and use of
22 pervious pavement. Can you talk about what

1 the landscaping will be? Or do you agree with
2 the Office of Planning comment that should --
3 that -- or how you already adjusted the design
4 so that there will be more landscaping, more
5 canopy trees and use of pervious pavement in
6 that surface parking?

7 MR. TUMMONDS: The plan that we
8 have submitted tonight has not changed, so the
9 Office of Planning's comments that they had
10 about that we have done anything to enhance
11 those parking areas at this point.

12 COMMISSIONER MILLER: But are you
13 amenable to making those adjustments?

14 MR. TUMMONDS: I think that, you
15 know, obviously we're going to have some
16 follow-up information to provide to you.
17 We'll take a look at that.

18 COMMISSIONER MILLER: I think
19 that's just about it, Mr. Chairman.

20 Mr. Massa, I want to compliment
21 you on the entrance to the Walmart with the
22 art deco canopy. I think that that's very

1 attractive. I'm not sure I've seen that --

2 MR. MASSA: Thank you,
3 Commissioner.

4 COMMISSIONER MILLER: -- on any
5 other Walmart, but maybe you have done that
6 elsewhere in the country. I haven't seen most
7 Walmarts in the country.

8 MR. MASSA: Commissioner Miller,
9 we've been fortunate to handle all of D.C.'s
10 projects for Walmart and none of them are
11 replicated anywhere else. And I have to say
12 they're probably for me, since I'm the
13 designer obviously -- but I think they're
14 probably the nicest Walmarts that are out
15 there.

16 COMMISSIONER MILLER: So I would
17 compliment you on the materials and the
18 palettes that you've used throughout the
19 property.

20 CHAIRPERSON HOOD: Okay. Any
21 other questions? Mr. Turnbull?

22 COMMISSIONER TURNBULL: Yes, thank

1 you, Mr. Chairman.

2 I would echo Commissioner Miller's
3 comments. I think I may have said it at set
4 down, I think corporately Walmart's made a
5 good choice in changing its color palette on
6 its buildings. I think it's a lot more --
7 fits in with neighborhoods a lot better. And
8 in this particular case I think there's a lot
9 of pluses, and I think it's well designed.

10 That being said, I'd like to agree
11 with my other commissioner, Commissioner May.
12 We talked about the polycarbonate, and I know
13 I don't want to repeat the same things that
14 Commissioner May has said, but I think that
15 could be an issue, the lighting, the up
16 lighting. And I appreciate your lighting,
17 your evening views, which you may regret
18 showing us, but no good deed goes unpunished.
19 In fact, no bad deed goes unpunished at the
20 Zoning Commission.

21 So if you're going to show us a
22 lighting picture like that, I would like to

1 see all four elevations. I would like to see
2 the lighting from the Fort Baker Road side,
3 what those people are going to see if you're
4 going to do any kind of lighting on canopies
5 though. I mean I know we vetted everything
6 with those neighbors back there, but I still
7 respect them as people who are living there
8 and the impact of that, and I would like to
9 see what the big box is going to do, what it's
10 going to look like with that.

11 I know we've lowered the height.
12 We've done a lot of things. And I appreciate
13 the landscaping that you've done and changed
14 it and a lot of the articulations to that. I
15 think that is a big plus. I think you really
16 have done a great job on the landscaping and
17 refining and making this thing -- I know we've
18 got to give it a few years before it really
19 shows up like you've shown, but I think the
20 intent of what you're trying to do is
21 appreciated, at least by myself.

22 I do appreciate that you're

1 breaking down the big box. I mean a big box
2 is a big box, but I think by your refinements
3 to it and trying to make it seem less than
4 that I think is very well done. I think
5 you've done a good job with that.

6 But the only other -- the other --
7 the lighting, I guess the sconces on Naylor
8 Road and the other where they're the up and
9 down sconces. As we're going toward LEED and
10 getting into LEED, we usually try to get away
11 from the up lighting, so I'm just curious why
12 you're doing that.

13 MR. MASSA: Well, the light
14 fixtures are LED and actually, Commissioner,
15 I had actually a sample I was going to bring
16 in, but it was a suitcase about this big.

