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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Zoning Commission

Public Hearing

Case No. 16-13 [JS Congress Holdings, LLC. -  
Consolidated PUD & Related Map Amendment at Square  
748]

6:32 p.m. to 9:33 p.m.  
Wednesday, January 4, 2017

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

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1 Board Members:

2 ANTHONY HOOD, Chairman

3 ROBERT MILLER, Vice Chair

4 PETER MAY, Commissioner

5 MICHAEL TURNBULL, Commissioner

6 PETER SHAPIRO, Commissioner

7

8 Office of Zoning:

9 SHARON SCHELLIN, Secretary

10

11 Office of Planning:

12 JENNIFER STEINGASSER

13 JOEL LAWSON

14

15

16 Department of Transportation:

17 EVELYN ISRAEL

18

19

20

21

22

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

2 CHAIRPERSON HOOD: Let me wish everyone a  
3 happy new year. Hope your holidays were very  
4 enjoyable.

5 Good evening, ladies and gentlemen. This is  
6 a public meeting of the Zoning Commission for the  
7 District of Columbia. Today's date is January the  
8 4th -- Wednesday, January the 4th, 2017.

9 My name is Anthony Hood. Joining me are Vice  
10 Chair Miller, Commissioner Shapiro, Commissioner May,  
11 and Commissioner Turnbull. We're also joined by the  
12 Office of Zoning staff, Ms. Sharon Schellin, as well  
13 as the Office of Planning staff, Ms. Steingasser and  
14 Mr. Lawson.

15 This proceeding is being recorded by a court  
16 reporter and is also webcast Live. Accordingly, we  
17 must ask you to refrain from any disruptive noise or  
18 actions in the hearing room, including the display of  
19 any signs or objects. Notice of today's hearing was  
20 published in the D.C. Register and copies of that  
21 announcement are available to my left on the wall  
22 near the door.

23 The hearing will be conducted in accordance  
24 with provisions of 11-ZDCMR Chapter 4 as follows,  
25 preliminary matters, applicant's case, report of the

1 Office of Planning, report of other government  
2 agencies, report of the ANC, organizations and  
3 persons in support, organizations and persons in  
4 opposition, rebuttal and closing by the applicant.

5 The following time constraints will be  
6 maintained in this meeting. The applicant has  
7 requested 45 minutes, organizations have five  
8 minutes, and individuals have three minutes.

9 All persons appearing to -- wishing to  
10 testify before the Commission in this evening's  
11 hearing are asked to register at the kiosk to my  
12 left, and fill out two witness cards. If you need an  
13 assistance with the kiosk, Ms. Schellin is available.  
14 She's sitting to my left.

15 The staff will be available throughout the  
16 hearing to discuss procedural questions. Please turn  
17 off all electronic devices at this time so not to  
18 disrupt these proceedings. Would all individuals  
19 wishing to testify please rise to take the oath?

20 Ms. Schellin, would you please administer the  
21 oath?

22 MS. SCHELLIN: Please raise your right hand.

23 [Oath administered to the participants.]

24 CHAIRMAN HOOD: Okay. I think we have --  
25 okay, I have a preliminary matter. I just wanted to

1 give a shout out to -- we have some young men who I  
2 think are located in Atlanta, Georgia. Are they in  
3 Atlanta, Georgia?

4 MR. MAY: Yes.

5 CHAIRMAN HOOD: That's Commissioner May's  
6 sons. Are all three of them watching?

7 MR. MAY: [Speaking off mic.]

8 CHAIRMAN HOOD: The twins.

9 MR. MAY: Right.

10 CHAIRMAN HOOD: I want to shout out to the  
11 twins on behalf of the Zoning Commission, we're glad  
12 you could join us tonight. Hopefully, you can stay  
13 awake. But I think both of them are Eagle Scouts so  
14 we have -- I'm glad to be associated with them, with  
15 that. I'm an Eagle Scout as well, so we want to  
16 shout out to you all to keep an eye on your dad and  
17 text him if he asks too many questions. Okay. So,  
18 it's good to have him with us, joining us tonight.  
19 I'm glad you gave me that.

20 MR. MAY: [Speaking off mic.]

21 CHAIRMAN HOOD: Oh, yeah. They'll get it.  
22 If he asks more than 12 questions, make sure you text  
23 him. Okay. All right. Good to have you all with --  
24 what are their names?

25 MR. MAY: Chris and Joe.

1           CHAIRMAN HOOD: Chris and Joe. Glad you can  
2 join us tonight. All right. And hopefully you'll  
3 come back, and hopefully it's interesting enough that  
4 you will tune back in again.

5           Any other -- okay, I think we've already  
6 decided our preliminary matters. Am I correct?

7           MS. SCHELLIN: Correct. Party status was  
8 considered. You guys granted third-party status to  
9 the Third Street Homeowners. Mr. Irby is in the  
10 audience, so he is present, and you guys already  
11 approved the -- accepted the expert witnesses.

12          CHAIRMAN HOOD: So, we can get right in to  
13 it. Ms. Brown, you may begin.

14          MS. BROWN: Great. Good evening, Members of  
15 the Commission. I am Carolyn Brown with the law firm  
16 of Donohue and Stearns on behalf of the applicant,  
17 J.S. Congress Holdings, LLC.

18          We are very to return this evening with a  
19 positive OP report recommending approval of our  
20 application for a PUD and related map amendment to  
21 the C-2-B District, in order to construct a new mixed  
22 use project on Congress Street, immediately south of  
23 U-line Arena.

24          While the project is relatively small in  
25 comparison to some of the other PUDs in the

1 neighborhood, its vision is big in transforming this  
2 underutilized partially vacant site into a  
3 thoughtfully designed, contextual residential  
4 building with 63 units and ground floor PDR uses.  
5 The PUD will greatly enhance the streetscape with the  
6 introduction of landscaping and hardscape features,  
7 and will redesign and reconfigure the alley system  
8 into a workable, accessible, attractive access point  
9 for this building and the adjacent 3rd Street  
10 neighbors.

11           Before we get into our presentation I would  
12 like to address the outstanding issues that you and  
13 the Office of Planning raised on November 21st, and  
14 to assure you that they're very much in our  
15 sightlines. They are height, the affordable housing  
16 component, greater detail on the areas of flexibility  
17 requested, and the brick color.

18           On November 21st, Mr. May, you asked for  
19 further explanation of how the proposed C-2-B zoning  
20 and 90-foot height is not inconsistent with the  
21 Comprehensive Plan, particularly in relation to the  
22 3rd Street row houses.

23           In our supplemental submission dated December  
24 16th, we address the appropriateness of the proposed  
25 C-2-B zoning. Although the C-2-B zoning is not

1 specifically listed among the corresponding zone  
2 categories for the medium density residential PDR  
3 designation on the future land use map, the C-2-B  
4 District is not inconsistent with the FLUM.

5           Through the PUD process the C-2-B zoning will  
6 allow the same height and density permitted as a  
7 matter of right under the M District, which is one of  
8 the specifically listed district -- specifically  
9 listed categories.

10           The M District, however, would not allow any  
11 housing and would potentially create significant  
12 adverse impacts to adjacent residential properties.  
13 Here, however, the rezoning of the property to the C-  
14 2-B District to the PUD process will allow compatible  
15 residential uses while also allowing greater height  
16 and density in exchange for a commendable number of  
17 quality public benefits.

18           We note that the C-2-B zoning proposed is  
19 less intensive than the C-3-C zoning recently  
20 approved for the PUD at 301 Florida Avenue Northeast,  
21 and the Central Armature site a block of our site.  
22 Both sites have the same FLUM designation of medium  
23 density residential and PDR uses. The Central  
24 Armature site, of course, is adjacent to the railroad  
25 tracks and neither PUD site is adjacent to rowhouses.



1 Nevertheless, we believe the 90-foot height proposed  
2 under the C-2-B zoning is not inconsistent with the  
3 Comprehensive Plan given the specific circumstances  
4 of this square and the adjacent row houses.

5 First, the adjacent row houses are currently  
6 zoned P-D-R-1, which equates to the C-M-1 zone of our  
7 site. Residential uses are prohibited in the P-D-R-1  
8 District, so these houses are nonconforming uses and  
9 can't be expanded without BZA approval.

10 Second, the future land use map designates  
11 the entire portion of this square, including the row  
12 houses for medium density residential PDR uses. They  
13 are not designated for low density residential uses.

14 Third, the generalized policy map designates  
15 our site and the row houses as a land use change  
16 area. Across 3rd Street to the east, the row houses  
17 there and the residential community beyond are all  
18 part of a neighborhood conservation area. This  
19 portion to the west is not. So, I think those are  
20 distinguishing factors that would support allowing a  
21 90-foot height adjacent to these row houses.

22 We recognize that these are people's homes  
23 and we don't mean to be dismissive or insensitive to  
24 that fact. We just wanted to be clear on what we  
25 believe the Comprehensive Plan allows, and why it is

1 not inconsistent in this particular instance.

2           With respect to the practical effect, Mr.  
3 Miller, you asked us to consider a possible setback  
4 of some sort. We did look at that and we will be  
5 addressing that in our presentation this evening.

6           We have also increased the amount of  
7 affordable housing by over 800 square feet and  
8 introduced the only three-bedroom unit in the project  
9 to be set aside exclusively as an IZ unit. Mr.  
10 Baschuk will describe that in greater detail.

11           Our presentation tonight will also include a  
12 greater explanation of the rear yard court parking  
13 and loading relief we are requesting.

14           Finally, Chairman Hood, you indicated you  
15 weren't particularly fond of the brick color and we  
16 will be addressing that tonight, that we -- Ms.  
17 Nelson will describe some of the precedence she used  
18 and how some of the additional banding and detailing  
19 on the building helped modulate the color.

20           At Exhibit 29C, you will find a list of all  
21 the public benefits and amenities for this project  
22 and the relative value over what is achievable as a  
23 matter of right. Given our limited time tonight and  
24 the amount I've taken so far, I'd like to turn to our  
25 first witness, Mr. Bruce Baschuk.

1           MR. BASCHUK: Thank you, again. My name is  
2 Bruce Baschuk. I'm the Chairman of the J Street  
3 Companies, and before I start I just want to thank  
4 you all for postponing, which allowed all of us to  
5 get more time to make sure that we made an  
6 appropriate and thoughtful response to your issues,  
7 as well as some of the things that OP had raised that  
8 we had not had a chance to understand completely  
9 before we got here. So, thank you all for your  
10 indulgence.

11           I'll briefly touch on the history, our  
12 history, our company's history in the community, the  
13 objectives we have for this site and what we've done  
14 in the process to engage the community to make it a  
15 better property.

16           I'm a 35-year veteran of commercial real  
17 estate in the downtown market. Our company has been  
18 involved in the NoMa market since 2005. I  
19 established the business improvement district as the  
20 founder in NoMa at that point in time, and we  
21 actually housed it in our offices until we could  
22 launch it.

23           We have acquired and titled, and I have been  
24 involved in the development of over five acres in  
25 NoMa since that period of time. That's a lot of

1 land. It includes 111 K Street, which is a building  
2 at the corner of K and 1st Street Northeast. It's an  
3 office building. 1111 North Cap, which we sold to  
4 National Public Radio after we took it through the  
5 HPRB process and the mayor's agents process, and a  
6 lot of work with OP.

7           So, we have a clear and unfettered  
8 perspective of what we were trying to accomplish for  
9 many years in this market and we think that the east  
10 side of the tracks is going to be even more exciting  
11 because of the existing residential that is there.  
12 It connects Union Market to H Street, and we seek to  
13 build a high-quality product in this location.

14           We came up with an initial LEED Gold design  
15 for a 64-unit condominium building and we then  
16 reached out to, beginning a year ago, and listened to  
17 the Office of Planning, DDOT, the BID, the ANC, and  
18 adjacent property owners, including the Washington  
19 Center for Interns.

20           As a result of listening to those folks we  
21 have made the following changes in our design and in  
22 the building itself. We eliminated the curb cut on L  
23 Street, moved our parking entrance to the alley. We  
24 had heard a lot of complaints about the concerns that  
25 people were double parking. You know the Jersey

1 barriers that exist there today, those obviously will  
2 be removed and there will be no below-grade parking.

3           It required us though, in doing that, to  
4 completely rethink the building, how it would be  
5 accessed given the 10-foot grade change and how much  
6 parking we could provide to meet the market, shifted  
7 the column lines and did other things necessary to  
8 make sure the project was viable.

9           In addition, we reoriented our retail at OP's  
10 request, to focus on PDR uses, Production,  
11 Distribution, and Repair uses, which we support.  
12 We've reached an agreement with an adjacent property  
13 owner. That's Jamal, to set back the building on the  
14 south side, which allows both of us to create window  
15 space as opposed to a blank wall.

16           A more attractive façade, which is something  
17 we specifically heard from the ANC. We moved the  
18 alley to the north of the building, allowing the  
19 adjacent property owners, both an improved and  
20 unfettered access to the back of the property, such  
21 that people who were on 3rd Street. What it is  
22 possible today to potentially access those  
23 properties, it's not feasible to get a car in and  
24 out, and nobody does, in the back of their yards.  
25 This five-foot widening of that property by our

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1 setting the building back five feet from the property  
2 line will allow that to happen.

3 We've changed the affordable housing mix that  
4 we originally offered, to increase it 22 percent from  
5 eight to just under 10 percent of the total, and  
6 added a three percent -- a three-bedroom unit.

7 We've proffered a total of approximately  
8 \$90,000 to NoMa Dogs, and a Bikeshare station on the  
9 corner of 3rd and L. And we've agreed to utilize  
10 First Source in our construction contracts.

11 Also, at the request of the Commission, we  
12 have met with some of the adjacent property owners.  
13 Initially, I had just reached out to Fred given that  
14 -- Fred Irby, given that he had represented he only -  
15 - he was the representative for all the property  
16 owners. We, he and I, were unable to reach any  
17 conclusion on an agreement to accommodate his  
18 concerns.

19 And I then, independently, reached out to  
20 several of the property owners and have found that in  
21 one case we have reached an agreement, and we are  
22 providing things that they want and need in their  
23 property. I feel confident that I'll get to the same  
24 place with the second owner. The third owner has  
25 decided to sell, and is no longer interested in

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1 having any discussions about our project or anybody  
2 else's. They're under contract. The other two  
3 properties are owned by a bank and the Department of  
4 Housing and Community Development which had no  
5 interest in what it is that we're doing today.

6 So, I'd like to finalize that, but I've been  
7 unsuccessful so far, with Mr. Irby. So, I would like  
8 to do that.

9 Finally, we've considered the comments we've  
10 heard from the Commission regarding height and  
11 affordability. We took your concerns, as Carolyn  
12 mentioned, very seriously and studied it.  
13 Unfortunately, we don't have a way to reduce the  
14 height without jeopardizing the economic viability of  
15 this property. We entered into an agreement to buy  
16 this property from somebody, we haven't closed on it,  
17 and based on what we are able to build and what we  
18 are paying for it, reducing the project's height by  
19 one floor would reduce the profitability. As you  
20 might imagine it's the nicer floor in the building as  
21 opposed to the lowest floor, by roughly 20 percent.

22 And combined with all the other concessions  
23 that we have and are willing to make, this would not  
24 be an economically viable property if we reduced the  
25 property by a floor.

1           The project does present, as it's presented  
2 to you, an economically viable property as it's  
3 presented. But if it changes significantly, we don't  
4 have the ability to do that any longer.

5           We have, however, attempted to soften or  
6 mollify the appearance of the height of the building,  
7 and Jane Nelson will cover that in her discussions.

8           In addition, as I mentioned, we've enhanced  
9 the affordability beyond what we had previously  
10 submitted. We agreed to add a three-bedroom unit at  
11 80 percent of AMI. It combines a one-bedroom unit  
12 that we had previously offered at 50 percent, with a  
13 market-rate unit. So, we've added one, if you will  
14 800 and some square feet, or about nine percent of  
15 the total project now is -- 10 percent of the total  
16 project is dedicated to IZ.

17           Just as a side note, I am not fighting IZ  
18 personally. I've been involved in Jubilee  
19 Enterprise, if you're familiar with that. Jubilee  
20 Housing. I ran one, I was on the board of another,  
21 and I am personally committed to the whole concept of  
22 affordable housing in the District. And candidly, as  
23 I spoke to a couple of the residents who weren't  
24 aware of it, who were on 3rd Street, they were  
25 particularly excited that there would be units



1 dedicated for people who are in the 50 to 80 percent  
2 range.

3           And as you know, it's a very significant  
4 discount off of market rates. You know, it's  
5 probably 20 percent of what they would have to pay if  
6 they paid for a market rate unit. So, we are  
7 committed to it. We're very excited to continue our  
8 involvement in an attractive and environment in NoMa  
9 which mirrors both my personal and my company's  
10 commitment to making this a better place to live and  
11 work. Thank you.

12           MS. BROWN: If there are no questions, we'll  
13 go to our next witness, Jane Nelson.

14           MS. NELSON: Good evening. My name is Jane  
15 Nelson with Nelson Architects.

16           CHAIRMAN HOOD: Is your microphone on?

17           MS. NELSON: I'm sorry. Uh-huh. And, so I  
18 have all the sheets from the submittal, but most of  
19 them are at the back. I've rearranged the  
20 organization to better describe the project, so if  
21 there's anything that you'd like to see at the end, I  
22 can pull that up.

23           The site is located east of the elevated rail  
24 road tracks. It fronts a one-way -- I mean, a dead-  
25 end street, Congress Street, which is very narrow,

1 right here. And the south of the site fronts L  
2 Street between 2nd and 3rd Street Northeast. You can  
3 see the U-Line Arena right there.

4 As Carolyn mentioned, the project was  
5 submitted under the regulations of ZR-58. So, the  
6 1958 zoning map designates this site as a C-M-1 zone.  
7 This slide of the Comprehensive Plan's Future Land  
8 Use Map shows that our site is designated as medium  
9 density residential and PDR uses. We are requesting  
10 a map amendment from C-M-1 to C-2-B. We are  
11 proposing a mixed-use building with PDR uses on the  
12 ground floor and residential uses on the upper seven  
13 floors.

14 The public benefits and amenities of the  
15 project that Bruce described are commensurate with  
16 the limited development flexibility we are seeking  
17 through this PUD process.

18 And as Carolyn earlier described with the  
19 Comp Plan, the height of our building is consistent  
20 with the Comp Plan, and with the recent developments  
21 in the immediate neighborhood that are also  
22 designated as medium density residential on the Comp  
23 Plan.

24 To the north of our site, or in the light  
25 blue, these are projects that range from nine to 11

1 stories, and 12. We have the Central Armature, 300 M  
2 Street, and 301 N Street. Here is our site right  
3 here, and to the south, directly across the street is  
4 a -- which is under construction right now, is the  
5 second phase of the 200 K Street, and it is a 14-  
6 story structure.

7           Across the tracks, we have more nine to 12-  
8 story buildings. And in the golden areas are  
9 anywhere from five to eight-story structures. The U-  
10 Line Arena, which is directly to our north, is four  
11 stories.

