

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 Zoning Commission
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9 Public Hearing

10 Zoning Commission Case No. 15-04 [Comstock Sixth
11 Street, LLC - Consolidated PUD and Related Map
12 Amendment at Square 3788, Lot 814]
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16 6:31 p.m. to 9:42 p.m.

17 Thursday, July 30, 2015
18

19 Jerrily R. Kress Memorial Hearing Room
20 441 4th Street, N.W., Suite 220 South
21 Washington, D.C. 20001
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APPEARANCES

Board Members:

ANTHONY HOOD, Chairperson

ROBERT MILLER, Commissioner

PETER MAY, Commissioner

MR. TURNBULL, Commissioner

Office of Zoning:

SHARON SCHELLIN, Secretary

Office of Planning:

KAREN THOMAS

JENNIFER STEINGASSER

DDOT:

RYAN WESTROM

ANNA CHAMBERLIN

OTHER:

DENNIS HUGHES, ESQ.

JOHN DAPOGNY

DAN VANPELT

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P R O C E E D I N G S

CHAIRPERSON HOOD: Good evening ladies and gentlemen, this is the public hearing of the Zoning Commission of the District of Columbia. My name is Anthony Hood. Joining me are Commissioner May, Turnbull, and Miller. We're also joined by the Office of Zoning staff, Ms. Sharon Schellin, Office of Planning staff, Ms. Steingasser, and also the Office of Planning, Ms. Thomas.

Today's date is July the 30th, 2015. We're located in the Jerrily R. Kress Memorial Hearing room.

This proceeding is being recorded by a court reporter. It's also webcast live. Accordingly we must ask you to refrain from any disruptive noises or actions in the hearing room, including the display of any signs or objects.

Notice of today's hearing was published in the D.C. Register, and copies of that announcement are available to my left on the wall near the door. The hearing will be conducted in accordance with provisions of 11-DCMR-3022 as follows: preliminary matters, applicant's case, report of the Office of Planning, report of other government agencies, report of the ANC,

1 organizations and persons in support,
2 organizations and persons in opposition, rebuttal
3 and closing by the applicant. The following time
4 constraints will be maintained in this meeting.
5 The applicant will have up to 60 minutes I think.
6 We have read the materials. I think 10 minutes
7 will suffice for this Commission and we'll ask our
8 questions. Organizations, five minutes,
9 individuals, three minutes.

10 The Commission intends to adhere to the
11 time limits as strictly as possible in order to
12 hear the case in a reasonable period of time. The
13 Commission reserves the right to change the time
14 limits for presentations if necessary and at no
15 times shall be seated.

16 All persons appearing before the
17 Commission are to fill out two witness cards.
18 These cards are located to my left on the table
19 near the door. Upon coming forward to speak to
20 the Commission please give both cards to the
21 reporter sitting to my right before taking a seat
22 at the table. When presenting information to the
23 Commission please turn on and speak into the
24 microphone, first stating your name and home
25 address. When you are finished speaking please

1 turn your microphone off so that your microphone
2 is no longer picking up sound or background noise.

3 The decision of the Commission in this
4 case must be based exclusively on the public
5 record. To avoid any appearance of the contrary
6 the Commission requests that persons present not
7 engage the members of the Commission in
8 conversation during any recess or at any time. In
9 addition there should be no direct contact
10 whatsoever with any commissioner concerning this
11 matter, be it written, electronic, or by
12 telephone. Any material received directed by a
13 commission will be discarded without being read
14 and any calls will be redirected or ignored.

15 The staff will be available throughout
16 the hearing to discuss procedural questions.
17 Please turn off all beepers and cell phones at
18 this time so as not to disrupt these proceedings.
19 Would all individuals wishing to testify please
20 rise to take the oath? Ms. Schellin, would you
21 please administer the oath?

22 MS. SCHELLIN: Yes. Please raise your
23 right hand.

24 [Oath administered to participants.]

25 MS. SCHELLIN: Thank you.

1 CHAIRPERSON HOOD: Okay. All right.
2 Sorry, we've been joined also by Mr. Westrom from
3 DDOT. Forgive me. Seems like we switch around.
4 And, Mr. Westrom, you've been here plenty of times
5 so forgive me for that. My brain gets locked up
6 here sometimes.

7 Okay. Ms. Schellin, do we have any --

8 MS. SCHELLIN: Yes, sir.

9 CHAIRPERSON HOOD: -- preliminary
10 matters?

11 MS. SCHELLIN: Yes, sir. We have a party
12 status application at Exhibit 25 which was
13 supplemented at Exhibits 29 through 29G, filed by
14 Belinda Bell on behalf of Concerned Citizens of
15 North Michigan Park. The applicant filed its
16 opposition to this party status request at Exhibit
17 34. Would ask the Commission to consider the
18 party status request.

19 CHAIRPERSON HOOD: Okay. Mr. Hughes, I
20 think we already have your submission and
21 opposition of this request. Okay. Colleagues, we
22 have a request in front of us. What is your
23 pleasure?

24 You know what? Let me back up because
25 these cases -- let me back up first. I'm going to

1 do a disclosure. I live in this neighborhood.
2 Well, I grew up in this neighborhood. I don't
3 live in this neighborhood anymore but I know a lot
4 of people that live in this area because I know in
5 the other case that became an issue and I want to
6 make sure that, you know, all of us who live in
7 the city live in neighborhoods and we know people
8 in the neighborhoods and I have not spoken to
9 anyone about this case, and if they have tried to
10 mention this to me I have directed them to this
11 office. So I will continue on this case because I
12 don't have any biases. Any issues with that?

13 MR. HUGHES: No.

14 CHAIRPERSON HOOD: Mr. Hughes, you have
15 any issues?

16 MR. HUGHES: I have no issue whatsoever.

17 CHAIRPERSON HOOD: Okay. Now, let's move
18 to the issue of the party status request.
19 Somebody like us to start us off or you want me to
20 start us?

21 I think in the applicant's submission,
22 all right, he brings up some points and one of
23 them was who is really the Concerned Citizens of
24 North Michigan Park. But I also think that Ms.
25 Bell has demonstrated that she lives in the area

1 and there are some impacts that may hinder her.

2 I'm just curious about the discussion of
3 -- we discussed D.C.'s DDOT and private roadway in
4 the city. Those kind of issues we usually hear
5 from subject matter experts. We can talk about
6 it. I don't know if she's -- I don't believe, I
7 didn't see any proffers of any experts. I would
8 just say, let's stay to what's germane of any
9 impacts you may see, and I'm trying to gear if we
10 grant it because I'm in favor of granting
11 colleagues, if we grant it, because I think there
12 are some impacts to the local community and I
13 think they are adversely affected. Or there may
14 be some effects. So they may be able to be
15 mitigated.

16 But the issue for me is, when I see about
17 the D.C. Fire Department and a representative who
18 will discuss crime along Fort Totten footpath,
19 some of those things are generally zoning matters
20 and some aren't. The crime, I don't know how you
21 tie that to this development. I think that the
22 folks who may move in this neighborhood if this is
23 granted, will be fighting crime like all of us do
24 in the city.

25 So I think some -- if you look at her

1 letter I think she brings up some points that
2 would warrant her to be party status. We do need
3 to get clarification on who the Concerned Citizens
4 of North Michigan Park were. I actually sat on
5 the case of Rocky Gorge. This is a little
6 different. At least the submission I think is a
7 little different and there are some pieces of it
8 which would give me pause to grant her party
9 status.

10 Let me open it up for discussion. Any
11 discussion? Any objections?

12 MR. MAY: Mr. Chairman.

13 CHAIRPERSON HOOD: Yes.

14 MR. MAY: Yeah, I would tend to agree
15 with you. I mean, I think there is a reasonable
16 case to be made that party status should be
17 granted. I do have a question about who the
18 Concerned Citizens of North Michigan Park actually
19 is, but you know, given the proximity of the
20 applicant for party status, Ms. Bell, I think that
21 I can easily see granting this. They've raised
22 issues that are appropriate and frankly it's good
23 to hear from them. You know, if there is a group
24 of people concerned it's good to hear from them as
25 a group.

1 CHAIRPERSON HOOD: Okay. Any other
2 comments?

3 MR. TURNBULL: No, I would agree with
4 you, Mr. Chair. Yeah, and I guess my only concern
5 is, is there really some -- I mean, there's four
6 people indicated on the submission and is that the
7 only four or do they represent a broader group, I
8 guess is the bigger question. If not, maybe it's
9 not really concerned citizens of North Michigan
10 Park. I don't know what that organization really
11 is but I think the four people there, as a group,
12 should be heard.

13 CHAIRPERSON HOOD: Okay. Let's do this,
14 let's ask -- let's get this straight now. Mr.
15 Hughes, you see the direction this is going in?

16 MR. HUGHES: I believe I do.

17 CHAIRPERSON HOOD: Okay. Well, it will
18 become very clear shortly.

19 MR. HUGHES: Well, Mr. Chair, I'd just
20 like -- I appreciate the concerns and we're
21 certainly here to address those concerns and I
22 think in our letter we acknowledge we certainly
23 appreciate that there's an opportunity for
24 organizations and individuals to appear in support
25 of opposition.

1 The only question that I think the -- I'm
2 here from the commissioners and we expressed in
3 our submission is, who is being granted the party
4 status? Is it Ms. Bell as an individual who lives
5 across 7th Street and more distant than a number
6 of the people that are in the room? Or is it a
7 group? And if it's a group, who is the group?
8 That's all. Thank you.

9 CHAIRPERSON HOOD: Okay. Well, we're
10 getting ready to ask -- I'm going to ask Ms. Bell
11 to come up so all of us can get some
12 clarification.

13 Ms. Bell, if you will come up? If you
14 could just identify yourself? We're not going to
15 make this long, we're just going to ask you a few
16 quick questions.

17 Let's turn your mic on.

18 MS. BELL: My name is Belinda Bell, I am
19 one of the 200 Footers. I live at 4829 7th Street
20 Northeast.

21 CHAIRPERSON HOOD: Okay. Ms. Bell, how
22 many people are in this group, Concerned Citizens?

23 MS. BELL: There are actually about four
24 or five. I left some names off of some of the
25 people that are on 6th Street Northeast. I left

1 off the name Helen Kiehls who is named in some of
2 the other documents. Tonya Williams is not here.
3 She's out of town with her son on basketball
4 travel. Mr. Bowser I put was one but he was not
5 going to testify, I must admit. He was going to
6 talk about the prior agreements regarding the
7 project if he had provided a statement.

8 CHAIRPERSON HOOD: Okay.

9 MS. BELL: So it's myself, Mr. and Mrs.
10 Clarence Moore, who are adjacent to the property;
11 immediately adjacent to the property. Tonya
12 Williams, who is not here, Helen Kiehls, and also
13 Eddie -- Effie, I'm not sure of her last name.
14 She submitted a statement in opposition.

15 CHAIRPERSON HOOD: Okay.

16 MS. BELL: Uh-huh.

17 CHAIRPERSON HOOD: Well, let me just say
18 this. We're going to probably take the applicant.
19 We're going to give the applicant 10 or 15
20 minutes. Whatever time they take, that's how much
21 time you'll get to be able to do your
22 presentation. I would encourage you to get the
23 people who are going to present to us tonight and
24 make sure you have it focused strategically. You
25 heard my concern about the fire department and,

1 you know, you want to talk about issues that may
2 be affecting you.

3 MS. BELL: Yes.

4 CHAIRPERSON HOOD: We are not subject
5 matter experts, and you may have somebody who may
6 be knowledgeable of the fire department or how to
7 get in there, but we don't want to do anything
8 that somebody told us in the street. We have to
9 deal with stuff that's here within the hearing
10 room. Okay?

11 MS. BELL: Yes. I'd like to delete those
12 from the application.

13 CHAIRPERSON HOOD: The fire department?
14 Okay.

15 MS. BELL: Yeah, fire department, police.
16 I don't have any experts here today.

17 CHAIRPERSON HOOD: Okay. So I just want
18 you to give your presentation to the floor to tell
19 us how this project will affect you and what your
20 issues are with this project.

21 MS. BELL: Okay.

22 CHAIRPERSON HOOD: Okay?

23 MS. BELL: Thank you.

24 CHAIRPERSON HOOD: So that would be
25 better time spent because it looks like you only

1 have maybe 10 or 15 minutes.

2 MS. BELL: Okay.

3 CHAIRPERSON HOOD: Okay. Great. Thank
4 you. Okay. So did we make a motion -- okay. I
5 would make a motion that we grant Ms. Bell and her
6 team -- I'm going to say team because I don't know
7 if Concerned Citizens is -- you all want to be
8 called the Concerned Citizens of North Michigan
9 Park? That's the name of your group?

10 So the Concerned Citizens of North
11 Michigan Park, party status and ask for a second.

12 MR. MILLER: Second.

13 CHAIRPERSON HOOD: It's been moved and
14 properly seconded. Any further discussion?

15 [Vote taken.]

16 CHAIRPERSON HOOD: Not hearing any
17 opposition of those present, Ms. Schellin, would
18 you record the vote?

19 MS. SCHELLIN: Staff records the vote
20 four to zero to one to grant party status in
21 opposition to the group Concerned Citizens of
22 North Michigan Park, Commissioner Hood moving,
23 Commissioner Miller seconding, Commissioners May
24 and Turnbull in support, Commissioner Cohen not
25 present, not voting.

1 CHAIRPERSON HOOD: Okay. Mr. Hughes, you
2 have some expert witnesses?

3 MR. HUGHES: Yes, sir.

4 CHAIRPERSON HOOD: Okay. Let's go. Some
5 of them have already been proffered. Let's just
6 do the one -- I only see one that has not been
7 that has testified previously. You proffered him
8 as an expert. Mark. Mr. Mark? Mr. Mack, I'm
9 sorry.

10 MR. HUGHES: No, not this evening, no.

11 CHAIRPERSON HOOD: Not this evening.
12 Okay. So who are your --

13 MR. HUGHES: Our experts would be Mr. Dan
14 VanPelt and Mr. Shane Dettman.

15 CHAIRPERSON HOOD: Okay. I think we've
16 already seen them and proffered them previously.
17 I don't think we need to revisit that. We have
18 anything else?

19 MR. MAY: Do we have --

20 MR. HUGHES: Qualifying experts.

21 MR. MAY: Do we have Dettman's resume?

22 MR. HUGHES: That was submitted. That
23 was submitted today.

24 MR. MAY: Okay. Because I knew we had
25 Sure's [phonetic] and I could tell a difference.

1 MR. HUGHES: Mr. Dettman is standing in
2 for Mr. Sure this evening.

3 MR. MAY: Yeah, I could tell that he was.

4 MR. HUGHES: Valiantly. Yes.

5 MR. MAY: Yeah.

6 CHAIRPERSON HOOD: Okay. Ms. Schellin,
7 do we have anything else preliminary?

8 MS. SCHELLIN: No, sir.

9 CHAIRPERSON HOOD: Okay. Mr. Hughes, you
10 may begin.

11 MR. HUGHES: Thank you. Mr. Chair, for
12 the record my name is Dennis Hughes with Holland
13 and Knight. I'll introduce the team very quickly.

14 To my right is John Dapogny of Comstock
15 Holmes representing the applicant and the contract
16 purchaser of this property from the Thomas
17 Summerville Company. To his right is Dan VanPelt
18 of Gorove/Slade who the Commission is familiar
19 with, and DJ'ing our slideshow is Mr. Kevin Mack
20 of Dewberry who is available to answer questions
21 regarding civil engineering questions and
22 landscape questions. And then in the audience we
23 have, as I said before, Mr. Dettman if the
24 Commission has any questions regarding our zoning
25 and planning analysis. And Mr. Jeremiah Potter

1 who is with W.C. Ralston Architects if the
2 Commission has any questions regarding the actual
3 design of the townhouses.

4 [Someone speaking off mic.]

5 MR. HUGHES: Okay. Go ahead. We appear
6 before you this evening for a review of our
7 request for a zoning map amendment and related PUD
8 for the Thomas Summerville site in Ward 5. It's
9 4.2 acre site. Certain commission members as Mr.
10 Hood has noted, are familiar with the previous
11 zoning approval for the site. Back in 2006 it was
12 for a similar townhouse development. That PUD was
13 never developed and the approval expired.

14 The site is split zoned C-M-1, and that
15 portion is subject to the Fort Totten Overlay, and
16 the eastern portion of the site is R-2 zoned. And
17 we're requesting a rezoning to the R-4 district,
18 combined with this PUD to lawful redevelopment of
19 the site with 43 bedroom townhomes, five of which
20 will be deed restricted for affordable housing.

21 Given that the site has very little
22 public street frontages we're pursuing theoretical
23 lot lines and that will involve certain minor
24 flexibility as noted in our submissions and as
25 identified by the Office of Planning which we

1 agree with the comments that the Office of
2 Planning has made.

3 As discussed in our prehearing materials
4 and can be supplemented with testimony tonight, we
5 believe the project is consistent with the
6 objectives of the Comprehensive Plan and that the
7 balancing of project amenities and public benefits
8 offered by our application compares favorably to
9 the development and incentives and flexibility we
10 are requesting.

11 At its core this project is proposing to
12 provide new single family residences, including a
13 significant set-aside for affordable housing on a
14 vacant site that's surrounded on three sides by
15 single family houses where currently residential
16 use is not permitted on a large part of the site.

17 With regard to public benefits and
18 project amenities, our list is long. They include
19 the residential use, the housing and affordable
20 housing in excess of what would be required under
21 the current zoning for the site, significant
22 preservation of open spaces and slopes. We
23 believe the architecture and the urban design of
24 the project is exceptional. We are providing a
25 bicycle and pedestrian connection path to

1 facilitate access north to the Metro station.

2 In terms of our community benefits, we're
3 constructing public space improvements to
4 facilitate pedestrian movement north of the site,
5 and north of the Emerson Park Development along
6 Emerson Street, 6th Place, and Gallatin Street,
7 and that's in coordination with Mr. Westrom and
8 DDOT.

9 We're providing a \$10,000 grant to the
10 Capitol Area Food Bank. That is to be limited to
11 service providers in Ward 5, and to the extent
12 possible, within ANC 5-A.

13 We've been coordinating with the townhome
14 -- it's known as Emerson Park, the townhome
15 development immediately north of the site,
16 regarding landscaping improvements and maintenance
17 of their storm water management facilities for a
18 period of time after construction.

19 And finally, we've arrived at what we
20 believe is a really strong community package with
21 ANC 5-A, and with the immediately abutting
22 neighbors. That was arrived at, just finalized
23 earlier this week by a special meeting of the ANC.
24 And it includes a significant funding commitment
25 to be paid to the University of District of

1 Columbia at their Backus Campus for renovation
2 work. It really gets -- it's a two-for if you
3 will because it's pushing forward much needed
4 additional renovations at the school, but it's
5 also -- and as Commissioner Alston can expand
6 upon, it's providing the ANC I believe up to 30
7 periods of time per year, first priority to
8 utilize space within the school.

9 We're also working to finalize with the
10 ANC, a new Friends of Totten Muse organization
11 that's being worked through with the Office of
12 ANCs to provide block grant funding and finally a
13 contribution for scholarships, and I believe back
14 to school supplies with the North Michigan Park
15 Citizens Association.

16 With regard to the ANC we're very pleased
17 to note their support for the project as proposed.
18 We began discussions with the immediate community
19 and ANC 5-A last fall after a series of
20 presentations hosted by Commissioner Alston. And
21 to the full ANC we received, as I said, the
22 recommendation earlier this week, and I want to
23 note that we're very grateful to Commissioner
24 Alston for her time and efforts throughout the
25 process which began back in the fall of last year.

1 We're also pleased to note that the
2 project is supported by the Office of Planning,
3 and I want to thank Ms. Thomas personally for her
4 very thorough reports and as I said before, we
5 agree with the findings therein.

6 And finally we appreciate the input
7 received from DDOT and are agreeable to the
8 mitigations listed in their report, which include
9 constructing the pedestrian bicycle connection to
10 DDOT standards and the public space, the sidewalk
11 upgrades north of Emerson Park that I mentioned.

12 So with the remaining four minutes,
13 knowing that the Commission at the setdown had
14 asked for comprehensive transportation
15 circulation, planned transportation analysis, and
16 confirmation with the fire department in terms of
17 emergency egress, I want to note that we submitted
18 responsive materials at our July filing and Mr.
19 Dan VanPelt is going to summarize the findings of
20 their report. Thank you.

21 CHAIRPERSON HOOD: I don't want you to
22 rush through that because that's very important.
23 So that may take some of the issues away, but take
24 your time. I know we said four minutes but if you
25 have to go beyond that, let's do it. Okay?

1 MR. VANPELT: Okay. Thank you. Good
2 evening, Commissioners. For the record I'm Dan
3 VanPelt with Gorove/Slade Associates. We
4 preformed the transportation review for this
5 project, working with the applicant, and we've
6 been coordinating with DDOT.

7 I'll briefly touch on the transportation
8 related highlights of the Totten Muse Planned Unit
9 Development.

10 This site is located, as Mr. Hughes said
11 earlier, in Ward 5, Northeast D.C. It's about a
12 half mile south of the Fort Totten Metro Station
13 where there's access to the Red, Yellow, and Green
14 lines. There are several Metro bus lines nearby,
15 and also there's access to the Metropolitan Branch
16 Trail nearby that provides connectivity to No-MA,
17 Union Station, and other points downtown for those
18 that wish to commute by bike.