17 COMMISSIONER TURNBULL: Okay.

18 MR. MASSA: So I kind of decided
19 against it at the last minute. But we just
20 wanted to make sure that there was enough
21 accent lighting. We can control the light
22 levels along Naylor Road. And it was our idea

1 to kind of soften it as we went north.

2 COMMISSIONER TURNBULL: Yes.

3 MR. MASSA: And we can control the
4 level of that light there. I just think it
5 needs some light just to give people some
6 comfort as they're walking.

7 COMMISSIONER TURNBULL: No, I
8 agree. I mean concerned about security. We
9 understand it's retail. We need to at least
10 identify the fact that it's retail and that
11 you have a security issue. I just don't want
12 to make this more of a statement than it has
13 to be.

14 MR. MASSA: Well, you know, we
15 could eliminate some of those lights or maybe
16 we'll take a closer look later and, you know,
17 really dim them. I think there should just be
18 enough sufficient to complement whatever
19 street lighting --

20 COMMISSIONER TURNBULL: Yes.

21 MR. MASSA: -- is on the sidewalk.

22 COMMISSIONER TURNBULL: I don't

1 know whether you need to raise them or --
2 again, I don't want to draw attention to it.
3 But I understand what you're trying to do, but
4 if you could look at that, especially the up
5 lighting.

6 MR. MASSA: We can turn it off
7 actually on the upper and just keep it
8 downward.

9 COMMISSIONER TURNBULL: Okay.
10 Well think on it. I mean it's something to
11 look at and to think about what you're trying
12 to do with the overall effect. I mean
13 lighting the landscape, the grounds I think is
14 very effective. I think you want to do that.

15 MR. MASSA: Yes.

16 COMMISSIONER TURNBULL: But how
17 much you want to -- again the spillage. Again
18 going by the LEED criteria, trying to diminish
19 the amount of lighting going up into the sky,
20 I think we would like to try to -- I mean I
21 would like to see that. I think some of my
22 commissioners might like to, too.

1 MR. MASSA: It's a very good
2 point. And like I said, I wish I would have
3 brought that sample because it was -- the
4 sliver on top was so thin.

5 COMMISSIONER TURNBULL: Yes.

6 MR. MASSA: But we can cut that
7 off completely.

8 COMMISSIONER TURNBULL: I think
9 those are the biggest concerns that I've got.
10 I appreciate what you've done so far and I --

11 MR. MASSA: Thank you.

12 COMMISSIONER TURNBULL: --
13 compliment on what you've done. But I guess
14 the lighting on the roof deck of the Walmart
15 store itself is something I'm concerned about.
16 And what people are going to see in the
17 neighborhood, I'd like to see you take another
18 look at that.

19 MR. MASSA: Absolutely. We can do
20 that.

21 COMMISSIONER TURNBULL: Thank you.

22 CHAIRPERSON HOOD: Okay. Looking

1 at this, my first question at first was going
2 to be why are we making these modifications,
3 but you know, as I looked at them and I'm
4 hearing the comments, I think we have a better
5 project than what we voted on the first time.
6 So I won't be redundant and repeat all the
7 questions my colleagues have already mentioned
8 and just say that I think we have a -- we're
9 better off where we are now. I know we hashed
10 a lot out in the first PUD, in the PUD,
11 original, but I think some of the refinements
12 and some of the modifications make this a much
13 better project for a long time coming in that
14 area.

15 This condition, I haven't had a
16 chance to really look at it, but it seems to
17 make sense, Mr. Tummonds, and I understand why
18 people kind of step back from what was
19 proposed at first and have reservations. So
20 we will discuss it and our legal folks will
21 look at it, but it seems to make a lot of
22 sense.

1 I did have one question. In the
2 DDoT report; and I'm sure DDoT can speak for
3 themselves, but they asked you all to
4 participate in a design review. It says,
5 "DDoT suggests that Applicant participate in
6 a preliminary design review meeting to address
7 design-related issues prior to the submission
8 for the public space permit."

9 You all don't have any issues with
10 that, right?

11 MR. TUMMONDS: No.

12 CHAIRPERSON HOOD: Okay.

13 MR. TUMMONDS: And that's going to
14 become pretty standard.

15 CHAIRPERSON HOOD: Standard?
16 Okay. All right. I'm not going to be
17 redundant and repeat anything. I think we can
18 move forward.