12           And I'll just -- you've seen most of these  
13 very recently, so I'll just run through them. The  
14 Central Armature, which is a block north from us on  
15 3rd, and then directly across the street from that is  
16 the 300 M Street project. One block to the north of  
17 that is the 301, 331 N Street project. And then to  
18 the south, immediately across the street, is the  
19 second phase of the 200 K Street. And this is L  
20 Street right here, and 3rd is up here, and our site  
21 is right in that area.

22           And then a block to the south is the Pullman  
23 building, and across the elevated tracks on L Street  
24 is Story Park.

25           Our site is represented here in the existing

1 conditions. It's outlined in red. We have a public  
2 alley that bisects the site, it's a 9-foot alley, and  
3 this is the alley that we are requesting to close.  
4 That alley dead-ends into a alley eight foot, nine  
5 wide, that is dead-end at the north end of our site.

6 We have the seven townhouses that back up to  
7 the public alley, and then two vacant lots at the  
8 southeast corner.

9 Across the street on Congress are one and  
10 two-story warehouse buildings.

11 From L Street, north on Congress, the site  
12 slopes approximately 10 feet. The site is very  
13 narrow. At its widest it's 68 feet, and at its  
14 narrowest, it's 45 feet.

15 This slide is looking on L, looking north on  
16 Congress. And you can see the U-Line Arena at the  
17 top of the street. This is one of the two buildings  
18 that we will be demolishing. This is an office  
19 building, two-stories office, with a garage. And  
20 that garage fronts L Street right now.

21 The steps to the right, I'll explain those  
22 later, but this raised adjacent vacant lot is the  
23 reason why we have a retaining wall on our project  
24 that Office of Planning has mentioned.

25 This is Congress Street at the north end,

1 looking south towards the development of -- that's  
2 under construction, the 14-story. And then our  
3 project is on the left side, the two buildings on the  
4 left here, which will be demolished.

5           These two slides are looking at the 9-foot  
6 public alley running east/west. The one that we are  
7 proposing to close. Again, our project is on either  
8 side of that alley.

9           And this is the view looking from the alley,  
10 running north/south, that dead-ends at the north end  
11 and fronts both our property on the left, and the row  
12 houses on the right.

13           This view is L Street, looking west towards  
14 the elevated tracks.

15           Both sides of Congress Street are identified  
16 for PDR uses and have historically served production,  
17 delivery, and repair. At our earliest meetings with  
18 Office of Planning it became clear that while medium  
19 density residential use is encouraged for this area,  
20 it is also important not to lose the origins of the  
21 site with its production, delivery, and repair uses.

22           Having that as a criteria, we decided our  
23 development would embrace the spirit of this historic  
24 PDR use on the site and neighborhood, and use it as  
25 an inspiration for the style of building, rather than

1 simply have a retail use that qualified as PDR.

2           The primary entrance façade on Congress  
3 Street is reminiscent of masonry warehouse  
4 proportions and detailing, using simple brick work in  
5 the form of pilasters, which are slightly more  
6 articulated at the entrance space, but still maintain  
7 a restrained level of articulation consistent with  
8 warehouse architecture. Simple cast stone banding,  
9 the color of terracotta, differentiate the base and  
10 belt courses. Large openings at the ground floor are  
11 at a scale similar to service doors.

12           We designed the south façade to have a strong  
13 image so that this façade on a primary street not  
14 feel like the end of a building. Also, the view from  
15 L Street, looking north up Congress Street is very  
16 unique. The view is terminated by the U-Line Arena  
17 with its curved and ribbed roof profile. The curve  
18 of our building and the projected balconies are a  
19 reinterpretation of the sight lines of the original  
20 U-Line roof.

21           The choice of metal on this curved façade is  
22 a nod to the mechanization of the area's history of  
23 PDR uses. Extending the metal to the top floor ties  
24 the two images together, provides an attic story to  
25 the masonry façade, and transitions to the habitable

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1 penthouse.

2           And, Mr. Hood, as Carolyn mentioned, the last  
3 time we were here you questioned our choice of brick  
4 color. The color pallet that has inspired us is by  
5 three well-known D.C. buildings. We have the Woody's  
6 Warehouse at the lower left, the Hex warehouse turned  
7 apartment building at the lower right, and the  
8 Kennedy Warren building, apartment building at the  
9 top.

10           The use of light colored brick, light gray  
11 metal, earth tones, and black accents is a  
12 combination that is not only traditional, but it's  
13 also current. There is a timeless and eloquent  
14 quality to this combination.

15           In this rendering you can see how the  
16 silhouette of the projected balconies recall the ribs  
17 of U-Line. The primary retail space fronts on L  
18 Street. Also, shown here is preferred retail signage  
19 and lighting style. Pin letters with gooseneck  
20 lights that highlight the retail signage but does not  
21 overpower the streetscape.

22           The next four slides are in response to both  
23 Office of Planning and the Commission wanting to see  
24 the project -- what the project looks like from the  
25 perspective of the adjacent row houses. This view is

1 looking southwest on 3rd Street showing the east  
2 façade of our building, the seven row houses on 3rd  
3 Street, and the 14-story residential project  
4 currently under construction across L Street. This  
5 view is turning a bit west, looking more frontally at  
6 the row houses.

7           This view is taken from the rear yard of the  
8 townhouses. In response to comments from both the  
9 Commission and OP, we have continued the colored  
10 banding, the projected brick banding, and the  
11 projected brick pilasters. While this lower banding  
12 will not be seen from the street, it does bring a  
13 strong line to the base of the building in a scale  
14 similar to the adjacent row houses, as you can see  
15 here in this view, which is looking south.

16           The design intent of the penthouse was to be  
17 a backdrop to the building itself, and not to  
18 visually compete with the main building. Having a  
19 walkout terrace on the roof of the building is an  
20 amazing amenity in itself and does not need a lot of  
21 decoration. Even the railing is glass so it  
22 disappears as much as possible.

23           The penthouse has two dwelling units and a  
24 community room. All three have small terraces  
25 sitting amongst the green roof. The penthouse

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1 rendering is taken at dusk to show that the lighting  
2 will be soft and limited to the areas of the three  
3 terraces. This view is of the front of the building  
4 where we have two terraces. The community room is on  
5 the east side and has the same subdued design.

6 In this -- excuse me. In this two-  
7 dimensional drawing you can see the proportions of  
8 base, shaft, and attic story, as well as the brick  
9 articulation of pilasters and colored belt courses,  
10 all reminiscent of warehouse style architecture with  
11 its low-relief articulation.

12 The slightly projected horizontal brick  
13 banding provides a secondary organization tying in  
14 the horizontal balcony elements of the curved metal  
15 end of the building. You can see in this view the  
16 approximate 10-foot level change from L Street,  
17 north, and the resulting of three separate levels at  
18 the first floor.

19 The articulation of the south façade with its  
20 metal panels and storefront, turns the corner on to  
21 the rear façade on the left of the image there.  
22 Then, as is traditionally done with secondary  
23 facades, the articulation drops out. In response to  
24 the comments made by the Commission that the  
25 secondary façade should be more articulated, since

1 they can be seen above the row houses, we have  
2 continued the brick and cast stone belt courses and  
3 added the brick pier elements.

4 To break up the massing we continue the metal  
5 attic story motif and bring the metal down the façade  
6 on the angled portion of the north and east/west,  
7 which is what you're seeing right here. And this  
8 portion of the building is what is cantilevered over  
9 the private easement alley.

10 This area of the façade right here, which is  
11 set back from this east façade, we used to have that  
12 on property line, so there wasn't -- we weren't able  
13 to have windows there. As Bruce mentioned, the ANC  
14 was very concerned about such a large massive wall  
15 without any windows. So, J Street was able to  
16 negotiate a reciprocal easement with the adjacent  
17 vacant properties, such that our building would set  
18 back the façade five feet, and the future development  
19 of the vacant lots would also set back five feet,  
20 therefore allowing us to have windows on that façade  
21 and that makes a big difference.

22 The image on the left is of the north façade.  
23 And as described, the articulation of the pilasters  
24 of the front façade turns the corner one pilaster.  
25 On the south façade, this portion of the façade is

1 set back about 72 feet from this portion. And again,  
2 that façade is on property line, which we are not  
3 allowed to have windows. And so, what we have done  
4 in response to, you know, decorate it a bit, is we've  
5 continued the brick pilaster at the corners and the  
6 horizontal projected brick banding, as well as the  
7 colored belt courses.

8           The next three slides are of our materials.  
9 And there is a material sample board behind you.  
10 I've already described our choice in the color  
11 pallet, but to get a bit more detail we are utilizing  
12 the mortar joint in that golden yellow brick would be  
13 very similar, if not same color as the terracotta.  
14 And what that does is it provides a very rich texture  
15 on that brick, and also visually ties in the accent  
16 of the belt courses.

17           This slide is showing the upper portion of  
18 the building where we have the light gray metal  
19 panels at the top floor, and then at the penthouse we  
20 were actually using a slightly darker gray metal.  
21 This slide was added since we last submitted it, and  
22 it is to respond to adding the articulation on the  
23 secondary facades. But what we have done is, I  
24 didn't feel that we should continue the cast stone on  
25 those secondary facades. So, what we've done is

1 we've actually transitioned at the point of, after we  
2 turn that corner with the primary articulation, we  
3 transition to a earth tone brick that is very similar  
4 to the cast stone. And then that brick is in header  
5 courses. And it's reminiscent, or a  
6 reinterpretation, if I may, of corbeling of the  
7 adjacent townhouses.

8           The drawing at the top is of the -- is a  
9 retaining wall that was mentioned in Office of  
10 Planning. This, we are looking -- we're right at the  
11 south of our site, and we're looking east. And this  
12 is the retaining wall as a result of that five-foot  
13 easement that we are setting back in order to provide  
14 the windows. The adjacent vacant lot has an eight-  
15 foot level change from public street to the top of  
16 it, almost immediately, which are those steps that I  
17 had shown in the photograph before.

18           I'll briefly run through the zoning  
19 flexibility and then use the drawings to explain it  
20 better. The rear yard, as it is a shallow site, and  
21 it is difficult to provide an efficient double-loaded  
22 corridor and a workable dwelling depth, the  
23 nonconforming court is the result of that five-foot  
24 private easement that we -- I mean, that we set back,  
25 the reciprocal easement, in order to have the

1 windows. So, that created a nonconforming court.

2 The parking, our parking relief is actually  
3 increased a bit since we originally set down, and  
4 that is because we got rid of the below-grade garage  
5 in order to eliminate the L Street garage entrance.  
6 And likewise, the loading before we did have a  
7 loading -- 24-foot loading berth, but due to the  
8 difficulties of the shallow depth, there is not a way  
9 to head in, turn around, and head out. And Office of  
10 Planning -- or, I'm sorry, DDOT did have strong  
11 issues with that.

12 And then lastly, requesting relief for the  
13 minimum lot area for the PUD.

14 This is the first floorplan of the original  
15 plan that we submitted for the setdown. And I'm  
16 showing this just to describe -- just to help explain  
17 the revisions. And so, we had our garage entrance on  
18 L Street. We were actually utilizing the existing  
19 curb cut. And as I mentioned, DDOT felt very  
20 strongly they no longer wanted garage entrance on L  
21 Street. We looked at bringing it on Congress and  
22 also using our public easement. But unfortunately,  
23 the site, as I mentioned, it slopes 10 feet from L to  
24 the north end. And so, we're working against  
25 ourselves as we come up Congress to the point that we

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1 have a -- you know, the fattest part of our building,  
2 by the time you cut in and build the ramp, you're  
3 cutting away most of the first floor and a lot of the  
4 second floor.

5           Likewise, we looked at bringing the garage in  
6 off of the -- this was our access point. We cut  
7 through our building to get to the north end so we  
8 could connect to the private alley. But bringing --  
9 the same thing with the parking, bringing it here,  
10 we're actually going even higher. And then the alley  
11 is actually about four feet even higher than this  
12 part. So, you know, we're going up just to go down.  
13 We could not make it work.

14           We did have this 24-foot loading berth, but  
15 as I mentioned there just wasn't any way that we  
16 could, you know, pull in head-first and back out.  
17 So, we have eliminated both the below-grade parking  
18 and the loading berth so we're asking for relief.

19           And then this plan is the original plan that  
20 shows that we had the 16 parking spaces on the  
21 original.

22           So now we are -- this is our existing plan  
23 with -- and getting rid of the L Street garage access  
24 and bringing the parking to the rear of the building,  
25 but at grade level. And so, we are able to put in

1 five compact spaces and one handicapped van space.  
2 We've moved the alley to the north of the site, so  
3 it's no longer covered by our building, so there's  
4 direct access. But that resulted in this angle of  
5 our building so that we could connect back to this  
6 alley, which dead-ends right here.

7 This is that five-foot easement, setback  
8 easement that is creating the nonconforming court, in  
9 order for us to have windows on that, you know,  
10 length of 72 feet of wall.

11 Also, originally on the packets that we  
12 submitted for the set down, because we had our access  
13 to the alley was through our building, it created a  
14 nonconforming lot occupancy at that second level.  
15 And even though much of that second level was cut out  
16 to be open to the driveway, we have residential on it  
17 so that was a nonconforming lot occupancy. By  
18 getting rid of -- by moving the access to the north  
19 we no longer have nonconformity for the lot  
20 occupancy.

21 Also, as Bruce mentioned, we went from 64  
22 units to 63, because we combined two units so that we  
23 could offer a three-bedroom IZ unit.

24 This is a typical floorplan. Again, our  
25 site, 68 feet at the wide end and 45 feet at the

1 shallow end. Ideally a dwelling unit from exterior  
2 wall to corridor depth would be anywhere 28 to 32  
3 feet deep. Our site right now as it is, we are  
4 providing approximately a 23-foot depth unit. If we  
5 were to provide a 15-foot setback, those dwelling  
6 units would only be about 17 feet, 10 inches. So,  
7 that means that they would be basically galley units.  
8 Everything would be lined up along the exterior wall.

9           And while you can make a unit like that work,  
10 definitely, it's just it's typically a unique unit  
11 and it would be very burdensome to have all, 100  
12 percent of our units basically like that. We have a  
13 couple that are interesting already, here, just to  
14 get the corridor. But that is the primary reason  
15 that we are asking for relief from the rear yard, is  
16 to make this a viable dwelling unit that is -- if it  
17 were a matter of right, it also would be easier to  
18 sell those rather unique units.

19           But due to the fact that this is a PUD  
20 project and the cost implications that go with that,  
21 with the added amenities and the level of a building  
22 in itself, that means those units have to be a higher  
23 level of unit. And so, it just becomes very  
24 difficult to make that work.

25           Oh, I'm sorry. Go back to the IZ. So, we



1 are offering -- I mean, we are required to have  
2 \$3,708 square feet of IZ. We are providing \$4,533  
3 square feet. We have five IZ units, three that are  
4 one-bedrooms, one that is a two-bedroom, and one that  
5 is a three-bedroom. One unit is at 50 percent AMI  
6 and four are at 80 percent AMI.

7           At the penthouse level, we have two dwelling  
8 units, and as you can see they are going to be unique  
9 dwelling units. They are very long and skinny due to  
10 the setbacks. And we have a small community room.  
11 The majority of the roof area will be green roof.  
12 The three habitable spaces will have small roof  
13 terraces.

14           One big advantage of getting rid of the  
15 garage below is locating the core. So, if you  
16 remember that slide, we had, basically the garage was  
17 just a double-loaded drive aisle. One drive aisle  
18 parking on each side. So, you couldn't put the core  
19 in the middle of the building.

20           So now we've been able to move the core into  
21 the middle of the building so we are fully compliant  
22 with setbacks for the penthouse habitable space and  
23 roof structures.

24           This slide just represents at the roof of the  
25 penthouse, primarily will be green with a small area

1 screened for mechanical equipment. The building  
2 section demonstrates the slope from Congress Street  
3 to -- I mean, I'm sorry, from L Street on your left  
4 to the north end of the site on the right. Again,  
5 it's about a 10-foot level change so we have three  
6 levels at that first floor, retail off of L Street,  
7 the lobby, and then a small retail space at the north  
8 end of the site.

9           This cross-section also demonstrates that we  
10 have a slope from Congress Street to the public  
11 alley, and that varies, obviously. Congress Street  
12 is moving up but at some points it's eight-foot level  
13 change.

14           The slide also is representing the roof  
15 structure setbacks and the guardrails that meet and  
16 conform with the required roof structure setbacks.

17           This slide is showing the -- our preferred  
18 signage, and we are request -- or we prefer that the  
19 retail signage be mounted on the masonry spandrel  
20 panels, that they would be in the style of pin  
21 letters or something similar, and that lighting would  
22 be surface lighting, like goosenecks that would light  
23 the front of the sign as opposed to light boxes.

24           And the images in the upper right are  
25 examples of that, that you really do see all over

1 town and they're very nice. And then the building  
2 signage would actually be designed into the spandrel  
3 panel over the entrance.

4 MR. TURNBULL: Could you highlight the  
5 difference between sign A, B, and C?

6 MS. NELSON: In this chart? Yes, so that's  
7 actually reiterating the zoning regulations for what  
8 you're allowed for signage, so you would not be able  
9 to, you know, in order for them to get a signage  
10 permit they would not be able to exceed those. So,  
11 it wasn't that we're telling them that these are the  
12 sizes of the signs.

13 For instance, if this retail you know, had a  
14 you know, wanted to fill up a little bit more of the  
15 spandrel panel, they could.

16 MR. TURNBULL: So, your drawing does not  
17 depict what the proposed signs could actually be  
18 then.

19 MS. NELSON: It does not. It gives a signage  
20 style. It does not tell them the size of the  
21 lettering or the length of the signs. We'd like to  
22 leave that open, number one, depending on what the  
23 name of the retail is.

24 MR. TURNBULL: I guess you're trying to -- I  
25 didn't want to interrupt your presentation, but I'm

1 just trying to figure out where type sign A, B, and C  
2 actually is.

3 MS. NELSON: Type A is retail signage. That  
4 would be if -- I think you can see it over -- it's  
5 over here. And then Type B is also retail on L  
6 Street. And the -- I mean, Type C. And then B is  
7 basically the residential, right here.

8 MR. TURNBULL: Okay.

9 MS. NELSON: Uh-huh. I'll just walk real  
10 quickly through the landscaping. Mary from AMT is  
11 here and if you have questions specifically on the  
12 plantings, she can answer them afterwards.

13 The site has limited options for any street  
14 planting. The Congress Street sidewalk is only seven  
15 feet, three inches wide. But we do have the  
16 opportunity on the south end of the building on L  
17 Street. And so, we are proposing that there would be  
18 a planting bed adjacent to the building, the retail.  
19 And then another planting bed adjacent to the curb.  
20 So, the public walkway would be between these two  
21 planting areas.

22 Mary has been able to confirm with the  
23 arborist that placing a tree in this planting bed  
24 will be acceptable to them, as an acceptable distance  
25 from the intersection of Congress Street.

1           The drawing represents a composite,  
2 basically, of grade level, as well as the main roof  
3 level and the penthouse roof showing the green roof  
4 areas. And we are also proposing that our private  
5 easement alley and the public alley be surfaced with  
6 permeable pavers.