19 South Dakota Avenue is the nearest
20 arterial street, located to the east. And then
21 for the reference -- and for reference, the
22 Capitol Area Food Bank is located immediately to
23 the west of the project.

24 The plan for the site will include 40
25 townhomes. Vehicular access will be made from the

1 south on 6th Street. There will also be a
2 pedestrian and bicycle connection made to the
3 north to facilitate those walking and biking to
4 the Metro Station. Each townhome will include one
5 garage parking space and one additional space in
6 the home's driveway, for a total of two. There
7 will also be 17 visitor parking spaces located on
8 the streets within the project, all loading and
9 service activities will occur on the private
10 streets within the community.

11 A comprehensive transportation review was
12 scoped with DDOT and performed for the PUD. The
13 number of trips generated is below DDOT's CTR
14 Vehicular Trip Threshold required in the study,
15 but we felt a more complete transportation review
16 was appropriate. We understood the Zoning
17 Commission was interested to see such and thought
18 it would be helpful to address community concerns.

19 The study looks at all modes of travel,
20 focusing really for this project primarily on
21 vehicular and pedestrian traffic. Based on the
22 study and DDOT's review of it, some of the
23 recommendations affecting the design of the new
24 bike-ped connection were coordinated with DDOT and
25 there were also some off-site improvements that

1 were identified and I'll review those a bit
2 further in a moment.

3 The 40 townhomes will generate a low
4 number of vehicular trips. It's estimated that
5 there will be a total of 15 new trips in the a.m.
6 peak hour, there will be three into the site and
7 12 out, and 16 new trips in the p.m. peak hour, 11
8 in and five out. So about one every four minutes
9 or so.

10 These trips will access the site through
11 6th Street and they'll all need to go through the
12 6th Street, Puerto Rico, Buchanan Street
13 intersection. Therefore that intersection was
14 studied and the capacity of that intersection was
15 evaluated. The new trips really made no
16 significant change to the operation of that all
17 way stop intersection.

18 The project will also generate a similar
19 number of pedestrian trips or foot traffic that is
20 really heading towards the -- desires to head
21 north to the Metro Station. So we reviewed the
22 pedestrian accommodations along the walk from the
23 site. New residents of the project and others in
24 the community that live to the south will be able
25 to use the proposed pedestrian bike connection

1 that will connect Totten Muse to the Emerson Park
2 community. And then you'll be able to continue
3 along 6th Place to get to the Metro.

4 Upon the review of -- upon our review and
5 then coordination with DDOT, DDOT requested that
6 the project implement multiple off-site
7 improvements that will enhance the pedestrian
8 infrastructure for all that uses direction of
9 travel. And shown this figure, it's hard to read,
10 but this would include four new crosswalks, seven
11 new or modified curb ramps, and one sidewalk link
12 on Emerson Street that's currently missing today.

13 Additionally, as I said earlier, the team
14 has been coordinating with DDOT on the design of
15 the new pedestrian bike link that would go between
16 Totton Muse and Emerson Park.

17 So in summary the 40 new townhomes will
18 generate a very low number of new vehicular trips.
19 But even though it didn't meet the DDOT threshold
20 we still did a comprehensive transportation review
21 that showed that there was no significant impacts,
22 vehicular impacts to the nearest intersection.
23 The PUD will implement the new bike ped trail and
24 along with other off-site improvements to help
25 improve the connectivity to the Metro Station and

1 overall nonautomobility of the neighborhood.
2 Nonautomobility in the neighborhood. And then all
3 parking and loading needs of the project will be
4 accommodated on site. We've also reviewed the
5 DDOT report which is consistent with our
6 coordination with DDOT to date, and the applicant,
7 as Mr. Hughes said, agrees to all the conditions
8 in the staff report.

9 So appreciate you listening to my
10 testimony. I'd be happy to answer any questions
11 that you have.

12 MR. HUGHES: Mr. Chair, the only thing I
13 think that I would like to add before we just open
14 it up to the Commission's questions is just to
15 note again on our July filing the Chair had
16 directed the applicant to coordinate with the fire
17 and emergency medical services office --
18 department, rather, to confirm that there were no
19 concerns from that office. And we provided that
20 letter as part of our July 10th filing, confirming
21 that the emergency access provided complies with
22 the fire code and doesn't present any operational
23 concerns.

24 And with that, we'll conclude our
25 testimony and be available for any questions.

1 CHAIRPERSON HOOD: Okay. Who asked for
2 that?

3 MR. HUGHES: I believe it was the Chair.

4 CHAIRPERSON HOOD: Okay.

5 MR. HUGHES: If it was not the chair, a
6 member of the Commission requested it.

7 CHAIRPERSON HOOD: I think it was me, but
8 I'm still going to ask the question anyway. So,
9 anyway. All right. But thank you. I appreciate
10 you all doing that.

11 Okay. Let's open it up for any
12 questions, colleagues. Who would like to start us
13 off? I sure miss the Vice Chair because she would
14 definitely start us off. Commissioner May?

15 MR. MAY: So I think generally speaking
16 what's being proposed, the map amendment to R-4,
17 it seems perfectly consistent with the
18 Comprehensive Plan and, you know, the amount of
19 relief that's being requested is minimal compared
20 to many PUDs that come before us and they try to
21 cram in, you know, I don't know, at least 50
22 percent more townhouses into a townhouse
23 development like this. So I think it's -- I mean,
24 it's actually a pretty modest development given
25 what the Comprehensive Plan called for and also

1 given what's happened in the immediate
2 neighborhood with new developments and former
3 industrial sites and so on.

4 I do have a handful of, I think
5 relatively minor questions about the design. So
6 is your architect here at the table? Come on up.

7 So should he identify himself for the
8 record is that what --

9 MR. HUGHES: Yes, please do.

10 MR. POTTER: My name is Jeremiah Potter.
11 I'm with W.C. Ralston Architects and I live at
12 11532 Olde Tiverton Circle in Reston, Virginia.

13 MR. MAY: Okay. So, you know, this
14 townhouse development -- well, first of all there
15 are inconsistencies in the drawings. We have this
16 version of the renderings that shows an end unit
17 with particular fenestration, and then we have
18 this version of it which shows a different
19 fenestration. Smaller windows over the doors, and
20 then a little railing thing around it. So which
21 one of those is right?

22 MR. POTTER: Yes, sir. The hand drawing
23 was preliminary and is there for some look and
24 feel for the Commission, but the computer rendered
25 drawing is most accurate.

1 MR. MAY: Okay. So then on this computer
2 rendering there are windows -- most of the windows
3 have shutters, by the way. I'm not a big fan of
4 shutters when they're not actually functional.
5 They're just decorative but I understand that
6 that's something that many people like and it
7 gives a certain feel to the house. But I'll let
8 my -- you know, you don't need to respond to every
9 one of my biases.

10 But the windows, this set of windows, the
11 ganged triple windows doesn't have shutters
12 because obviously it doesn't make sense.

13 MR. POTTER: Yes.

14 MR. MAY: But it also kind of makes the
15 rest of the shutters look funny. I mean, this is
16 deliberate. It's not a mistake, right?

17 MR. POTTER: Yes. This is for the living
18 room program inside, just to bring more light into
19 the units.

20 MR. MAY: Yeah. So I mean, I can
21 understand that but it just feels a bit odd. And
22 then on the other end I guess at the kitchen
23 there's a window box and then there is -- you have
24 a different set of kind of windows. Is that
25 correct or is that a mistake?

1 MR. POTTER: Yes, that is intentional.

2 MR. MAY: So what's going on there?

3 MR. POTTER: Some more service space.

4 Typical, you know, end-unit townhouse may not have
5 perfect symmetry so we're trying to keep it as
6 balanced as possible, adding the detail like the
7 window box to offset the heaviness of the window
8 on the right.

9 MR. MAY: Okay. So you have -- but you
10 have a sort of a two-thirds of a window, which I
11 understand because it's taller. But what we're
12 seeing is we're seeing divided lights for -- I
13 mean, you have three divided lights and then a
14 large single panel. That's all deliberate,
15 because it just kind of looks like a mistake.

16 MR. POTTER: I'm sorry. Which single
17 panel are you referring to?

18 MR. MAY: You know, this window, the
19 height of this window is about three quarters of
20 the height of this window because of the window
21 box.

22 MR. POTTER: Yes.

23 MR. MAY: And presumably because there
24 are cabinets behind it or something like that,
25 right?

1 MR. POTTER: Yes.

2 MR. MAY: Or countertops. But then, you
3 know, you have three individual panes. It's a
4 three over one window.

5 MR. POTTER: Yes. That has actually --
6 it's not a complete device. It's not a double-
7 hung. It's actually a single panel.

8 MR. MAY: Right.

9 MR. POTTER: If the Commission would be
10 interested in seeing a complete mutton for the --

11 MR. MAY: I just, you know, it just looks
12 like a mistake.

13 MR. POTTER: Okay.

14 MR. MAY: That's all. And I mean, you
15 know, these are pretty minor stuff, generally
16 speaking.

17 MR. POTTER: I mean, we'd be open to
18 revisiting the mutton pattern.

19 MR. MAY: Yeah, I mean, it's just
20 something to take a look at.

21 So the end units, I'm looking at A7 in
22 the drawing set that you had submitted, and in
23 that set you have this typical side elevation
24 front entry unit, and then a typical side
25 elevation for a side entry unit. And it looks

1 like the side entry unit has been very
2 thoughtfully and symmetrically designed. But --

3 MR. HUGHES: Commissioner May, could you
4 repeat the page?

5 MR. MAY: A7.

6 MR. HUGHES: A7. In our May submission?

7 MR. MAY: Where is the date? No, I'm
8 looking at an earlier submission. I'm not sure I
9 have a May submission. What's the number? Do you
10 have an exhibit number?

11 MR. HUGHES: No.

12 MR. MAY: I mean, I'm looking at the
13 March submission, but do you have a --

14 MR. HUGHES: It's Exhibit 16A.

15 MR. MAY: So let's see if it's the same
16 one. No, it's not A7. Okay. So it's A9.

17 MR. POTTER: Okay. Yes.

18 MR. MAY: Same issue.

19 MR. POTTER: All right. So I believe
20 you're asking about the symmetry and the more
21 balanced feel of the side entry versus the front
22 entry. So the side entry units are actually the
23 units that will face 6th Street. There are three
24 of them.

25 MR. MAY: Right.

1 MR. POTTER: So for the public way we're
2 providing as elegant a street frontage as we can.
3 The other units more typically are facing another
4 townhouse rather than the street. So for interior
5 and floorplan layout purposes.

6 MR. MAY: So you care less about how they
7 look when it's not as exposed?

8 MR. POTTER: Yes. Functioning.

9 MR. MAY: Right. And that's -- and I
10 don't agree with that philosophy. I think it
11 should be as well designed on every façade,
12 particularly since some of these -- I mean, I
13 don't know how visible they are from the immediate
14 neighbors but, you know, I mean I think all sides
15 should be well designed and symmetric and windows
16 should line up and things like that.

17 MR. POTTER: Sure.

18 MR. MAY: So I don't want to go on too
19 long. I mean, I'm going on about stuff that's, as
20 I said, pretty minor stuff. But I just think that
21 the side elevation should be carefully designed.

22 You know, there are other things that are
23 weird about this. You have you know, a standard
24 unit that has arched windows and that works fine
25 when it's a brick elevation, and brick makes sense

1 when it's arched. But then you have wooden
2 windows, or wooden -- you know, it's got the brick
3 up to the first story and then wood siding above
4 that or Hardy Board, whatever it is, above that.

5 MR. POTTER: Yes.

6 MR. MAY: And then you've got the same
7 kind of arch feature. It just doesn't make as
8 much sense. I mean, an arch in a wood opening
9 like that, it architecturally doesn't make sense.

10 In the front elevations, I assume all
11 these houses are going to have to have downspouts.

12 MR. POTTER: Yes, there would be a
13 downspout at the property line.

14 MR. MAY: Right. And that's shown in, I
15 think in the computer rendering. But I don't see
16 it in any of the actual elevations.

17 MR. POTTER: No, they were not drawn in
18 the elevation.

19 MR. MAY: Yeah. So, and they should be
20 drawn in the elevations. I'm not going to really
21 care about what they're going to look like but you
22 know, it's another piece that needs to be shown
23 and the drawings should be consistent with that.

24 Let's go to the back yards for a second.
25 The garage doors are drawn as if they are out

1 swinging carriage door types. Are they actually
2 out swinging carriage door types, or are they
3 standard doors that are just made to look that
4 way?

5 MR. POTTER: It's overhead door.

6 MR. MAY: Yeah. Yeah, I mean, not the
7 great -- I mean, you know, I'm into authenticity,
8 I guess. You know, things that are made of brick
9 should --

10 MR. POTTER: Sure.

11 MR. MAY: -- you know, look like they're
12 made of brick. And the arches, you know -- and
13 doors that, you know, go up like regular doors. I
14 mean, I don't know, do you sell a lot more
15 townhouses because you have fake carriage gate
16 doors on them? I mean, is it a big selling point?

17 MR. POTTER: Can probably find a panel
18 door without the --

19 MR. MAY: I just, you know --

20 MR. POTTER: Yeah.

21 MR. MAY: I think it just, you know, it
22 should be what it is. You know, I -- sorry.

23 The last question I have on the
24 architecture is the fences. I'm sorry, the rear
25 yards. And I'm wondering, you know, will the

1 owners have the ability to put fences up back
2 there? Because I think I saw views that didn't
3 have them. I mean, are you going to be able to --
4 is everyone going to be able to fence their rear
5 yard?

6 MR. DAPOGNY: Commissioner, my name is
7 John Dapogny. I'm with Comstock. 7703 Virginia
8 Lane, Falls Church, Virginia.

9 The rear yards would not have fences.

10 MR. MAY: And that will be a condition of
11 ownership that they will not be allowed to have
12 rear fences?

13 MR. DAPOGNY: That's correct.

14 MR. MAY: Not even a low fence that
15 separates them, one yard from another, even if
16 it's not a visual divider? I mean, a full seven
17 foot or six foot fence?

18 MR. DAPOGNY: A great deal of the rear
19 yard is taken up with the driveway.

20 MR. MAY: Right.

21 MR. DAPOGNY: So I don't think there is
22 any usable rear yard to be fenced. So we had no -
23 - so, no. The project we're building at the
24 Hampshires --

25 MR. MAY: Yeah.

1 MR. DAPOGNY: -- two miles from here,
2 there are no rear fences. So we're 85 percent
3 through that project.

4 MR. MAY: Uh-huh.

5 MR. DAPOGNY: And there are no rear
6 fences in our townhomes.

7 MR. MAY: Uh-huh. Okay. I mean, I guess
8 they do look fairly shallow with the way the
9 garage sort of pops out. But you have a full car
10 length there, right? You've got 18, 19 feet,
11 right?

12 MR. DAPOGNY: Yes, sir.

13 MR. MAY: I don't know. I mean, I think
14 there's some value of having enclosed space.
15 Particularly you have children. Yeah, it makes it
16 a little harder to get into the garage, but I
17 don't know, people do it in my neighborhood all
18 the time.

19 Anyway, it just -- that was mostly a
20 curiosity. I think it's just, it's a little odd.

21 Let's talk about the trail for a second,
22 to the woods. So, I think there is a legitimate
23 question about safety for people passing through
24 there. I mean, can you speak to that a little bit
25 about why you think that this is going to -- why

1 you think that once that's built that it's not
2 going to create an attractive hazard for people
3 walking through there trying to get to the Metro?

4 MR. DAPOGNY: The trail is approximately
5 200 feet. It's only 200 feet from --

6 MR. MAY: Right.

7 MR. DAPOGNY: -- our community to Emerson
8 Park. It's going to be well lit, so -- and you've
9 got residences on either side. So I don't think
10 it's going to be a place for people to --

11 MR. MAY: There's residences on --
12 there's one residence on one side and it looks
13 like it's about 100 feet away. Or maybe it's 60
14 feet away.

15 MR. DAPOGNY: You're talking about the
16 bike ped connection?

17 MR. MAY: Yeah. Yeah.

18 MR. DAPOGNY: Right?

19 MR. MAY: I mean, you say there are
20 residences on either side.

21 MR. DAPOGNY: [Indiscernible.]**38:12

22 MR. MAY: Oh, oh, okay. All right.

23 MR. DAPOGNY: Or that one.

24 MR. MAY: So, I mean, there are not
25 residences on either side, right? Or am I looking

1 at the wrong thing?

2 MR. DAPOGNY: Oh, I'm sorry. I meant the
3 top and bottom.

4 MR. MAY: Oh, got it. At each end.

5 MR. DAPOGNY: Sorry about that.

6 MR. MAY: That's all right.

7 MR. DAPOGNY: Right.

8 MR. MAY: So, and it's right now is there
9 a mature forest there --

10 MR. DAPOGNY: Yes, sir.

11 MR. MAY: -- and slope? Okay. And I
12 mean, I think one of the issues is the visibility
13 through the site and whether you can see from one
14 end to the other and know that you're not going to
15 get to a, you know, a bend halfway through and
16 find somebody lurking there. So I think maybe we
17 need to understand that a little bit.

18 I'm not sure exactly how you can get to
19 that, whether there's some sort of a visual
20 simulation that could be done or something that --
21 being able to see it. I just feel like you know,
22 knowing that it's there and that it's lit, I mean,
23 how wide is this swath, the clear swath between
24 the trees?

25 MR. DAPOGNY: Twenty-four feet.

1 MR. MAY: Twenty-four feet. Okay. And
2 the trail itself is 12 feet?

3 MR. DAPOGNY: It's in some cases, there
4 is some existing asphalt.

5 MR. MAY: Yeah.

6 MR. DAPOGNY: And so in part of that we
7 are going to go ahead and leave the full 24
8 because --

9 MR. MAY: Oh.

10 MR. DAPOGNY: -- if we did the 10 foot
11 trail with three foot shoulders, and then a
12 separate for bikes, and then a separate walking
13 path, you're almost there anyway. So there is
14 some existing asphalt.

15 MR. MAY: So it's a 24 foot wide --

16 MR. DAPOGNY: Yes, sir.

17 MR. MAY: -- paved surface?

18 MR. DAPOGNY: Yes, sir.

19 MR. MAY: Oh, I misunderstood that. I
20 thought it was -- it looks narrower than that but
21 that's just my guess. My --

22 MR. DAPOGNY: At either end it -- next
23 down.

24 MR. MAY: Yeah.

25 MR. DAPOGNY: Top and bottom.

1 MR. MAY: Okay. All right. So seeing
2 some sort of simulations of that would be helpful.

3 MR. DAPOGNY: Okay.

4 MR. MAY: You know, there are other
5 things I could say about the buildings but I think
6 I'm going to -- I'll just stop. Thank you.

7 CHAIRPERSON HOOD: Okay. Thank you. Any
8 other questions? Commissioner Miller.

9 MR. MILLER: Okay. Thank you, Mr.
10 Chairman. Yeah, just following up on the -- well,
11 there are a lot of good aspects of this project in
12 the turning this long vacant concrete slab into
13 housing and affordable housing I think is a
14 benefit to the community. And putting eyes on the
15 street, or eyes on the neighborhood, I think will
16 help improve public safety.

17 But on the pedestrian bike trail I agree
18 with Commissioner May that we need some visual
19 rendering, illustrative rendering of that to see.
20 I know you're going to have to design it to DDOT
21 standards, but if we can just get some kind of
22 illustrative rendering that shows the kind of
23 trail you're talking about, the kind of lighting
24 and how much lighting, and how much that they're
25 going to be -- I think I saw some reference to

1 bollards. If there's going to be any -- are there
2 going to be any security cameras anywhere on this
3 development, including the pedestrian biker trail?

4 MR. DAPOGNY: No cameras are
5 contemplated, no.

6 MR. MILLER: I think that might be
7 helpful. Or worth looking at. I think I saw a
8 reference. I know you've had meetings with
9 Metropolitan Police Department, or tried to, and
10 they haven't issued a formal report but I think in
11 other cases they have encouraged security cameras
12 as both a deterrent and a way of having other eyes
13 on the street and the neighborhood.

14 I saw a reference in Office of Planning's
15 report that there's going to be a memorandum of
16 understanding with the Emerson Park Home Owner's
17 Association regarding collaboration and input on
18 installation by the applicant of plantings on the
19 slope areas to discourage trespassers, removal and
20 replacement of six dead or distressed trees on the
21 slope between the existing and proposed townhomes,
22 grant a parking shared use and maintenance
23 easement on the northern most portion of the
24 property, installation of landscaping -- here's
25 the reference to them. And multiple bollards at

1 bicycle pedestrian connection and at Emerson Park
2 and maintenance of Emerson Park storm water
3 facilities for -- is there a memorandum of
4 understanding currently, or is that just still in
5 the -- or is there a draft of it, or is this just
6 in the conceptual stage?

7 MR. DAPOGNY: It has not been drafted
8 yet. We've just discussed it and made those, you
9 know.

10 MR. MILLER: And there's reference in
11 the, I think in the applicant's statement, I think
12 in the ANC letter, and in the Office of Planning,
13 that there is a -- that you've offered to conduct
14 preconstruction and post construction surveys of
15 neighboring homes and have some kind of a
16 vibration monitoring program with summary reports
17 to be provided to the SMD Commissioner and copies
18 of pre and post construction inspections be
19 provided to any neighboring home owner who was
20 concerned to alleviate neighborhood concerns.