19 Is there anyone here from ANC 7B
20 or 8B?

21 (No audible response.)

22 CHAIRPERSON HOOD: We don't have

1 anything that says -- do we have anything?

2 Maybe we do? Do we have anything?

3 (No audible response.)

4 CHAIRPERSON HOOD: Okay. So we
5 have no one here from -- an ANC commissioner
6 from the ANC.

7 Okay. Let's go to the Office of
8 Planning's report. And then after that we'll
9 hear the DDoT report.

10 Now let me just let those know --
11 who -- if you came in late who applied for
12 party status, you missed our discussion on
13 that. If you have any questions, you can see
14 Ms. Schellin. Both party status requests were
15 denied. There was a very healthy discussion.
16 But you also have time -- if you're here in
17 support or opposition, there will be
18 appropriate time for you to come up and
19 testify.

20 Okay. Let's go to Office of
21 Planning and DDoT, and we'll ask questions of
22 both.

1 MS. BROWN-ROBERTS: Good evening,
2 Mr. Chairman and Members of the Commission.
3 For the record, I'm Maxine Brown-Roberts from
4 the Office of Planning.

5 Generally the modification would
6 result in an increase in the retail and
7 service FAR from 0.95 to 0.97, however, the
8 overall FAR would remain at 0.16 or 1.75 when
9 calculated without private streets.

10 A reduction in the number of
11 parking spaces from 1,698 to 1,406 is a
12 reduction of 292 parking spaces, which is
13 mainly due to elimination of the below-grade
14 parking garage under the Walmart store on
15 Block 1 and the consolidation of parking
16 spaces provided in Blocks 3 and 4 into a
17 larger garage on Block 2. The elimination of
18 the parking structure will also improve sight
19 lines and separation distances from the
20 residences to the east of the site.

21 At set down the Office of Planning
22 was concerned about the materials of the

1 screening on the Walmart building and the
2 blank wall along Naylor Road. The Applicant
3 is now proposing a more opaque mesh, which is
4 satisfactory.

5 Regarding the replacement of
6 retail uses along Naylor Road, the area next
7 to the loading area is a service area for
8 Walmart. The blank wall has been broken up
9 with screening.

10 Another area of concern where
11 we're okay is the exposed retaining wall. The
12 proposal presented today shows additional
13 screening about what was approved on the east
14 end north elevations, and we believe that's a
15 great improvement.

16 Zoning Commission Order 09-03
17 granted flexibility in a number of areas which
18 the proposed modification will retain.
19 However, new flexibility to provide the
20 parking on Blocks 3 and 4 on Block 2 is being
21 requested. This flexibility would allow the
22 consolidation of the retail parking on Block

1 2 and eliminate the necessity for structured
2 parking on Blocks 3 and 4. The Office of
3 Planning is fully supportive of the
4 consolidation as it helps to reduce large
5 numbers of parking spaces on the site.

6 The Applicant continues to be
7 committed to all the benefits and amenities
8 approved in the order and no changes are
9 proposed.

10 The proposal continues to meet the
11 Comprehensive Plan recommendation mainly for
12 moderate-density commercial and use as a
13 multi-neighborhood center. Therefore, the
14 Office of Planning recommends approval of the
15 requested modification and we're willing to
16 work with the Applicant on any improvements
17 suggested by the Zoning Commission. Thank
18 you, Mr. Chairman.

19 CHAIRPERSON HOOD: Great. Thank
20 you, Ms. Brown-Roberts.

21 Let's go right to Mr. Fleming, or
22 Mr. Henson, whoever is -- okay.

1 MR. EL-AMIN: Thank you, Mr.
2 Chairman and fellow commissioners. Fleming
3 El-Amin with DDoT. Just a few things.

4 CHAIRPERSON HOOD: I'm sorry. Let
5 me just interrupt. I got your name -- what
6 did I say? Mr. Fleming.

7 MR. FLEMING: Okay.

8 CHAIRPERSON HOOD: Mr. El-Amin. I
9 apologize.

10 MR. FLEMING: Oh, no problem. No
11 problem. Yes, first name Fleming, last name
12 El-Amin. Just for the record there.

13 So just generally speaking, we
14 certain do not think that the anticipated --
15 or we do not anticipate that a requested PUD
16 modification will result in significant trips
17 to the site in relationship to the initial
18 approved PUD.