7           And this image right here is of the permeable  
8 pavers. The image on the right is basically looking  
9 at the concrete pavers of a terrace that is set  
10 within the green roof. And that is what we are  
11 proposing for our roof terraces.

12           And this slide again just graphically showing  
13 the narrow sidewalk on Congress. And then the two  
14 planting beds on either side of the public walkway  
15 for -- on L Street.

16           And then just to come to conclusion, as Bruce  
17 mentioned, we are going for LEED Gold on this  
18 project. And I'll turn it over to Erwin.

19           MR. ANDRES: Good evening, Chairman Hood and  
20 Members of the Commission. I'm going to go quickly  
21 through my transportation presentation. Next slide,  
22 please.

23           With respect to the site location as Jane had  
24 identified where it's located, it's located in an  
25 area that's well served by different transit options.

1 Next slide, please.

2           There is convenient access to Metropolitan  
3 Branch Trail. There are many bus lines that serve in  
4 the area. That includes seven of them. We're a  
5 block and a half away from the Metro rail station  
6 that's northwest to the site. There is numerous  
7 Capitol Bikeshare stations as well. Next slide  
8 please.

9           With respect to the transportation  
10 characteristics that I just went through, in addition  
11 to that this site has many amenities that help  
12 facilitate the site being a walker's paradise. And  
13 the fact that we are relatively close to both the  
14 Metro rail station and the H Street streetcar  
15 provides support for the transit score.

16           We are committing to implementing the  
17 transportation demand management plan and loading  
18 management plan as required by DDOT.

19           With respect to the flexibility that we're  
20 requesting, there's two levels of flexibility. The  
21 first is loading. As Ms. Nelson had identified  
22 through her discussion of the evolution of the site  
23 plan, we originally had shown a loading dock within  
24 the site. Given DDOT's requirements with respect to  
25 new driveways that loading be head-in and head-out,

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1 it would be physically impossible to provide a  
2 loading facility for that. As a result, what we've  
3 agreed with DDOT, that is also going to be managed  
4 with a loading management plan, is to provide a  
5 loading space that is located on L Street.  
6 Essentially where the curb cut used to be. And then  
7 we're also providing the ability for residents to get  
8 emergency no parking stickers on the west side of  
9 Congress Street, which will be available for them for  
10 the move-ins and move-outs.

11 In addition to that, as Ms. Nelson had  
12 identified, the parking requirement under the 58  
13 zoning is 22 spaces. We're providing six spaces  
14 because of the fact that we are no longer providing  
15 subsurface parking, but parking on grade in the rear  
16 of building.

17 The benefit of actually providing that on  
18 grade parking area off of the new -- off of the  
19 widened alley, also allows us to provide some parking  
20 spaces for the residents as Mr. Baschuk had stated  
21 earlier. He has come to an agreement to provide --  
22 to be able to pave a parking space on the residence's  
23 private property so that they can actually use the  
24 back of their house as a parking space, which they  
25 have historically not been able to.

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1           Next slide. This site plan, I don't think  
2 there's any need for me to go through this other than  
3 to highlight where the two loading zones are. The  
4 first is on L Street, where the curb cut used to be,  
5 and the other is on the west side of Congress Street  
6 for the residences.

7           Next slide. We've committed to an extensive  
8 transportation and traffic demand management program  
9 that includes many of the elements that this  
10 Commission has seen before. And the significant  
11 element is the funding of a Capital Bikeshare  
12 station, and a first year of maintenance.

13           And last slide. With respect to our  
14 coordination with DDOT, in DDOT's review letter dated  
15 November 14th, 2016, they've identified three  
16 conditions which the applicant agrees to. The first  
17 is the installation, funding the installation and  
18 operation of Capital Bikeshare, implementing the TDM,  
19 and implementing loading management plan. So, I'm  
20 available for questions. Thank you.

21           MS. BROWN: Mr. Chairman, that concludes our  
22 presentation in chief and we are available for  
23 questions.

24           CHAIRMAN HOOD: Okay. I want to thank you  
25 all for your presentation and also, let me -- earlier



1 we've been joined also from the District Department  
2 of Transportation, Ms. Israel.

3           Okay. Again, want to thank you for your  
4 presentation. Let's see if we have any comments or  
5 questions. I think, Commissioner May, you usually go  
6 first. So, since your sons are watching, would you  
7 like to go first again tonight?

8           MR. MAY: All right. Now I'm going to have  
9 to number my questions, make sure I don't go over the  
10 12.

11           So, I appreciate your attempt to explain how  
12 the height is consistent with the Comprehensive Plan.  
13 And, I think you almost get there, but maybe not  
14 quite. The thing that I'm concerned about is, you  
15 know, the notion that somehow the site -- that 90  
16 feet is appropriate for the site, seems to be hinging  
17 on the fact that the Comprehensive Plan suggests that  
18 PDR uses, as well as medium density residential would  
19 be appropriate for the site. But all of the PDR  
20 uses, I believe that when they go to 90 feet, are  
21 based on an assumption that they'd be set back from  
22 the property line.

23           So, if you go, if look at C-M-1, I think that  
24 the regulation states C-M-1, which I think is  
25 equivalent to -- stop motioning, please. You're

1 distracting. The C-M-1 is limited to 50 or 50 feet,  
2 something like that. But you can go to 90 if you set  
3 back one-to-one from the property line, and that's  
4 the case in the carryover zone, the PDR zone, P-D-R-  
5 1, or whatever it is.

6 And I think that's even true when you get to  
7 the higher density. Like even when you get up to an  
8 M zone, 90 feet requires a one-to-one setback. And I  
9 think the notion being that, you know, taller P-D-R  
10 uses actually want to be set back from adjacent uses.  
11 So, I'm not totally convinced that 90 feet is  
12 appropriate, simply because 90 feet is possible under  
13 the broad rubric of PDR uses as spelled out in the  
14 Comp Plan.

15 All of the other residential uses that you  
16 cite, residential or even mixed use, I think you  
17 might have brought it up or OP brought it up, I  
18 forget which, you know, those are all at the, you  
19 know, I think the maximum was like 75 feet on any one  
20 of those.

21 So, I'm just, I'm not completely convinced of  
22 that. Moreover, there is a requirement, or a  
23 requirement -- an objective in the Comp Plan, I  
24 think, that when you are doing a taller building and  
25 coming up against a lower density zone that the

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1 buildings should step down and be respectful of that.  
2 And I think in past cases where we have pushed the  
3 definition of medium density residential beyond, you  
4 know, the zones that are explicitly called out in the  
5 plan that we do so with an understanding of how that  
6 additional height can actually be mitigated. And so,  
7 we wind up with projects where they do step down a  
8 bit toward the residential uses to mitigate that  
9 impact so that it feels like a more comfortable  
10 relationship.

11           And I'm not just worried about the houses  
12 that abut the property. I mean, we're talking about  
13 houses across the street on the east side that are R-  
14 4 or were R-4 and now are R-F-1, and they're, I mean,  
15 they're going to remain that way. They're not  
16 nonconforming.

17           So, I'm, you know, what more can you say to  
18 try to convince me that 90 feet is appropriate  
19 because I'm having a hard time getting past 75.

20           MS. BROWN: Well, I think there are a couple  
21 things. Again, on the east side of 3rd Street it is  
22 a neighborhood conservation zone. Then you would  
23 have the row houses that are on the west side that  
24 are the stepdown. Then it gets to our building at 90  
25 feet. And then as you get closer to the railroad

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1 tracks it does get up to a taller height and on the  
2 east side -- or west side of the tracks, you get to  
3 130. So, it really does have that stepdown effect  
4 towards the residential buildings. There is the --

5 MR. MAY: So, you're assuming that the  
6 stepdown is going to happen on the properties that  
7 are adjacent to yours that are east of your property?

8 MS. BROWN: Well, I think that there are a  
9 lot of development pressures that have been on those  
10 properties for a long time because they've been  
11 zoned, I think originally they were C-M-3, then they  
12 were downzoned to C-M-1.

13 But they've never been zoned for residential  
14 and if they are rezoned they are a part of the land  
15 use change area, and the land use change area in the  
16 future land use map have the same designation of  
17 medium density residential and --

18 MR. MAY: So, they're going to want to come  
19 back here and get 90 feet because you did.

20 MS. BROWN: Maybe that's when it modulates.

21 MR. MAY: Again, you're banking on them not  
22 getting what you're trying to get here. There's not  
23 even an attempt. I mean, this is what I'm struggling  
24 with. I mean, I understand all of the other  
25 arguments. There are lots of good things about the

1 project. You know, the fact that you're building the  
2 alley and giving access to the neighboring  
3 properties, it's all a very positive thing. But  
4 there doesn't seem to be much attempt to --

5 MS. BROWN: And I think part --

6 MR. MAY: -- modulate that height.

7 MS. BROWN: No, and I think part of the  
8 problem goes back to how you could possibly step it  
9 back. And as Jane was explaining, you know, if we  
10 were to just have a setback, you end up with  
11 subquality units that are only 17 feet, 10 inches in  
12 depth. You get those galley units on the east side  
13 of the project that when the PUD project is supposed  
14 to support all these various amenities, and you have  
15 a substandard unit, it's hard to get the investment  
16 into the project that is necessary to support that.

17 And again, as Mr. Baschuk explained, taking a  
18 floor off also reduces the value of the property by  
19 20 percent. So, we're --

20 MR. MAY: So, when was the property  
21 contracted for? When was this original contract  
22 done?

23 MR. BASCHUK: A year ago.

24 MR. MAY: A year ago. So, it was after the  
25 penthouse regulations were done. So, you knew that

1 you would have the ability to get the penthouse?

2 MR. BASCHUK: We did.

3 MR. MAY: Okay. I understand that, you know,  
4 PUD is somewhat more expensive, but you know, you're  
5 getting something by doing that, right? You know,  
6 this is a route to get the additional height that  
7 you're trying for above and beyond what would be  
8 matter-of-right. I mean, if we were just talking  
9 about matter-of-right medium density residential,  
10 we'd be talking about 50 or 60 feet instead of, now,  
11 90.

12 MR. BASCHUK: Mr. May, one other comment is  
13 that if we had heard definitively a year ago when we  
14 started this process that this is the number, we're  
15 not going over this number, we would be doing things  
16 differently than we have been over the last year.

17 MR. MAY: Uh-huh.

18 MR. BASCHUK: We've spent a lot of time, a  
19 lot of energy, and really think we've put together a  
20 terrific looking project with a lot of obstacles for  
21 the --

22 MR. MAY: I understand. There are a lot of  
23 challenges to this site. You're dealing with a  
24 narrow site and, you know, it's never an exact  
25 science, though. I mean, it's not like, you know,

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1 you go to the Office of Planning and they say, well  
2 you know what, you're never going to get more than 75  
3 feet. It just never works that way. It's always a  
4 dialog and tradeoffs along the way.

5 MR. BASCHUK: Agreed.

6 MR. MAY: So, I'm not -- you know, this is --  
7 I'm not saying that you're being unreasonable by  
8 trying to get this.

9 MR. BASCHUK: Right.

10 MR. MAY: It's just, you know, it all has to  
11 add up.

12 I do also think that there is an issue with  
13 the strength of the IZ proffer because it is really  
14 only barely over what is the minimum. Again, I think  
15 our past experiences, we'd see 50 percent of the IZ  
16 at 50 percent AMI, and we're not getting that here.  
17 And I also think that, I mean, you know, we haven't  
18 pushed this very hard so far by getting the, you  
19 know, more than eight percent overall, would also be  
20 important.

21 I understand that if we're talking about the  
22 shape of the building and you're pushing back on  
23 that, that there isn't much hope that you're going to  
24 be jumping up with more affordable housing. But it  
25 still, it's a very hard thing, I think, for me to get

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1 to.

2 I'm also a little bit concerned about the  
3 rear yard. By the way, is this going to be a  
4 condominium project or apartments?

5 MR. BASCHUK: Condo.

6 MR. MAY: It's going to be condo. So, the  
7 other thing I'm concerned about is that, you know,  
8 we're talking about, you know, you're the first big  
9 building on the block, and theoretically the  
10 properties to the east are going to get redeveloped.  
11 And when the, you know, particularly the property,  
12 the vacant property to the south, when they come in  
13 for redevelopment, you know, every one of your condo  
14 owners are going to be in here screaming bloody  
15 murder because they're going to have another building  
16 10 feet away from their window on that side. Right?  
17 I mean, you have gotten windows on the east side of  
18 the southern portion of the building. But, you know,  
19 with a 10-foot light shaft.

20 I mean, obviously, you're going to make that  
21 clear to the buyers that what's going to -- you know,  
22 what can happen next door. But still, I mean, we're  
23 making certain assumptions about what's going to  
24 happen with that property to the east, and I'm not  
25 sure that we can reasonably rely on that.



1           MR. BASCHUK: It is 15 feet and that's to the  
2 rear of their property line. So --

3           MR. MAY: No, I'm talking about the southern  
4 side where you negotiated the easement with -- was it  
5 Jamal? Is that what it was?

6           MR. BASCHUK: Yes.

7           MR. MAY: So, you got five feet and they've  
8 got five feet, and then you've got 15 feet at the  
9 back.

10          MR. BASCHUK: Correct. Yes, on the alley.

11          MR. MAY: And then theoretically there's  
12 going to be a rear yard requirement on that  
13 development.

14          MR. BASCHUK: Okay. That's understood.

15          MR. MAY: Yeah. But who knows how the rear  
16 yards will wind up being done.

17          MR. BASCHUK: Right.

18          MR. MAY: And what property is -- you know,  
19 what the property ownership will be, how the site  
20 gets assembled, where the rear yard will be. There's  
21 not a guarantee that it's going to be, you know, 15  
22 feet off of where your 15 feet is. So.

23                 You know, I think otherwise I don't have a  
24 lot of major concerns. I appreciate seeing all the  
25 additional views. They're not necessarily giving me

1 comfort, but it is necessary to see those.

2           Yeah, I think that's about it for my  
3 questions at the moment.

4           Oh, I did have one other one. On the  
5 signage, can you bring up the chart that had the  
6 signage?

7           So, I mean, you have in that chart, which is  
8 hard to read here but I could read it on my screen,  
9 you've indicated for Types A and C, a sign height of  
10 two feet, and a width of 11 feet, with a sign area of  
11 22 feet, right? Two times 11 is 22. But then all  
12 the way to the right you have 84 feet as the maximum  
13 allowed. What does that mean? That's the entire  
14 area of the spandrel.

15           MS. NELSON: And that's from a zoning  
16 standpoint, which is --

17           MR. MAY: Oh.

18           MS. NELSON: The signage is based on street  
19 frontage, so.

20           MR. MAY: Got it. So, but your limit would  
21 be 22 feet?

22           MS. NELSON: Basically, over each bay. So --

23           MR. MAY: Right. No, that's fine.

24           MS. NELSON: Yeah.

25           MR. MAY: Okay. I think what the biggest

1 concern I have is the sign -- the size of a sign  
2 within a particular bay. Can you tell me where you  
3 have retail there? Is that -- that's not a full 22  
4 square feet, is it? It's less.

5 MS. NELSON: That's correct.

6 MR. MAY: Is it more like 11? More like 10?

7 MS. NELSON: It's probably more like 12.

8 MR. MAY: Twelve. Okay. All right. I mean,  
9 it's still not outrageously large.

10 MS. NELSON: No.

11 MR. MAY: I mean, that's the thing. The  
12 issue. It's certainly not going to be larger than  
13 the spandrel panels, right?

14 MS. NELSON: Correct.

15 MR. MAY: Yeah, okay. That's my questions.  
16 Thanks.

17 CHAIRMAN HOOD: Okay. Thank you.  
18 Commissioner Shapiro.

19 MR. SHAPIRO: Thank you, Mr. Chair. Just, I  
20 want to dig a little deeper into this issue of the IZ  
21 proffer, and I would support OP's recommendation of a  
22 12 percent proffer with 50 percent of the units at --  
23 I'm sorry, with half the units at 50 percent AMI. I  
24 think that's what OP said. Right.

25 So, how would that work for you? You know,

1 can you talk about that now? Do you need to go back  
2 to the drawing board to figure out how to make that  
3 work?

4 MR. BASCHUK: Well, I know what it costs us.  
5 So, for each unit that we build, if we sold that unit  
6 for a half a million, which would be an objective for  
7 a one-bedroom or thereabouts, we will lose \$200,000  
8 on the construction costs alone. Not on revenue.

9 MR. SHAPIRO: All right.

10 MR. BASCHUK: So, we get about \$115,000 for  
11 that unit. So, it's \$350,000 a unit. That's at 80  
12 percent. So, it's more for 50 percent. So, if each  
13 of the issues that had been addressed were addressed  
14 individually, including concessions to neighbors for  
15 the inconvenience of building, and the height, and  
16 you know, all of those things individually are not  
17 overwhelming. But, in the aggregate they become  
18 problematic to become profitable.

19 So, we're also banking on the fact that  
20 interest rates will not continue to rise too much for  
21 condominiums, and that demand will continue, as it  
22 has been fairly decent. So, we're putting down  
23 something that's certain, which is, you can't sell  
24 the unit for more than X while we're giving up  
25 potential to get revenue that could be higher. So,

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1 there is flexibility on my part for increasing, maybe  
2 not the 12 percent. But to do something on IZ. I  
3 mean, I'm prepared, but what I also want to hear is  
4 the sum and substance of everything that we're  
5 addressing before I respond to individual requests.  
6 If that makes sense to you.

7 MR. SHAPIRO: No, it does make sense, and at  
8 some level that's a discussion amongst us.

9 MR. BASCHUK: Right.

10 MR. SHAPIRO: About what the priorities are,  
11 because I think that you know, the nature of the PUD  
12 and you know, part of the reason why you're looking  
13 for the additional height is to help meet this  
14 requirement. And then we have a decision to make  
15 about what our priorities are, and do we give on the  
16 height to get the additional affordable units and --

17 MR. BASCHUK: Right.

18 MR. SHAPIRO: -- I think it's an interesting  
19 point that my colleague, Commissioner May, mentioned  
20 about the neighbor. And essentially if we were to  
21 support this we are in effect saying, you can't do it  
22 next door. We're in effect saying that there would  
23 need to be some kind of a step down and you know,  
24 that may be the decision that we should make. But I  
25 think it's important to maximize the amount of

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1 affordable units in the property.

2 MR. BASCHUK: Right.

3 MR. SHAPIRO: The other question that I had,  
4 I didn't understand this court issue. Is there a  
5 slide that you have, something that you can show me  
6 graphically what we're talking about and what it's  
7 going to look like before a building is -- the  
8 building next door is going to be built, because the  
9 retaining wall is going up. Assuming we approve  
10 this, the retaining goes up before a building next  
11 door goes up. So, what does it look like?

12 MS. NELSON: That's correct. So, the --  
13 sorry. The court is right here. So, that -- because  
14 it is not on the property line, any inch off of it  
15 makes it a court. And so, it's smaller than the  
16 required for the zoning. So, it's a nonconforming  
17 court.