21 This isn't something that we normally --
22 it isn't a zoning enforcement issue, but we
23 typically do see sometimes construction management
24 agreements that have been worked out between the
25 applicant and either neighbors who are concerned

1 or the SMD Commissioner. Is there a draft of that
2 construction management agreement, which we
3 sometimes do reference in the order even though it
4 isn't enforceable by the Zoning Administrator?

5 MR. DAPOGNY: No, sir.

6 MR. MILLER: But do you plan to have any
7 construction management agreement with the SMD
8 Commissioner? I can ask her.

9 MR. DAPOGNY: I've never heard of one.
10 Sorry. We've done some of the vibration
11 monitoring for -- because some neighbors had
12 concern at New Hampshire Avenue, so at one of our
13 community meetings people raised concerns.
14 Especially on 6th Street because they had
15 experienced vibrations when the Capitol Area Food
16 Bank was built. So we want to alleviate their
17 concerns and do vibration monitoring and work with
18 people on that.

19 MR. MILLER: Well, I appreciate the
20 commitment to do that, but I would refer you to
21 numerous zoning cases where there are exhibits in
22 the record which have construction management
23 agreements to try to get at neighbor's concerns
24 about possible impacts.

25 CHAIRPERSON HOOD: Commissioner Miller,

1 can I interrupt? I want to strongly encourage
2 you.

3 MR. DAPOGNY: Yes, sir, well --

4 CHAIRPERSON HOOD: He's encouraging you,
5 but I want to strongly encourage you.

6 MR. DAPOGNY: We'll address that,
7 certainly.

8 CHAIRPERSON HOOD: All right?

9 MR. MILLER: Thank you, Mr. Chairman. I
10 think that's the points I wanted to touch on at
11 this point. I'll have further questions as we go
12 along.

13 CHAIRPERSON HOOD: Thank you,
14 Commissioner Miller. Commissioner Turnbull.

15 MR. TURNBULL: Yeah. Thank you, Mr.
16 Chair. Yeah, I would just also echo the concerns
17 of Commissioner Miller and the chair. And we have
18 referenced in many PUDs, a memorandum of
19 understanding so I think there's some rather set
20 language and I think just for the benefits of the
21 community and yourselves, you need to define what
22 that is. I mean, in your Exhibit No. 24F, you do
23 talk about 10 preconstruction and post-
24 construction surveys. So I think that needs to be
25 clarified a little bit more, what that really

1 means. But I would echo my concerns also.

2 I guess the only other thing I want to
3 touch on, or one of the things I want to touch on
4 is the IZ units. I don't know, I just want to --
5 and first it talks about four IZ units, they're
6 going to be -- there was actually five. Two at 50
7 percent AMI and three at 80 percent, my
8 understanding.

9 MR. HUGHES: There are four IZ units but
10 they all have the same controls in terms of in
11 perpetuity and the income limits and so forth.

12 MR. TURNBULL: Okay.

13 MR. HUGHES: The fifth is not technically
14 -- we don't believe it's technically an IZ unit
15 but it would be a separate affordable housing unit
16 that would be subject to the same restrictions.

17 MR. TURNBULL: Okay.

18 MR. HUGHES: Does that make sense?

19 MR. TURNBULL: I'm just -- well, why
20 wouldn't it be considered?

21 MR. HUGHES: We're not -- my
22 understanding from speaking with the Office of
23 Attorney General is that if the unit is not
24 required then it cannot be an IZ unit.

25 MR. TURNBULL: Oh, I see.

1 MR. HUGHES: It has to be separately
2 restricted.

3 MR. TURNBULL: So it's a bonus that
4 you're proffering then?

5 MR. HUGHES: Correct.

6 MR. TURNBULL: Okay.

7 MR. HUGHES: And it is at 80 percent and
8 it would be subject to the same constraints.

9 MR. TURNBULL: I'm not going to get into
10 all the architecture issues. I think Commissioner
11 May touched on a majority of those. My one
12 concern, I guess architecturally is on -- there
13 are lights over the entrances to all of the units.
14 Well, some are at the sides, some are over top of
15 the doorway. They vary up and down considering.
16 I mean, considering the type of elevation and the
17 room you have, but they all have a front light.

18 There is also lights in your perspective,
19 your rendering down the parkway, the front doors,
20 but are these just spread out periodically? Is
21 there a -- I don't see a lighting plan per se.

22 MR. POTTER: We don't have a lighting
23 plan currently, but yes, there would be one light
24 for every front door.

25 MR. TURNBULL: Could you provide that

1 next for --

2 MR. POTTER: Sure.

3 MR. TURNBULL: Before we go.

4 MR. POTTER: Yes.

5 MR. TURNBULL: Okay. And I guess the
6 other thing is that on the rear elevations the
7 entrances, the back entrances, are sort of in a
8 recess. They're between the garages. And then
9 there's like an opening and then the doorway is
10 set back a bit.

11 MR. POTTER: Yes. So that would be a
12 recessed light within that opening.

13 MR. TURNBULL: So there are lights within
14 that also, because I just looked at -- this could
15 be a very dark area back there. I know you have
16 lights on top on the decks over top of them, but I
17 was just concerned that the lighting -- I mean,
18 there's no lighting. I don't see any lighting
19 down that alley or street, whatever you want to
20 call it. Right?

21 MR. POTTER: Not currently.

22 MR. HUGHES: Commissioner Turnbull, if I
23 could refer you to our original package of
24 drawings on March 3rd of 2015, where we have our
25 civil drawings?

1 MR. TURNBULL: Which sheet?

2 MR. HUGHES: It's Sheet C04, that's our
3 site and lighting plan. I'm not sure if this has
4 been substituted or if this is still accurate, but
5 this shows, not the individual house lights, but
6 other lights proposed for the property.

7 MR. TURNBULL: Okay. I don't have that
8 in front of me. I'll have to take a look. You
9 said C04.

10 MR. HUGHES: It's at Exhibit 6A.

11 [Pause.]

12 MR. TURNBULL: I can't pull it up on our
13 tabs. Oh, okay.

14 MR. HUGHES: We can certainly supplement
15 that, I just didn't know if that addressed the
16 questions that you were asking.

17 MR. TURNBULL: Oh, so you do have some
18 lightings in the access drive, the private access
19 drive, along there. I do see some.

20 Okay. Can we talk about the playground?
21 I really didn't -- are there drawings on the
22 playground?

23 MR. DAPOGNY: Commissioner, your question
24 about the lighting --

25 MR. TURNBULL: Yeah.

1 MR. DAPOGNY: -- if you also look at the
2 rear perspective, which is Sheet A3 on the May
3 6th, of May. That would not be in the book. That
4 would not be in the book that I just handed you,
5 unfortunately. That's our original filing and we
6 revised the architecture in May.

7 MR. TURNBULL: What drawing is that?

8 MR. DAPOGNY: A3.

9 MR. TURNBULL: Okay. All right.

10 MR. POTTER: If you look on the left-hand
11 side.

12 MR. TURNBULL: I do see it. I do see it.
13 Okay.

14 The downspouts on these units, do they go
15 into an underground system or they just pour out
16 on the ground?

17 MR. DAPOGNY: They just pour out on the
18 ground.

19 MR. TURNBULL: So they're coming down
20 into that little narrow four to five foot -- or
21 with that opening? Are they? I'm just concerned
22 that this seems like it's a lot of water coming
23 down into small little areas.

24 MR. DAPOGNY: We're happy to look at that
25 closer. Obviously what we want to avoid is ice

1 buildup and things like that --

2 MR. TURNBULL: Right.

3 MR. DAPOGNY: -- on sidewalks, right.

4 MR. TURNBULL: Well, that was my concern.
5 I just see a lot of --

6 MR. DAPOGNY: Very unique.

7 MR. TURNBULL: I don't see a real plan
8 for getting -- accommodating the water that's
9 running off these homes without going on to the
10 sidewalks and everything else. So it's just -- I
11 think you need to consider the rainwater drainage
12 on this project and where it's all going.

13 MR. DAPOGNY: Yes, sir.

14 MR. TURNBULL: Trash, I'm assuming trash
15 then is all picked up on these private access
16 roads?

17 MR. DAPOGNY: Yes, sir.

18 MR. TURNBULL: So trash, garbage cans,
19 trash units are just outside on the alley or the
20 inside -- are they going to be inside the garage,
21 or is there any regulations? Or how does this --
22 just going to be lining on the streets? I mean,
23 I'm just wondering for the overall control of the
24 area.

25 MR. DAPOGNY: I don't really understand

1 where they'll be. I don't know.

2 MR. TURNBULL: All right. If you could
3 think about that, then.

4 MR. DAPOGNY: Yes, sir.

5 MR. POTTER: Commissioner, if you do look
6 at the garage plan there is some space between
7 that rear vestibule and the mechanical room for
8 storage or [indiscernible]54:46 trash.

9 MR. TURNBULL: So you would stick a can
10 back there and pull it out? Okay. Getting back
11 to the park, then. Was there a -- I don't recall
12 seeing a plan for the park, but maybe I missed it.
13 I see a little pocket park playground.

14 MR. DAPOGNY: The initial filing. Let me
15 find that page for you. The March filing, if you
16 go to Sheet L05, under landscape details.

17 MR. TURNBULL: All right. It just
18 doesn't show me what the overall park really looks
19 like. It just shows me that there's a playground
20 structure that you're going to put in there. And
21 it looks like on one lighting plan I saw there's
22 at least one light. But I wouldn't mind seeing a
23 better blowup of that park to know what that looks
24 like. There's seating around there. It's hard to
25 tell exactly what's -- say if neighbors are taking

1 their kids there, is there a place to sit or --

2 MR. DAPOGNY: Yeah, I believe on the
3 landscape plan.

4 MR. TURNBULL: I see L04, but I --
5 [Pause.]

6 MR. TURNBULL: On L04?

7 MR. DAPOGNY: Yeah, on L04, if you look
8 to the left end of that page.

9 MR. TURNBULL: Yeah, I see it.

10 MR. DAPOGNY: There's an arrow leading up
11 to that and it says playground area, play
12 structure.

13 MR. TURNBULL: If you could do a little
14 bit bigger plan of that; a little bit more --

15 MR. DAPOGNY: okay.

16 MR. TURNBULL: -- a defined thing rather
17 than just a very schematic look, I'd like to see
18 really what that looks like.

19 And I think, Mr. Chair, I think that will
20 be it for now.

21 CHAIRPERSON HOOD: Okay. Thank you, Mr.
22 Turnbull.

23 I want to thank the applicant for
24 addressing my issue with Exhibit 24D from the fire
25 department. I know for me it's kind of tight back

1 up in there, and to make sure that the emergency
2 apparatus can get back up in there I think is a
3 major concern.

4 Let me also ask, have you met with DDOE
5 recently? Have you seen their letter?

6 MR. HUGHES: We've seen their letter.
7 I've spoken with, I believe, Mr. Jay Wilson over
8 the phone, but we have not met in person.

9 CHAIRPERSON HOOD: Okay. Before final
10 action we're starting to have applicants and
11 developers meet with the DDOE before final. I'd
12 like to do it sooner, but it's starting off new.
13 One case we just heard, I think was it the one we
14 did today? I think it worked out real well. So
15 before final, I know they make some suggestions in
16 their letter. Hopefully you all --

17 MR. HUGHES: We have looked into the
18 suggestions. We've not met, but if that's what
19 the Commission wants us to do we will.

20 CHAIRPERSON HOOD: I want you all to do
21 that before final if this is approved tonight, or
22 whenever it's approved. If it's approved. But I
23 do want you all to meet and that would be one of
24 the considerations.

25 Let's talk, Mr. VanPelt, let's talk about

1 circulation. Again, you heard me say it's kind of
2 tight back up in there. So if you could put up --
3 I didn't see a rendering that really satisfies me,
4 but if you can put up something close and kind of
5 take me around the site, do you have a pointer?

6 MR. VANPELT: I do.

7 CHAIRPERSON HOOD: Okay. Let's go around
8 the site. Kind of take me around to how all
9 that's going to work. Let's do pedestrian and
10 then let's do a vehicle. There was one in your
11 report.

12 MR. VANPELT: Do you want to focus on the
13 site or do you want to start out and come in, or -
14 -

15 CHAIRPERSON HOOD: I want the whole site.
16 I want you to give me the whole tour.

17 MR. VANPELT: Okay. Do you want to start
18 with the neighborhood, or do you want to just
19 focus right on the site?

20 CHAIRPERSON HOOD: No, not that much of
21 the site, no.

22 MR. VANPELT: Okay. Because we could do
23 it either way.

24 CHAIRPERSON HOOD: No, I don't want the
25 whole city.

1 MR. VANPELT: Why don't we just do the
2 site, then?

3 CHAIRPERSON HOOD: You had something in
4 your presentation I thought was sufficient. I
5 don't know if it's large enough for everyone to
6 see it.

7 MR. VANPELT: I think we have -- do we
8 have a clean site plan? I could just use that.

9 CHAIRPERSON HOOD: It had like, I guess
10 yellow arrows on it showing egress, ingress and
11 egress.

12 MR. VANPELT: Oh, that's the aerial.

13 CHAIRPERSON HOOD: Is that it? Okay.

14 MR. VANPELT: Put that back.

15 CHAIRPERSON HOOD: Maybe that --

16 MR. VANPELT: Just put slide 5.

17 CHAIRPERSON HOOD: But I'll let you pick
18 the one because I want you to take me around.

19 MR. VANPELT: Why don't we use the site
20 plan, then if you want to just kind of talk about
21 the site in general?

22 CHAIRPERSON HOOD: Okay. I want you to
23 take me around.

24 MR. VANPELT: Okay.

25 CHAIRPERSON HOOD: With your pointer.

1 Let's do pedestrian first.

2 MR. VANPELT: Okay. Pedestrian first.

3 So we have the proposed pedestrian bike connection
4 here, which will add the connectivity up that
5 currently isn't there today to get you up to
6 Emerson Park, and you'll be able to continue up
7 through Emerson Park, get to 6th Place and
8 continue north up to the Metro Station.

9 And then within the site itself you can
10 see where there's sidewalks. It gets a little
11 harder to see on this image, but you can see that
12 there's sidewalks internal to the site to allow
13 that pedestrian circulation through the site
14 itself.

15 And then there will be sidewalk
16 connecting, continuing to the south, and you go
17 down into 6th Street, down to connecting to the
18 neighborhood to the south. I think that largely
19 covers --

20 CHAIRPERSON HOOD: Okay.

21 MR. VANPELT: -- pedestrian circulation.

22 CHAIRPERSON HOOD: That's good. Let's do
23 some vehicles. Vehicle.

24 MR. VANPELT: Yeah. And yeah, there's --
25 and Kevin was just saying, there's no connection

1 on the north or the east side of the site, really
2 because of the topography, so there's really no
3 real good opportunity for that connection to
4 happen.

5 As far as vehicular, so all traffic will
6 come in and out from the south, and then there's
7 two driveways, and there's really a horseshoe if
8 you will, that goes around the site and comes back
9 out to 6th Street. When this piece of 6th Street
10 will actually be -- is a private street, the
11 public right of way ends down at this location
12 here. But all of the garage homes have -- or the
13 townhomes have garages that access off of the
14 internal driveway. And so you'll access each one
15 of those units from that internal private drive.

16 CHAIRPERSON HOOD: That's two ways,
17 right? That's two-way, right?

18 MR. VANPELT: Two-way circulation,
19 correct.

20 CHAIRPERSON HOOD: Okay. What is the
21 width of that? Do we know right off?

22 MR. HUGHES: Twenty feet. Of the access
23 road?

24 CHAIRPERSON HOOD: Yeah.

25 MR. HUGHES: It's --

1 MR. VANPELT: It's 24.

2 CHAIRPERSON HOOD: Twenty-four. Okay.

3 All right. That's better than 20. Okay.

4 Let's talk about the amenities package.

5 Mr. Hughes, I know you said there were some late
6 developments. I looked at your July submission.

7 MR. HUGHES: Yes, sir.

8 CHAIRPERSON HOOD: And I saw something
9 dealing with Bertie Backus, and for me that's a
10 Capitol improvement. Who made those suggestions?

11 MR. HUGHES: We heard those suggestions
12 from the ANC. Ms. Alston. We had worked with the
13 SMD representative, Commissioner Alston for quite
14 a while, looking at a number of ideas and I
15 believe she -- and I know she's in the audience so
16 she can speak for herself.

17 CHAIRPERSON HOOD: Right.

18 MR. HUGHES: But you've asked me. So
19 that was outreach.

20 CHAIRPERSON HOOD: The reason why I've
21 asked you, I've seen a lot of other cases where as
22 Ms. Alston and them don't, and I know some of the
23 things that come to us as opposed to things that
24 could be utilized in other ways, and that's just
25 my concern. I know that this community is

1 probably not down here like other communities are
2 every week. But I was just looking at the
3 amenities package, and one thing I look at, I look
4 for things to happen in every neighborhood of the
5 city, pretty much the same way.

6 MR. HUGHES: Well, Commissioner, we
7 looked at a number and I know she looked and
8 inquired with the neighbors that she represents
9 for ideas. And one idea that we kept hearing was
10 a community gathering, a place for the neighbors
11 to meet and have a space and there's really
12 nothing like that in the immediate vicinity. And
13 so what I personally thought was really strong
14 about the Bertie Backus, and I don't have the
15 history of the UDC's ownership and so forth, but
16 was that the funds go to actually further
17 renovating the space that the ANC and the
18 community get to utilize. And that's why I said
19 it was sort of a two-for because that money was
20 getting two very good results.

21 CHAIRPERSON HOOD: How is that money
22 going to be administered? Who is going to get it?

23 MR. HUGHES: The UDC will get the money.
24 And Ms. Alston should probably respond to the
25 question regarding the documentation, but I

1 believe that she has discussed that with the,
2 perhaps the administrator. Is it Mr. Thompson?
3 Thompson, I believe.

4 CHAIRPERSON HOOD: Okay. Okay. I've
5 seen enough. When it gets into the general fund,
6 goes other places. I understand it all.

7 MR. HUGHES: Not to the general fund.

8 CHAIRPERSON HOOD: No, I'm just saying,
9 I'm using that as an example. It gets lost.

10 So I just, I've been here long enough to
11 know what goes on and I want to make sure that
12 this community gets exactly what others get.
13 That's just kind of where I am. And I know by you
14 being down here, and I'm not picking on you. I'm
15 just saying, I thought I would see some different
16 things, but if that's what's worked out, I'm not
17 going to do it.

18 Let me ask this about the \$5,000 to North
19 Michigan Park Civic Association. And is that
20 5,000 for five years?

21 MR. HUGHES: No, I think that's a one-
22 time -- that's a one-time contribution.

23 CHAIRPERSON HOOD: Because the way it's
24 written, and not knowing anything about it, the
25 way it's written it's 5,000 for five years.

1 MR. HUGHES: In the ANC letter?

2 CHAIRPERSON HOOD: Yeah. The way they
3 wrote it. So that's --

4 MR. HUGHES: It is -- I could --

5 CHAIRPERSON HOOD: -- 25,000.

6 MR. HUGHES: We could clarify, but it's
7 intended to be --

8 CHAIRPERSON HOOD: All right.

9 MR. HUGHES: -- 35,000 for the Backus
10 School.

11 CHAIRPERSON HOOD: Okay.

12 MR. HUGHES: Five thousand for the North
13 Michigan Park, and then the remaining 12,500 would
14 go to an organization that's still to be created,
15 the Friends of Totten Muse.

16 CHAIRPERSON HOOD: Okay. So we need to
17 make sure before final action -- let's clarify,
18 Ms. Schellin. I know we don't call it the Baffle
19 Order no more. I can't think of whatever that is
20 that we do, we need to make sure that that's
21 solidified.

22 MR. HUGHES: Absolutely. Sure.

23 CHAIRPERSON HOOD: Nailed down so there's
24 no questions asked.

25 MR. HUGHES: Certainly.

1 CHAIRPERSON HOOD: Okay? And the
2 construction management plan, I think my
3 colleagues have already listed. Let's make sure
4 we get one of those in order and you all can work
5 with the community on that. I think that's
6 important.

7 The trash issue which was mentioned by, I
8 think Mr. Turnbull, let's nail all that down
9 before final action. There are a lot of missing
10 things. We just need to make sure we nail them
11 down so everybody is clear as we move forward.

12 And I would agree with Mr. Turnbull about
13 the playground. We see better drawings for
14 playgrounds and how that's going to fit into the
15 whole scheme of things. Okay.

16 MR. VANPELT: Chairman Hood.

17 CHAIRPERSON HOOD: Yes.

18 MR. VANPELT: I just wanted to correct
19 one of the things I said earlier in response to
20 your question about the width of the internal
21 roadway. It is actually 20 feet wide. It is not
22 24 feet wide.

23 CHAIRPERSON HOOD: Not 24. Okay.

24 MR. VANPELT: It does widen in the bends
25 and around, as you go around the horseshoe to

1 accommodate the firetruck maneuvering. But it is
2 a 20 foot wide roadway in the straight sections.

3 CHAIRPERSON HOOD: In your expert opinion
4 is that good for two-way traffic?

5 MR. VANPELT: Twenty feet is certainly
6 adequate. Most of our two-way alleys are designed
7 with 20 feet, and that's usually with buildings or
8 obstructions immediately on either side of it. So
9 this is a road but it's going to be curved on
10 either side, but it certainly will accommodate
11 two-way traffic.

12 CHAIRPERSON HOOD: Okay. If we can just
13 tighten up on a few of those things that were
14 mentioned by myself and my colleagues, that would
15 be great. Let's see, any other follow-ups?