19 Also, the modification calls for
20 the reduction of 300 parking spaces. We do
21 not feel that that will impact the
22 development's capacity to contain parking on

1 site. Wanted to make that note.

2 We also wanted to applaud the
3 Applicant for improvements made to the site
4 design. Some of those improvements that we've
5 noted is the signalization of the intersection
6 at Alabama Avenue and the residential street
7 as noted on the site plan. Also, the proposed
8 intersection alignment of Good Hope Road,
9 Naylor Road and 25th Street. Finally, the
10 proposed removal of the slip line or free
11 right movement from Good Hope Road to the
12 northwest-bound movement on Naylor Road. All
13 those are positives and certainly appreciate
14 the effort on that.

15 With regards to the removal of the
16 slip lane, this does allow for a traditional
17 four-way approach intersection which will
18 provide for safer crossings for pedestrians.
19 With that note though, this would also
20 necessitate a shift in traffic and access
21 specifically for the -- there was a driveway
22 that was initially going to access the slip

1 lane, but now that would actually connect to
2 Good Hope Road. And so we have taken a look
3 at that. We think that that can certainly be
4 resolved in the operational standpoint. And
5 the Applicant was correct that we certainly
6 think that that could be resolved at the
7 Public Space permitting process.

8 Just in regards to the changes
9 that were made as far as the traffic impact,
10 since we'll now have a four-approach
11 intersection, there may be some increased
12 delay for the northwest-bound travelers on
13 Good Hope Road, but the intersection will
14 still operate at an acceptable level of
15 service.

16 So with that said, we do not
17 object to the access point, but there are
18 still some things that will have to be worked
19 out with regards to the operation, but that
20 pretty much concludes our report.

21 CHAIRPERSON HOOD: Okay. Thank
22 you, Mr. El-Amin. Mr. El-Amin and Ms. Brown-

1 Roberts, we appreciate your reports.

2 Commissioners, any questions of
3 either one? Any questions? Commissioner May?

4 COMMISSIONER MAY: Yes, so just to
5 be clear, you're okay with the façades that
6 you had raised issues about in your report now
7 that they've produced these --

8 MS. BROWN-ROBERTS: I think that,
9 you know, if there's any way to make it
10 better, like with some of the suggestions that
11 you made, I think we'd be willing to --

12 COMMISSIONER MAY: I was more
13 concerned about the ones that you had raised
14 in your report, which are the two sides where
15 the slopes were.

16 MS. BROWN-ROBERTS: Right, the
17 landscaping. I think what they've done is a
18 great improvement and we're satisfied. We
19 think that, you know, over the years as the
20 vegetation grows in it should be satisfactory.

21 COMMISSIONER MAY: Okay. And so
22 go back to the Naylor Road elevations and what

1 they had submitted there. Were you satisfied
2 with that or were you -- you know, did you
3 want to see more retail? Do you want to see
4 a better façade than that treatment?

5 MS. BROWN-ROBERTS: I think we
6 would have liked to see more retail, but I
7 think we also understand what the Applicant
8 stated, that they wanted to keep that portion
9 of Naylor Road as residential because of the
10 residences that are across the street.
11 However, we think that maybe it could be
12 extended a little further.

13 COMMISSIONER MAY: Yes.

14 MS. BROWN-ROBERTS: Also, we
15 weren't certain of exactly what the material
16 is that they were going to use for that
17 screening there. I didn't see that discussed,
18 the material that was going to be used.

19 COMMISSIONER MAY: Yes, I mean
20 it's a glass product, I think, a spandrel
21 panel or something like that.

22 MS. BROWN-ROBERTS: Yes. But,

1 yes, we'd be willing to work with the
2 Applicant to come up with something better.