18 What it will look like -- so, this elevation  
19 is looking at the -- on the other side of this yellow  
20 brick retaining wall is grade. So the adjacent site  
21 slopes from -- and there are steps that -- in this --

22 MR. SHAPIRO: Between the building and the  
23 retaining wall, are you paving it? Is it grass?

24 MS. NELSON: No, it's ground cover. Ground  
25 cover, and --

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1           MR. SHAPIRO:  Somebody going to walk their  
2 dog on it?  Are people going to pass through it to  
3 get to the U-Line Arena?  I mean, what could happen  
4 to that?

5           MS. NELSON:  Well, they wouldn't go for U-  
6 Line Arena because Congress Street would be more  
7 convenient.  So, this site slide shows basically the  
8 slope.  So, we are leveling it off so that we can  
9 bring retail, we can turn the façade and the  
10 articulation on the corner, and then it slopes up to  
11 meet the alley elevation.

12           The adjacent property, and maybe I can go to  
13 the photo.  So, the adjacent property, this is the  
14 condition.  So, the grade is like eight feet above  
15 the public sidewalk.  So, if you can imagine this  
16 building set back five feet, and then you essentially  
17 have a hill of ground cover that is sloping back to  
18 the alley.  And when you see -- oh, sorry.  And when  
19 you see the surface of that wall will be clad in the  
20 same brick of the existing wall.  I mean, of the new  
21 building.  Does that explain it?

22           MR. SHAPIRO:  I'm not getting it.  I'm trying  
23 to figure out whether -- are you creating some kind  
24 of a temporary hazard in some way, shape, or form.

25           MS. NELSON:  I mean, it could be closed off

1 with a gate.

2 MR. SHAPIRO: Well, I'm not suggesting it.  
3 I'm just trying to figure out what -- I mean, if you  
4 might even think that it would need to be closed off  
5 then I'd say then, you definitely need to be thinking  
6 through what you're creating, and I just don't know.

7 MS. NELSON: I mean, we are presuming that it  
8 is temporary. But you're right, we have no idea when  
9 those two vacant lots would be developed. When they  
10 are developed, I would place money on that they're  
11 going to bring grade -- I mean, their first floor  
12 will be at the sidewalk level. So, there will be no  
13 longer any need for that retaining wall because they  
14 would be also having their five-foot easement that  
15 would bring windows into that first floor.

16 MR. SHAPIRO: All right. And I mean, if  
17 you're -- again, in the short term, if you're  
18 creating something that's problematic, is there  
19 another way to look at it? There's some other way  
20 to, you know, to meet OP's issue -- OP around the  
21 retaining wall, right?

22 MS. NELSON: Well, I mean --

23 MR. SHAPIRO: Is there some other --

24 MS. NELSON: Well, I think they were  
25 concerned what it looked like, but I won't speak for



1 them. But I mean, presumably we could -- I mean, we  
2 could -- you could fill that in temporarily. It's  
3 just that once the adjacent property is built and  
4 lowered --

5 MR. SHAPIRO: You got to dig it out.

6 MS. NELSON: -- now you don't have your  
7 finished brick for that eight foot in height. That  
8 seems a little problematic too. It is -- but I see  
9 your point. It might be a logistics. Something to  
10 work out through.

11 MR. SHAPIRO: Yeah, and again, you know, what  
12 are the unintended consequences of that? I just  
13 don't know. It struck me as problematic like a bit  
14 of a five-foot wide canyon that's going to be there  
15 for a while. So, I'm trying to think if I had --

16 MS. NELSON: Yeah, we could fence it. We  
17 definitely can close that off. I mean, that's a very  
18 -- I mean, the steps are in public space also, so  
19 they are actually, you know --

20 MR. SHAPIRO: So, maybe you come back.

21 MS. NELSON: They are the edge of that --

22 MR. SHAPIRO: Maybe some kind of a  
23 recommendation, thinking through what the  
24 implications of this are and coming up with some kind  
25 of a solution that we think --

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1 MS. NELSON: Maybe.

2 MR. SHAPIRO: Okay. That's all the questions  
3 I have for now, Mr. Chair.

4 CHAIRMAN HOOD: Okay. Thank you.  
5 Commissioner Turnbull.

6 MR. TURNBULL: Thank you, Mr. Chair. Well,  
7 first of all I want to commend you on the significant  
8 changes and improvements to the architecture and the  
9 design. If we go back to from the set down to what  
10 it is now, I think it's a heroic effort to make this  
11 building blend in. I think you're -- I think the --  
12 I really don't have any issues with the architecture  
13 and the design per se. I think the brick and your  
14 introduction of the terracotta mortar into that cream  
15 color brick I think is significant. I think that  
16 adds a little bit more character, I think it's an  
17 accent, I think it warms up the overall feel of the  
18 building so I think that's really, really well.

19 I hope the hung balconies work as well as you  
20 show them. I mean, it's just those two projections,  
21 right, they are really actually working hung  
22 balconies then, from the roof. Is that correct? Is  
23 it --

24 MS. NELSON: Well, I mean, that actually is  
25 more decorative. It's --

1 MR. TURNBULL: Are you on the -- are you on  
2 your microphone?

3 MS. NELSON: Sorry. Sorry. Yes, these  
4 elements are actually more decorative.

5 MR. TURNBULL: Okay.

6 MS. NELSON: Yeah, so they would be a  
7 cantilevered balcony from the floor structure.

8 MR. TURNBULL: Okay.

9 MS. NELSON: Yeah.

10 MR. TURNBULL: All right, because when you  
11 look at that I say, wow, is that really working like  
12 that?

13 MS. NELSON: Yeah, well, that's what we're  
14 trying to make it look like that.

15 MR. TURNBULL: Okay. Okay. All right.

16 Yeah, no, I think it's -- I think that  
17 appearance, from the street, is going to look very  
18 dramatic. I think it looks very well.

19 I would agree with Commissioner May. In a  
20 way, trying to get to the height. I think the height  
21 is an issue. But, getting into the comments of  
22 Commissioner Shapiro about tradeoffs and about the  
23 affordable housing. I think if you're going to want  
24 this height, I think you really need to think hard  
25 and long about the -- what you're going to give, I

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1 mean, as part of the benefit on this. I think the 90  
2 feet is a bit much. And so, I think we're really  
3 going to need something to tweak that effort on that.

4 But I think the building as a whole, I think,  
5 I'm not unhappy with it. I think it's a unique --  
6 it's a difficult site. I think architecturally  
7 you've done, as I say, a rather remarkable job trying  
8 to get this thing to fit. You want relief from us on  
9 that and, but I think we need a little bit more  
10 dialog on what you want to do to get this Zoning  
11 Commission to reach that.

12 I'm still a little bit confused about, you're  
13 allowing the neighbors in the alley to park on the  
14 alley, then? Or what? No, you're allowing them to  
15 access back there.

16 MR. BASCHUK: Yes.

17 MR. TURNBULL: But they don't get to park  
18 back there, then. Because I was going to say, how do  
19 you get your cars out then, if you're --

20 MR. BASCHUK: Yeah, no one is expecting that  
21 there would be parking --

22 MR. TURNBULL: Parking.

23 MR. BASCHUK: -- in the alley.

24 MR. TURNBULL: Okay. Okay. Just, I want to  
25 be clear about that.

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1 I think the permeable pavers is well done. I  
2 think that's -- I think overall, I'm very happy with  
3 the overall intent of what you're trying to do. I  
4 think it's a very -- as I say, it was an awkward  
5 site. I think the building is trying to blend as  
6 well as it can. I think the height is still an  
7 issue, and we're going to have to have a long talk up  
8 here about how we really get there, and I think the  
9 sites next to it are going to be something we need to  
10 think about also.

11 But overall, architecturally, I'm not -- I  
12 think you've made some significant strides from what  
13 we saw originally in the beginning, and I think you  
14 are to be commended on that.

15 But I'm still concerned about the signage.  
16 If you want to go -- I mean, those spandrels where  
17 the signage go on the retail are about three feet  
18 high, or four feet. Three to four feet?

19 MS. NELSON: They are, but I mean, the  
20 signage with any building has to go through the  
21 review process to -- so, I guess what I could do,  
22 which I did not do, is really show the limits of like  
23 what we would allow.

24 MR. TURNBULL: Well, we often get into the  
25 signage heights and impose a few restrictions of our

1 own. I sort of like the height which you're going at  
2 now, which looks to be about a foot. It seems very  
3 appropriate. I might go a little bit higher, but I  
4 would hate to see two feet or three feet. I mean,  
5 three feet for the entrances may be fine because it's  
6 a very narrow spot. But I would hate to see two feet  
7 higher more on the retail on those bays. It might be  
8 a little bit high.

9 I think what you're showing is very  
10 tastefully done, and I don't know whether you did  
11 that just to please us.

12 MS. NELSON: No. No.

13 MR. TURNBULL: But, I think it's very  
14 tastefully done signage on there. I think it works  
15 very well. I know you're going to get a lot of  
16 retail tenants that want to have two feet plus signs  
17 for their shops and I think, I'd rather see the  
18 architecture be significant for the building and that  
19 the signage is sort of secondary and plays along with  
20 what you're trying to do.

21 So, if you could, maybe on your signage  
22 diagram, before we have final action, show something  
23 that would really be the maximum that you would  
24 really want to consider.

25 MS. NELSON: Yeah, I would not want the

1 signage to overwhelm the spandrel, and to --

2 MR. TURNBULL: Yes.

3 MS. NELSON: -- completely cover the brick,  
4 which is why we're preferring the pin letters so you  
5 can see the brick behind the letters itself, and the  
6 lighting, you know, cast the shadow of those pin  
7 letters --

8 MR. TURNBULL: Yeah.

9 MS. NELSON: -- on the brick. So.

10 MR. TURNBULL: Yeah, I think with your  
11 introduction of the header courses and everything  
12 else, and the brick, what you're trying to achieve  
13 architecturally reads very -- reads well. And I  
14 think, I would hate to see big signs in those  
15 spandrel panels. That would take away from the  
16 overall effect of what you're trying to do with the  
17 building. I think what you're trying to do is very  
18 well done, and I would just hate to see the signage  
19 screw up your building.

20 MR. BASCHUK: Agreed.

21 MR. TURNBULL: Mr. Chair, those are my  
22 questions.

23 CHAIRMAN HOOD: All right. Thank you. Vice  
24 Chair, any questions?

25 MR. MILLER: Thank you, Mr. Chairman. And

1 thank you for your presentation. I would echo the  
2 comments, the architectural comments of my colleague,  
3 Commissioner Turnbull that it's very attractive. I  
4 think it's a very attractive project and materials,  
5 the design, and the changes that you've made to the  
6 design with that lower banding I think are definitely  
7 an improvement. It's certainly an improvement and a  
8 revitalization of what's currently there. It  
9 continues the revitalization that you, Mr. Baschuk,  
10 began in this neighborhood over a decade ago. So, I  
11 compliment you on all of that.

12 I guess I would agree with my colleagues that  
13 there is always this balancing of, in this case,  
14 height, versus other civic priorities in the  
15 Comprehensive Plan, which -- and there's one that's  
16 called out, and that is affordable housing. And I do  
17 realize that you are proffering beyond what's  
18 required under the existing Inclusionary Zoning,  
19 which is what you're operating under. And under the  
20 newly adopted Inclusionary Zoning which hasn't even  
21 taken effect yet. I realize that you've gone beyond  
22 the minimum of that, which makes me somewhat question  
23 what we may have -- the action we may have taken,  
24 allowing all 80 percent AMI for condos and 60 percent  
25 AMI for -- as a trade-off for 60 percent AMI for

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1 rentals. And I'm hoping that's not created an  
2 incentive to go to condos because the 60 percent AMI  
3 is seen as too burdensome.

4 But, I wonder if you might comment on that.  
5 Did you look at the 60 percent AMI level for rentals  
6 to see if that works for the economics of the  
7 project, and could you comment on just the 80 percent  
8 AMI level which many of us, many in the city, because  
9 it's an area median income that includes the richest  
10 counties in the United States of America that  
11 surround the District of Columbia, some of us think  
12 that 80 percent AMI is beyond market rate in the  
13 District of Columbia.

14 So, when you say you're going to lose money  
15 on the 80 percent AMI rates, or you tell us the  
16 amount additional that you would be losing -- I don't  
17 want to get into a whole argument here, but if you  
18 could generally comment on what I've just commented  
19 on?

20 MR. BASCHUK: Sure. Sure. So, the -- let me  
21 address the rental, versus sale. There are two  
22 problems with this building as it relates to creating  
23 rental units. Generally speaking, the rental unit  
24 projects that you see in front of you, and those that  
25 are being built as a matter of right are much larger.

1 In order for any project to be able to bear the  
2 economic consequences of putting the amenities in  
3 that are being put in today, you have to have a much  
4 larger denominator to work from.

5 So, the buildings that are being built for  
6 rental have swimming pools, sometimes indoor and  
7 outdoor, spas, all sorts of things that take up a lot  
8 of space and cost a lot of money to equip, gyms,  
9 community rooms, et cetera. When you have a 50,000-  
10 foot project, you can't do that for a rental.

11 So, if I'm competing as a landlord to attract  
12 renters to my project, I have to almost start with  
13 100,000 feet.

14 It's also a very inefficient project to  
15 manage independently because you now have, maybe the  
16 need for somebody that's half-time instead of full-  
17 time. But you can't really do that half-time.  
18 You've got to have somebody that's two projects, and  
19 one is the Aria across the street, and one is here.  
20 I don't happen to own the Aria, otherwise that might  
21 work out for me. So, that's one.

22 The second issue is the issue of economic  
23 viability right now. NoMa in particular has been  
24 almost redlined by banks prospectively over the next  
25 couple of years for additional loans on new rental

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1 projects because of the amount of square footage that  
2 is being delivered and proposed.

3 Candidly, I sold these developers a lot of  
4 this stuff. The Camden that's going up, the other  
5 project at 100 K. These were all my projects. But  
6 we didn't go forward with rental, but they are. We  
7 think condo will sell, because a lot of the people  
8 that are in the rentals today are going to need a  
9 place to live. And if you can find a place to live  
10 in the District of Columbia that cost you a half a  
11 million or less, that's unusual.

12 Now, it's not three-bedrooms, it doesn't have  
13 a yard, but we're trying to make it a very nice  
14 building that people would want to live in. So,  
15 those are the two reasons that we've never considered  
16 the rental. I haven't evaluated the economics. I've  
17 been asked to participate in affordable housing in  
18 reviewing those issues, and I'm involved in LIISC, on  
19 their board as well. I think there's a whole slew of  
20 questions about providing the right amount of  
21 affordable housing.

22 Packing it all, however, into new development  
23 and your purview, that's too much pressure on what --  
24 the city needs a lot more affordable housing than  
25 you're going to be able to provide en masse. But, I

1 think the guidelines are okay. The reason I speak to  
2 the affordability and how much we lose is, it's fixed  
3 how much I can sell a unit for. There is no unit I  
4 could sell for over 200 and some thousand. That's a  
5 three-bedroom unit. Most of the units are 120 to  
6 150. And I'm not crying about that. I wish my kids  
7 could find those units, because they're all out there  
8 looking for them, or the kids that I taught in  
9 school. But they can't. So, it's hard.

10 MR. MILLER: And I appreciate the change that  
11 you made to add the three-bedroom unit at 80 percent  
12 AMI. But you're saying that the 80 percent AMI is  
13 below market rate for this neighborhood?

14 MR. BASCHUK: Oh, significantly. Less than  
15 half of the value that we would get if we -- so, it  
16 does not cover our cost to building. And I'm happy  
17 to share those numbers. You know, I'm not -- this is  
18 not --

19 MR. MILLER: No, that's useful to hear  
20 because there's a feeling that the 80 percent AMI for  
21 the District is not -- is above or is at market rate  
22 or above.

23 MR. BASCHUK: The numbers here are staggering  
24 in this region, and it's a bubble. And I'm trying to  
25 make a living within the bubble, while still being

1 conscious of the issues that exist around me as a,  
2 you know, an individual who is sensitive to these  
3 needs.

4 MR. MILLER: So, getting to --

5 MR. BASCHUK: We're not carpet baggers.

6 MR. MILLER: Yeah. So I mean, so just  
7 piggybacking on what Commissioner Shapiro and  
8 Turnbull said, I don't know if Commissioner May got  
9 there, but -- and we'll hear from our illustrious  
10 Chairman shortly. But -- illustrious. Many. And I  
11 could go on with many other adjectives.

12 But in terms of the balancing, yes. I think  
13 if there was some kind of additional gesture toward  
14 the affordable housing. You were at two at 50  
15 percent units originally, and the OP report points  
16 out it's now down to one. And there was a trade-off  
17 there where you added the extra, the three-bedroom at  
18 80 percent AMI. I realize that and appreciate that.

19 But I think if we could get -- if there was  
20 an additional gesture toward the affordable housing,  
21 50 percent AMI unit as OP and I think at least two of  
22 my commissioners, fellow commissioners have  
23 suggested, I think I could find the appropriate --  
24 personally find the appropriate balancing with the  
25 additional height that's being suggested, given the

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1 setbacks that have been provided, although of course  
2 we would always want more. But we realize that this  
3 is a very narrowly constrained lot. And I think  
4 because it is designed so well, and looking at the  
5 renderings, I don't have as much a problem with the  
6 way it relates to the surrounding neighborhood as  
7 maybe the opponents do, obviously. So, that's just  
8 my comment.

9 MR. BASCHUK: I would reiterate my clear  
10 intention to try and see if we can reach an  
11 accommodation on those issues. I'm prepared to do  
12 that tonight.

13 MR. MILLER: Okay. I very much appreciate  
14 that.

15 Can you just, on another subject, I  
16 appreciate also the -- this isn't a question, but  
17 just a comment. I appreciate the LEED Gold  
18 commitment for this building. Is that just to get  
19 LEED Gold equivalent, or is that a certification that  
20 you're attempting to get or can you explain if not,  
21 why not?

22 MR. BASCHUK: Well, I have a familiarity with  
23 the process and development. The certification in  
24 and of itself, in my opinion, is not as valuable as  
25 building the building to those specifications. And I

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1 have to pay dearly for it. And the organization that  
2 has that certification has so much money right now  
3 that they don't know what to do with it. They're  
4 looking to invest in commercial real estate in  
5 Washington, because they have that much money. So --

6 MR. MILLER: How much does it cost you more  
7 to -- well, not specifically, but ballpark, just to  
8 get an idea?

9 MR. BASCHUK: It's not insignificant, and  
10 we'll get you an answer. I don't have it off the top  
11 of my head. But it's almost --

12 MR. MILLER: And I realize this is a smaller  
13 project.

14 MR. BASCHUK: Right. But it -- we're  
15 committed to the whole concept and the -- I love it.

16 MR. MILLER: Right.

17 MR. BASCHUK: It's paying for it that bothers  
18 me.

19 MR. MILLER: Okay.

20 MR. BASCHUK: Paying for the certification,  
21 not for getting to the quality of the product.

22 MR. MILLER: One of our former colleagues  
23 always said that there was a value to you being able  
24 to market yourself as a LEED certified, but  
25 obviously, you're not seeing that value, to say it,

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1 to put that plaque on there, whatever you would -- or  
2 in your marketing to the condo, prospective condo  
3 buyers that --

4 MR. BASCHUK: We built 111 K to a LEED  
5 certification before it was required of any  
6 buildings, and so we're committed to it. And we did  
7 subscribe and got certification, and at that point I  
8 said if I can avoid doing this again, I will.