16 Okay. This is time for cross-examination
17 from ANC 5-A. Ms. Alston, do you have any cross-
18 examination of what you've heard on any
19 presentation that you heard from the applicant?

20 Okay. No cross. Let's go to the -- oh,
21 where is the party? The party. There you go.
22 You on it. North Michigan Park Concerned
23 Citizens, if you could come forward, cross-
24 examination on what you've heard presented
25 tonight.

1 Turn your mic on, identify yourself.

2 MS. BELL: Belinda Bell. I'd like the
3 parties to pull up Exhibit 24B, which actually
4 shows that narrow opening for the bike path. It
5 was one of the -- it was something that you
6 submitted that showed a picture of the bike path
7 and the tree opening from one of those sides. It
8 was on line and I'm not sure which -- maybe I had
9 the wrong exhibit.

10 MR. DAPOGNY: Is it a rendering?

11 MS. BELL: Say again?

12 MR. DAPOGNY: Is it a rendering?

13 MS. BELL: Yes.

14 MR. DAPOGNY: Like an artist's rendering?

15 MS. BELL: Yes.

16 MR. DAPOGNY: From Emerson Park?

17 CHAIRPERSON HOOD: Just speak into the
18 mic --

19 MS. BELL: Yes.

20 CHAIRPERSON HOOD: -- so we can make sure
21 all this is on the record.

22 MR. DAPOGNY: Is that the one?

23 MS. BELL: Yes. Uh-huh. So they had
24 asked about the opening and the width. And so you
25 can see how narrow that is there. The trail,

1 where it leads into -- so I just -- I think one of
2 you had asked that and so I wanted you all to be
3 able to see what they were proposing.

4 MR. MAY: Thanks.

5 MS. BELL: Uh-huh.

6 MR. MAY: I appreciate that. I mean, I
7 am looking for more than this. I had seen this in
8 the review and it was actually part of the reason
9 for the concern, I think. I'm also not sure what
10 part of -- I mean, where this is -- oh, it's at
11 Emerson Park, so this is the uphill or the
12 northern side of it, I guess.

13 MS. BELL: The other question I have is
14 in terms of the number of studies. You said
15 something about 10; 10 vibration studies. And I
16 just wanted to know how he was going to pick those
17 10 in terms of the homeowners that might want to
18 have a study done. What was the determination for
19 limiting it to 10?

20 MR. DAPOGNY: What we were trying to do
21 was get a representative sample of people closest
22 to us. We have a couple of neighbors right next
23 to us on 6th Street, and then we have some people
24 on 6th Place. So providing to them, and then
25 maybe a couple other people who felt that they had

1 concerns about vibration.

2 CHAIRPERSON HOOD: Some of that will be
3 fine-tuned when we do the construction management
4 plan, is that what I'm hearing?

5 MR. DAPOGNY: Yes, sir. Yes, sir.

6 CHAIRPERSON HOOD: Okay.

7 MS. BELL: Right. I have a concern about
8 it having a cap on it. I live on 7th Street and I
9 can feel the vibration from the train. And so I
10 just think that there should be a -- I'm not
11 expecting to feel any vibration, but I just have a
12 concern about it being limited to only 10
13 homeowners. And then I have a follow-up question.

14 Once you do those preimposed inspections
15 will there be an escrow account set up so that
16 those homeowners can get the remedy to have their
17 homes repaired as a result of any damage from the
18 construction?

19 MR. DAPOGNY: No, escrow account is not
20 contemplated.

21 MS. BELL: So how do you plan to address
22 any damages that a homeowner may experience?

23 MR. DAPOGNY: We will address that in the
24 construction management plan as well.

25 MS. BELL: Okay. And could you tell me

1 more about this trespassing or no trespassing
2 through, a memorandum agreement that you were
3 talking -- that was mentioned? Some kind of
4 memorandum of agreement with Emerson Park. I
5 heard the word trespassing.

6 MR. DAPOGNY: I'm sorry. I didn't hear
7 the word trespassing.

8 MS. BELL: Oh, okay. Maybe I -- I'm
9 glad, then. I thought you said you were going to
10 work out some kind of agreement, a memorandum of
11 understanding with Emerson Park.

12 MR. DAPOGNY: Yes, ma'am.

13 MS. BELL: And what was that regarding?

14 MR. DAPOGNY: There is a number of issues
15 that they were concerned about and we have
16 addressed those in writing. What we were going to
17 do was clarify that more and have an agreement
18 signed by both parties.

19 MS. BELL: But I thought I heard the word
20 trespass.

21 MR. DAPOGNY: I don't remember hearing
22 that, sorry.

23 MR. MILLER: If I can interrupt, Mr.
24 Chairman?

25 MR. DAPOGNY: Oh, oh, okay. I'm sorry.

1 MR. MILLER: I read the OP, Office of
2 Planning report, that was summarizing this
3 proposed memorandum of understanding regarding
4 collaboration and input on installation by
5 applicant of plantings on slope areas to
6 discourage trespassers.

7 MS. BELL: Oh, to discourage. Okay.

8 MR. MILLER: That language was from the
9 Office of Planning report summarizing the proposed
10 MOA.

11 MR. DAPOGNY: Okay. Yeah, sorry, I had
12 forgotten that. That's at the top of a fence
13 behind the 7th Street duplexes. They had some
14 people cutting through there so they were just
15 asking for some plantings to be placed there to
16 keep people from cutting behind those 7th Street
17 duplexes.

18 MS. BELL: Okay.

19 [Pause.]

20 CHAIRPERSON HOOD: Typically, Ms. Bell,
21 you are the one for the party to ask the
22 questions.

23 MS. BELL: Oh, okay.

24 CHAIRPERSON HOOD: But since the young
25 lady walked all the way up there, if nobody minds

1 -- the applicant, do you mind? Okay. We're going
2 to ask the young lady ask a question but typically
3 the questions need to come from you.

4 MS. BELL: Okay.

5 CHAIRPERSON HOOD: So we won't get
6 everything all mixed up. But no, since you walked
7 all the way up here, go right ahead. Identify
8 yourself.

9 MS. MOORE: My name is Andrea Moore and I
10 live at 4813 6th Street, next to the new homes
11 coming out. I'm really concerned about safety and
12 open up the street for cars only. And my
13 questions for them, I just heard about the escrow
14 account. We went through this with the food bank,
15 no escrow account. My house is falling apart, and
16 they said they're not going to fix it. So I would
17 like to know at the end of your construction who
18 is going to take care of my repairs? And I would
19 like to have it in writing.

20 MR. HUGHES: The repairs related to the
21 food bank?

22 MS. MOORE: No, your construction.

23 MR. HUGHES: That is the intent of the
24 preconstruction and the post construction surveys,
25 to establish if there's any damage. And then in

1 terms of resolving it we will -- it's obvious that
2 we need to address this in a writing management
3 plan and we will include that.

4 MS. MOORE: Okay. I would like to have
5 it in writing. Thank you.

6 CHAIRPERSON HOOD: We're actually going
7 to get it in writing too, so to help you, we have
8 asked for that.

9 MS. MOORE: Thank you.

10 CHAIRPERSON HOOD: Okay? All right.
11 Anything else?

12 MS. MOORE: No.

13 CHAIRPERSON HOOD: Okay. Let's go to the
14 Office of Planning and to the District Department
15 of Transportation. Ms. Thomas and Mr. Westrom.

16 MS. THOMAS: Good evening, Mr. Chairman,
17 Members of the Commission. The Office of Planning
18 will stand on the record of our report. We are
19 satisfied that the applicant did address some of
20 our concerns regarding flexibility from some of
21 the zoning requirements. We were encouraged that
22 they worked with DDOT and the community to address
23 any of the concerns relating to the access trail
24 and we'd like to encourage them to continue
25 working with DDOT as you requested, and we'll be

1 happy to answer any questions. Thank you.

2 CHAIRPERSON HOOD: Thank you. Let's go
3 to Mr. Westrom.

4 MR. WESTROM: Thank you. Good evening,
5 Commissioners. Ryan Westrom of DDOT. And I would
6 concur. The applicant has worked closely with us
7 to ensure that the appropriate comprehensive
8 transportation review was completed, and
9 additionally worked with us to modify specific
10 site design elements on the site plan and we
11 worked with them to get an updated site plan as
12 part of the process, as was outlined by Mr.
13 VanPelt.

14 DDOT does not have an objection to the
15 proposed requested PUD considering the agreed upon
16 mitigations that we outlined in our report,
17 specifically the provision of at least a full
18 bicycle and pedestrian connection between the 6th
19 Street Northeast Street ends, meeting data design
20 standards for such a path connection. And to
21 upgrade at least six sidewalk ramps, four
22 crosswalks, and some missing sidewalk links along
23 the pedestrian path to the local Metro station.
24 Tentative locations for those improvements have
25 been agreed to and we anticipate finalizing those

1 as part of the permitting process. And I would be
2 happy to answer any questions about these
3 transportation elements.

4 CHAIRPERSON HOOD: Okay. Thank you,
5 both. Let's see if we have any questions of
6 either OP or DDOT. Anyone? Okay. Oh,
7 Commissioner Miller.

8 MR. MILLER: Yeah. I just wanted to ask
9 Mr. Westrom, so often in PUDs we see you
10 recommending as a mitigation, car sharing
11 membership for the new residents or car share
12 space being provided, and I saw some reference to
13 that by the applicant's material that I think they
14 may have offered that to the ANC at one point.
15 But you don't see that as a necessary -- because
16 of the traffic impact, or lack of traffic impact
17 in this case, or could you just address why it's
18 not here when it's in many other DDOT reports?

19 MR. WESTROM: Yeah, agreed. I think you
20 hit the nail on the head right there. This is a
21 project that as noted by Mr. VanPelt, has
22 extremely minimal vehicular traffic impacts. And
23 we felt that for a project of this size the
24 mitigations were commensurate, and our greatest
25 concern was this pedestrian connection and as was

1 outlined there are some gaps in inadequacies in
2 that pedestrian path, and so that's where we chose
3 to focus our efforts.

4 MR. MILLER: Thank you. And I do see you
5 do have the mitigation of upgrading the six
6 sidewalk ramps, four crosswalks, and missing
7 sidewalk links along the path to the Metro Station
8 per your standards.

9 CHAIRPERSON HOOD: Any other questions or
10 comments? Okay. Does the applicant have any
11 cross?

12 MR. HUGHES: No, sir.

13 CHAIRPERSON HOOD: Okay. Does the ANC
14 have any cross of either the Office of Planning or
15 DDOT?

16 UNIDENTIFIED SPEAKER: Okay.

17 CHAIRPERSON HOOD: Okay. Ms. Bell, do
18 you have any cross of either the Office of
19 Planning or DDOT?

20 MS. BELL: Yes. No, I don't. Not at
21 this time.

22 CHAIRPERSON HOOD: Okay. We also have
23 the other government agencies. Did I miss any?
24 We have one from the fire department which the
25 applicant did, and I appreciate that. Also,

1 District Department of the Environment, which
2 we're going to respond to, and I appreciate that.
3 Am I missing any? Okay. That's all we have.

4 Let's go to the report of ANC 5-A. Ms.
5 Alston and I guess Ms. Lewis, or are you all
6 together, or are you by yourself? Okay.

7 Let me just ask, how many people are here
8 in support of this application? If you'd just
9 raise your hand. Okay. Thank you. How many
10 people are here in opposition of this application,
11 just raise your hand. Okay. Thank you.

12 If you identify yourself you may begin.

13 MS. ALSTON: Yes, sir. Angel Alston, ANC
14 representative for single member District 5A-08,
15 as well as the Vice Chair, residing at 4720 7th
16 Street Northeast. Yes.

17 CHAIRPERSON HOOD: Is it lit?

18 MS. ALSTON: Angel Alston, ANC
19 Commissioner for single member District 5A-08, as
20 well as the Vice Chair for 5A, residing at 4720
21 7th Street Northeast.

22 CHAIRPERSON HOOD: Okay. Thank you. You
23 may begin.

24 MS. ALSTON: Okay. Good evening,
25 Chairman Hood and Members of the Commission. My

1 name is Angel Alston and I'm here this evening on
2 behalf of ANC 5-A to testify and express our
3 support for PUD Application No. 15-04, also known
4 as the Totten Muse.

5 The development team has worked
6 diligently with ANC 5-A for the past several
7 months on this project and we are excited to see
8 this project move forward. This project will be
9 the final phase of an abandoned and isolated
10 Thomas Summerville site, and we think it would be
11 the link that reconnects our community, the
12 passion and sacrifice of our neighborhoods has
13 made for intriguing planning process. But it has
14 already started our neighbors working together for
15 a common goal of our community.

16 Comstock introduced their proposed
17 townhome development at a single member district
18 meeting in November of 2014. That was followed by
19 a presentation to the full ANC in March, multiple
20 single member district meetings in July, and
21 culminating in ANC 5A special meeting and vote on
22 July 27th at its duly noted special meeting.

23 The ANC also considered and voted
24 unanimously to support the Comstock PUD
25 application and also voted to finalize the

1 amenities package which is detailed in the letter
2 that the ANC submitted for the record.

3 While the Commission heard unanimous
4 support for the project as a whole, we recognize
5 the difference of opinion exists regarding one
6 aspect of the project, which is namely the bike
7 and walking path proposed to connect the site to
8 the north. We heard strong positions both in
9 support and in opposition to the opening of the
10 path which was for vehicular traffic. That's what
11 the opposition was about.

12 The bottom portion was totally against
13 opening the path at all and wanted to keep it
14 closed the way it was. And the top portion of the
15 community wanted it open, and so the compromise,
16 what the development thought was to open it to
17 pedestrian and bicycle traffic.

18 So we recognize the current connection,
19 which represents the compromise in the form that
20 would allow residents to be able to walk and use a
21 bike to connect from the Metro station. We also
22 note the concerns from the residents that live
23 closer to the Thomas Summerville site regarding
24 the vibration and damages, so we did get them and
25 we would like your support and to get that in

1 writing, the agreement. Just so that the
2 neighbors who are mostly elderly will have
3 something substantial to hold on to.

4 In conclusion this project has the
5 support of ANC 5-A, and I feel comfortable in
6 bringing the recommendation before the entire
7 Commission. We urge you to vote favorably on the
8 application of the Zoning Commission Case No. 15-
9 04, to help get the project off the ground.

10 Moreover, it's time to remove the old
11 shed and turn the nuisance lot into a vibrant
12 townhome development, one in which will provide
13 attractive homes, also affordable housing units, a
14 playground, and green space that complements our
15 current community.

16 In addition to housing, our community
17 will continue to benefit from the project by
18 needed renovations at our local community college,
19 block grants and scholarships through a meaningful
20 community benefit packet. I would request the
21 recommendations of ANC 5-A in this case be granted
22 the great weight to which it is entitled.

23 Thank you for listening and giving me the
24 opportunity to speak.

25 CHAIRPERSON HOOD: Okay. Thank you,

1 Commissioner Alston. We appreciate your
2 testimony. Let's see if there are any questions
3 up here. Any questions? Commissioner Miller?

4 MR. MILLER: Thank you, Commissioner, for
5 your testimony and for all your work on this
6 project and in the community.

7 Regarding the \$12,500, I think, that
8 would go to this Friends of Fort Totten Muse
9 organization to be established.

10 MS. ALSTON: Yes.

11 MR. MILLER: That would issue block
12 grants in the future for educational projects,
13 community athletic committees, training, community
14 clean-ups, beautifications, and events I think you
15 might want to give some thought between -- before
16 final to try to actually nail those projects down.
17 I appreciate that you might want the flexibility
18 to do that in the future, but I think our Office
19 of Attorney General is going to require that there
20 be some specific -- just from my own limited
21 experience based on -- compared to my colleagues,
22 that they really want to see the specific projects
23 that are identified and not to create necessarily
24 a fund. So I just would encourage you, maybe
25 before final, to try to get this group together

1 and get the specific projects that would total up
2 to 12,500 that are in those categories. That's
3 just my own personal thought. I don't know where
4 my colleagues are, but --

5 MS. ALSTON: Okay. You want me to tell
6 you how we got this?

7 MR. MILLER: Sure.

8 MS. ALSTON: Okay. So there are a lot of
9 -- there's a lot of -- there were a lot of
10 different requests in our neighborhood. The
11 biggest one was for like a community clubhouse
12 almost. We don't have anywhere to put it. And
13 then it becomes the issue of lay acquisition and
14 who will run the waters, who will run the pipes,
15 and things of that sort.

16 And so there was also a request for
17 funding for different blocks within the community.
18 So when we say block grants we mean blocks within
19 the community. Like 6th Street, if they wanted to
20 apply for a grant to do the tree boxes in their
21 neighborhood, or if 7th Street wanted \$500 to go
22 towards their block party, or if -- things of
23 that. So just that would benefit the community as
24 a whole, and the blocks in each area would be able
25 to apply for it. That's how we got there.

1 If you want them to curtail the mission
2 to be very specific, I'll make sure that they do
3 that. And then the body was to be comprised of a
4 member from each block, which we have identified,
5 all except one. The members who would be
6 representative from those blocks, and they've
7 actually been sitting in on the discussion of the
8 community benefits package.

9 MR. MILLER: Okay. Well, thank you --

10 MS. ALSTON: Okay.

11 MR. MILLER: -- for that explanation. I
12 think to the extent you can provide more
13 specificity --

14 MS. ALSTON: That's fine.

15 MR. MILLER: -- before final, I think
16 that would be in your own interest.

17 MS. ALSTON: Thank you.

18 CHAIRPERSON HOOD: I just want to echo
19 that. I think it's very important to that you do
20 that. I realize that from what I'm hearing,
21 you've come a long way and we appreciate that
22 effort. But we've been here and we've seen the
23 confusion --

24 MS. ALSTON: Yes, sir.

25 CHAIRPERSON HOOD: -- in other

1 neighborhoods later on. Okay, if something goes
2 wrong or something doesn't go right, then we're
3 down here dealing with a whole big issue. So
4 North Michigan Park is one of the best
5 neighborhoods in the city. I shouldn't say that.
6 But seriously, we do need to nail that down so we
7 won't have no confusion that usually happens in
8 those incidents. And I'm sure you all can get it
9 done.

10 MS. ALSTON: Yes, sir. You made mention
11 to the UDC prior. Would you like me to comment on
12 that now, or it's unnecessary?

13 CHAIRPERSON HOOD: I don't want --

14 MS. ALSTON: Okay.

15 CHAIRPERSON HOOD: -- to do what -- the
16 hard work, from what I'm hearing, has been done.
17 I don't want to undo it.

18 MS. ALSTON: Okay.

19 CHAIRPERSON HOOD: I just put that out
20 there to the applicant. Okay.

21 MS. ALSTON: Okay.

22 CHAIRPERSON HOOD: All right. Anything
23 else? But I would agree with Commissioner Miller.
24 We need to nail that down.

25 MS. ALSTON: Okay.

1 CHAIRPERSON HOOD: So the best you all
2 can do, let's nail it down.

3 MS. ALSTON: And in the letter from the
4 ANC --

5 CHAIRPERSON HOOD: The \$5,000?

6 MS. ALSTON: No, no.

7 CHAIRPERSON HOOD: Oh.

8 MS. ALSTON: We can talk about that too.
9 In the letter from the ANC the money towards the
10 University of the District of Columbia, we are
11 already in works with an agreement with the vice
12 president of construction for that site, and so it
13 would be earmarked specifically for the gymnasium
14 and the multipurpose room where the community
15 currently votes, our voting site. And so that's
16 what that money would be specifically earmarked
17 for.

18 CHAIRPERSON HOOD: And we don't get into
19 that, but we will point to it. Is there a time
20 frame?

21 MS. ALSTON: Yes, for the agreement?

22 CHAIRPERSON HOOD: No, for to get --

23 MS. ALSTON: The development? Yes.
24 Right now the building is in phases and so they
25 have it laid out to coincide with the completion

1 of this project if it's to be approved. And so
2 the gymnasium is phase 2, they're in phase 1 now,
3 and of the renovations of the auditorium. As soon
4 as that's done the permitting will go for the
5 gymnasium and the multipurpose room and they will
6 run at the same time.

7 CHAIRPERSON HOOD: If it's to be approved
8 by this body or --

9 MS. ALSTON: Yes.

10 CHAIRPERSON HOOD: Okay. Because they're
11 going to do it anyway, right?

12 MS. ALSTON: Right. By your body.

13 CHAIRPERSON HOOD: But I'm saying,
14 they're going to make those renovations anyway,
15 right?

16 MS. ALSTON: Funding is an issue. And so
17 that's why we've said in the building now, the
18 building has been empty. Those portions of the
19 building have not even been used except for when
20 we go to vote. They only open it for that time.

21 CHAIRPERSON HOOD: Okay.

22 MS. ALSTON: Because funding was an
23 issue.

24 CHAIRPERSON HOOD: Okay. Commissioner.

25 MR. MILLER: Just to follow-up, Mr.

1 Chair. And so when do you expect to have that
2 written agreement with UDC?

3 MS. ALSTON: Once this is done. I can't
4 sign an agreement and we don't have a check to go
5 with them. To go with it. But it's all been
6 aired out. And so what they'll do is the
7 community will get first preference, at least 30
8 days a year to utilize those. Say for example if
9 you wanted to use the gymnasium, you'd put in a
10 request two weeks prior to the gentleman who is
11 the facilitator of the university now, give them
12 the activity and the time frame, they'll make sure
13 it doesn't conflict, and that date is set. And
14 that's because we don't have space to do those
15 other things in our community, except for the
16 recreation center. And we know that they close
17 earlier than the university does. The university
18 also has parking, it also has the auditorium. So
19 that's how we considered it a benefit.