3 COMMISSIONER MAY: Okay. Yes, I
4 mean it's a hard thing to solve I think
5 because you really don't want to have a long
6 blank wall like that. And they've taken some
7 steps just by showing the module of the
8 structure and so, but I'm not just a big fan
9 of the solution of the glass, you know, for
10 part of the façade.

11 MS. BROWN-ROBERTS: Yes.

12 COMMISSIONER MAY: There's nothing
13 wrong with something being uniform and
14 repetitive if it's nice and uniform and
15 repetitive, I think. And what we have is sort
16 of a mixture of, you know, okay stuff, not
17 great. So anyway, I appreciate your
18 willingness to work with the Applicant on that
19 and I hope to see some really great stuff by
20 the time we approve this, finally.

21 CHAIRPERSON HOOD: Okay. Any
22 other questions of either DDoT or Office of

1 Planning?

2 (No audible response.)

3 CHAIRPERSON HOOD: Okay. Does the
4 Applicant have any cross?

5 MR. TUMMONDS: No.

6 CHAIRPERSON HOOD: And again, no
7 one's here from -- no commissioners here from
8 either 7B or 8B.

9 Okay. Any other government
10 reports? Do we have any of those?

11 (No audible response.)

12 CHAIRPERSON HOOD: Okay. Again,
13 we don't have anything from ANC 7B or 8B, and
14 no one's here.

15 Let's go to organizations and
16 persons in support. I have one person who
17 signed up. Mr. Ronald Mitchell, if you can
18 come forward? I'm sorry. I'm sorry. Hold
19 tight, Mr. Mitchell. I'm going to get to you.

20 Do we have anyone here who would
21 like to testify, organizations or persons who
22 would like to testify in support?

1 (No audible response.)

2 CHAIRPERSON HOOD: Okay. Let's go
3 to organizations and persons in opposition.
4 The only name I have on the sign-in sheet is
5 Mr. Mitchell. If you can come forward.

6 Anyone else who'd like to testify
7 in opposition of this case, if you could come
8 forward. Anyone else? This is the last call.
9 Anyone else who'd like to testify in
10 opposition?

11 Okay. Each of you will have three
12 minutes. We'll start with the young lady
13 first and then Mr. Mitchell and then you, sir.

14 The court reporter -- oh, we want
15 to know who you are, so you all can fill out
16 two witness cards and make sure you give them
17 to her before -- normally you give them to her
18 before you speak, but make sure you give them
19 to her after you speak.

20 Oh, you all haven't been sworn in?
21 Oh, you all haven't been sworn in? Not that
22 we don't -- you're not going to tell us the

1 truth, but if you could stand and take the
2 oath, please.

3 MS. SCHELLIN: All three of them.

4 CHAIRPERSON HOOD: Hold on. Okay.
5 We got you doing too many things. We got you
6 going to get the cards.

7 MS. SCHELLIN: Could you raise
8 your right hand?

9 CHAIRPERSON HOOD: Just take the
10 oath right quick.

11 MS. SCHELLIN: Could you raise
12 your right hand, please?

13 (The witnesses were sworn.)

14 MS. SCHELLIN: Thank you.

15 CHAIRPERSON HOOD: Okay. You may
16 begin.

17 MS. HARRIS: Chairman Hood,
18 Members of the Commission, thank you for
19 hearing my testimony. My name is Joanne
20 Harris. I live at 2929 Fort Baker Drive in a
21 property that abuts the Skyland property.

22 While I agree that some of the

1 modifications are positive developments, I am
2 here to state my opposition to the proposed
3 modifications because they fail to address the
4 original concerns of the Fort Baker Drive
5 party which include the impact of the traffic
6 on the surrounding neighborhoods.

7 They include the damage to the
8 Fort Baker Drive homes that will occur. And
9 I base this assertion on discussions that I
10 and others have had with professional
11 engineers who are familiar with the soil
12 conditions in that area and refer to it as
13 fragile ground. They confirm that our homes
14 will suffer significant damage from the
15 construction of this Skyland Town Center.

16 Another reason is the decreased
17 market value of those homes and the fact that
18 the city and the developers are essentially
19 transferring these risks that are associated
20 with the project to us, the homeowners,
21 because we are the ones that stand to lose our
22 homes or the value of our homes.