9 MR. MILLER: Okay. And just one -- well,  
10 maybe not one. But I also appreciate the commitment  
11 that you've made to the PDR retail. I think it's  
12 3,800 square feet. Can you remind me what that  
13 retail is going to be and what the other retail is  
14 going to be at this point, if you know the status of  
15 whatever commitments you have?

16 MR. BASCHUK: Well, currently there is a  
17 tenant that's in the building that is part of GW's  
18 medical practices that might be something that we  
19 could retain. We'd love to be able to find a  
20 hardware store that would want to be in this area.  
21 You know, the tradeoff between maintaining the past,  
22 if you will, and getting a PDR use, and getting  
23 something that's important for the residents that  
24 they can use, we're not going to put a Potbellies in  
25 there. I can tell you that. That's not where we're

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1 heading. But we want to find somebody that will be a  
2 nice addition to the neighborhood that the residents  
3 will like, that will meet PDR requirements. A market  
4 maker, as they call it.

5 MS. NELSON: A maker's space.

6 MR. BASCHUK: Maker's space. Excuse me. So,  
7 they've got to make something. So, and not  
8 marijuana. We're not interested in that. The  
9 District might be, but we're not.

10 MR. MILLER: It might meet the PDR  
11 definition, but --

12 MR. BASCHUK: Yeah.

13 MR. MILLER: -- it might make the -- well, I  
14 won't comment for that.

15 MR. BASCHUK: But we haven't started  
16 marketing it. We do have somebody that will do that,  
17 or we will get --

18 MR. MILLER: And that's 3,800 for the PDR  
19 retail. Is there additional retail as well, or  
20 that's the total -- that's the total amount.

21 MR. BASCHUK: Well, it's two piece, 2,800 and  
22 roughly 1,000 on either side of the lobby. The 1,000  
23 square feet is going to be hard to market. I mean,  
24 it's tucked away, it's not easy to get to. But the  
25 other square footage should be easier to market and

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1 just takes us time.

2 MR. MILLER: Okay. All right. Well, I thank  
3 you for your responses and your presentation. I may  
4 have other questions after Mr. Irby or others  
5 testify. But I just would ask -- well, I think I'll  
6 wait to hear that testimony and I may have other  
7 questions after that point. Thank you, Mr. Chairman.

8 CHAIRMAN HOOD: Okay. And bringing up the  
9 rear, I think my colleagues have asked a lot of  
10 questions that will make some very interesting  
11 discussion with us. I'm not going to reiterate any  
12 of it. I think it's going to be a very lively  
13 discussion but we'll see how that goes.

14 I want to talk about the brick, since I keep  
15 -- I don't remember what I said about the brick.  
16 Maybe I need to go back. Was this the same brick, or  
17 did we make a change?

18 MS. NELSON: It's the same brick.

19 MR. BASCHUK: The mortar is different.

20 MS. NELSON: No, the mortar is the same. We  
21 added the brown brick at the back.

22 MS. SCHELLIN: Chairman Hood, you were -- I'm  
23 looking back at the notes. You were concerned about  
24 the light-colored brick.

25 CHAIRMAN HOOD: Maybe it's I've seen worse

1 than that since then, so maybe that's why that looks  
2 better to me. I don't really have a problem with it.  
3 That's why I kept wondering, what did I say about the  
4 brick. I actually have seen something worse than  
5 that. So, maybe that actually -- so somebody else  
6 did you all a favor. So, you can disregard that. I  
7 don't have any problem with this brick, because I  
8 have seen something recently very -- because I'm  
9 thinking about that brick now. So, they've gotten me  
10 off of that. So, that's fine as far as I'm  
11 concerned.

12 I do want to talk about -- can you explain to  
13 me, when we voted there was a party in opposition.

14 MR. BASCHUK: Yes.

15 CHAIRMAN HOOD: And I think your opening  
16 comments were you worked something out with another  
17 person. Seems like the party is losing members. I  
18 don't know if they had a whole lot of members to  
19 start with, but it seems like, the way I understand  
20 it is they're losing members and you're about to  
21 reach an agreement with another neighbor, I believe,  
22 from what you said earlier. So, who is all now in  
23 this party? And I think you said somebody didn't  
24 want to have nothing else to do with it, so that's  
25 three people I know that two potential -- two that

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1 have gone.

2 MR. BASCHUK: Could you pull up the slide.

3 CHAIRMAN HOOD: One that may go.

4 MR. BASCHUK: So, I'll go specifically to the  
5 slide with the definite outline of each of the  
6 property owners.

7 CHAIRMAN HOOD: Okay. And also, I want to  
8 get to the easement part too, but let's go to --

9 MR. BASCHUK: Okay. So -- wow, cool. Now  
10 you can see my tremor.

11 So, these two properties here and here --

12 MS. NELSON: Speak into the mic.

13 CHAIRMAN HOOD: Be on the mic.

14 MR. BASCHUK: Sorry. These two properties on  
15 the south side are owned by Doug Jamal, and Normal  
16 Jamal. The next property here is, ownership is in  
17 question. The person that thinks they own it and  
18 says they have a title, can't get title insurance  
19 because we did a title search, and the title search  
20 says that the Department of Housing and community  
21 development actually owns the parcel.

22 And, I have been unsuccessful so far, but I  
23 will prevail in finding out who owns it and whether  
24 or not they want to sell it because I've offered to  
25 buy it. It will get a reaction. But I will tell

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1 you, it's the first time I've seen this situation  
2 where nobody really knows who owns it today. Now,  
3 we'll get there, but if somebody says they represent  
4 the interest of that individual, then it's got to be  
5 the Department of Housing and Community Development  
6 who is listed on the deed. And I've got it with us.

7           The next property is owned, this is by --  
8 this is Mrs. Johnson. I was with her today. I've  
9 been with her several times. Before I got into the  
10 individual property owners, who I've met with, who  
11 I've -- I hadn't intended to meet with any of the  
12 property owners because I had heard, Chairman Hood as  
13 you did, that Mr. Irby represented the property  
14 owners.

15           So, I made an offer to him about what I could  
16 do for him. He's got a solar panel. It was being  
17 reduced. I felt that we might make an offer to him,  
18 and he rejected that offer. I asked him what the  
19 response was, and his response was, well, none of the  
20 owners like the offer that you made, and we're  
21 sticking with our testimony.

22           CHAIRMAN HOOD: So, let me ask you, what  
23 was --

24           MR. BASCHUK: So, at that point then I  
25 started going individually to the owners.

1           CHAIRMAN HOOD: Help me understand. We're  
2 coming on down the block. I think we stopped right  
3 here, right? So, let's keep on going down, and then  
4 I want to get back to Mr. Irby. That's where I'm  
5 kind of going.

6           MR. BASCHUK: Sure. So, we talked about DHCD  
7 on the end.

8           CHAIRMAN HOOD: And good luck with that. So,  
9 let's keep on coming this way.

10          MR. BASCHUK: Right. The next one, again, is  
11 Rita Johnson. She owns the property. She's owned it  
12 for a long time. Her mother used to live across the  
13 street. She would love to sell the property; love to  
14 sell the property, and has very high expectations and  
15 we'd like to buy it if we could put the whole  
16 assemblage together and come back to you with a new  
17 plan to develop the rest of the block.

18          CHAIRMAN HOOD: Okay.

19          MR. BASCHUK: But that's --

20          CHAIRMAN HOOD: That's fine. Let's keep  
21 going. Let's just keep going.

22          MR. BASCHUK: But, I've had a discussion with  
23 her about what we could do. She is feeling some  
24 pressure because Mr. Irby has also discussed with her  
25 that he wants her to continue to maintain opposition

1 to this development. And she just asked me tonight,  
2 can I maintain neutrality? I said, certainly, we're  
3 not going to put any pressure on you. But if I can  
4 help you, I will.

5 The next two properties I think are Mr.  
6 Irby's. Is that right?

7 CHAIRMAN HOOD: So, right in here, Mr. Irby's  
8 these two.

9 MR. BASCHUK: These two.

10 CHAIRMAN HOOD: Okay.

11 MR. BASCHUK: Yeah.

12 CHAIRMAN HOOD: We got too many lights. Let  
13 me see, right here. Those two, right?

14 MR. BASCHUK: Yup.

15 CHAIRMAN HOOD: Okay.

16 MR. BASCHUK: And, oh I'm sorry, the next  
17 property is owned by Roxanne Scott. Roxanne Scott  
18 just put her property under contract this weekend.  
19 I've been talking to her and her agent for some  
20 period of time, and I said, why not improve your -- I  
21 can help improve your property. The access back. I  
22 can do something for you. She said, it's under  
23 contract. I don't want to mess it up. And she's  
24 dropped her price significant recently to do that.  
25 She wants out.

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1 CHAIRMAN HOOD: Okay.

2 MR. BASCHUK: The next two are owned by Mr.  
3 Irby. And then the next to last is owned by Hellen  
4 Darden. Hellen also --

5 CHAIRMAN HOOD: Hold on, I'm trying to  
6 understand. Now, where is Mr. Irby? Is this Mr.  
7 Irby right here? The third and fourth. No, you need  
8 to be on the mic so that's why we're going to -- the  
9 former Vice Chair let me have this so --

10 MR. BASCHUK: I need a steady pointer.

11 CHAIRMAN HOOD: That's all right. My hand  
12 shakes too.

13 MR. BASCHUK: Good. I'm sorry about that.  
14 So, the next to last property as you're going north  
15 that is occupied, that one there, thank you.

16 CHAIRMAN HOOD: Okay.

17 MR. BASCHUK: That's owned by Hellen Darden.  
18 Hellen actually lives across the street, up a block  
19 and I've met with her and we have submitted an  
20 agreement that she has reached with us to reduce her  
21 objection to the property. There were some things  
22 that she didn't realize that we were doing. Once we  
23 met and her counsel to me after we met was, you made  
24 the right decision in coming to talk to me.

25 CHAIRMAN HOOD: So, let me speed it along.



1 MR. BASCHUK: Yes.

2 CHAIRMAN HOOD: So, it looks like the party  
3 in opposition is falling apart. Okay? I mean, from  
4 your -- from what I'm hearing, the party is -- there  
5 has been some resolutions being contemplated or  
6 discussed.

7 So, my other point is, let's just go to Mr.  
8 Irby now.

9 MR. BASCHUK: I'd like to be able to settle a  
10 deal with Mr. Irby as well.

11 CHAIRMAN HOOD: Now --

12 MR. BASCHUK: And help get through this.

13 CHAIRMAN HOOD: And he's here. That's why  
14 I'm just asking you before I get there.

15 MR. BASCHUK: Right.

16 CHAIRMAN HOOD: The sticking point for Mr.  
17 Irby is what?

18 MR. BASCHUK: He says it's in his testimony.

19 CHAIRMAN HOOD: Okay. But I'm saying, from  
20 the way you've perceived it. Yeah, I know. I've  
21 read it, some of the other issues that he presented  
22 to us, the easement and some other things. But what  
23 is the sticking --

24 MR. BASCHUK: Chairman Hood, I've made my  
25 life as a negotiator for the last 35 years. I can't

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1 answer your question and it's frustrating me. I  
2 don't know what Mr. Irby wants.

3 CHAIRMAN HOOD: Well, let me just say this.  
4 That's why I wanted to go there because if you don't  
5 know --

6 MR. BASCHUK: And he's here.

7 CHAIRMAN HOOD: If you don't know what it is.

8 MR. BASCHUK: Yes, sir.

9 CHAIRMAN HOOD: And I'm not picking on you  
10 because --

11 MR. BASCHUK: No, that's okay.

12 CHAIRMAN HOOD: -- I'll probably have the  
13 same conversation with him.

14 MR. BASCHUK: Right.

15 CHAIRMAN HOOD: That's part of the problem.

16 MR. BASCHUK: Yes, sir.

17 CHAIRMAN HOOD: The way I see it.

18 MR. BASCHUK: Absolutely.

19 CHAIRMAN HOOD: So, that's why I was trying  
20 to narrow that down.

21 MR. BASCHUK: Correct.

22 CHAIRMAN HOOD: Because if it's issue with  
23 the height, which I think some of the easement, the  
24 way I read it.

25 MR. BASCHUK: Right.

1           CHAIRMAN HOOD: So, we need to narrow it  
2 down.

3           MR. BASCHUK: Yes, sir.

4           CHAIRMAN HOOD: And here's the thing. One  
5 thing about this commission, nobody eventually gets  
6 everything because we have to co-exist when we build  
7 here in this city.

8           MR. BASCHUK: Absolutely.

9           CHAIRMAN HOOD: So, we have to work. And I  
10 think -- and that's why I like what I heard today  
11 from my four colleagues, and I usually don't agree  
12 with all four of them, but they brought up some very  
13 good points.

14          MR. BASCHUK: Right.

15          CHAIRMAN HOOD: And it's something that we  
16 can discuss, like dealing with the height and the  
17 offset of the affordable housing.

18          MR. BASCHUK: Yes.

19          CHAIRMAN HOOD: Those are some things that --  
20 and I think I would -- actually, every last one of  
21 them brought up some very top notch points, and I  
22 would ask you to consider some of them. Especially  
23 before we get to -- so, that's why I wanted to narrow  
24 down for where Mr. Irby is.

25          MR. BASCHUK: We're there.

1           CHAIRMAN HOOD: Because the way I see it, and  
2 I may be wrong, the party is losing membership.  
3 That's the way I see it. So, you know, and I stand  
4 to be corrected.

5           So, if you don't understand what's going on,  
6 so maybe I just better bring Mr. Irby back up when he  
7 comes up for his testimony.

8           I do know if it's -- let's talk about the  
9 easement. Explain to me how that's going to work.  
10 And I understand, and I think in the submission it  
11 talks about the easement of private property and if  
12 somebody is blocking the space, and the land, and you  
13 know, all of that. Explain to me how that's going to  
14 work, because I think that was one of the concerns,  
15 the way I read it.

16           Yeah, the alley easement. Explain to me how  
17 that's going to work.

18           MR. ANDRES: Chairman Hood, I could go  
19 through that quickly.

20           CHAIRMAN HOOD: Okay.

21           MR. ANDRES: So, the alley easement is  
22 approximately 15 feet wide, and that clearance gets  
23 you and connects you to the existing public alley to  
24 the rear of the building. In addition to that the  
25 public alley is actually being widened by five feet

1 because the existing public alley is only about 10  
2 feet. So, what we're doing is we're essentially  
3 providing a wider access to get to that public alley,  
4 and then widening that public alley.

5 What current exists today is a very narrow  
6 public alley and a very narrow public alley that  
7 connects to Congress Street.

8 CHAIRMAN HOOD: So, at the end of the day  
9 we're not doing away with anybody's access.

10 MR. ANDRES: No. No, if anything we're  
11 improving it because we're widening the thoroughfare  
12 that these vehicles are coming in. So, we're  
13 actually providing opportunity for these residents to  
14 access the back of their house. If they wanted to,  
15 they can park back there with this proposed plan.  
16 Today they can't because the alley is so narrow and  
17 they can't maneuver through there.

18 CHAIRMAN HOOD: Okay. Okay.

19 MR. ANDRES: And the intent is to obviously  
20 keep all of these alley spaces clear, as if it were a  
21 real public alley.

22 CHAIRMAN HOOD: Okay. All right. Any other  
23 questions up here? Commissioner Shapiro. Thank you.

24 MR. SHAPIRO: Just a question about that last  
25 point you made. Are you proffering or are you

1 committing to maintain the alley? I just don't --  
2 it's not something I'm suggesting you do, I just  
3 don't know what you're doing.

4 MR. BASCHUK: Well, I think we have to  
5 maintain it to get our cars in and out of the back of  
6 the building, so I would say yes.

7 MR. SHAPIRO: But it's a public alley so  
8 there needs to be some kind of an agreement if that's  
9 what you are doing. I just don't know what the plan  
10 is.

11 MS. BROWN: Mr. Shapiro, there is a formal  
12 alley closing process and an application that's  
13 running parallel with this, and as part of the  
14 widening we will, for the northern new easement area  
15 there will be a private access easement that the  
16 owner will be required to maintain. And then on the  
17 rear portion where we have widened it by five feet,  
18 that's private property that will also be maintained  
19 by the owner, and we will be negotiating with DDOT as  
20 to how we will maintain the rest of the widened --  
21 the actual public alley, the eight feet, nine inches  
22 that will remain public because we'll have the  
23 permeable pavers and we will work out an agreement  
24 with DDOT on how that maintenance will work.

25 MR. SHAPIRO: Thank you. And is there

1 anything -- again, I'm not suggesting a course of  
2 action, I'm just trying to get the information. Is  
3 there anything that you've discussed about what  
4 happens to trash pickup now that there's an alley  
5 that's accessible?

6 MR. ANDRES: Well, with respect to the trash  
7 pickup for the residents that front 3rd Street, it's  
8 our understanding that the trash gets picked up in  
9 the front of their house. We have the opportunity  
10 because of the fact that it's difficult for trucks to  
11 enter and maneuver and head out, that our trash was  
12 actually going to be wheeled out to Congress Street,  
13 and our trash contractor will pick up our trash,  
14 essentially at this location, which is consistent  
15 with a lot of neighborhoods in the District where if  
16 the trash truck doesn't -- can't make it in the  
17 alley, they get to the closest place near the alley  
18 and it gets wheeled out.

19 MR. SHAPIRO: Thank you.

20 CHAIRMAN HOOD: Any follow-up? Any others?

21 Okay. Let's go to the ANC in this case.

22 MR. BASCHUK: Commissioner, one thing I  
23 forgot to add is the property on the end is owned by  
24 a bank and they have not yet decided what they want  
25 to do with it. It's Chase Bank.

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1           CHAIRMAN HOOD:  Something else you mentioned,  
2 I forgot who was asking the question.  You mentioned  
3 LISC.

4           MR. BASCHUK:  Yes.

5           CHAIRMAN HOOD:  Is -- you're on the board?

6           MR. BASCHUK:  Yes, sir.

7           CHAIRMAN HOOD:  Is Oramenta Newsome still  
8 with LISC?

9           MR. BASCHUK:  She's the one.

10          CHAIRMAN HOOD:  Okay.  So, I can talk to her  
11 to verify it.  No, I'm just playing.

12          MR. BASCHUK:  Yes, you can.

13          CHAIRMAN HOOD:  Okay.

14          MR. BASCHUK:  Oramenta and I go way back.

15          CHAIRMAN HOOD:  Okay.  We do too.  Okay, let  
16 me --

17          MR. BASCHUK:  Good people.

18          CHAIRMAN HOOD:  What ANC is this?  I'm  
19 getting confused with tomorrow night.  Is this 2F?  
20 Oh, 6C.  I'm sorry.  I moved to tomorrow night.  
21 Okay.  Whatever it is tomorrow night.