20 MR. MILLER: Thank you.

21 CHAIRPERSON HOOD: What is the community?
22 I mean, is it a certain boundary? Is it the ANC
23 that's going to help initiate that with UDC?

24 MS. ALSTON: No, the agreement will be
25 between the ANC and the University of the District

1 of Columbia, Bertie Backus Campus.

2 CHAIRPERSON HOOD: Okay.

3 MS. ALSTON: So ANC 5-A. So we have paid
4 staff who is on our staff. She's not there during
5 the summer time, of course. But she's there to do
6 anything that we need throughout the day, all
7 during the week. You could call, give that date
8 to her, she'll walk it across the hall to Mr.
9 Cook, he'll let us know if that date is available
10 or if it coincides, if we need to pick another
11 one, and it will be an application so you can't
12 just call up. They'll give us an application just
13 for description, for paperwork purposes, and then
14 that way it would also be a paper trail.

15 CHAIRPERSON HOOD: Can I make a
16 suggestion?

17 MS. ALSTON: Yes, sir.

18 CHAIRPERSON HOOD: You also want to
19 consider, just in case -- and I'm not going to go
20 too much into this. If there's ever some
21 redistricting, I think every 10 years --

22 MS. ALSTON: Yes, there are.

23 CHAIRPERSON HOOD: -- we've run into some
24 issues like that with things in redistricting. So
25 you want to, in your considerations, in your

1 conversations, make sure you look into that so if
2 something is redistricting, if it's no longer 5-A
3 it could be another, 5-D or E or F. You never
4 know what may happen. So you want to make sure
5 that you have a plan to administer --

6 MS. ALSTON: Yes, sir.

7 CHAIRPERSON HOOD: -- at that point.

8 MS. ALSTON: Okay.

9 CHAIRPERSON HOOD: Okay. Anything else
10 up here? Okay. And we're talking from
11 experience.

12 MS. ALSTON: Oh, I know.

13 CHAIRPERSON HOOD: Okay.

14 MS. ALSTON: Thank you, so very much.

15 CHAIRPERSON HOOD: All right. Let's see
16 if we -- any other questions? Does the applicant
17 have any cross?

18 MR. HUGHES: I have one question.

19 CHAIRPERSON HOOD: Sure.

20 MR. HUGHES: Just to confirm, there was a
21 question raised by the Chair about the \$5,000 to
22 go to North Michigan Park Civic Association.
23 Could you clarify that, please?

24 MS. ALSTON: Yes. And so the money for
25 North Michigan Park Civic Association is \$5,000, a

1 one-time. They issue a \$500 scholarship yearly,
2 and so if we gave them \$2,500 towards this
3 scholarship that would cover a scholarship for the
4 next five years to be issued for the next five
5 years.

6 Also they do \$500 contributions for back
7 to school supplies. And so if we made that
8 contribution to them one time that would give them
9 the benefit to have a \$500 contribution over the
10 next five years.

11 CHAIRPERSON HOOD: So it's going to be
12 \$1,000 each year.

13 MS. ALSTON: Right. But the money will
14 be up front because it will be a one-time check.
15 But it was to be spent by the civic association
16 the way they currently use it.

17 CHAIRPERSON HOOD: So it's earmarked for
18 that --

19 MS. ALSTON: Yes, sir.

20 CHAIRPERSON HOOD: -- every year. Okay.

21 MS. ALSTON: Yes, sir.

22 CHAIRPERSON HOOD: All right. You make
23 sure you clarify that. That 25,000 was something
24 else, wasn't it?

25 MR. HUGHES: Thank you.

1 CHAIRPERSON HOOD: Yeah, all right.
2 Okay. Any other questions up here? Any other
3 cross?

4 Let's see if, Ms. Bell, you have any
5 cross-examination? You're crossing the
6 Commissioner now. Yeah. Ms. Alston.

7 MS. BELL: I do.

8 CHAIRPERSON HOOD: Okay.

9 MS. ALSTON: Yes, come on.

10 MS. BELL: Commissioner, I wasn't clear
11 from the recommendation from the ANC. Was that
12 for both the houses as well as the room?

13 MS. ALSTON: That was for the project as
14 it stands. The majority of the people that were
15 present here tonight were present at the special
16 meeting held on Monday. We specifically, because
17 I knew this was coming down the pike, specifically
18 asked the Commission to take a stance on the road
19 closures separate because we knew Mrs. Bell had --
20 Ms. Bell had submitted an application for party
21 status, and the ANC did not choose to take a
22 position on the road being open or closed for
23 vehicular traffic separate from the proposed
24 proposal plans.

25 MS. BELL: Okay. I don't know that that

1 was clear.

2 MS. ALSTON: Okay. Yeah. The
3 recommendation from the ANC is to support the
4 project as is.

5 MS. BELL: As is. When you say project
6 as is, what does that mean?

7 MS. ALSTON: The housing project that was
8 proposed by the developer in its current state.

9 Your mic isn't on.

10 MS. BELL: Oh, and what about -- so how
11 do you separate, when you say the project, how do
12 you separate the project from the roadway and the
13 bike path?

14 MS. ALSTON: So the way we discussed it
15 in the meeting is that what's proposed in front of
16 us is their proposal. That's the option to
17 consider. There was no separate option until you
18 filed for party status.

19 MS. BELL: Right.

20 MS. ALSTON: And so once you filed for
21 party status it made it a separate agenda item for
22 the ANC at that time.

23 At that time the ANC chose to support the
24 proposed package because there is a clear divide
25 between the community as to whether it should be

1 open or closed. Do you remember on Monday when
2 Commissioner Jordan made an amendment to the
3 motion but the motion wasn't there. And so he
4 said let's put the agenda -- let's put the motion
5 on the floor to support the project first, and
6 then I'll make my amendment to the motion.

7 After we voted to support the project he
8 didn't put his motion back on the floor. That was
9 the unreadiness we discussed after the meeting.
10 So nothing has changed.

11 MS. BELL: So when you make your
12 recommendation to the Zoning Commission are you --
13 I'm not sure that it's clear that when you say the
14 project as it is, that you're telling them that
15 the ANC approves the bike path, bike footpath
16 that's a part of the proposal.

17 MS. ALSTON: The ANC is supporting the
18 project as its proposed. In all of the meetings
19 that we've had we've talked about coming to a
20 compromise because the reality is one part of the
21 community was completely against having it open at
22 all. Keep the lock on the fence. Keep it the way
23 it is.

24 The other part of the community is like,
25 take the fence down, let everybody that can be

1 anybody get through however they can get through.
2 And so the compromise was the bike and foot path.
3 Those were the only two options at the time. Once
4 you filed for status, you filed to have the street
5 open, which then brought another option before the
6 Zoning Commission. If the Zoning Commission
7 chooses, and this is how the ANC is looking at it,
8 if the Zoning Commission chooses to entertain your
9 filing, then that would be option 2. Right now
10 there is no option 2. Right now the community is
11 supporting the project as it's proposed.

12 And so since you were granted status and
13 your filing was accepted, there's something to
14 discuss.

15 MS. BELL: Thank you.

16 MS. ALSTON: No problem.

17 CHAIRPERSON HOOD: We thank you very
18 much. Appreciate your testimony.

19 MS. ALSTON: Thank you so much.

20 CHAIRPERSON HOOD: Okay. I have a list
21 here of proponents. Peter Bishop, Steven Surrell,
22 David Curtis. Is there anyone else who would like
23 to testify in support? Come forward. Mr. Oliver.
24 Robert -- oh, I'm sorry. Your name is the first
25 one I should have looked at. If you all can make

1 way for them to sit down.

2 Is there anyone else? Okay. Let me see
3 how many I have. I think I called five. No, I
4 called four. Okay. So you can come on up.

5 Now these are all people in support. In
6 support of the project, you can come forward. In
7 support of the project. Not about a specific --
8 if you support this project as we've heard it
9 today, you can come forward at this time. Okay.

10 Anybody else who is here in support?
11 Okay. We're going to start with Robert Oliver.

12 MR. OLIVER: Okay. Let me turn this mic
13 on. I just want to say that --

14 CHAIRPERSON HOOD: Introduce yourself
15 first.

16 MR. OLIVER: Okay. I'm sorry. My name
17 is Robert Oliver. I live at 614 Emerson Street
18 Northeast, and I'm here in support of the project.
19 I'm in support of the project for three reasons.
20 First is we need to discuss how the road
21 originated. Secondly I wanted to discuss the
22 false argument that allowing vehicular traffic
23 through this area would actually lessen traffic in
24 the overall neighborhood. And then lastly I
25 wanted to discuss how the road would impact the

1 Emerson Park Community.

2 Firstly, getting to the road, what I
3 wanted to tell you is that the area used to be a
4 dumping lot for Thomas Summerville. They owned it
5 outright as private land. What they did was they
6 had a road that allowed them to get from 6th
7 Street into their lot, they allowed them to get
8 out of their lot on Emerson Street. In that lot
9 was cement blocks, rusted equipment, anything you
10 could think of, and basically it was just there
11 for storage.

12 The road was put in place to allow Thomas
13 Summerville trucks to come in and take a shortcut
14 to get to the other side of the city, in the case
15 of if they were all on 6th Place -- 6th Street,
16 rather, they can go to South Dakota Avenue pretty
17 quickly, and vice versa. That's all it was.
18 That's what the road capacity was designed for.
19 It wasn't designed for cars, per se, although some
20 people took that route. And I don't think DDOT
21 really had an impact on that. So basically it's a
22 private road on private property. And it was put
23 there to allow Thomas Summerville egress and
24 entrance to its own lot. Okay.

25 In terms of non-vehicular traffic, the

1 issue there is that some feel that by allowing the
2 vehicular traffic that it will alleviate traffic
3 on 6th Street above the intersection of Buchanan
4 and 6th. And I say that that's a false argument.

5 The reason why I say that is basically
6 because by opening up this area what you're going
7 to allow, which unwittingly, is that you're going
8 to have people coming from the northern side
9 seeing this as an easy way to get to Puerto Rico
10 Avenue. So what you're going to have is
11 commuters, shoppers, and everybody else who wants
12 to get between all the retail that will be on
13 South Dakota -- I'm sorry, on Riggs Road, the
14 Walmart, the other houses, the Aventine
15 [phonetic], the Cafritz [phonetic] project, and it
16 gives them a straight shot to get down to the
17 other end, which you have all the development at
18 Catholic University.

19 So what's going to happen is you're going
20 to have more traffic running through that area as
21 there are bottlenecks that will be created on 12th
22 Street, on 8th Street, on South Dakota Avenue, and
23 on North Capitol. So the issue there is that you
24 open this up, you're going to have more traffic,
25 not less, as commuters and others use that as a

1 quick bypass to get from point A to point B.

2 CHAIRPERSON HOOD: Thank you. Next.

3 MR. BISHOP: Yes. My name is Peter
4 Bishop. I live at 4943 6th Street Northeast,
5 which is right at the bottom of the hill, so my
6 house is actually -- my street is actually owned
7 by Comstock Properties at this point, and would be
8 part of -- is part of the PUD. But I have my own
9 sidewalk that is part of Emerson Park.

10 I'm also the Treasurer of the Emerson
11 Park Homeowner's Association. And so I just
12 wanted to -- so for the last four or five years
13 the street has been completely closed because that
14 really has been -- well, Thomas Summerville had
15 the gate and so it just stayed closed. But we at
16 Emerson Park have been supportive of having that
17 be completely closed. And as Commissioner Alston
18 testified, that was the consensus position of the
19 people who live in Emerson Park. And we're
20 talking about 79 homes within the main part of
21 Emerson Park, and then 16 duplexes on 7th Street.
22 So that's the group covered by our homeowner's
23 association.

24 As a result of working with Commissioner
25 Alston we did agree to the compromised position of

1 opening it to pedestrian and bicycle traffic. And
2 so now from my house I have rather clear sight
3 lines all the way up this path. And so we have
4 five house down at the bottom, above Ava Way, to
5 where this trail would emerge, would open out into
6 Emerson Park. And so all those five people have -
7 - can see what's going on up there.

8 I do encourage the Zoning Commission to
9 have the concern that they already expressed,
10 about site lines, on this path because you know, I
11 worked with the Park Department for the path going
12 across the park land to the Metro, and they also
13 were very concerned about site lines. And the
14 path, as it has been modified over there, now has
15 vastly improved site lines over what it had
16 originally. And when they finally developed that
17 path, finally, which they have a plan for, their
18 planning to improve the site lines even further.
19 So I encourage that thought.

20 I agree that opening this street to
21 vehicular traffic would cause more traffic on 6th
22 Place, whereas -- on 6th Street whereas there are
23 a number of people up there who filed to have it
24 open to vehicular traffic, who actually wish to
25 have less traffic in front of their homes. That

1 would not happen. We have experienced many large
2 tractor trailers trying to get to the Capitol Area
3 Food Bank getting stuck down on our street and
4 then my GPS tells me that I should be traveling on
5 6th Street, past their homes, in order to get to
6 my house, or any time I'm traveling from south or
7 east in D.C.

8 Now when you put an address just outside
9 of Emerson Park, it stops; the GPS stops doing
10 that. So I think that the number of people that
11 would be doing this increased traffic is not that
12 large, but it's a lot larger than the people on
13 6th Street anticipate. Thank you.

14 CHAIRPERSON HOOD: Okay. Thank you.
15 Next.

16 MR. HOLMAN: My name is Charles Holman.
17 I recently bought a home in Emerson Park at 4952
18 6th Street, which is at the base of the proposed
19 path. Joseph Gibbs, I believe is listed as the
20 owner of the home I'm in. But I'm within the 200
21 foot area.

22 I walk daily. I'm a Metro commuter. I
23 take the path. I thought the opponents
24 proposition that the crime would increase was a
25 little disingenuous based on the fact that on the

1 one hand they were suggesting that a pedestrian
2 path would increase crime while then arguing for a
3 vehicular path which would provide the same
4 access.

5 I can tell you right now that that path
6 is already used as a pedestrian way. I see people
7 every day going up and down. Quite frankly the
8 proposed pedestrian and bicycle path will provide
9 a safer environment and more lighting and a more
10 structured path than currently exists. I would
11 encourage the Commission to look up this area on
12 Google Maps. You can get a very good idea of what
13 the path looks like right now. It's a roadway
14 that has asphalt that is simply overgrown and has
15 some downed trees in it. But it is quite a wide
16 swath as it currently exists now. I do not
17 believe the proposal is to narrow it or reduce the
18 site lines. Quite frankly I think it's to improve
19 the site lines.

20 I appreciate the Commission being
21 concerned about the benefits to the community at
22 large, and I would caution them to not focus on
23 the interest of what purportedly is five members
24 of the community as opposed to the community at
25 large, which I think would greatly benefit from

1 the development proposal.

2 One other comment about the suggestion
3 that this be opened up to public vehicular
4 traffic, the Emerson Park community is privately
5 owned. We pay to maintain the roads. We pay to
6 maintain the storm water and drainage treatment
7 within our complex. And based on the topography,
8 if you open this up as a full roadway that
9 increases the burden on us, not just on the
10 vehicular traffic, on our own roads, but also on
11 our storm water management. And so that's a
12 greater burden on us. More so than the rest of
13 the community that I don't think would be quite as
14 affected.

15 That is pretty much all I had to testify
16 about. Thank you.

17 CHAIRPERSON HOOD: Thank you. Next.

18 MR. CURTIS: Hello. My name is David
19 Curtis and I live on Emerson Park, 4947 6th Street
20 Northeast.

21 My initial position on the proposal was
22 that we keep the road closed. So I did agree with
23 the compromise of opening the road because my
24 house is right in front of it. So my whole
25 concern is about not allowing vehicular traffic.

1 We've already seen the damage, as stated earlier,
2 and we've had tractor trailers coming up there and
3 get stuck trying to turn around and has come close
4 to knocking one of my neighbors' decks out because
5 it's just too tight in there for vehicular
6 traffic. Especially tractor trailers.

7 And opening that would increase that
8 traffic, vehicular. Not only cars but tractor
9 trailers. So I'm totally against the path opened
10 up for vehicular traffic.

11 With respect to our Emerson Park and its
12 roads, the road itself is not that wide. And so
13 we're talking about vibration from construction.
14 We have -- you know, when trucks come through I
15 feel, just driving, I feel the vibrations. So now
16 if you open it, because you know, our property
17 line is so close, we don't even have a curb.
18 That's how close we are to this open road. So I'm
19 definitely opposed to opening up to vehicular
20 traffic. But I did make the compromise and I
21 don't see a problem with pedestrian, as Mr. Bishop
22 says, who lives a couple of doors down from me.
23 There is a clear line of site all the way up. You
24 know, we look at it. We see it every day. You
25 know, folks climbing the fence, walking through

1 there, you know, coming out.

2 So with respect to the element of crime,
3 there was mention about that. I think that with
4 the area open for bicycle and pedestrian, that
5 will cut that out because you have constant
6 movement of -- you will have constant traffic.
7 And so that would decrease the -- I think that
8 would decrease the crime. And in fact not only
9 decrease it since I've been there six years, since
10 the development, I haven't had any. I haven't
11 witnessed any. And I'm checking that area all the
12 time because again that's right in front of my
13 house where I have a four year old son. So I'm
14 concerned about him playing and having an area to
15 play. Vehicular traffic is definitely detrimental
16 to his play.

17 And so the compromise of pedestrian and
18 bicycle I can live with. You know, for the
19 support, the greater support of the community at
20 large. Thank you.

21 CHAIRPERSON HOOD: Okay. Thank you.
22 Next.

23 MR. SURRELL: My name is Steven Surrell.
24 I live at 4950 6th Street Northeast. I'm
25 diagonally across from David Curtis.

1 I was on the Board of Directors at
2 Emerson Park previously and I just know that one
3 of my biggest concerns is liability, as far as
4 insurance goes. It's also maintenance concerns.
5 To me having vehicular traffic through there, you
6 know, it's a private road where Comstock owns it.
7 It's a private road in front of my house where
8 Emerson Park owns it. There's lighting that's
9 maintained by us. There's electric bill that's
10 maintained by us. We have private trash. We have
11 private plowing of the streets. We don't get any
12 support from the City on that. That's all part of
13 our HOA fees.

14 And then you have the insurance liability
15 of, if anything were to happen, somebody coming
16 through, or they slip on our sidewalk or something
17 of that nature, they have the ability to sue the
18 HOA as a whole to recoup that rather than it
19 becoming a simple issue.

20 I also like to, you know, add on to what
21 Davis Curtis said about 6th Street being an area
22 of play. There are a lot of kids who go up that
23 hill and come up and down it, and additional
24 vehicular traffic would be pretty scary. If
25 you're familiar with the area, Puerto Rico Avenue

1 is basically a drag strip. So that's something
2 that hasn't been mentioned here. It has a speed
3 limit of 25 miles per hour. However, it is a
4 pretty straight space and vehicles, you can
5 actually hear them through the night, do racing
6 and drag racing down that strip. I've seen
7 vehicles pass other vehicles going 60, 70 miles an
8 hour.

9 I think that if you open up that street
10 basically all you did was create a small speedbump
11 in a route that somebody is going to take, and you
12 would just have the people who are drag racing
13 down Puerto Rico continue over 6th Street and then
14 come through there. And we're worried about site
15 lines of seeing people walk through that space.
16 However, site lines for a vehicle will definitely
17 be a more of a concern.

18 So that's my sense there. Thank you.

19 CHAIRPERSON HOOD: Okay. Thank you very
20 much. Let's see if we have any questions of this
21 panel. Mr. Turnbull.

22 MR. TURNBULL: Thank you, Mr. Chair. I
23 just had -- now, some of you live right near where
24 the pedestrian path is going to be. Now that's
25 really the back of your house. Now it's the

1 front. So do you, whatever is left of that 6th
2 Street or that little road that's -- you go out
3 that way. You park on that street then?

4 MR. HOLMAN: I live next to Steve and we
5 live right as it comes out. And there is parking
6 directly in front of our homes, but we also have
7 garages on the back side. I don't know if that
8 answers your question, but yes, there is parking
9 right on 6th Street.

10 MR. SURRELL: I know that one of the
11 discussions with Comstock was to go ahead and
12 currently in front of Peter Bishop and David
13 Curtis's homes there aren't -- it's just kind of a
14 grass. It's sidewalk and then it just goes grass,
15 and then it hits the asphalt. There has been
16 discussion with Comstock to go ahead and add a
17 curb to make it kind of more of a real edge street
18 area to park. So I know that was part of the
19 negotiations and discussions.

20 There are people who park there. It is
21 an overflow area for when people are, you know,
22 people have parties and whatnot and people will
23 park up that way. It is also an area that the
24 firetrucks will pull up and back out of on
25 occasion, and it is also where we dump all of our

1 snow during big snow storms.

2 MR. TURNBULL: Okay. I was just curious
3 because it looks like on the Comstock plans that
4 that's part of the Comstock property.