1 I want all of that stated for the
2 record and I thank you for hearing me.

3 CHAIRPERSON HOOD: Thank you.
4 Okay. Mr. Mitchell?

5 MR. MITCHELL: Yes, good evening
6 to everyone. My concerns are that we have a
7 lot of wildlife around there. There's a
8 natural spring around there, that area being
9 adjacent to where they plan to -- propose to
10 build all this town center. And the wildlife
11 cannot speak for itself, so maybe I'm here to
12 speak for it. I have been living in this area
13 over 30 years and the wildlife has had to
14 recover under very stressful situations for
15 many years now.

16 And this proposed town house
17 collaboration does not seem to fit in with
18 what is already there and has been there for
19 centuries.

20 And may I conclude by saying I
21 hope something can be worked out on behalf of
22 things that can't speak for themselves, like

1 the natural spring that's there, the wildlife
2 that's there, etcetera. Thank you.

3 CHAIRPERSON HOOD: Thank you.

4 Next?

5 MR. COLE: Good evening, Chairman,
6 Members of the Commission. I'm Ronald Cole.
7 I reside at 2933 Fort Baker Drive. I'm Joanne
8 Harris' direct neighbor.

9 And as she mentioned, there are
10 several issues which, you know, I don't
11 necessarily need to go over again that they
12 have not addressed. Again, the aesthetics
13 have improved and I do appreciate that. I
14 think the developers in general have been
15 cordial. You know, we've had a couple
16 meetings and they've attempted to address some
17 things, but the things that are most critical
18 to us, as Joanne mentioned, have not been
19 addressed, most notably the good will and our
20 homes.

21 We feel and we are confident that
22 this development will impact our homes

1 structurally. We've already, the four of us,
2 the four neighbors have already spent a
3 significant sum to fortify our foundations,
4 etcetera, etcetera. Throughout the
5 discussions since 2010 or so with the
6 developers we've tried to come to some type of
7 understanding as to how we might be protected,
8 and thus far nothing concrete has been
9 proposed.

10 There was a discussion of a
11 construction mitigation plan that we were
12 presented with, which essentially has no
13 teeth. It was unenforceable. It basically
14 would put us in a situation where we would
15 have the burden of proof if anything happened
16 to our properties and we would be forced into
17 a litigious situation with a well-capitalized
18 developer. That's not something that we want
19 to do, nor do we feel we should be put in the
20 position to have to do.

21 And it's for these reasons that we
22 come before you to make sure that these issues

1 are addressed and satisfactorily addressed
2 even before, you know -- this won't be your
3 decision, but before this land is transferred
4 over to these developers at which time, as
5 Joanne mentioned, the risk is transferred away
6 from the city and going to become sort of our
7 problem, our fight with the developer, which
8 we really don't want to nor should we have to
9 undertake. Those are my comments. Thank you.

10 CHAIRPERSON HOOD: Thank you all
11 for your comments and your testimony.

12 Any questions?

13 (No audible response.)

14 CHAIRPERSON HOOD: Let me just
15 ask, have you all read the previous order on
16 this case, for the original PUD? Have you
17 read the order?

18 MR. COLE: Yes. It's been a
19 while, but yes.

20 MR. MITCHELL: I think so.

21 CHAIRPERSON HOOD: You read it?

22 MR. MITCHELL: I'm basing my

1 answer on -- this has been going on for so
2 many years, I cannot be sure that I -- to
3 exactly when I did.

4 CHAIRPERSON HOOD: Okay. I
5 understand. But I would encourage you, if you
6 haven't, refresh yourself into that order, see
7 if some of those things may have been taken --
8 some of the things we actually dealt with in
9 the first part of the hearing. Now I
10 understand you mention traffic and the
11 construction management plan, but I would just
12 ask you to look back at it, look back at that
13 order. Okay?

14 Any other questions?

15 (No audible response.)

16 CHAIRPERSON HOOD: Any cross-
17 examination?

18 (No audible response.)

19 CHAIRPERSON HOOD: Okay. None?

20 Thank you all very much. Appreciate you
21 coming down.

22 And I would continue to ask -- all

1 I can do is ask at this point that -- you know
2 I'm going to ask the developer to work with
3 those neighbors and continue to work with
4 those neighbors and refine -- just like you
5 refine a project, try to work with them and
6 help them with some of their issues. Okay?