22          6C.  Anyone here representing 6C?  Okay.  And  
23 we'll do their report later.

24          Let's go to the Office of Planning.  Oh, does  
25 the party in opposition -- party or party in



1 opposition, I'm not sure now what it's called, but do  
2 you have any cross-examination on what you've heard?  
3 Okay. On what they've testified, not our questions,  
4 but on what they've testified. You can come forward.

5 Identify yourself and you can -- yeah. No  
6 testimony, just questions. Okay.

7 MR. IRBY: Good evening. I'm Fred Irby,  
8 representative of 3rd Street Neighbors. Should I  
9 just go into it? Okay.

10 With respect to the trash, you said it will  
11 be wheeled out from the condo building. I'm  
12 wondering, are the individual residents going to  
13 wheel out their own trash, or is that going to be  
14 somebody in the building or --

15 MR. ANDRES: Typically in condo buildings all  
16 the trash are -- all the trash located in the trash  
17 room and the facilities manager would wheel that out.

18 MR. IRBY: Oh, so there would be somebody  
19 that's working as a facilities manager on site, 24  
20 hours at the site?

21 MR. ANDRES: I'm not sure if it's 24 hours  
22 but there will be a person associated with the  
23 building that will wheel out all of the trash.

24 MR. IRBY: Okay. Thank you. With respect to  
25 the PowerPoint presentation that you had, would you

1 mind going to sheet A-202?

2 UNIDENTIFIED SPEAKER: What is the image?

3 MR. IRBY: It's the rendering that looks at  
4 the site from L Street.

5 I'm sorry. Do you mind going to -- when you  
6 have the pictures of the existing conditions of  
7 Congress Street? One more. Again. There we go.  
8 All right.

9 So, that slide right there, I believe you  
10 said the sidewalks are seven foot, three inches wide,  
11 and we can see they're of equal proportion on either  
12 side, correct?

13 Okay. So, could we go to slide A-202? Or  
14 the first one that you went to, the rendering from --  
15 yeah, one back. Yeah.

16 So, from this one we're seeing that the, I  
17 guess you would say it's the west side sidewalk, it's  
18 about three times the size of the east side sidewalk.  
19 So, it somewhat distorts the scale with respect to  
20 the project as it is to how it will actually be built  
21 within the site, because I don't think that people on  
22 the other side are going to set their building -- or  
23 even be able to set their building back to that  
24 amount.

25 So, along those lines, you see the second --

1 what is that thing you called, the cornice of the  
2 articulation? What is that called? No, the second  
3 floor, above the second-floor windows. Yeah, the  
4 belt.

5 MS. NELSON: Belt course.

6 MR. IRBY: Okay. The belt course. So, if  
7 you look just to the right of that building, of the  
8 proposed building, I believe that is 1106 3rd Street  
9 right there. And that articulation is about a little  
10 bit above the roofline there, correct? Or the belt  
11 curve.

12 MS. NELSON: You're talking about the six-  
13 story building right here?

14 MR. IRBY: No, I'm talking about 1106. May I  
15 -- is it possible for me to use the pointer? It's  
16 kind of hard to see because it's -- is that this  
17 button, and is there -- is there a top on it? Okay.  
18 Here we are. That building right there.

19 It's kind of difficult to see in the light,  
20 but that's the top of 1106, the building that you  
21 said, I think there is some issue with the owner and  
22 DHCD. And this belt curve is above that; just above  
23 it.

24 Okay. Do you mind going to the next slide?  
25 See, here we don't see the belt curve here. And

1 that's top of the line of the houses. So, can you  
2 explain -- because I don't think that from an aspect  
3 standpoint that the building would be that much of a  
4 difference height wise because the belt curve is  
5 going to be level with the ground. It's not  
6 necessarily going to be subject to the grade change.

7 So, we don't see the belt curve here in this  
8 rendering.

9 MS. NELSON: At that end, right here. So,  
10 there are two belt courses.

11 MR. IRBY: Yes.

12 MS. NELSON: At the lower and at the end  
13 where that previous rendering shows.

14 MR. IRBY: No.

15 MS. NELSON: Is basically at the second  
16 floor.

17 MR. IRBY: Yes.

18 MS. NELSON: That is cut away to give the  
19 clearance for the alley easement and the handicap  
20 space.

21 So, that is -- so, you're talking the two  
22 floors below. It's at the bottom of the second  
23 floor.

24 MR. IRBY: Yes.

25 MS. NELSON: And if you count down, eight,

1 seven, six, five, four, three. So, it would be just  
2 below that window, that last window that you're  
3 seeing.

4 MR. IRBY: I understand. I guess, kind of  
5 speaking to my earlier point about the widened  
6 sidewalk on Congress Street, I believe that we should  
7 be able to see the belt curve here because it should  
8 be in line with this, but it's not shown here. So,  
9 in actuality if it was, in all likelihood, this  
10 building would actually be a story taller in terms of  
11 its aspect.

12 MS. NELSON: I disagree.

13 MR. IRBY: Okay. All right. I just wanted a  
14 little bit of clarification on that. And I guess,  
15 the same thing with the next slide as well.

16 So, we're showing here that it has, I want to  
17 say, each one of those from slab to slab is about 12  
18 feet. And the height on these buildings is 22.

19 MS. NELSON: I'm sorry. The slab to slab on  
20 the -- I thought you were talking about the  
21 townhouses, is 10 feet, three.

22 MR. IRBY: Ten feet, three. Okay. So, that  
23 puts us at 26. Okay. So, little bit the same. But,  
24 I guess the argument is -- or not the argument but  
25 the point is that this represents an additional two

1 stories that one would see from across the street of  
2 third, as above this, with respect to scale. Is that  
3 correct?

4 MS. NELSON: I'm not sure what you're asking.

5 MR. IRBY: I guess what I'm saying is, what  
6 we are seeing right here is roughly 40 feet above  
7 this.

8 MS. NELSON: It's at the -- it's cut through  
9 the middle of the floor, so it's like 35 feet.

10 MR. IRBY: Okay. But this right here, this  
11 area here --

12 MS. NELSON: Uh-huh.

13 MR. IRBY: -- not including the penthouse --

14 MS. NELSON: Uh-huh.

15 MR. IRBY: Reflects, call it 35, 40 feet.  
16 Okay.

17 MS. NELSON: And the -- yeah, I was going to  
18 say it's perspective so --

19 MR. IRBY: No, I completely understand  
20 perspective. But at the same token I'm trying to  
21 kind of illustrate, or at least understand the scale  
22 of this project with respect to the height that  
23 they're requesting.

24 And I think that's it. If I have any other  
25 cross-examination questions would I be able to do

1 that during my testimony or not?

2 CHAIRMAN HOOD: No.

3 MR. IRBY: Okay.

4 CHAIRMAN HOOD: What happens, during your  
5 testimony, you will give us your testimony and we  
6 will ask you questions.

7 MR. IRBY: Okay.

8 CHAIRMAN HOOD: And they will cross you.

9 MR. IRBY: Got you.

10 CHAIRMAN HOOD: Yeah. We play it fair down  
11 here. Everybody gets to cross.

12 MR. IRBY: I understand. I understand  
13 completely.

14 CHAIRMAN HOOD: So, make sure you've  
15 exhausted all your questions now.

16 MR. IRBY: Okay.

17 CHAIRMAN HOOD: You can cross on rebuttal,  
18 though, so I want to make sure you know that.

19 MR. IRBY: With respect to the alley closure  
20 I was able to get a, I guess plat of the proposed  
21 alley closure. And according to what I have, the  
22 alley area that you are closing is 507 square feet,  
23 correct?

24 MS. BROWN: Mr. Chairman, we're happy to get  
25 into the alley closing process, but I'm not sure that

1 we testified to that on direct about the actual area  
2 to be closed. But we're happy to get into that.

3 CHAIRMAN HOOD: Okay. Do you have an answer?

4 MS. BROWN: I don't have the alley closing  
5 application here with me, so that's why. But it  
6 could be on the drawings.

7 CHAIRMAN HOOD: You can present that in your  
8 testimony to us. Okay?

9 MR. IRBY: Okay. I think -- make sure. Yes.  
10 Good.

11 CHAIRMAN HOOD: Okay. Thank you. Let's go  
12 to the Office of Planning and DDOT.

13 MR. LAWSON: Thank you, Mr. Chair. Joel  
14 Lawson for the Office of Planning. I'm going to keep  
15 this pretty short and be available for questions if  
16 you have any. We also wanted to reiterate some of  
17 the comments that the Zoning Commission has made  
18 tonight. In general, we support the overall building  
19 site plan and we particularly appreciate the  
20 reconfiguration of the alley system which we think  
21 will actually serve the block better than the current  
22 system does.

23 We're also supportive of the proposed PDR use  
24 proffer. The PDR uses would cover much of the ground  
25 floor. Our support is, to some extent, because of



1 the incorporation into the order, as agreed to by the  
2 applicant of OP's proposed wording of what that PDR  
3 space would be. We are suggesting, or I would  
4 suggest now that potentially some clarification from  
5 the applicant is needed on this. The wording that OP  
6 has proposed, for example, would not allow a hardware  
7 store. And so, if the applicant is proposing true  
8 retail uses, I think that needs to be clarified in  
9 there, in their application, and the proffer needs to  
10 be adjusted accordingly.

11           Something like a hardware use, we think would  
12 be a great use on this site. It's not that we're  
13 opposed to those uses, it's just not a PDR use. So,  
14 the applicant needs to be very clear on what it is  
15 that they are anticipating and how that relates to  
16 their proffer.

17           We think additional information has been  
18 provided tonight on the relief requested, as was  
19 requested by the Commission and by OP earlier. The  
20 rear yard, I think, we would appreciate the applicant  
21 actually providing those numbers to the record so  
22 that we understand where that number of a depth of 17  
23 feet for the actual residential units come from. Our  
24 quick off-the-cuff numbers showed something a little  
25 bit bigger than that. But still, given the nature of

1 this property and the relatively narrow nature, width  
2 or depth of the property, providing the full rear  
3 yard might indeed be a practical difficulty, but I  
4 think providing those numbers to the record would be  
5 helpful.

6           And last but not least, in terms of the  
7 affordable housing, we would agree with the  
8 Commission that the applicant and we're actually  
9 heartened to hear the applicant say that they're  
10 willing to reconsider this.

11           One small item which I have to raise simply  
12 because we've raised it many times and so far it has  
13 not been addressed by the applicant, is that the  
14 affordable housing required by the penthouse cannot  
15 be considered part of their proffer. That's simply a  
16 requirement of the regulations. That amounts to  
17 about just over 200 square feet according to the  
18 applicant's numbers. If the applicant is including  
19 that in what they've shown tonight as 825 square  
20 feet, that would actually reduce their proffer of  
21 affordable housing down to about 618 square feet,  
22 because that penthouse space is not a proffer, that's  
23 a requirement.

24           Other than that, I think I'll close it off  
25 there and as I said, be available for questions.

1 Thank you.

2 MR. MILLER: Thank you, Mr. Lawson. Ms.  
3 Israel.

4 MS. ISRAEL: Good evening, Commissioners. We  
5 would like to thank ultimately the applicant for  
6 addressing all of our concerns that we raised in our  
7 report, the two mitigations that were noted with  
8 regard to a loading management plan as well as a  
9 proffer for -- or not proffer, I should say  
10 mitigation for the Capital Bikeshare.

11 With regard to the alley, Ms. Brown is  
12 correct that the maintenance of the public alley will  
13 be determined during the alley closure and dedication  
14 process.

15 If you have any questions I'm available to  
16 answer them.

17 MR. MILLER: Thank you. Do my colleagues  
18 have any questions for OP or DDOT? Commissioner  
19 Shapiro.

20 MR. SHAPIRO: Thank you. Just a brief  
21 question. There was some question in one of your two  
22 comments about what the specific proffer was related  
23 to Capital Bikeshare. Eighty thousand versus the  
24 actual cost of the installation, and has the  
25 applicant met that requirement in your eyes, based on

1 what they've described? What they --

2 MS. ISRAEL: Yes, they've agreed that it  
3 would no longer be capped at the \$80,000.

4 MR. SHAPIRO: Okay. Thank you.

5 MS. ISRAEL: That's my understanding.

6 MR. SHAPIRO: Thank you.

7 MR. MILLER: Any other questions from the  
8 Commission for OP or DDOT?

9 Does the applicant have any questions for the  
10 Office of Planning or DDOT?

11 MS. BROWN: No questions.

12 MR. MILLER: Does the ANC, I guess we've  
13 established, is not here. But I'll just call them  
14 out again. ANC 6C, are you here?

15 Does the party in opposition, Mr. Irby, do  
16 you have any questions for Office of Planning or  
17 DDOT?

18 MR. IRBY: No.

19 MR. MILLER: Okay. Thank you. I don't have  
20 the order in front of me, but are there any persons  
21 or organizations who are here with us tonight who  
22 wish to speak in support of this application?

23 Seeing none in the audience, are there any  
24 persons or organizations who wish to speak in  
25 opposition to this application? The party in

1 opposition. Okay. And come forward, Mr. Irby. And  
2 just to clarify, I'll call out again. The ANC 6C is  
3 not here to speak on this application. No.

4 So, Mr. Irby, you're here as a party in  
5 opposition to speak and testify.

6 MR. IRBY: Thank you, again.

7 MR. MILLER: How much time do you think you  
8 need?

9 MR. IRBY: Fifteen minutes at most, maybe.

10 MR. MILLER: Okay. Thank you.

11 MR. IRBY: Fifteen minutes at most.

12 Okay. First, I want to thank you for  
13 allowing me to present and accepting my application  
14 for -- or at least our application for opposing this  
15 project. I'm sure as you're aware, the new Zoning  
16 Regulations, the approvals that you guys, that you  
17 all grant, hold somewhat weight because it's going to  
18 basically speak to your interpretations of the new  
19 zoning and as it goes in projects like this where the  
20 land use area is somewhat in debate with regards to  
21 the current underlying zoning.

22 Also, want to say as the 3rd Street  
23 Neighbors, we are not opposed to the redevelopment of  
24 the site. We're just opposed to certain elements of  
25 the development as currently proposed as detained in

1 our submission. Namely, the height. The proposed  
2 height of 90 feet, which including the penthouse  
3 would actually be 108 feet.

4 I brought attention to certain elements of  
5 the drawings that I feel sort of undersell the actual  
6 scale and impact the project would have on the  
7 surrounding sites. So, I'd like for the Commission  
8 to at least look at that and see if the degree to  
9 which the renderings undersell, oversell, however you  
10 will, the project as they are presenting it, impact  
11 the development.

12 I'd like to point out in their application,  
13 or at least in their second supplemental submission,  
14 they spoke to several projects in the immediate area.  
15 They spoke to the Central Armature site, and 301  
16 Florida Avenue Northeast.

17 Echo Commissioner May's comments that these  
18 projects aren't immediately adjacent to any  
19 residential projects, so the degree to which the  
20 scale that they are requesting, they -- the  
21 consideration that they have with respect to those  
22 projects as there are no underlying -- or, sorry,  
23 adjacent projects residential-wise to them, sort of  
24 speak to the development size and scale that they're  
25 actually presenting to you.

1           My apologies. This is my first time  
2 presenting before the commission so my apologies if  
3 I'm stumbling through things or if I'm saying, "um" a  
4 lot.

5           They spoke to the consistency with the  
6 Comprehensive Plan. They said the medium density  
7 residential designation is used to define  
8 neighborhoods or areas where mid-rise four to seven-  
9 story apartment buildings are the predominant use.  
10 That's not the case in this area. We have industrial  
11 uses, we have large apartment buildings that are  
12 north of nine stories, and we have low-density  
13 single-family residential row houses.

14           They speak to larger buildings are allowed,  
15 but they are done so when there are large areas of  
16 permanent open space nearby. And that is not the  
17 case. They state the R-5-B and the R-5-C Zone  
18 districts are generally consistent with the medium  
19 zoning designation. However, they are seeking the C-  
20 2-B zoning designation.

21           They speak to the M District, which presents  
22 -- permits a building height of up to 90 feet, and a  
23 density of 6 FAR, however, they are C-M-1 which is 40  
24 feet and three stories. Forty feet, three stories,  
25 and a 3.0 FAR. So, the jump, if you will, from

1 looking at the zoning designation that they are  
2 requesting with respect to their underlying zoning  
3 designation does in fact reflect a jump of almost  
4 twice the density. Actually, more than twice the  
5 density. My apologies.

6           They speak to the fact that our buildings are  
7 residential within a C-M-1 zoning designation, which  
8 is true. However, our buildings were constructed  
9 prior to the enactment of the 50A Zoning Regulations.  
10 So, in fact we were in operation as houses before any  
11 of the development that is west of us came into play  
12 and made it an industrial area. So, that's why, from  
13 a nonconforming standpoint, we're grandfathered in,  
14 if you will.

15           I'd also like to speak to, I think your  
16 concerns with respect to the neighbors which I  
17 represent. The two properties on the end, the one  
18 with Mildred Brown, who was deceased and has been  
19 deceased since 2002, and bank is now involved, I  
20 believe, in trying to work out ownership for that, or  
21 at least title for that.

22           On the other end, you have the property where  
23 the person who at least has been in occupancy of the  
24 house, it's questionable whether or not she's the  
25 owner because it's DHCD.



1           With respect to the 3rd Street neighbors, I  
2 just represented the neighbors that were in the  
3 middle, the five in the middle. The two properties I  
4 own, Ms. Hellen Darden, Ms. Rita Brown-Johnson, and  
5 Roxanne Scott.

6           Prior to the November 21st zoning hearing I  
7 was able to get a document that was signed by all but  
8 Ms. Scott. The reason I was only able to get Ms.  
9 Scott is because she's been taking care of her mother  
10 who I believe has been in Virginia for quite some  
11 time. And so, getting a handle on her and actually  
12 being able to speak with her and sit down with her  
13 and have her sign the documents has been somewhat of  
14 a task to say the least, I'm sure. Mr. Bruce Baschuk  
15 can speak to that as well.

16           So, like I said, but all the remaining  
17 homeowners, I was able to get a signature for. I  
18 want to say within the last two weeks Bruce has  
19 reached out to each of these neighbors, and he's  
20 correct that I believe he spoke with Ms. Darden. And  
21 the concerns that she had illustrated to me prior  
22 with respect to the height, with respect to the  
23 easement, alley easement, I had been under the  
24 impression that the concessions that the developer  
25 had put forth and was asking were inadequate for her.

1 She had emphatically told me this on several  
2 occasions. And after speaking with Bruce, she's  
3 changed her mind.

4 I don't know the degree of what inducements  
5 or additional concessions J Street has offered, but  
6 that is the case.

7 As far as Ms. Brown-Johnson, she is still 100  
8 percent against the -- or at least along with me, as  
9 being a party in opposition to this project, he's  
10 correct that he did speak with her today. However, I  
11 believe he had asked her to sign a document and she  
12 refused not to, and I believe they had a call shortly  
13 before this meeting where she also said that she was  
14 still opposed to the project.