5 MR. BISHOP: Yes, it turns out that they
6 own the street starting at Ava Way.

7 MR. TURNBULL: So, right. Thank you.

8 MR. BISHOP: Going all the way up the
9 hill.

10 MR. TURNBULL: So that's --

11 MR. BISHOP: But we have sidewalks above
12 Ava Way.

13 MR. TURNBULL: Right.

14 MR. BISHOP: So we have about five houses
15 that are actually on the Comstock road.

16 MR. TURNBULL: So it's still a private
17 road, then, by Comstock, but you have right of way
18 into it.

19 MR. BISHOP: And there's a lower gate and
20 an upper gate. The lower gate is sufficiently
21 high that all of our five homes do have individual
22 parking in front of our homes on that road. And
23 so we actively park there. I notice that the most
24 recent update to the path actually removed the
25 parking space for one of our homes. And so since

1 that plan --

2 MR. TURNBULL: So that may need to be --

3 MR. BISHOP: That plan --

4 MR. TURNBULL: That may need to be
5 adjusted a bit.

6 MR. BISHOP: Since that planning may also
7 be a major contributor to reducing site lines, you
8 might want to --

9 MR. TURNBULL: Right. So the applicant
10 may need to take a look with some of the neighbors
11 and just adjust it accordingly to make sure it
12 works.

13 MR. BISHOP: Because I'm pretty sure that
14 corner house would really like to continue parking
15 in front of their house.

16 MR. TURNBULL: So there is a sidewalk
17 along --

18 MR. BISHOP: We have a sidewalk.

19 MR. TURNBULL: There's a sidewalk.

20 MR. BISHOP: Yes, the sidewalk goes even
21 a little past the last house.

22 MR. TURNBULL: Okay. And there's curbs
23 and --

24 MR. BISHOP: No curb.

25 MR. TURNBULL: No, there's no curb. So

1 it's just -- okay.

2 MR. SURRELL: I want to speak about the
3 design. I know that that's been ongoing for a
4 little while now between Emerson Park and Comstock
5 on the path, the design of that path. I know that
6 there's been a couple iterations so I just want to
7 say that it hasn't been -- I think there has been
8 some discussion with DDOT in trying to make it
9 more simplified. So from my understanding that's
10 still in process as far as Comstock.

11 MR. TURNBULL: So there may need to be
12 some fine-tuning or tweaking as to how that street
13 really gets resolved in there. At least from your
14 standpoint, anyway, since it's your access to it.
15 Okay. All right. Thank you.

16 CHAIRPERSON HOOD: All right. Any other
17 questions up here? Commissioner Miller.

18 MR. MILLER: Thank you all for your
19 testimony. Mr. Bishop, are you -- or is the
20 Homeowner's Association of Emerson Park, they are
21 negotiating an MOA with the Comstock and --

22 MR. BISHOP: Yes, we have been talking to
23 them. It was my impression that the agreement
24 that we had come to was going to be included. So
25 I support the Zoning Commission in trying to get

1 that written down. But everything that they have
2 promised us would be very nice.

3 MR. MILLER: But you haven't seen
4 anything in writing yet?

5 MR. BISHOP: No, I don't think I've seen
6 anything in writing. But our president has been
7 doing most of that so he's not here today.

8 MR. MILLER: You're the --

9 MR. BISHOP: I'm the treasurer. I was
10 just talking to the president yesterday. I'm not
11 aware that we have anything in writing.

12 MR. MILLER: Right. And I think it would
13 be helpful if we had, before final, the action, if
14 we get to that point.

15 MR. BISHOP: I would really -- I would
16 appreciate the Zoning Commission having seen what
17 is the written agreement also.

18 MR. MILLER: Right. That's why I'm
19 bringing it up. Thank you.

20 CHAIRPERSON HOOD: Any other questions up
21 here? Okay. Does the applicant have any cross of
22 either one of these witnesses?

23 MR. HUGHES: No.

24 CHAIRPERSON HOOD: Does the ANC have any
25 cross of either one of these witnesses? Okay, Ms.

1 Bell, do you have any cross of either one of these
2 witnesses.

3 MS. BELL: No.

4 CHAIRPERSON HOOD: Okay. We appreciate
5 you all coming down. Thank you for your
6 testimony.

7 Okay. I think we've heard from everyone
8 in support. Let's go to the party in opposition,
9 the Concerned Citizens of North Michigan Park.
10 I'm not sure how much time they have. You have 11
11 minutes and 36 seconds. Same amount of time that
12 the applicant had.

13 MS. BELL: Okay.

14 CHAIRPERSON HOOD: And that's actually in
15 our regulations. So.

16 MS. BELL: Okay.

17 CHAIRPERSON HOOD: Okay.

18 MS. BELL: So that's for all the people
19 up here?

20 CHAIRPERSON HOOD: For everybody. Now,
21 wait a minute, now, this is part of your group,
22 right?

23 MS. BELL: Yeah.

24 CHAIRPERSON HOOD: Everybody is a part of
25 your party, correct?

1 MS. BELL: Yes.

2 UNIDENTIFIED SPEAKER: Well, I'm not
3 actually part of the --

4 CHAIRPERSON HOOD: Okay. Well, I'll call
5 you up. I'm going to call individuals up. This
6 is just the party. I'm going to call individuals
7 up in opposition after the party. So if you're
8 not a part of Ms. Bell's party, of the Concerned
9 Citizens of North Michigan Park, then we will call
10 you up after the Concerned Citizens have their 11
11 minutes and 36 seconds.

12 MS. BELL: How do I do my exhibits?

13 CHAIRPERSON HOOD: How many do you have?

14 MS. BELL: I have four.

15 CHAIRPERSON HOOD: Okay. You can pass it
16 to Ms. Schellin. Make sure you keep one for
17 yourself if you need it, and we will --

18 [Pause.]

19 CHAIRPERSON HOOD: Okay. Give us a few
20 minutes. Let us get your materials in our hands.

21 MS. BELL: Okay.

22 [Pause.]

23 CHAIRPERSON HOOD: Okay, Ms. Bell, I
24 think we're about ready.

25 MS. BELL: Okay. Thank you.

1 [Pause.]

2 CHAIRPERSON HOOD: Okay. You may begin.

3 MS. BELL: Okay. Good evening,
4 Commissioners. Again, I'm Belinda Bell and I have
5 no objection to the proposed houses in the
6 project. My concern is the roadway and easements
7 and what's in the best interest of the community.
8 The developer has an opportunity to connect 6th
9 Street and this community.

10 If you look at the exhibit here with the
11 dotted lines here. I don't have exhibit numbers.
12 You can see where there is yellow, the red strips
13 coming up 6th Street, and then you see that
14 pedestrian path and the other side of 6th Street.
15 Here is an opportunity with this project to
16 connect the two streets of 6th Street, not just
17 with bikes and pedestrians.

18 If you look over to the left of that
19 pedestrian path, that's all wooded space and there
20 is no room for cars that come down to that dead
21 end. So there's a dead end at the right there
22 where the red and yellow lines stop, and where it
23 picks up on the other side. That's all blocked
24 and narrowed.

25 And so there's a concern that when the

1 people come down there is no turn-around space,
2 not enough turn-around space there. And here is
3 an opportunity with this project to correct some
4 of that, which is Comstock's property.

5 Some say if they knew that these houses
6 were going to be built on, or if this roadway was
7 put in they would not have purchased their home in
8 that spot. Well, in urban settings there's always
9 the possibility of growth and development. The
10 existing residents must adjust and adapt.

11 When I bought my house at 7th Street in
12 1988 one of the things that attracted me to that
13 block was the wooded lot across the street from my
14 house. Wow, I had the best of both worlds,
15 suburban living right here in the city where I
16 could walk to the Metro or take the bus to get
17 downtown. It was a quiet street with plenty of
18 parking across the street from my house, for
19 visitors, for all the neighbors. Life was sweet
20 until 2004 when Rocky Gorge Developers discovered
21 our slice of heaven that was the wooded lot in
22 front of my house and the property behind it that
23 extended back to 6th and Emerson Streets.

24 Rocky Gorge proposed building 150 homes
25 at that site. Mr. Bowser, my neighbor was the ANC

1 at that time and he got the neighbors together and
2 we worked with Rocky Gorge to talk about how we
3 wanted that project shaped.

4 During that period we expressed our
5 concerns about traffic impact on surrounding
6 streets, the design and a number of homes, and the
7 layout of the roadways. We told them it was our
8 desire not to have a gated community where Emerson
9 Park would be walled off from the existing
10 community.

11 As a result the developer agreed to
12 reduce the number of proposed houses to 16 homes
13 on 7th Street and 75 homes in what is now Emerson
14 Park. When Rocky Gorge submitted his plans for
15 Emerson Park, Phase 2, which is the exact same
16 site as the project we are here for today, it was
17 agreed that 6th Street would be open to vehicular
18 traffic to connect the communities on both sides
19 of 6th Street. In fact the streets in Emerson
20 Park development were designed and structured to
21 accommodate traffic flow from Emerson Street --
22 from both ends of Emerson Street. In fact, I
23 think that there was some agreement with Emerson
24 Park that granted an easement for public
25 transportation through that neighborhood at that

1 time.

2 If you see the exhibit, the one that's a
3 blowup, the one that has the dotted line circles,
4 you can see the layout of Emerson Park and how it
5 was designed to accommodate that flow traffic.
6 You note where the path is, where it's dotted
7 trees. That's where there is currently a proposed
8 bike and foot pathway. But the Emerson Park was
9 designed to accommodate flow-through traffic at
10 that time.

11 The traffic study that Rocky Gorge
12 conducted at that time showed that the vehicular
13 traffic would be a great offset to the flow of
14 traffic on the surrounding streets like 7th and
15 8th Street. Currently there is a high impact of
16 people from up 6th Street and other parts of the
17 community, they come up 8th Street and so there's
18 a -- and I'm not sure it showed in the traffic
19 study that was conducted here, but it shows the
20 high count of cars that come through that
21 neighborhood, and I think that was a key spot
22 between 8th and Buchanan Street.

23 In 2006 the Zoning Commission, Office of
24 Planning, and the Department of Transportation
25 agreed that this street opening would be a great

1 benefit for the community. And I'd say, see
2 exhibits and there are certain exhibits that I
3 entered that have those reports from 2006 for
4 DDOT, Office of Planning, and also the traffic
5 study that was conducted at that time.

6 The homeowners in the proposed new homes
7 could also benefit from a roadway to vehicular
8 traffic as well. They would have the option of
9 going either to the left or to the right. So when
10 they want to get out of the neighborhood to go to
11 South Dakota Avenue to get through, they would be
12 coming through our streets on 7th and 8th Streets,
13 creating extra overflow there.

14 And that would be in the morning and
15 evening. It wouldn't necessarily be all day and
16 all night traffic, but certainly during peak
17 hours.

18 In 2006 DDOT, when it agreed to the road
19 opening, mentioned that big trucks over certain
20 weight limit would not be permitted and that there
21 were enforcement measures to address this issue.
22 I say that the neighbors on the 4800 block should
23 not have to take the brunt of all the vehicular
24 traffic on 6th Street because some of the other
25 neighbors don't want food bank trucks on their

1 street.

2 Well, nobody wants those trailer trucks
3 on their block. In fact it's illegal. During one
4 of the meetings ANC Commissioner Sandy Washington
5 said that when the big trucks were coming down her
6 block to take a shortcut to North Capitol Street,
7 they installed speed bumps and started reporting
8 tag numbers of the trucks to the police. The \$500
9 fines that the truckers received was a deterrent
10 to stopping that problem. That same option is
11 available for the residents on 6th Street as well.
12 More signage to warn truckers is needed on both
13 parts of 6th Street surrounding the proposed
14 project to keep truckers off where they're not
15 permitted.

16 And again, the narrow path, the
17 narrowness, and the design of that path is
18 something that we object to. If Comstock owns
19 that road and they have an opportunity to do
20 something more to connect and clear that space, it
21 doesn't have to be so narrow. In fact they own
22 all that. They could just tear down all the trees
23 and make that -- level it and make that something
24 that's much more appealing and not necessarily so
25 private.

1 We're here in the city. We don't need to
2 have all these little private roads and private
3 little cutouts where some people say they don't
4 want us -- they don't want people and cars coming
5 through their neighborhood. This is the city and
6 we're open; it should be open and connected.

7 In fact, we don't believe that there are
8 enough eyes on that path either. So I'm a 200
9 Footer and I'm concerned about what's in the best
10 interest of the community. And I think that it's
11 in the best interest of the community if that bike
12 and -- that bike and foot path were scrapped and
13 there's something that's more open and effective
14 for both sides of the community. Thank you.

15 MS. MOORE: Good afternoon, Commissioner.
16 My name is Andrea Moore. I live at 4813 6th
17 Street Northeast and I've been there since 1975.
18 I have seen a lot of things come and go. My
19 concern is safety. That's a dead end street now.
20 And the cars come up, and Mr. Bishop mentioned
21 about trucks getting stuck. We see trucks stuck
22 all the time that they can't turn around so they
23 have to back all the way down the street between
24 two sets of cars. We stand in our building
25 yelling, he's going to hit that car, you're going

1 to hit that car. My really concern is safety.

2 And another thing, if it's opened up for
3 bikes are you going to have a bike lane? I want
4 to know will there be a bike lane? If so, where
5 would it be put? We have a lot of kids on the
6 block, the cars come up speeding more than 30, 40
7 miles per hour all the time. My next door
8 neighbor not let her kids go out because of that.

9 And the bike path, like they said about
10 the security light, are they going to have a
11 security light so if anything happen on that path
12 they can look at the camera and see what happened
13 and what's going on through the park?

14 And yeah, that's -- and this is my house
15 right here near that little barn. So I'm near
16 everything.

17 Another big concern I have is like 9/11.
18 If we have something like 9/11 and you only have
19 one way out, we're going to have 40 more new homes
20 and I'm thinking 80 cars, because if it's husband
21 and wife it may be two cars. That's 80 cars.
22 It's no way we can all rush out a dead end trying
23 to get out to a main street. And I'm really
24 concerned about it.

25 I don't have too much to say because I

1 can -- I have been through a lot there and I know
2 what goes on. I have seen the path open and
3 things going on in the path. They did at one time
4 have cars going through. I really wish they would
5 open it up for cars, for the safety of everybody.
6 Not only for myself but the new homes that's
7 coming. It's no way all these cars can come on a
8 dead end and turn around and go back. That's all
9 I really have to say. I'm sorry.

10 MR. MOORE: Good afternoon, Commission.
11 My name is Clarence Moore.

12 CHAIRPERSON HOOD: Make sure your mic is
13 on.

14 MR. MOORE: Okay.

15 CHAIRPERSON HOOD: Let me say this --
16 well, Ms. Schellin is down there. You had about
17 25 seconds left on the clock. So, yeah, so --

18 MR. MOORE: I'm going to make it short.
19 I ain't got but one or two words to say.

20 CHAIRPERSON HOOD: No, I was going to --
21 so I wouldn't have to cut you off, I wanted to
22 make sure that --

23 MR. MOORE: Okay.

24 CHAIRPERSON HOOD: Mr. Hughes, if we go
25 over a couple of seconds no problem. Okay. So,

1 he won't take us to court. Okay.

2 MR. MOORE: Okay. Good afternoon,
3 Commission. My name is Clarence Moore. And it's
4 one thing that everybody is missing. If you make
5 that a footpath you got the boys now, it's a
6 problem, they riding them dirt bikes, whatever
7 they call them, the motorcycles. They come up
8 there now. If you open that path up and them
9 kids, a lot of kids be going through there. If
10 they come down there and you go that little narrow
11 path, they going to kill -- they going to kill
12 some kids. If you have the regular road the kids
13 can walk on the side and they can get past.

14 And like my wife was saying, if an
15 emergency or something come and all the traffic
16 had to come all the way up, up Buchanan Street,
17 then up 6th Street, and then get up there and then
18 have to turn around and all that traffic going to
19 have to go back out through that same way. When
20 if you open that road some of that traffic can go
21 down here and go out that way, because maybe some
22 time I go out that way instead of coming all the
23 way back down here, and then come up Buchanan
24 Street when it's shorter for me to go up that way
25 and go towards Silver Spring.

1 See, everybody got to give a little.
2 Everybody cannot have what they want. Like my
3 wife say, you got to look at the safety. The way
4 this world is now, it will be a 9/11 or something,
5 everything get blocked up, and everything get
6 jammed up on that end. That's going to be a mess.
7 When if that road is open some of the traffic can
8 go out the other end. That's all I have to say.
9 Thank you.

10 CHAIRPERSON HOOD: Okay. Thank you.
11 Let's see if we have any questions up here of the
12 party, Concerned Citizens of North Michigan Park.
13 Any questions? Okay.

14 Mr. Hughes, you have any cross-
15 examination?

16 MR. HUGHES: No.

17 CHAIRPERSON HOOD: Okay. Does the ANC
18 have any cross-examination?

19 MS. ALSTON: No.

20 CHAIRPERSON HOOD: Okay. Well, we thank
21 you all very much. We appreciate your testimony.

22 MR. MOORE: Okay. Thank you.

23 CHAIRPERSON HOOD: I have one name,
24 Michael Henry, in opposition. And I have a name
25 here -- did we ever make that out? Tracey? Last

1 name is Tracey, Concerned Citizens of North
2 Michigan Park. You had questions. Okay.
3 Questions for the applicant or for us? For the
4 applicant. So come on up. Yeah, this is your
5 time. You're not in opposition, you just have
6 questions.

7 MS. TRACEY: I think actually listen to
8 his, if that's okay.

9 CHAIRPERSON HOOD: Yeah, well have a
10 seat. We don't mind.

11 Anyone else that want to come up in
12 opposition? Anyone else who is here in
13 opposition, come forward. Come forward at this
14 time.

15 UNIDENTIFIED SPEAKER: Commissioner, who
16 did I have undeclared?

17 CHAIRPERSON HOOD: Okay. This kind of
18 reminds me of the Rocky Gorge case. We had some
19 people. Right, Ms. [indiscernible]**45:43. We
20 had some people that were undecided.

21 Okay. Let's start with the young lady to
22 my left. Is there anyone else who wants to
23 testify in opposition?

24 Okay. So if you can identify yourself
25 and you may begin.

1 MS. LETHERER: Good evening,
2 Commissioners. My name is Susan Letherer, and I
3 live at 1004 Crittenden Street Northeast, and I'm
4 in opposition because I feel that the closure --
5 opening, I'm sorry, the opening of the road will
6 alleviate the traffic coming down 12th Street, my
7 street, Crittenden, and 10th Street as well. So I
8 would like to see the road open. Thank you.

9 CHAIRPERSON HOOD: My colleagues heard
10 your testimony. I was asked to do a
11 clarification. The people who are at the table
12 now, are you in opposition of the project? If you
13 are in opposition of the project just raise your
14 hand.

15 Now if you're in opposition of the
16 opening and closing of the road or how the road is
17 going to be used, raise your hand. Okay. Okay.
18 Thank you.

19 Okay. Next.

20 MS. TRACEY: My name is Cheryl Tracey.
21 Thank you. My name is Cheryl Tracey. I live at
22 4920 Sargent Road Northeast. I am the Assistant
23 Secretary for North Michigan Park Civic
24 Association.

25 I am undeclared on this issue, but I

1 certainly wanted to support our long-time
2 neighbors that are affected by this development.
3 My concern is the private developments that are
4 moving in and disconnecting our community, such as
5 Emerson Park. And now we will have Fort Totten
6 Muse.

7 And I'm really -- I just wanted to make a
8 comment about, I hope that this project and future
9 projects does not destroy our continuity and our
10 community because as it stands, Emerson Park
11 already feels as if they are not part of North
12 Michigan Park in my opinion. And then we'll be
13 talking about another group that's moving in to
14 our boundaries and feeling they're separate from
15 North Michigan Park Civic Association.

16 The other point that I wanted to make is
17 that I heard you say, Commissioner Hood, that
18 perhaps if we're going to have these private
19 developments then North Michigan Civic Association
20 really needs to look out for their own wellbeing.

21 Having said that, I wanted to add to the
22 amenities. I wanted to go on record stating that
23 at 635 Emerson Street there is an abandoned house
24 that's been there for 10 years. We've worked very
25 hard to try and get it resolved. I'd like to see

1 that as an amenity for the new development. And I
2 just wanted to go on record and state that. Thank
3 you.

4 CHAIRPERSON HOOD: Thank you. I'm going
5 to have to look at this again. Did I say that?
6 Did I say that? What you just said I said. Oh,
7 okay. I'm going to go back and look at that. I
8 don't know if I said it exactly like that.

9 MS. TRACEY: You didn't say it exactly
10 like that.

11 CHAIRPERSON HOOD: Oh, okay.

12 MS. TRACEY: I did my own interpretation.

13 CHAIRPERSON HOOD: Because sometime --
14 depends on how you say it. And I get in a lot of
15 trouble down here --

16 MS. TRACEY: Yeah. Yeah.

17 CHAIRPERSON HOOD: -- so I have to watch
18 what I say. Okay. Next.

19 MS. MEDLEY: My name is Denise Medley. I
20 live at 4902 8th Street Northeast and I've been
21 there since 1956. And the traffic on 8th Street
22 as a result of coming from Puerto Rico Avenue,
23 always taking the shortcut to get to South Dakota
24 Avenue is just horrendous. And so they, in my
25 opinion, 6th Street needs to be opened to give

1 some thoroughfare to go back and forth just as 7th
2 Street and 8th Street serves that people. Thank
3 you.

4 CHAIRPERSON HOOD: Thank you. Next.

5 MR. HENRY: My name is Michael Henry. I
6 live at 4703 7th Street. I, again, am not opposed
7 to the development. I think it's probably a good
8 idea, but I would like to see the road open up for
9 many of the reasons mentioned already. I
10 particularly like your point about making it feel
11 as if it's one continuous community. That's part
12 of the appeal of North Michigan Park.