7 All right. Let's do rebuttal and
8 closing by the Applicant.

9 Thank you, Mr. Mitchell.

10 MR. TUMMONDS: We don't have any
11 rebuttal testimony. I think that perhaps we
12 can go through our -- or I will go through the
13 -- in a post-hearing submission the three
14 issues that I believe that we will address.

15 First, we will take a look at the
16 Naylor Road elevation for Block 1. Second, we
17 will take a look at the lighting on the roof
18 of Block 1. And then third, we will take a
19 look at the treatment of the surface parking
20 lots on Blocks 3 and 4 with regards to the OP
21 comments regarding landscaping and pervious
22 pavement.

1 With that, I thank you for your
2 time and I guess we'll talk with the Office of
3 Zoning staff about scheduling when we should
4 be able to provide those submissions and then
5 moving forward approval of our PUD
6 modification application. Thank you.

7 CHAIRPERSON HOOD: Commissioners,
8 do need anything else?

9 Thank you, Mr. Tummonds.

10 Do we need anything else?

11 (No audible response.)

12 CHAIRPERSON HOOD: Okay. Ms.
13 Schellin, if we could work on some dates.

14 MS. SCHELLIN: Is that addressing
15 your -- and I may not -- because I'm not an
16 architect and I don't understand all the --
17 your lingo, Quik-Brik versus the brick
18 previously approved. Commissioner May, you
19 wanted them to take a look at that.

20 Is he listening to me? No. He's
21 on ignore.

22 COMMISSIONER MAY: Yes, I heard --

1 MS. SCHELLIN: You had me on
2 ignore.

3 COMMISSIONER MAY: I heard some of
4 what you --

5 MS. SCHELLIN: I might not have
6 the lingo right. Quik-Brik versus the brick.

7 COMMISSIONER MAY: I had a
8 question about what was promised in terms of
9 the original brick, yes.

10 MS. SCHELLIN: Yes.

11 COMMISSIONER MAY: So a little bit
12 of clarification on that would be helpful
13 since I don't have the full record.

14 MS. SCHELLIN: Okay. Mr.
15 Tummonds, did you hear that?

16 MR. TUMMONDS: Oh, he had --

17 MS. SCHELLIN: Some clarification
18 on the old previous brick that was approved
19 versus the Quik-Brik or whatever you're using
20 now, just some clarification on that, the
21 difference. And I think you had the Naylor
22 Road elevation, the long blank wall. Mr.

1 Turnbull brought up the lighting, which I
2 think you brought up. He wanted to see
3 lighting from all four sides, not just the one
4 view that you provided.

5 Anything else? I know Mr. May
6 made lots of statements, but I didn't quite
7 get that he actually wanted anything. And
8 sometimes I don't actually hear that he wants
9 something. And then in the end he says he
10 does.

11 CHAIRPERSON HOOD: He was normal
12 tonight.

13 MS. SCHELLIN: He was normal, but
14 in the end sometimes I find out he actually
15 does want something. But I wasn't --

16 COMMISSIONER MAY: Well, I did
17 want them take another look at the Naylor Road
18 façade, but I think you've captured that.

19 MS. SCHELLIN: Yes.

20 COMMISSIONER MAY: Right?

21 MS. SCHELLIN: Right.

22 COMMISSIONER MAY: So the rest of

1 it was mostly question and answer. Well, I
2 did ask some questions. I asked some
3 questions, too.

4 MS. SCHELLIN: Yes.

5 COMMISSIONER MAY: And they
6 clarified some things for me.

7 MS. SCHELLIN: They did.

8 COMMISSIONER MAY: Thank you.

9 MS. SCHELLIN: I wasn't sure if
10 you still wanted something.

11 COMMISSIONER MAY: I want them to
12 improve the Naylor Road façade.

13 MS. SCHELLIN: I think you want
14 lots of things, but I don't think you actually
15 were --

16 COMMISSIONER MAY: I'm expecting
17 to see something --

18 MS. SCHELLIN: -- enforcing --

19 COMMISSIONER MAY: -- new on the
20 Naylor Road façade.

21 MS. SCHELLIN: Right. Exactly.

22 COMMISSIONER MAY: Okay. Thank

1 you.