15 So, as far as the 3rd Street neighbors  
16 falling apart, that's not the case. I would say that  
17 Ms. Darden is still probably -- is still more than  
18 likely categorically against the things that we are  
19 still opposing with respect to this project.  
20 However, the inducements that J Street has offered  
21 have been enough to at least cause her to accept  
22 their proposal if you will.

23 Wanted to speak to a couple things as well.  
24 How much time? Okay, good.

25 300 L Street. That's the project that is

1 directly across the street from our properties.  
2 That's a six-story apartment building. When that  
3 project was initially proposed in 2011, they said  
4 they were going to build a six-story building with 49  
5 condos and 5,000 square feet of retail.

6 In 2012 they came back and altered their  
7 application to only do 60 condos with no retail. The  
8 reason being is that it's very, very difficult to  
9 market a retail condo that is of that small of a  
10 size, and we're talking 5,000 square feet with that  
11 project.

12 Considering the 3,000 square feet that they  
13 have on a street that I would argue currently has  
14 little pedestrian traffic. It's going to be  
15 challenging, as Bruce has stated, to market those  
16 units. And we're talking about marketing these  
17 units. We're not just talking about renting these  
18 units out. We're talking about actually selling  
19 these units the same way they sell condo units.

20 So, with respect to the project that they are  
21 proposing, the viability, if you will, of doing a  
22 retail condo unit maybe more challenging, if you  
23 will, than I believe the applicant is actually  
24 explaining.

25 That said, one of my concerns with this

1 project is that a bait and switch if you will.  
2 Saying, oh we're going to do condos, we're going to  
3 do this, and then the moment that, you know, oh, it  
4 makes sense to do an apartment building here, even in  
5 light of all the comments that Mr. Baschuk had stated  
6 with respect to amenities, because if you think about  
7 it, if you're buying in a condo building, a lot of  
8 times you want those same amenities, if not more.

9 I worry that they're seeking to get the  
10 entitlement just for the right to do so, and then as  
11 they have done with several projects, may sell the  
12 entitled site to someone else who has different plans  
13 for the site and then goes in a completely different  
14 direction that doesn't even speak to the number of  
15 things that you, as the Commission, are requesting  
16 they do and that they're putting into their project  
17 right now, currently.

18 I also want to bring up, like I said, we are  
19 not opposed to redevelopment of the site. This site  
20 has been a vacant industrial building for quite some  
21 time. It's had, you know -- it's been somewhat of an  
22 eyesore even though, you know, during the summer the  
23 vines on the back actually look really nice because  
24 it's Virginia Pine -- Virginia, what do you call it,  
25 creepy crawlies, and it looks red. Anyways.

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1           The project I want to bring up is another  
2 project that's currently, I believe, being proposed  
3 to you all, or at least in the process of doing so.  
4 It's a bakery that's being -- or the repurposing of a  
5 bakery that's in Shaw.

6           Like this project, it's around 15,000 square  
7 feet. It's actually 16,000 square feet. It's  
8 located at -- sorry. It's the Holtz Bearline Bakery  
9 (phonetic) near Howard Theater, and it's actually a  
10 block away from the Shaw Street Metro.

11           Now, unlike their project where they're  
12 seeking to just go straight residential and have a  
13 small amount of retail, this project itself is  
14 looking to only go 41,000 square feet of four stories  
15 with a penthouse. They have office and retail and  
16 15,000 square feet of living space. They have nine  
17 units, six on the fourth floor and three on the  
18 penthouse floor. They're having offices on the  
19 second and third floors, and the cellar and the  
20 ground floor would have retail, and they have nine  
21 surface parking spaces.

22           It's surrounded on three sides by a 15-foot  
23 wide alley, three sides by a 15-foot wide alley, and  
24 it's about the same size and has the same character  
25 and they're looking to actually repurpose the

1 building into their new development. Something like  
2 this is something that we would definitely be much  
3 more on board with given, it's a smaller scale, it  
4 actually adheres to the current use if you will, of  
5 Congress Street. And we believe that a project like  
6 this could be viable as evidenced by the fact that  
7 the U-Line Arena, this project that was on a site  
8 much larger than theirs, only went up to four  
9 stories. And they have office. They don't have any  
10 retail. I'm sorry. They don't have any residential.  
11 They only have retail on the ground floor.

12           And so, I guess, I'm just as concerned about  
13 the scale and the impact that this project would have  
14 on our properties, as I am worried about the  
15 precedent that it may set for future projects that  
16 maybe want to be developed in that area. If we are  
17 saying that it is okay to rezone this site to be able  
18 to go up 90 feet and construct an apartment building,  
19 future developers, as I believe Chairman May and  
20 Chairman Shapiro had mentioned, may want to do the  
21 same thing, go as high. And next thing you know you  
22 have an area that doesn't activate the ground floor,  
23 which the NoMa BID explicitly stated that that is  
24 what is one of the things that they are definitely  
25 concerned with, with respect to any project in terms

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1 of redevelopment for the NoMa area.

2 I think that's about it.

3 CHAIRMAN HOOD: Okay. Thank you, Mr. Irby.  
4 So, what is the issue. I mean, we're on Congress  
5 Street, then we went to Howard University. We went  
6 that area. I just want you to narrow -- narrow down  
7 for me, as I've asked the applicant, narrow down to  
8 me what the issue. I hear height. That's the only  
9 thing that came across clear to me.

10 MR. IRBY: My apologies.

11 CHAIRMAN HOOD: And I also noticed that --  
12 and I'm just trying to narrow down on it. And I also  
13 noticed that maybe it's not the preferred application  
14 that you wanted to see. That happens a lot. And let  
15 me just say this. Nothing down here is precedent  
16 setting. Trust me.

17 MR. IRBY: Okay.

18 CHAIRMAN HOOD: You may come down here and  
19 try to use it that way, but as long as I've been  
20 here, and I'm sure my colleagues and the ones who --  
21 nothing is precedent setting. You cannot come down  
22 and say, oh you did this before. Each application  
23 stands on its own.

24 So, other than the height, help me  
25 understand, other than the height and maybe a few

1 preferables, help me understand what the issues are,  
2 the other issues.

3 MR. IRBY: So, the closing of the alley. I  
4 have the public alley, the proposed public alley  
5 easement closing from their application that they  
6 submitted to DDOT. They're closing the east/west  
7 alley that leads to the north/south public alley.

8 CHAIRMAN HOOD: But help me understand. The  
9 way I read it, and I do misread stuff, just like the  
10 brick here, but anyway, the way I read it the issue  
11 was access.

12 MR. IRBY: Well, of course access. But also,  
13 the importance to say that they're replacing a public  
14 alley with a private easement. And so, one of the  
15 concerns that all the homeowners had was the  
16 diminution in our rights with respect to a public  
17 alley being replaced by a private easement.

18 Give you an example. If someone parks in  
19 this public alley, we could call 311 and have that  
20 car towed. Does the same thing translate to a  
21 private easement?

22 CHAIRMAN HOOD: And I think that was  
23 answered. I'm not sure what you all have put in  
24 place, but I think that was answered.

25 MR. IRBY: Well, that hasn't been clearly



1 elucidated to me. As far as I understand it from a  
2 maintenance standpoint that's something that still  
3 needs to be worked out. With respect to who does the  
4 trash --

5 CHAIRMAN HOOD: Let me just -- let me -- I  
6 shouldn't do this but you can get it towed. Trust  
7 me. So, some -- and that's what I'm trying to narrow  
8 down with the issues.

9 MR. IRBY: So, I used that as an example.  
10 Also with respect to substructure and super  
11 structure, so that if in the future, you never know  
12 what could happen with respect to getting any of our  
13 utilities to the site, or any EMS to the site. I'm  
14 not sure it hasn't been clearly explained to me that  
15 there is no diminution in our rights that we would  
16 have with the public alley, versus a private  
17 easement.

18 CHAIRMAN HOOD: And I'm sure there's law out  
19 there about easements because I do know of some other  
20 areas or easements, and easements are supposed to be  
21 accessible to the groups that need it. So, I'm not  
22 really sure on all that.

23 MR. IRBY: So, from an access standpoint,  
24 you're correct. But there are a number of rights  
25 that I guess come with one's access to a public alley

1 and it's not just vehicular.

2 CHAIRMAN HOOD: Well, let me ask you this,  
3 why wasn't that discussed when we -- the last time?  
4 That's why I'm having my problem. Now, some of the  
5 stuff you're discussing with me.

6 MR. IRBY: Yes.

7 CHAIRMAN HOOD: How come you and the  
8 applicant didn't have that discussion when we  
9 postponed this. And that was one of the things I  
10 know I reiterated. Why wasn't that discussed then?  
11 And I'm looking at both people.

12 MR. IRBY: Oh, Bruce and I have had several  
13 conversations with respect to this.

14 CHAIRMAN HOOD: But I'm saying, you all had  
15 the conversation but how come somebody didn't do the  
16 research and find out some of your answers so it  
17 would be clear for you as you come down here?

18 MR. IRBY: I have called every single  
19 district agency. I have actually talked with lawyers  
20 to try to get a straight answer on this and I haven't  
21 been able to. I've asked Bruce about this. I  
22 specifically -- the first conversation that we had  
23 was with respect to the diminution of my -- of our  
24 actual rights to a public alley versus a private  
25 easement. And he still has not given me a straight

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1 answer.

2 CHAIRMAN HOOD: So --

3 MR. IRBY: Now, I'm not saying that he's  
4 evading or anything. He may not know. But this has  
5 not been communicated. And I --

6 CHAIRMAN HOOD: Well, let me just say this.  
7 You could have went to some of the universities.  
8 They practice that. Trust me, they do it pro bono.  
9 You don't even have to pay anything.

10 MR. IRBY: I understand. And I have gone  
11 down --

12 CHAIRMAN HOOD: There are a lot of law  
13 clinics.

14 MR. IRBY: I've gone to a lot of people to  
15 speak with this and I've still been unable to get a  
16 straight answer because most of the times when you  
17 see alley closures you see them with a person who  
18 owns all of the surrounding properties.

19 So, when they are seeking to close an alley  
20 and build on top of it, and relocate something  
21 somewhere else, everybody who's purchasing the  
22 properties around it are all in agreement that it's  
23 okay.

24 CHAIRMAN HOOD: You know, really, and I have  
25 a colleague up here who is very, very instrumental in

1 closing a lot of alleys in this city over the years.  
2 If he chooses to elaborate on that, I'm not going to  
3 call his name, but if he chooses to elaborate he may  
4 be able to get you some insight, because he probably  
5 wrote the law.

6 MR. IRBY: Okay. I'd love to.

7 CHAIRMAN HOOD: So, and it wasn't me so I'm  
8 going to be quiet on that alley issue. He may  
9 comment, he may not, because he's in a different row.  
10 So, I'll leave that up to him. I'm just trying to  
11 narrow down where the issues were, as I was with the  
12 applicant. That's kind of where I am.

13 Was there an issue with solar panels? Or am  
14 I thinking about something else?

15 MR. IRBY: Well, the solar panels kind of  
16 lumps into the height issue with respect to, there is  
17 a quantitative monetary diminution in value that I  
18 will get or my solar panels. Not just from the  
19 actual generation that the solar panels can have that  
20 I can use to power my home, but also with respect to  
21 the solar renewable energy credits that I have. As  
22 solar renewable energy credits every single megawatt  
23 that's generated on the actual panels, I can then  
24 have a solar energy credit that I can sell.

25 CHAIRMAN HOOD: So, I understand all that

1 because I know somebody right now who has solar  
2 panels. So, I'm just trying to find out from you --

3 UNIDENTIFIED SPEAKER: Can you quantify that?

4 CHAIRMAN HOOD: -- is there an assessment  
5 that has already been done about how much solar, how  
6 much sunlight you're going to be losing?

7 MR. IRBY: So, they have done a shadow study  
8 that they showed, and they also asked, after the  
9 second meeting -- I think it was either prior to the  
10 first meeting or in between the second, I can't  
11 remember. But they asked for a copy of my  
12 interconnection agreement. They asked for a copy of  
13 my bill, and they asked for documentation that shows,  
14 you know, what the power I was generating before and  
15 after.

16 I gave them all of that information and all  
17 of that discounted back based upon their assessment,  
18 to \$5,000. And I felt that that was insufficient as  
19 one, it was --

20 MR. MAY: \$5,000 over what period?

21 MR. IRBY: Just a one-time payment of \$5,000.

22 MR. MAY: Oh, so --

23 MR. IRBY: That's what they offered to me  
24 with respect to compensating me so --

25 MR. MAY: As compensation for your --

1 MR. IRBY: Correct.

2 MR. MAY: -- future loss of solar.

3 MR. IRBY: Correct. And I felt that that  
4 vastly underestimated the value given, one, just  
5 their estimates with respect to the 5,000 to cover --

6 MR. MAY: Well, what's the value that you've  
7 been generating on solar panels now?

8 MR. IRBY: So, I have sold five S Recs  
9 (phonetic). Each one is \$475.

10 MR. MAY: But S Recs are based on the size of  
11 the system, not on the actual power generation.

12 MR. IRBY: Over time. It's the overtime. I  
13 have a four-kilowatt system.

14 MR. MAY: Right.

15 MR. IRBY: And so, every time the system  
16 generates a megawatt --

17 MR. MAY: It's tied to the actual generation,  
18 or the size of the system? Because I have a solar  
19 system and it's based on the size of my system, not  
20 based on my actual power generation.

21 MR. IRBY: It's actual -- it's the actual  
22 production on mine.

23 MR. MAY: Okay.

24 MR. IRBY: There are several ways that you  
25 can set it. You can set it to production, you can

1 set it to manual. I have mine sent to manual.

2 MR. MAY: I see.

3 CHAIRMAN HOOD: Okay. Let me stop with my  
4 questions and let me see if any other of my  
5 colleagues have any comments or questions. Any  
6 comments or questions? Vice Chair? Commissioner  
7 May.

8 MR. MAY: Yeah. So, you had a concern about  
9 utility access. I mean, right now are you getting  
10 certain utilities through the alley?

11 MR. IRBY: Oh, well currently, actually, the  
12 Comcast wires come overhead to the site.

13 MR. MAY: Right.

14 MR. IRBY: And they are currently attached to  
15 a pole that is right on where the public alley would  
16 be closed.

17 MR. MAY: Right.

18 MR. IRBY: And some of the adjacent neighbors  
19 have their Comcast wires that attach to the corner of  
20 the --

21 MR. MAY: Do they come through the nine-foot  
22 wide alley now, that cable?

23 MR. IRBY: Yes.

24 MR. MAY: Okay. I didn't see that in the  
25 photos. I mean, I can see where it's called out on

1 the utility drawings, or on the civil drawings.

2 MR. IRBY: There's a post. And that's the  
3 main reason why a lot of people can't get their cars  
4 back to the sites. Not necessarily because the width  
5 of it, it's because of the placement of that post.  
6 For some reason they placed that post right at the  
7 critical turning point where you would turn to get  
8 into the house.

9 MR. MAY: Okay.

10 MR. IRBY: I'm sure one of their drawings on  
11 their PowerPoint may have it.

12 MR. MAY: That's all right. So, and have you  
13 had discussions with the applicant about how that  
14 service might be relocated?

15 MR. IRBY: No.

16 MR. MAY: Okay.

17 MR. IRBY: They haven't -- they --

18 MR. MAY: Well, you didn't bring it up as an  
19 issue.

20 MR. IRBY: Well, I brought up the overall  
21 issue in the sense of with respect to any utility  
22 because I'm speaking about what I have currently, but  
23 I can't speak five, 10, 15 years from now what I may  
24 have or where they may want to route something.

25 MR. MAY: Right. Well, but you know, your



1 power comes to the front of your house, your water  
2 comes to the front of your house, right?

3 MR. IRBY: It comes --

4 MR. MAY: So, what else do you got?

5 MR. IRBY: Pardon?

6 MR. MAY: Gas? You got gas that's going to  
7 come from the front of your house. I mean, the  
8 number of utilities that actually come in the back  
9 are going to be -- it's really going to be telephone  
10 and cable.

11 MR. IRBY: Correct. But it may be, you know,  
12 lighting for the alley or something like that and I  
13 don't know if it's a matter of PEPCO having to run  
14 underground wires with respect to inside the new  
15 relocated alley they have and from a private easement  
16 standpoint, if that affects it.

17 MR. MAY: Right.

18 MR. IRBY: The truth of the matter is, I'm  
19 not trying to nitpick with respect to, oh well this  
20 could happen, this could happen. What I am saying is  
21 that there is a difference between what would be  
22 assumed with a public alley, and what you can assume  
23 with respect to a private easement.

24 MR. MAY: So, I think the concern that I have  
25 is --

1 MR. IRBY: That loss is what concerns me.

2 MR. MAY: -- that all of those, I mean, all  
3 of the things that you're talking about are things  
4 that can be addressed within the development one way  
5 or another, right? I mean, there can be, you know --  
6 the thing about an easement, it's going to be a  
7 publicly recorded easement that's going to be  
8 perpetual, and so as long as the alley is there,  
9 there is going to be in effect, some public ownership  
10 of that and that's going to get -- you know, there  
11 will be descriptions on that, that define what can  
12 and can't happen there. Right.

13 MR. IRBY: Would we, as homeowners, have any  
14 say on what --

15 MR. MAY: Do I as a homeowner have any say in  
16 what happens in my alley right now?

17 MR. IRBY: Well, it's a public --

18 MR. MAY: Not really.

19 MR. IRBY: Well, it's a public alley.

20 MR. MAY: Well, I understand that, but I  
21 mean, you know, we're all members of the public so I  
22 guess I have a say over your public alley too.

23 MR. IRBY: Correct, but we're replacing the  
24 public alley with a private easement.

25 MR. MAY: Right. And what I'm saying is that

1 that happens regularly across the city. There are  
2 many, many alleys that have been modified or have  
3 become private easements, or alleys that have been  
4 created as public easements. There are streets that  
5 are created as -- they're private streets but there's  
6 a public easement over them, and that happens on a  
7 regular basis.

8           So, these are all things that can be  
9 addressed in the conversations with the applicant.  
10 They are not the reasons why the project shouldn't be  
11 approved, is what I'm getting to.

12           I mean, I think that you have a legitimate  
13 concern having to do with the height of the building  
14 and whether that's justified. But it's less about  
15 the impact that's specifically associated with your  
16 property than it is about the consistency with the  
17 Comprehensive Plan.

18           MR. IRBY: Well, it's --

19           MR. MAY: I think that's the biggest issue.

20           MR. IRBY: Well, it's actually, I'm glad that  
21 you brought up with respect to the height, the issue  
22 that I had versus the alley closing because through  
23 the closing of the alley there is additional  
24 development density that's transferring to their site  
25 because the area of the public alley is being

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1 transferred, development wise, to their project.