13 I definitely also agree that the people
14 drag racing and dirt biking, especially on Puerto
15 Rico Avenue, is a huge, huge issue. But I think
16 that's something that should be addressed and is
17 really not pertinent to whether or not we open up
18 this portion of 6th or not. You know, there are a
19 number of things you could do, put in speed
20 cameras, have a police officer posted there, you
21 know, that could help mitigate that; that issue.

22 I do think that having a street for
23 vehicles put in is safer and that's my main
24 concern. I'm actually a biker and I have concerns
25 about the way I commute to work via the

1 Metropolitan Branch Trail and all the muggings and
2 other crimes that have happened there. And I
3 think part of the problem is, when you have these
4 sections that are, you know, bike or bike and
5 pedestrian only and have limited site lines and
6 limited access, I think they become more
7 attractive to that type of person. And when you
8 have traffic you have two-way streets. It's
9 wider. It's better lit. There's more movement
10 and I just, I think it's less attractive for
11 people to prey on folks moving through.

12 I would also say as an aside, I would
13 love someone to definitely look into the drainage
14 issue. I know down that slope into our basements
15 there's a lot of water that gets in. So please
16 look at those downspouts. That would be much
17 appreciated. Thank you.

18 CHAIRPERSON HOOD: Okay. Thank you.
19 Next.

20 MS. ROBERTS-WILLIAMS: Good evening. My
21 name is Carmenlita Roberts-Williams. I am the
22 Financial Secretary for North Michigan Park Civic
23 Association.

24 I am in opposition of keeping the road
25 area closed. What used to be a quiet residential

1 area in North Michigan Park has now become a
2 traffic nightmare. Keeping the area closed
3 increases the traffic because we see it every day.
4 8th Street, 7th Street, Buchanan Street, Decatur
5 Street, which are the feeding streets from South
6 Dakota Avenue and 12th Street that feed into
7 Puerto Rico Avenue that go over to Taylor Street.
8 If you open up that roadway it will decrease some
9 of the traffic off of those feeding streets that
10 feed directly in to it.

11 I know DDOT has done their survey,
12 looking at the traffic patterns. But they looked
13 at the traffic patterns as of today, and now how
14 the community is changing. With the development
15 of Fort Totten, the apartments that went up at
16 Fort Totten, the new development that's coming at
17 Fort Totten now, the area where Walmart is and the
18 mixed use project that's there, the additional
19 projects that are coming that are part of Cafritz
20 at Riggs Road and South Dakota Avenue, there will
21 be an additional 2,500 apartments coming to the
22 area.

23 Apartments mean people. That means
24 traffic. The traffic currently on South Dakota
25 Avenue is a mess. I live at South Dakota and

1 Decatur. I work at South Dakota and Riggs Road.
2 What used to be three minutes to get to work now
3 takes me 15 to 20 because DDOT did their survey.
4 They changed the roadway. But they changed it
5 based on the way the traffic was prior to the
6 development.

7 With the development now, the way it
8 stands, with the new development that's coming at
9 both ends of South Dakota Avenue, it will be a
10 nightmare. Cars today take detours off of South
11 Dakota Avenue because of the backup at 12th
12 Street. When they get to 12th and South Dakota
13 Avenue, instead of waiting for the light they're
14 detouring on Decatur Street, they're cutting
15 through the alleys, trying to get to Taylor
16 Street.

17 What I would like to see is them open up
18 -- and I understand the pushback on the other side
19 too because the individuals coming from South
20 Dakota Avenue will take that straight shot through
21 the development to Puerto Rico Avenue, which leads
22 to Taylor Street, which could also take them to
23 12th Street, to other feeder streets. I
24 understand it, but we also need to work together
25 to get it open to take the pressure off of some of

1 the other feeder streets. Thank you.

2 CHAIRPERSON HOOD: Okay. Thank you.

3 Next.

4 MR. LOCKETT: Good evening. How are you
5 this evening? My name is Charles Lockett. I am
6 one of the Vice Presidents of North Michigan Park
7 Civic Association. I'm also a disabled veteran
8 from Vietnam War. I am a 33 year retired facility
9 manager for DOD.

10 My main concern here today is the safety
11 of the community. I rode the area yesterday
12 myself, and rode it all the way up to the gate,
13 went out, came back to the north side. And for
14 what I seen there was a hazard that's just about
15 to happen.

16 One of the gentlemen mentioned the width
17 of the road here just a little while to you, and
18 kind of made a mistake. It was 24, he came back
19 and said it was 20. My concern is when the
20 individuals are moving in to that development, the
21 average moving truck or UPS truck, or emergency
22 vehicle is 11 to 12 feet wide. So I was wondering
23 why DDOT did not take that into consideration when
24 you have a 12 foot wide road and equipment
25 probably going over that by two or three feet.

1 It's a hazard waiting to happen.

2 Also, there were cul-de-sacs there where
3 the roads were extremely small, where for the
4 emergency vehicle, what I seen for the first one,
5 just before you get to 6th Street, is a cul-de-
6 sac, and it goes up. So in order for the fire
7 vehicles to maintain someone's house up in that
8 area, they're going to have to stop at the bottom
9 of the street where the fire hydrant is and shut
10 the complete street off before they can treat the
11 home up there. That means anyone in there cannot
12 get out or come in.

13 And that same thing is for the new
14 development that they're putting up here. Now,
15 one of the concerns I have with the pathway, if
16 they were to open it up to a road and on the
17 safety factor as the gentleman said, he lives
18 right there with his child, speed bumps and signs
19 do slow down traffic. I know that. At 34th and
20 Mass I did it at the reentrance and it shut it
21 down. Took it completely out of play.

22 That does help and there's a safety for
23 the people if there's an emergency for some
24 reason, they have an entrance and an exit. And
25 I'm only here today speaking from a safety

1 standpoint. I live at 4902 11th Street Northeast,
2 right on South Dakota Avenue. My back yard is
3 right there with all that heavy traffic. And I
4 have enjoyed the few mornings drinking my coffee
5 watching them stuck in traffic. And I watch them
6 cut across the street. I even had the former
7 council member, John Ray, holler at him to tell
8 him slow down. He cutting through our streets
9 doing 40, 50 miles an hour. This is the thing I
10 see as a safety factor.

11 We're putting up buildings so fast in
12 this area, and at least in that area as Ms.
13 Williams just mentioned, the volume of traffic is
14 not going to double, it's not going to triple,
15 it's going to go past that. On any given holiday,
16 with Walmart open, that intersection there.

17 I do see that when DDOT was approving the
18 plans for those streets there and everything, when
19 you take three roads, as you can see on a highway
20 when you drop it down to two, how the traffic
21 backs up. Well, that's the same thing that's
22 happening in that area now, even while the
23 construction are there. They take down one lane,
24 the traffic backs up from Riggs Road all the way
25 maybe to Sargent Road. It has a good seven,

1 eight, nine blocks every morning.

2 So when you've got that road closed and
3 you don't allow those people to get out of there,
4 they're trying to come out that one way to South
5 Dakota Avenue, and they're going to sit there for
6 a while, and it's just a matter of time. As
7 Murphy's Law puts it, that's just going to happen.
8 And I don't want to see anything happen to
9 anybody's kids or anybody's home, but in my book
10 it always been for 33 years, safety comes first.
11 Thank you.

12 CHAIRPERSON HOOD: Okay. Thank you.
13 Let's see if we have any questions of this panel
14 up here. Commissioners? Not seeing any, does the
15 applicant have any cross-examination?

16 MR. HUGHES: No.

17 CHAIRPERSON HOOD: Okay. Does the ANC?
18 Ms. Bell, do you have any cross-examination?

19 Okay. Thank you all very much. We
20 appreciate you coming down, and your time.

21 Okay. Mr. Hughes -- you have a question,
22 Ms. Bell?

23 MS. BELL: I thought about my question
24 for the DDOT, and so I was prepared to --

25 CHAIRPERSON HOOD: Come to the table.

1 Now, typically we don't do this and I don't want
2 nobody saying I'm showing favoritism, because I'm
3 not. But I'm going to -- since you're not down
4 here all the time and you don't understand the
5 process a lot, if I can say that?

6 MS. BELL: I don't. Right. Yes, I
7 don't.

8 CHAIRPERSON HOOD: Okay. So I'm going to
9 let you do that at this time.

10 MS. BELL: Okay. Thank you.

11 CHAIRPERSON HOOD: You said you only had
12 one question, right?

13 MS. BELL: Only one question.

14 CHAIRPERSON HOOD: Okay.

15 MS. BELL: In DDOT's report it said that
16 it was open to the vehicular traffic. And I think
17 the sentence ended. And so I was wondering if you
18 could expand on what the thought -- what was --
19 expand on that sentence and what was behind the
20 logic and the analysis behind that statement in
21 the report.

22 MR. WESTROM: Thank you. Absolutely
23 willing to do that. Obviously we have a situation
24 here where we have part of the neighborhood who
25 wants a roadway and part of it who doesn't.

1 Immediately when we were presented with this
2 application, we saw this as having potential for a
3 roadway connection. Frankly that is DDOT's
4 preference. DDOT would prefer to see a full
5 roadway here, and believes it is an appropriate
6 treatment for this particular location.

7 However, the application as presented did
8 not present a roadway, so we had to determine, did
9 we feel that we did not want to object to this
10 particular application? Did the desire for a
11 roadway overcome this application? And it was our
12 determination that because this particular
13 sidewalk and path connection would not necessarily
14 preclude a future roadway, we did not object to
15 the proposal as put forward.

16 However, if the opportunity to put a
17 roadway in should the developer say he's amenable
18 to putting a roadway in, we would find that to be
19 a stronger position and would certainly support
20 that development.

21 MS. BELL: Thank you.

22 CHAIRPERSON HOOD: Okay. Thank you. Mr.
23 Hughes, you have much rebuttal? You have any
24 rebuttal?

25 MR. HUGHES: Yes, I do.

1 CHAIRPERSON HOOD: Okay. And then we'll
2 go ahead and take your rebuttal.

3 MR. HUGHES: Okay.

4 CHAIRPERSON HOOD: And then your close --
5 well, rebuttal and then we'll do cross on
6 rebuttal, and then we'll take your closing.

7 MR. HUGHES: Rebuttal, cross, then
8 closing.

9 CHAIRPERSON HOOD: Closing.

10 MR. HUGHES: Got it. Got it. Just a few
11 items that we heard that I wanted to clarify; seek
12 clarification for.

13 There was mention, I believe by Ms. Bell,
14 about concerns over the Capitol Area Food Bank
15 traffic, and I think that Ms. Moore might have
16 raised some concerns about that as well. And I'd
17 just like for Mr. Dapogny to explain how the
18 Capitol Area Food Bank traffic works.

19 MR. DAPOGNY: The Capitol Area Food Bank
20 truck traffic is not supposed to reach 6th Street.
21 It's supposed to come up Puerto Rico Avenue and
22 turn on Puerto Rico Avenue. So I understand from
23 some of our neighbors that from time to time a
24 truck does come up and then have to back down.
25 But their signage says that their trucks are

1 supposed to go off Puerto Rico Avenue.

2 MR. HUGHES: So down here there's a
3 driveway. Is that right? Is that -- that's
4 Buchanan there, right? And 6th Street above,
5 Puerto Rico below.

6 MR. DAPOGNY: So the trucks are supposed
7 to come up Puerto Rico Avenue and go behind the
8 food bank, this way.

9 MR. HUGHES: There was also a question
10 raised in the last panel about the road widths
11 that we wanted to clarify in terms of once 6th
12 Street becomes the private road that's shared by
13 the Food Bank and Summerville. Could you please
14 do that?

15 MR. DAPOGNY: Yeah. There were a couple
16 of different road widths thrown about, so I want
17 to clarify. The public road on 6th Street, from
18 Buchanan up to the Totten Muse project is 36 feet
19 wide. The proposed private road continuing up is
20 36 feet wide. The road inside the project is 20
21 feet wide. The existing driveway that was for
22 concrete trucks that runs down the hill between
23 Totten Muse and Emerson Park is 24 feet wide.

24 MR. HUGHES: Okay. And with respect to
25 the comments that we heard regarding the design of

1 the path, the connection itself, we heard comments
2 about the potential for children being run over by
3 people on bikes, and also concerns about site
4 lines. Could you -- I know we've had a suggestion
5 to supplement that with some visuals and we can do
6 that, and we will do that if the Commission moves
7 forward with this application. But the question
8 is, could you describe that a little bit more?

9 MR. DAPOGNY: On the transportation, I
10 think at the bottom of that, we have the design
11 for the path. All the way at the bottom.

12 The idea, again, was too narrow at the
13 top and bottom of the hill. I say top and bottom
14 of the hill. Totten Muse is up the hill, Emerson
15 Park is at the bottom of the hill. So where the
16 pedestrian bike connection hits, at this point
17 this is the perspective from Ava Way, intersection
18 with 6th Street. Mr. Bishop and some of the other
19 neighbors' homes are there. The street here is
20 Totten Muse property.

21 The idea was to narrow this down here for
22 the bicycles. But what you don't see in this
23 artist rendering is farther up here the
24 pedestrians would connect to the sidewalk in front
25 of that townhouse. There's a site plan, I think

1 on the frame before. So that rendering you were
2 looking at, was looking from here towards where
3 the path stops.

4 So the idea was to have it striped so
5 you'd have bicycles in the center, pedestrians on
6 the side, and the pedestrians would exit here, on
7 to the sidewalk in front of the townhouses.

8 MR. TURNBULL: After hearing that I think
9 it would be -- I didn't want to interrupt you, but
10 it would be good to get a better plan of that.
11 And again, a view that would explain that better.

12 MR. DAPOGNY: Absolutely.

13 MR. HUGHES: And you might have just
14 mentioned it, Mr. Dapogny, but could you describe
15 the condition of, if you're at the top of the path
16 or the bottom. Is it a flat -- is it flat, or
17 what's the change in grade that you're
18 experiencing?

19 MR. DAPOGNY: So, sorry. Again, Totten
20 Muse is at the top of the hill. This drops down
21 somewhere, 10 percent grade. Yeah, 10 percent
22 grade, down to here where it flattens out, in this
23 area here.

24 Again, this is roughly 200 feet from this
25 point to this point. And you can see the site

1 line does go through but we'll provide you with an
2 exhibit that shows that. So you have a line of
3 site exhibit for that.

4 MR. HUGHES: Thank you. That concludes
5 our rebuttal.

6 CHAIRPERSON HOOD: Okay. Any questions
7 up here, Commissioner May?

8 MR. MAY: Yeah. So did you ever actually
9 propose as part of this project, continuing the
10 street?

11 MR. DAPOGNY: No, sir.

12 MR. MAY: And why not?

13 MR. DAPOGNY: Because we think it
14 benefits our community to have a street that
15 doesn't go through.

16 MR. MAY: Okay. So I mean, your
17 community being the 40 homes --

18 MR. DAPOGNY: The 40 homes.

19 MR. MAY: -- to be built.

20 MR. DAPOGNY: Also having conversations
21 with Emerson Park Homeowner's Association it was
22 pretty clear that they didn't want our initial --

23 MR. MAY: Well, I understand that for
24 same reason that you might -- I mean, I don't
25 know, people want to live on cul-de-sacs, right?

1 MR. DAPOGNY: Yeah. Yeah.

2 MR. MAY: Yeah.

3 MR. HUGHES: Commissioner, just to add to
4 that. In 2006 property ownership was different
5 than property ownership is currently. Now the
6 property that's being discussed, whether it be a
7 pedestrian connection or opened roadways, people
8 are calling it, there's ownership by Summerville
9 for a portion of it, there's ownership by the
10 Capitol Area Food Bank for a portion of it, and as
11 you heard testimony tonight there's ownership by a
12 homeowner's association of it for the remainder of
13 it. So the practicality of it and the legal --
14 the liability of it is -- and then the grade issue
15 -- it's just a very -- it's a very complex
16 proposal. Not just simply opening the road.

17 MR. MAY: I understand.

18 MR. HUGHES: Okay.

19 MR. MAY: There's costs associated with
20 building the road and things like that too.

21 But the Totten Muse, I mean, you own the
22 street all the way up to the intersection, right?

23 MR. DAPOGNY: Yes, sir.

24 MR. MAY: And this street between Totten
25 Muse and Capitol Area Food Bank is owned by --

1 MR. DAPOGNY: By both the -- it's on both
2 properties.

3 MR. MAY: Right. And it's going to be
4 built to DDOT standards, right? No?

5 MR. HUGHES: It can't be built to DDOT
6 standards. I believe the grade --

7 MR. MAY: I'm just talking about the 6th
8 Street between Capitol Area Food Bank and Totten
9 Muse.

10 MR. DAPOGNY: Oh, I'm sorry. Yeah, it's
11 already actually built.

12 MR. MAY: I understand. It's been built
13 to DDOT standards.

14 MR. DAPOGNY: Well, I don't know how it
15 was built. We didn't build it. It was built by
16 Capitol Area Food Bank.

17 MR. MAY: Can you tell us if it's been
18 built to your standards?

19 MR. WESTROM: Essentially, yes.

20 MR. MAY: Okay. And it's open to the
21 public, right? There's nothing that fences
22 anybody off or keeps them from going in to it?

23 MR. DAPOGNY: No. Yes, it's is open.

24 MR. MAY: So for all intents and purposes
25 it's a public street. I'm asking the questions.

1 I don't need help from the audience, thank you.

2 MR. DAPOGNY: No, I will disagree. It's
3 private property.

4 MR. MAY: I understand that it's private
5 property. But for all intents and purposes in
6 terms of people driving up the street they're not
7 going to know that it's a private street, they're
8 going to use it like it's a regular street, they
9 can use it like it's a regular street because it's
10 built like a regular street, right?

11 MR. DAPOGNY: It is built like a regular
12 street.

13 MR. MAY: So is it currently signed as a
14 private street? Does somebody get the --

15 MR. DAPOGNY: I actually don't recall. I
16 don't know.

17 MR. MAY: Okay. All right. So at the
18 northern end where it joins with the cross-street.
19 I forget what the cross-street is. Is that a
20 private street there?

21 MR. DAPOGNY: Which northern end -- in
22 the Emerson Park --

23 MR. MAY: In the Emerson Park community,
24 yeah. Whatever that cross-street is.

25 MR. DAPOGNY: Yeah, this is Ava. I think

1 it's Ava Circle here and Ava Way there. And so
2 yes, this is private, Ava is private, and 6th
3 Street inside Emerson Park is private.

4 MR. MAY: But 6th Street South of Ava is
5 your property, right?

6 MR. DAPOGNY: Yes, from -- yes.

7 MR. MAY: Right.

8 MR. DAPOGNY: This is private. Well, up
9 to here, this is ours. Then the property line
10 runs sort of in there, like one quarter of this --

11 MR. MAY: Uh-huh.

12 MR. DAPOGNY: -- is on the Totten Muse
13 property and the rest of that is on the Capitol
14 Area Food Bank property.

15 MR. MAY: Uh-huh.

16 MR. DAPOGNY: Right. So the property
17 line runs somewhere like that.

18 MR. MAY: Uh-huh. Okay.

19 MR. DAPOGNY: All of that would be on the
20 Totten Muse property. And then from here out to
21 Emerson Street, that's a portion of 6th Street,
22 that is in Emerson Park HOA, and is privately
23 owned.

24 MR. MAY: Uh-huh. And that was the
25 result of another PUD.

1 MR. DAPOGNY: Yes, sir.

2 MR. MAY: Okay. So how is that treated
3 within that PUD? How is that street treated? Was
4 it treated as if it were a publically accessible
5 private street built to city standards?

6 Okay. So, Mr. Hughes, maybe you can
7 answer that question for me from the previous PUD.
8 What I'm trying to understand is --

9 MR. DAPOGNY: I can tell you what the --

10 MR. MAY: -- how should that street be
11 regarded?

12 MR. HUGHES: It's a private street.

13 MR. MAY: I understand it's a private
14 street. It's been said it's a private street.
15 But --

16 MR. HUGHES: That's how it should be
17 regarded.

18 MR. MAY: -- PUDs specify how private
19 streets are treated, right? I mean, if there's
20 going to be a gate on it, or if there's going to
21 be -- you know, is it going to be built to city
22 standards? Is it going to have a sidewalk? Is it
23 going to be open to the public? Is there going to
24 be signage, you know, who does the ticketing when
25 cars are parked there. I mean, sometimes we don't

1 get into that level of detail but those are
2 questions that come up in PUDs. So any
3 information you have about the operation of those
4 streets that a theoretical 6th Street connection
5 might connect to, would be helpful information.

6 MR. HUGHES: Well my -- I don't have that
7 information to present to you this evening.

8 MR. MAY: I understand but you --

9 MR. HUGHES: I would direct the --

10 MR. MAY: -- can look at the order and --

11 MR. HUGHES: -- Commission's attention to
12 the transcript that Ms. Bell submitted to the
13 record, which is the hearing transcript for that
14 case.

15 MR. MAY: Did you submit the entire
16 order?

17 MR. HUGHES: She submitted the entire
18 hearing transcript.

19 MR. MAY: Oh.

20 MR. HUGHES: And so I could tell you that
21 Mr. Anderson of Rocky Gorge at that time did -- I
22 believe he represented in that application that it
23 was not intended to connect. There was no
24 contemplation of a connection.