2 VICE-CHAIRPERSON COHEN: And, Mr.
3 Chairman, I'd just like to add that if they
4 don't make the modifications to the Naylor
5 Road facade, that's going to be a canvas
6 that's very inviting for graffiti artists.
7 And so keep that in mind. It's a very urban
8 issue in all cities.

9 CHAIRPERSON HOOD: And continue to
10 have those discussions with the neighbors, as
11 you've heard. That would be most appreciated.

12 Anything else?

13 COMMISSIONER TURNBULL: I just was
14 curious. We didn't get into it, but are you
15 going for any LEED certification? Did we
16 bring that up or talk about it?

17 MR. TUMMONDS: Yes, we are. We're
18 pursuing LEED Silver.

19 COMMISSIONER TURNBULL: LEED
20 Silver?

21 MR. TUMMONDS: Yes.

22 COMMISSIONER TURNBULL: Okay.

1 Thank you. There wasn't a LEED checklist in
2 the submittal. I wonder if we could get one?

3 MR. TUMMONDS: We can submit the
4 LEED scorecard.

5 COMMISSIONER TURNBULL: LEED
6 scorecard? Great. Thank you.

7 CHAIRPERSON HOOD: Mr. Tummonds,
8 did we refer a time extension in this case?

9 MR. TUMMONDS: Yes, it was my
10 understanding -- so we originally filed 09-
11 03B. And I think how we had described that we
12 were going to do it that at the time of --

13 MS. SCHELLIN: Final.

14 MR. TUMMONDS: -- final you would
15 take a look at 09-03B for the time extension.

16 MS. SCHELLIN: Yes.

17 CHAIRPERSON HOOD: Okay.

18 COMMISSIONER MAY: So I think the
19 original time extension looked for two years
20 past whatever the date was, September of '13?
21 Yes, okay. So this is one of those ones we
22 were re-deferred because you filed so early.

1 It hadn't actually expired yet.

2 MR. TUMMONDS: Correct.

3 COMMISSIONER MAY: Right. Okay.
4 Then we can take it up at final.

5 CHAIRPERSON HOOD: Okay. Do we
6 have anything else?

7 MS. SCHELLIN: Dates.

8 CHAIRPERSON HOOD: You got the
9 dates?

10 MR. TUMMONDS: I think that we
11 would -- our goal is to have -- would you be
12 able to take a proposed action prior to the
13 recess?

14 MS. SCHELLIN: Yes.

15 MR. TUMMONDS: So we will go back
16 from that.

17 MS. SCHELLIN: Okay. Do you want
18 -- July 29th is good for you for proposed?

19 MR. TUMMONDS: For proposed, yes.
20 So then --

21 MS. SCHELLIN: Okay.

22 MR. TUMMONDS: -- working back

1 from that, when do we need to get you the --

2 MS. SCHELLIN: Okay. July 11th.

3 MR. TUMMONDS: July 11th.

4 MS. SCHELLIN: And then the ANC,

5 if they -- even though they're not here, I do

6 have to allow them an opportunity to file a

7 response if they choose to do so. They have

8 one week, which would be July 18th. Both

9 dates, 3:00 p.m. All submissions have to be

10 made through ISIS. Record is closed to

11 everyone else. No one else can make any

12 submissions. Draft findings of fact,

13 conclusions of law, if you would like to. We

14 would encourage -- the Applicant actually we'd

15 want those.

16 MR. TUMMONDS: Yes, we'll do it.

17 MS. SCHELLIN: July 18th, 3:00

18 p.m. And we'll go with July 29th proposed

19 action. We're done.

20 CHAIRPERSON HOOD: Okay. Do we

21 have anything else?

22 (No audible response.)

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CHAIRPERSON HOOD: All right. I
want to thank everyone for their participation
tonight and this hearing is adjourned.

(Whereupon, the meeting was
adjourned at 8:06 p.m.)

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This is to certify that the foregoing transcript

In the matter of: Skyland Holdings

Before: DCZC

Date: 06-13-13

Place: Washington, DC

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

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