25 MR. MAY: I'm not asking that question.

1 I'm asking what the nature of 6th Street is --

2 MR. HUGHES: And I don't know that --

3 MR. MAY: -- north of Ava and what the
4 nature of Ava is in terms of how it is regarded.

5 MR. HUGHES: How is it designed or --

6 MR. MAY: The idea that private streets
7 are created in PUDs and somehow are magically
8 different from streets that are otherwise public
9 is a fiction. And if it's not a fiction then
10 we're going to start insisting on every street
11 being dedicated as public streets because these
12 things happen in other PUDs, there are strategic
13 reasons why it makes sense to do it. But, you
14 know, if it's open to the public and the public
15 has access to it, to anybody walking down that
16 street it's not any different. And, you know,
17 this is why --

18 MR. HUGHES: I don't have the answer but
19 I can provide it to the record.

20 MR. MAY: I mean, any information that
21 you can enlighten me on, on the treatment of that
22 street would be helpful.

23 MR. HUGHES: In terms of public access.
24 Not necessarily in terms of the design?

25 MR. MAY: In terms of public access and

1 public treatment. I mean, you know, I understand
2 what the ownership situation is. But if there are
3 restrictions or actual practical differences on
4 that street because it is a private street. I
5 understand, you know, the maintenance of the
6 street may be in the responsibility of the
7 homeowner's association. I understand that.
8 That's a valid consideration. But it's, you know,
9 what's the difference between this and any other
10 public street, basically.

11 CHAIRPERSON HOOD: Okay. Any other
12 questions up here? Mr. Turnbull?

13 MR. TURNBULL: Well, I just had a
14 comment. Maybe at the same time that the
15 applicants -- maybe the Department of
16 Transportation could help weigh in a bit on this.
17 I don't want to put any more pressure on them but
18 maybe they could help clarify some things.

19 MR. MAY: You know, actually, I mean,
20 that's a good point. It reminds me, one of the
21 things that seems to be said by the applicant is
22 that it's not possible to build this connection
23 and meet DDOT standards, perhaps because of the
24 grade or something else. Do you know the answer
25 to that?

1 MR. WESTROM: I do not know the answer to
2 whether it can meet our grade standards. We have
3 not discussed the details of what the grade would
4 be. However, it would be what's being
5 contemplated is a private street. It would not
6 need to explicitly meet our standards. There's a
7 range of private street treatments across the
8 District. We can think of 4th Street Southwest,
9 where passing in front of the Office of Planning,
10 which feels completely just like a public street.
11 And then there's private streets that feel very
12 much like an alley. And there's a range of street
13 treatment options that could be available.

14 MR. MAY: All right. So I mean, I guess
15 -- I mean, do you believe that, not wanting to use
16 the same terminology, but do you believe that if
17 there were to be a street built to connect 6th
18 Street all the way through, whether it could meet
19 an acceptable standard from your perspective for a
20 private street.

21 MR. WESTROM: We definitely do.

22 MR. MAY: Yeah. Okay.

23 CHAIRPERSON HOOD: Okay. Any other?

24 MR. HUGHES: Could I ask a question of
25 the Department of Transportation?

1 CHAIRPERSON HOOD: Why not? I let Ms.
2 Bell do it.

3 MR. HUGHES: I just want to get a sense
4 from Mr. Westrom, what would the right of way be
5 for such a street, given that you have vehicular
6 and then you have pedestrian?

7 MR. WESTROM: Well, again, it would be a
8 private street so there would not be right of way.

9 MR. HUGHES: You would have no
10 requirement in terms of a pedestrian passage?

11 MR. WESTROM: We would still desire to
12 see a pedestrian passage, absolutely.

13 MR. HUGHES: And what would you expect
14 that that width would be?

15 MR. WESTROM: We would need to
16 contemplate the specifics of the typical section
17 of a street, which we have not had the chance to
18 do yet. But we would expect to see a minimum of
19 all of the modes handled. And we believe that
20 there's a way that you could do that in this
21 space.

22 MR. MAY: So I think perhaps some further
23 elaboration on that on your part might be helpful.
24 That, I mean, if you take a look at how much space
25 is there and what the grades are and whether you

1 think it actually could work. I mean, might be
2 helpful information for us.

3 MS. CHAMBERLIN: So it would be a six
4 foot sidewalk.

5 MR. MAY: Uh-huh.

6 MS. CHAMBERLIN: And then minimum of 10
7 foot travel lanes. So there would be two -- so it
8 could be a 20 foot, plus a six foot sidewalk, curb
9 and gutter.

10 MR. MAY: So it's a single six foot
11 sidewalk? So only six feet wider than -- or --

12 MR. WESTROM: Two feet wider.

13 MR. MAY: Well, I heard 20 and 24, so.

14 MR. WESTROM: We don't have survey that
15 has been prepared for us in terms of the entire
16 stretch between the two, and so it's hard to know
17 exactly whether that would require widening or
18 not. The understanding of the terrain has not yet
19 been presented.

20 MR. MAY: Okay. And given the grade, if
21 it's more than a five percent grade the sidewalk
22 wouldn't meet ADA standards, right?

23 MR. WESTROM: Correct. However the
24 standard for streets, the maximum is eight
25 percent. We do have streets that are steeper than

1 that, and streets such as that we still do have a
2 sidewalk on. So you're exactly right that the
3 longitudinal grain does not technically meet ADA
4 for that stretch. However, there are options for
5 it, sometimes switchbacks such that you have a
6 landing platform every so often. And the
7 preference would be for a path to be there if you
8 can't meet the grade as opposed to there being no
9 path at all.

10 MR. MAY: Right.

11 MR. WESTROM: And the pedestrian and
12 bicycle path that's being proposed is obviously
13 going across the same grade.

14 MR. MAY: Right. Well, it's a little bit
15 different when we cross into that territory into
16 something that would otherwise be perceived as a
17 public street. And I would be willing to bet that
18 you're not building new public streets that are in
19 excess of eight percent.

20 MR. WESTROM: There is contemplation of
21 streets that are greater than eight percent on
22 various projects.

23 MR. MAY: When was the last time you
24 built one that was greater than eight percent?

25 MS. CHAMBERLIN: Well, we haven't built

1 very many new streets.

2 MR. MAY: Right. So I'm not -- I just
3 think ADA has changed the way we all do business
4 and there are lots of things that we don't -- we
5 and the Park Service don't do, that we used to do.

6 MR. WESTROM: Let's put it this way.
7 There is another case before us in which a similar
8 contemplation is happening.

9 MR. MAY: Okay.

10 MS. CHAMBERLIN: Which will come before
11 you.

12 MR. WESTROM: Which will make its way to
13 you ultimately.

14 MR. MAY: I can't wait. Thank you.

15 CHAIRPERSON HOOD: Okay. Any other
16 comments or questions up here?

17 Ms. Schellin, I want to question OAG.
18 This is a question. I want to know our
19 jurisdiction with this whole street issue, private
20 to public, public to private. And I need a full
21 explanation of actually what our jurisdiction is.
22 Okay? So that's something that I'm asking for.

23 Had you finished, Mr. Hughes?

24 MR. HUGHES: Yes, sir. I'm finished with
25 our rebuttal.

1 CHAIRPERSON HOOD: Okay. Any cross on
2 rebuttal? Let me go to the ANC. You have cross
3 on rebuttal? Okay.

4 MS. ALSTON: Just a question for the
5 record for all purposes of transparency. Whenever
6 there was a question asked regarding what DDOT's
7 recommendation was for the road closure, the
8 response was that there would be minimal impact if
9 the street was to be open for vehicular traffic.
10 Is that the case? There would only be minimal
11 impact if the street was open for vehicular
12 traffic? Or did you not state a position because
13 it was outside of what they requested? Or your
14 recommendation was not what they requested?

15 MR. HUGHES: Are you --

16 CHAIRPERSON HOOD: You're supposed to
17 cross.

18 MS. ALSTON: Okay. I'll speak to them.

19 CHAIRPERSON HOOD: Yeah, cross.

20 MS. ALSTON: I'm sorry. I'll make it
21 towards you. But then you would have to go back
22 to their answer.

23 Whenever the question was raised --
24 because if my colleagues or anyone else hears this
25 I just want to be 100 percent transparent.

1 Whenever the question was raised with regard on
2 DDOT's recommendation to having the street open
3 for vehicular traffic, the response was that DDOT
4 said it would only have a minimal impact if the
5 street was to be open to vehicular traffic. Is
6 that correct?

7 MR. HUGHES: What do you mean by minimal?
8 I don't remember saying that but maybe I'm just
9 not understanding the question.

10 MS. ALSTON: Every time in the community
11 meeting someone would say, "What's DDOT's
12 recommendation," or "What did DDOT say about
13 this."

14 MR. HUGHES: And their report, we just
15 represented what was in their report in the
16 record, which is they recommended approval of the
17 application with the mitigation of the path.

18 MS. ALSTON: Based on the way it is.
19 Okay.

20 MR. HUGHES: Is that your question?

21 MS. ALSTON: Yeah, but then when Ms. Bell
22 asked DDOT, DDOT's response was not the same. It
23 was that the recommendation was, this is my
24 recommendation but this is not what you asked for.
25 So I just wanted to make sure because that's why

1 we didn't entertain it in the community because it
2 was outside of what -- they didn't provide an
3 answer beyond what you've requested.

4 CHAIRPERSON HOOD: Is that a question or
5 a --

6 MS. ALSTON: It was a question. He
7 responded.

8 CHAIRPERSON HOOD: -- cross on rebuttal,
9 or are you talking --

10 MS. ALSTON: He did.

11 CHAIRPERSON HOOD: -- you're talking
12 about what happened in the meeting?

13 MS. ALSTON: He asked me a question. He
14 asked me a question so I was -- thank you.

15 CHAIRPERSON HOOD: Mr. Hughes, you know
16 you --

17 MS. ALSTON: Appreciate it.

18 CHAIRPERSON HOOD: -- it doesn't go the
19 other way, unless you need a clarification.

20 MR. HUGHES: I'm sorry, Mr. Chairman.

21 MS. ALSTON: Okay.

22 MR. HUGHES: I just wanted to make sure I
23 had answered her question.

24 CHAIRPERSON HOOD: So at the SMD meeting
25 and the ANC meeting, all that should -- that's

1 when we handle that. Okay?

2 MS. ALSTON: Thank you, sir.

3 CHAIRPERSON HOOD: All right. I can do
4 that because I know her. Okay.

5 Any other questions? Did you have any
6 other cross? That was it? Okay. Ms. Bell, did
7 you have any cross?

8 MS. BELL: Not at this time.

9 CHAIRPERSON HOOD: Okay. Can we get a
10 closing?

11 MR. HUGHES: Absolutely. Members of the
12 Commission I'll make this very brief. As I
13 mentioned, and I don't know what time it is. I
14 purposely didn't wear a watch. But we've heard
15 quite a bit of input and we certain will address,
16 if the Commission entertains the application we
17 will certainly move to address the items that were
18 raised tonight by the Commission in terms of the
19 architectural elements, the construction
20 management plan, the details regarding the
21 proposed path. I have a long list of others that
22 we will make certain that we would address the MOU
23 discussions with the Emerson Park, the need to get
24 with Commissioner Alston to confirm on the terms
25 of the commitment to UDC regarding the Backus

1 renovations.

2 I do want to remind -- and I think the
3 Chair got to this point, the Community is in
4 support of this project in terms of changing the
5 current use to vibrant three bedroom townhomes to
6 be owned. And we do, you know, we hear the tweaks
7 and the encouragements on the design and we will
8 certainly make it even better.

9 But I just want to remind that the matter
10 of right use -- so we're not as -- I can't
11 remember, maybe it was Commissioner May that
12 mentioned the number of applications that come
13 before you requiring a great deal of flexibility.
14 We're not. Just from a, I guess a hypothetical
15 sense, or a technical sense, we are proposing
16 something that's extraordinarily low density.

17 It's an over four acre site. Almost two
18 acres of that is currently zoned industrial.
19 Industrial development could go on that site
20 without any sort of connection required, and
21 trucks could go in and out of the connection to
22 the south at a lot higher frequency than the -- I
23 believe we're predicting a.m. peak traffic of
24 maybe four or five -- I think it -- I'll just, I
25 won't go to our expert. But it's one every four

1 or five minutes you're talking about seeing a car
2 from that neighborhood. So it's extraordinarily
3 low density.

4 I hear and appreciate the impacts of
5 development in any neighborhood and I don't see
6 that they're necessarily consistent. There are
7 residents on 7th Street that want to shift their
8 dealing with traffic and they want to shift it to
9 6th Street, and then there's residents on 6th
10 Street that want to shift the traffic elsewhere.
11 I'm not sure those are consistencies in the
12 argument, but what I would say is that what we are
13 proposing, we believe. after months of talking
14 with community input, that the pedestrian and
15 cycle path, it not only improves, you know, it
16 takes advantage of the connectivity, the proximity
17 of this site to, you know, a somewhat unique Metro
18 station which has three lines outside of the
19 downtown. We believe it's a benefit.

20 So without going on any longer, we
21 appreciate your time; we appreciate the time of
22 everyone in this room. We think that the project,
23 as a result, could be made better and we hope to
24 do that and we would request your approval.

25 CHAIRPERSON HOOD: Okay. Thank you very

1 much. Let's see if -- do we need to go over the
2 list, Ms. Schellin and Mr. Hughes, of what we've
3 asked for? Do we need to itemize that or do you
4 all both -- well, you're responsible for it but do
5 you want to make sure we're on the same page? You
6 want to call it off to Ms. Schellin?

7 MR. HUGHES: I have a book of notes so
8 I'm not sure.

9 CHAIRPERSON HOOD: You have a book.
10 Okay.

11 MS. SCHELLIN: I'd rather he not call his
12 list off.

13 CHAIRPERSON HOOD: Okay. Call yours off.

14 MS. SCHELLIN: Because that way if I miss
15 something Peter -- Commissioner May will let me
16 know.

17 First I'd like to let the ANC know the
18 two items I had down for them was to, before final
19 action that they would provide a list of the
20 specific projects that the \$12,500 would be for.
21 And then I think that's the only thing that we're
22 looking for from the ANC.

23 And then DDOT, I have that they would
24 provide information on the street, how it would --
25 whether it would be able to meet the DDOT

1 standards. Commissioner May asked --

2 MR. MAY: I think they pretty much
3 answered that. I mean, do you have more than you
4 can add
5 in --

6 MS. CHAMBERLIN: Well, I think what Ryan
7 was getting at was the proposal for a street
8 wasn't presented to us ever. So we weren't able
9 to analyze what would be the requirements. I
10 mean, there are lots of different design
11 requirements.

12 MR. MAY: Right. And I'm just asking, I
13 mean, is it worthwhile for you to have the
14 opportunity to present more information if you
15 really think a street would be a better thing?

16 MS. CHAMBERLIN: Well, I think we would
17 rather react to what they can present on a street.

18 MR. MAY: Okay. Well, I don't think
19 they're going to be presenting a street any time
20 soon.

21 MS. CHAMBERLIN: Well, if you want we can
22 give you then, what the minimum requirements are
23 first.

24 MR. MAY: I think that would then help.

25 MS. SCHELLIN: Okay. So minimum DDOT

1 requirements, street requirements. Okay.

2 And then I'll move on to what I have down
3 for the applicant. And I was having some computer
4 issues, so I'm sure I missed a few things for
5 Commissioner May. You had stated that the way the
6 windows are placed they look like there may be
7 some mistakes there and asked that they take a
8 look at revising them.

9 MR. MAY: Yeah, they can -- that's up to
10 them.

11 MS. SCHELLIN: Right.

12 MR. MAY: I wouldn't even, you know --
13 they heard it. They can do what they want there.

14 MS. SCHELLIN: Okay. The end units on
15 page 7, you thought -- you advised them that you
16 thought that all of the units should be well
17 designed, so maybe they --

18 MR. MAY: Yeah.

19 MS. SCHELLIN: -- should take that into
20 consideration.

21 MR. MAY: Uh-huh.

22 MS. SCHELLIN: Excuse me. I wrote down
23 that the carriage gate door that they needed to
24 take another look at that, the way it was
25 designed.

1 MR. MAY: Yep.

2 MS. SCHELLIN: Provide simulations of the
3 trail through the neighborhood.

4 MR. MAY: Yes.

5 MS. SCHELLIN: Commissioners Hood and
6 Miller strongly encourage a construction
7 management plan. Commissioner Turnbull, I wrote
8 down Exhibit 24F, that they needed to clarify
9 exactly what that means. Maybe there was a
10 statement in there, in that exhibit that they
11 made. And that you want them to -- do you still
12 need a lighting plan from them, or a better
13 lighting plan?

14 MR. TURNBULL: No, I think they showed --
15 I mean, I didn't have all the copies of all the
16 documents we've had building up. So I did see the
17 lighting plan so I think --

18 MS. SCHELLIN: So you're okay with that?

19 MR. TURNBULL: I'm okay with that.

20 MS. SCHELLIN: Okay. A blowup of the
21 playground area, Commissioners Turnbull and Hood.
22 You, Commissioner Turnbull, also asked for that
23 they provide a drainage plan of the downspouts.

24 MR. TURNBULL: Yeah, I guess my concern
25 was they show on one of the civil drawings a bio

1 retention. There's some drainage, but with all of
2 the downspouts coming down I want to make -- there
3 was just a question on my part, where is all this
4 water going and how is it being handled, and where
5 is it being funneled in the area that it's not --
6 you know, yeah, I think that they know what I
7 want.

8 MS. SCHELLIN: Okay. Commissioner Hood
9 asked that they meet with DDOE prior to final
10 action. Commissioner Hood asked that they clarify
11 -- actually, I think it's been clarified, the
12 \$5,000 amount. I believe Commissioner Alston
13 clarified that.

14 CHAIRPERSON HOOD: Yeah, that's taken
15 care of.

16 MS. SCHELLIN: Commissioner Hood asked
17 that they provide information on the trash pickup.
18 Commissioner Turnbull asked for a better view or a
19 plan showing the pedestrian bike path.
20 Commissioner May asked for information on the
21 treatment of the private street. I believe there
22 was mention that there would be information
23 provided on the MOU with Emerson Park. And that's
24 all I have.

25 MR. HUGHES: Is the item on the

1 information on the private street, that's what you
2 were asking about from the original Emerson Park
3 PUD. Is that correct?

4 MR. MAY: Yeah. And, you know, to the
5 extent you want to submit anything. If you think
6 that what we have in the record is sufficient,
7 that's fine.

8 CHAIRPERSON HOOD: And again, Ms.
9 Schellin, I want to ask OAG about the whole
10 jurisdiction --

11 MS. SCHELLIN: I've already sent them an
12 e-mail.

13 CHAIRPERSON HOOD: Oh.

14 MS. SCHELLIN: That wouldn't be in the
15 record. It would be attorney/client privilege.

16 CHAIRPERSON HOOD: Okay. Good.

17 MR. MAY: I had also asked for drawings
18 of the elevations with the downspouts shown, but
19 there are drawings that -- I mean, they're not
20 completely head-on elevations but they're the
21 computer renderings that are more or less head-on
22 and that shows what I needed to see. I just
23 didn't see it in the head-on elevations. So I
24 don't need that information because they might
25 have heard that and I don't want them to --

1 MS. SCHELLIN: Okay.

2 MR. MAY: -- do that if they don't need
3 to.

4 MR. MILLER: Mr. Chairman, to the extent
5 that the ANC or the applicant is able to get
6 something in writing from UDC regarding their
7 commitment to you to allow the community first
8 preference of a certain number of times a year of
9 the room to be renovated on the Backus Campus with
10 the dollars from the applicant, to the extent you
11 can get something in writing, that would be
12 helpful.

13 CHAIRPERSON HOOD: I think we asked for
14 some more specificity in nailing some of those
15 amenities down and seeing how they're going to be
16 administered. You already mentioned that? Okay.
17 I'm taking my own notes. Okay. Thank you.

18 MS. SCHELLIN: Dates.

19 CHAIRPERSON HOOD: Okay. Let's do some
20 dates.

21 MS. SCHELLIN: So this won't come up for
22 proposed action until the July -- I'm sorry. Not
23 July.

24 CHAIRPERSON HOOD: I was going to say,
25 that's a long time.

1 MS. SCHELLIN: September 21st, public
2 meeting. So if we could get the applicant to
3 provide their additional information by September
4 4th and draft findings of facts, conclusions of
5 law also, 3:00 p.m.

6 MR. HUGHES: That's all on September 4th?

7 MS. SCHELLIN: Yes.

8 MR. HUGHES: Okay.

9 MS. SCHELLIN: And where is Ms. Alston?
10 There she is. I assume you guys are not going to
11 meet prior to September 4th, so if you could
12 provide that breakdown, the one item that you need
13 to do, by 3:00 p.m., September 14th? And then the
14 parties, Ms. Bell's group and the ANC, would be
15 able to provide responses to the applicant's
16 filings by 3:00 p.m., September 14th. DDOT also
17 would provide their filing by 3:00 p.m. September
18 4th also.

19 MR. HUGHES: And this would be set for
20 proposed action on the 21st?

21 MS. SCHELLIN: Twenty-first. And then is
22 there anything that the applicants -- I don't
23 think they're filing anything that you're looking
24 for DDOT or OP to respond to. Was there? No?
25 Okay. So that's it.

1 CHAIRPERSON HOOD: All right. Do we have
2 anything else?

3 MS. SCHELLIN: No, sir.

4 CHAIRPERSON HOOD: We all on the same
5 page?

6 MS. SCHELLIN: Yes, sir. I think so.

7 MR. HUGHES: Yes, sir.

8 CHAIRPERSON HOOD: Okay. I want to thank
9 everyone for their participation tonight. We
10 appreciate it. And this hearing is adjourned.

11 [Hearing adjourned at 9:42 p.m.]

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