2 MR. MAY: Okay.

3 MR. IRBY: So it increases the density.

4 MR. MAY: So, how much did it increase as a  
5 result of the additional land area that they gained?

6 MR. IRBY: With respect to it probably --

7 MR. MAY: How much FAR do they get out of it?

8 MR. IRBY: So, that's why I wanted to confirm  
9 these figures just to make sure --

10 MR. MAY: Okay. So, we'll ask them to  
11 provide that on rebuttal and they'll either have that  
12 information now or they can provide it afterwards.

13 MR. IRBY: Okay.

14 MR. MAY: All right. I don't think -- and  
15 again, I don't think that's really the key issue  
16 either because again, that's not an uncommon  
17 occurrence.

18 The real question again for me, is the  
19 height. I mean, I think you're raising a valid  
20 question about the height and the consistency with  
21 the Comprehensive Plan. And I think that's really  
22 what it comes down to.

23 You know, if we understood more about what  
24 the impact is on the solar system, and having some  
25 quantification of that, that might also be helpful as

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1 well.

2 MR. IRBY: Is that something that I would  
3 submit to you or to --

4 MR. MAY: I mean, it's certainly something  
5 you can submit, yeah. You can submit whatever you  
6 like into the record, assuming we keep the record  
7 open to receive these additional submissions.

8 That's it.

9 CHAIRMAN HOOD: Okay. Any other questions or  
10 comments up here? Vice Chair?

11 MR. MILLER: Thank you, Mr. Chairman. Yeah,  
12 I would agree with the line of questioning and  
13 comments from Commissioner May and the Chairman to  
14 you, Mr. Irby.

15 And we will ask the applicant to provide  
16 information in response to the questions you've asked  
17 about the public access rights to the easement once  
18 it's created, since the Chairman did bring it up and  
19 I was involved with 25 years of alley closings; more  
20 alley closings. You would think that they're all  
21 closed already.

22 But almost every one of them at the council,  
23 when I worked at the council, on the council staff  
24 from 1985 through 2010, almost every one of them,  
25 like this one, has in addition to closing the alley

1 legally, creates an easement for public access  
2 purposes, which is usually a better site access  
3 configuration than what existed previously.  
4 Certainly, it works better with what's being -- the  
5 project that's being proposed, and I think we have  
6 testimony from the Executive Branch tonight, that it  
7 is a better access situation. But we'll ask the --  
8 and in almost every case the -- and there is a  
9 process for that, that it's not before this body.  
10 It's before the council where abutting neighbors and  
11 anyone in the public can -- will have an opportunity  
12 to comment and testify and make their concerns known  
13 and have their concerns addressed.

14 But part of that process, the utilities do  
15 automatically get an opportunity to comment. Even  
16 before it gets to the council, and almost in every  
17 case, they require a condition that those utilities  
18 maintain their access that they currently have, or a  
19 different access is provided for them. In every  
20 case. The utilities.

21 But we'll ask the applicant to provide not  
22 only what the public utility access and what the  
23 vehicular and pedestrian access is for the public and  
24 the adjacent property owners, but also the fire and  
25 EMS, which also comments during that alley closing

1 process, which is a separate process, which we'll  
2 preserve your -- we'll provide another opportunity  
3 for those concerns to be addressed.

4 That's must my comment. But I guess my  
5 question to you on the solar, as -- Mr. Baschuk said  
6 he made you an offer. You referred to this, I think  
7 a \$5,000 offer --

8 MR. IRBY: Yes.

9 MR. MILLER: -- for the solar.

10 MR. IRBY: Yes.

11 MR. MILLER: A one-time only.

12 MR. IRBY: Yes.

13 MR. MILLER: Was there other aspects to the  
14 offer that is on the table that was on the table at  
15 various times, that you rejected? Did you ask for  
16 other things that were rejected that you had liked to  
17 ask for, or let us know that you asked for that were  
18 rejected?

19 MR. IRBY: With respect to solar or  
20 everything?

21 MR. MILLER: Everything.

22 MR. IRBY: Oh.

23 MR. MILLER: That and -- well, on solar I was  
24 thinking, did you ask for, for example, the ability  
25 to put your solar panels on the roof of the new

1 property?

2 MR. IRBY: Yes, I did.

3 MR. MILLER: And that was rejected?

4 MR. IRBY: Correct.

5 MR. MILLER: Okay. What else did you ask for  
6 that was rejected?

7 MR. IRBY: Reduction of the height.

8 MR. MILLER: Okay.

9 MR. IRBY: And replacing a public alley with  
10 a public alley.

11 MR. MILLER: Okay.

12 MR. IRBY: And I'm trying to think. They did  
13 actually come back, I think their last offer was to  
14 offer each of the homeowners \$10,000 to drop the  
15 opposition, and we declined that offer.

16 MR. MILLER: Okay. And on the height, was  
17 there a specific number that you asked specific --

18 MR. IRBY: Something in line with the U-Line  
19 Arena, or like I said, this project, that we have  
20 something in the range of 40 to 60 feet.

21 MR. MILLER: Okay.

22 MR. IRBY: In height.

23 MR. MILLER: All right. Thank you.

24 CHAIRMAN HOOD: Okay. Any other comments,  
25 questions?

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1           MR. TURNBULL: Yeah, Mr. Chair. I just had a  
2 couple of -- I would agree with my colleagues. A lot  
3 of the issues which you talked about as far as  
4 cables, utilities, access, can all be addressed in  
5 the order. We can talk about, that can be addressed  
6 by the applicant in further enumeration of what's  
7 really happening.

8           The impact on the solar, I mean, our concern  
9 was that really only going down one story, not four  
10 stories. I mean, I understand your concern, but the  
11 line of questioning that we were really looking at  
12 was only basically eliminating one story down, which  
13 I think would not have any -- would still have the  
14 same impact on your solar, no matter what.

15           I guess my only concern, I mean, a lot of  
16 these things could have been worked out ahead of time  
17 with the applicant in his -- but we'll get to the  
18 applicant and we'll finalize some of the solutions on  
19 these things.

20           I guess my only concern is that the applicant  
21 in his testimony tonight went out of his way to talk  
22 about how he went to each of the other residences.  
23 And so when you say you represent five people, it  
24 sounds like -- I'm not questioning your ability to  
25 represent five people, but I think you may have not

1 helped as much as you could have by engaging more  
2 with the other residents, and with the applicant, and  
3 really coming up with a group-wise solution. The  
4 fact that the applicant had to go to each one  
5 separately to try to help them in whatever issues  
6 they had, I think bothers me a little bit with your  
7 representations of the five groups; of the five  
8 individuals.

9 MR. IRBY: So, I repeatedly went by, I want  
10 to say maybe every other week, and spoke with all of  
11 the homeowners with respect to what was going on with  
12 the project, the conversations that I had with Bruce  
13 after each conversation that I had with Bruce, and  
14 each one of them specifically said the height was an  
15 issue.

16 I explained that they offered \$10,000 to each  
17 person. Each person said no, that's too small of a  
18 concession considering the scale of this project  
19 behind us.

20 MR. TURNBULL: Well, it sounds like the  
21 applicant has reached an agreement with one of the  
22 individuals.

23 MR. IRBY: Well, that's -- so, I can't speak  
24 to what additional offers that Bruce has spoken with  
25 them to give. He might have offered --

1 MR. TURNBULL: Well, and I think one of the  
2 issues --

3 MR. IRBY: -- (simultaneous speech).

4 MR. TURNBULL: -- on the alley is -- one of  
5 the issues on the alley is that the alley now is  
6 going to be a lot cleaner looking. I mean, if I look  
7 at the pictures now it really looks overgrown. You  
8 really can't access the alley. If you do access it,  
9 I don't think you can get a -- if you can get a car  
10 down there, you're going to be lucky.

11 So, I think right now the access is going to  
12 be improved 100 percent. Maybe over 150 percent.  
13 And we'll talk about lighting with the applicant.  
14 We'll talk about what they're going to do to enhance  
15 the lighting. I mean, there's a certain public  
16 responsibility, but we've also had applicants on PUDs  
17 go beyond that and talk about what they're going to  
18 do to enhance the lighting at the back of their area.  
19 That also includes the public area as well.

20 So, but I think a lot of these issues that  
21 you brought up as far as the alley and what's there,  
22 can be definitely addressed by this body, dealing  
23 with the applicant.

24 So, I would --

25 MR. IRBY: With respect to the alley closure,

1 you mean?

2 MR. TURNBULL: Yes.

3 MR. IRBY: Okay.

4 MR. TURNBULL: And the operation of the  
5 alley, the maintenance of the alley, we can finalize  
6 all those aspects with the applicant, and it will be  
7 referenced in the order. So, I think some of your  
8 concerns will be definitely go away regarding the  
9 alley.

10 MR. IRBY: Oh, with regards to the paving of  
11 the alley, which is something that was on more than  
12 one occasion explained to each of the homeowners, and  
13 that they'd be able to get cars back there to an  
14 easier degree than currently, to be able to park  
15 them. And each homeowner, when I spoke with the,  
16 specifically said on multiple occasions, that that is  
17 a small concession compared to the fact that this  
18 project would be as tall as it is behind the house.

19 I can't speak to what Bruce or whomever from  
20 J Street has spoken with Ms. Darden as to what they  
21 offered. I don't know.

22 MR. TURNBULL: Well, you don't park back  
23 there now.

24 MR. IRBY: Correct, because the pole is in  
25 the way for me to be able to get back there.

1 However, I have numerous times pulled a 10-foot U-  
2 Haul truck up the narrow east/west alley to get  
3 moving stuff in and out of the house.

4 MR. TURNBULL: Okay. So, it's basically  
5 access to it --

6 MR. IRBY: The turn is the issue. The turn  
7 is the issue. It's not the width. And because that,  
8 I don't know if it's a Comcast pole or an AT&T pole,  
9 but it's right there at the turn where you would turn  
10 to get into your houses.

11 MR. TURNBULL: Well, I think as Commissioner  
12 May has said, actually parking in the alley on a  
13 permanent long -- that's a little bit more  
14 complicated. That's --

15 MR. IRBY: Oh, no one is parking in the alley  
16 long-term. I'm saying, like I've pulled a U-Haul  
17 back there to load it --

18 MR. TURNBULL: Right.

19 MR. IRBY: -- and take it out.

20 MR. TURNBULL: Okay. All right.

21 MR. IRBY: I'm saying, with respect to  
22 parking a car off-street via that alley, into our  
23 back yards, we would be able to get there were that  
24 utility pole not there. That's the main thing.

25 MR. TURNBULL: Okay.

1           MR. IRBY: Because the property that -- the  
2 public alley that's going to remain that's  
3 north/south is actually, I want to say 12-foot wide  
4 currently. So, the other one is nine feet wide, but  
5 that one is 12 feet. Getting into that one is not an  
6 issue. It's just being able to turn, the pole is in  
7 your way.

8           MR. TURNBULL: Okay. Thank you. Mr. Chair,  
9 those are my comments.

10          CHAIRMAN HOOD: Any other questions or  
11 comments up here? Okay.

12          Does the applicant have any cross?

13          MS. BROWN: No cross.

14          CHAIRMAN HOOD: Okay. All right. We do have  
15 an ANC letter, which says support. It has some  
16 conditions. Have you seen that letter, Ms. Brown?

17          MS. BROWN: Yes, it's been in the record for  
18 some time and we have agreed to the conditions. We  
19 worked that out with the ANC.

20          CHAIRMAN HOOD: Okay. Thank you. So noted.  
21 Do we have any persons -- well, I think the Vice  
22 Chair already called for persons in opposition,  
23 right? So, we don't need to do that. Okay.

24          So, let's get to rebuttal and closing. You  
25 can just hold your seat. There may be some

1 questions. Okay, Ms. Brown, how much time you think  
2 you need for rebuttal?

3 MS. BROWN: Let me consult quickly and get  
4 you a number.

5 CHAIRMAN HOOD: Commissioners, I want you all  
6 to know that we do have to come back tomorrow night.

7 MS. BROWN: I don't think we need more than  
8 five minutes, Mr. Chairman.

9 CHAIRMAN HOOD: Okay. Because, I'm trying to  
10 figure out who scheduled this for tonight. But  
11 anyway, okay. Five minutes. That's fine.

12 MS. BROWN: First, with respect to the issues  
13 that Mr. Irby raised regarding the alley closing and  
14 access, we agree that that can completely be handled  
15 through the alley closing process. I did some quick  
16 back of the envelop calculations on the area of the  
17 alley to be closed. It's roughly, I believe, 527  
18 square feet, the area, which would translate to an  
19 additional roughly 3,000 square feet of square  
20 footage for the building.

21 So, that's point number one about the alley  
22 closing. And I will refer -- I'll turn it over to  
23 Mr. Baschuk if he has some comments that he wanted to  
24 make on any other aspects of the project.

25 MR. BASCHUK: No, the only question I would

1 have is, I've presented what it is that I've been  
2 discussing with the neighbors. If you want me to  
3 continue to elaborate that I'm happy to but it's in  
4 opposition in many respects with what I've heard from  
5 Mr. Irby, and I'd just leave it there. You know,  
6 you've got two different perspectives and I'm doing  
7 what I can to work things out.

8           So, I had still not gotten a response back  
9 on, if you don't like that number, what's this  
10 number. And that's what I need. I'm trying to get  
11 home.

12           MS. BROWN: So, in conclusion what we see are  
13 the issues for the Commission that we've heard  
14 tonight, obviously are still resolving the height  
15 issue under the Comprehensive Plan and transitioning  
16 to the smaller scale residential areas.

17           I think that we have explained it, but it  
18 sounds like we need to explain it more and come up --  
19 look to the Comprehensive Plan for additional  
20 justification, and I think there is the trade-off  
21 that we need to discuss further or resolve about you  
22 know, if there -- is the height appropriate if there  
23 are concessions on the Inclusionary Zoning piece of  
24 it. And I think that that's something that we as the  
25 applicant need to go back and make sure that those



1 numbers work on our side because it will -- close to  
2 the margin as it is, in trying to make this project  
3 work. And we can come back with some additional  
4 information on the signage and the retaining wall  
5 area and the fence. I believe those are the major  
6 issues that are outstanding, still, from what I've  
7 heard this evening.

8 CHAIRMAN HOOD: We'll go down the issues.  
9 Let's see if anybody has any cross. I mean, any  
10 questions on rebuttal.

11 MR. MAY: Yeah, I just had a question. I  
12 mean, Mr. Irby testified that he received an offer of  
13 a one-time payment of \$5,000 to offset the loss on  
14 solar.

15 MR. BASCHUK: Correct.

16 MR. MAY: Can you tell me how that number  
17 came about?

18 MR. BASCHUK: Sure. So, on an annual basis  
19 he has told us he's saving X amount. And I don't  
20 have the number with me. I apologize. But based on  
21 that and the loss of what he said were potential  
22 credits, we figured that \$5,000, our calculation,  
23 would take care of roughly 10 years of lost revenue,  
24 so to speak, from -- or increased expenses from  
25 having to pay for solar that -- pay for energy that

1 he had from solar.

2 But this is not --

3 MR. MAY: Are you willing to share that  
4 calculation?

5 MR. BASCHUK: Happy to.

6 MR. MAY: Okay.

7 MR. BASCHUK: Yeah.

8 MR. MAY: Mr. Irby may want to share his own  
9 calculation to what he thinks it's worth, but --

10 MR. BASCHUK: Sure.

11 MR. MAY: I don't know whether he has all the  
12 tools that he needs to do it based on the loss of  
13 solar exposure. But --

14 CHAIRMAN HOOD: Let me say this, Mr. Irby  
15 looks like he's going to be around at least another  
16 40, so I think that needs to be considered in the  
17 equation.

18 MR. BASCHUK: Needs -- I'm sorry?

19 CHAIRMAN HOOD: Looks like he's going to be  
20 around, now I can't predict how long anybody is going  
21 to live.

22 MR. BASCHUK: Oh, be around for a while?

23 CHAIRMAN HOOD: Yeah.

24 MR. BASCHUK: Yes.

25 CHAIRMAN HOOD: So, you know, if 10 years --

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1 come on, man. I hope to still be here in 10 years.  
2 So, you know, we might want to relook at that because  
3 I can tell you, solar is, people love it, they're  
4 saving money, and it's a big deal.

5 MR. BASCHUK: Understood.

6 CHAIRMAN HOOD: I'm sorry, Commissioner May  
7 did you finish?

8 MR. MAY: No, I'm done.

9 CHAIRMAN HOOD: Okay. Mr. Turnbull?

10 MR. TURNBULL: I guess the only thing I would  
11 like to see, and I was looking through some of the  
12 civil drawings. I mean, when we talk about the alley  
13 and the easement going back, lighting -- I'm not sure  
14 what lighting is in the alley now, if any. What you  
15 plan to do for your own access on that easement and  
16 for -- are you going to be supplementing it? Is the  
17 Department of Transportation going to be putting  
18 lighting in the alley? Or who is going to be --

19 MR. BASCHUK: We don't know what anybody else  
20 would do, but we would expect to light the interior  
21 of our garage and then have some exterior lighting  
22 that is triggered as either an individual or a car  
23 comes through so that the alley is lit at night, but  
24 it does not project into the bedrooms or rooms of the  
25 neighbors. That --

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1 MR. TURNBULL: So, that would be on that  
2 easement going back to the alley too, then?

3 MR. BASCHUK: No, that would be on our  
4 building. The lighting.

5 MR. TURNBULL: That's what I'm saying. It  
6 would be on your building but would that be on a  
7 timer or would that be lit more --

8 MR. BASCHUK: I think it would be motion  
9 sensor.

10 MR. TURNBULL: Motion sensor. Okay.

11 MR. BASCHUK: That's what we're thinking. I  
12 mean, we're not terribly far down the road, but --

13 MR. TURNBULL: And the cable, the whole  
14 infrastructure about what's there now. I mean, I  
15 guess --

16 MR. BASCHUK: We're going through an alley  
17 closing and each --

18 MR. TURNBULL: Each thing is going to be  
19 addressed.

20 MR. BASCHUK: -- one of the utilities has to  
21 address what it is that they want, and so we will be  
22 responding to what it is they're telling us that they  
23 want to do to, say replace that one phone pole that  
24 does carry --

25 MR. TURNBULL: Right.

1           MR. BASCHUK:  -- either electricity or -- we  
2 don't know yet.

3           MR. TURNBULL:  Right.

4           MR. BASCHUK:  Whether they want it under  
5 ground, above ground, where.

6           MR. TURNBULL:  So, would that be something  
7 they're going to be doing, or something you would be  
8 working with them to --

9           MR. BASCHUK:  We have to work with them.

10          MR. TURNBULL:  Okay.

11          MS. BROWN:  Mr. Turnbull, what happens is  
12 that the surveyor's office sends out notices to all  
13 the agencies and utility companies and they send back  
14 letters, either no objection or an objection unless  
15 certain conditions are met.  Typically, those  
16 conditions are for lighting PEPCO.  We have a pole  
17 out in the back of the alley.  We have an objection,  
18 unless you agree to relocate it to this location at  
19 your sole expense, and then the applicant sends back  
20 a letter, we agree to those conditions, and then they  
21 lift the objection.

22          MR. TURNBULL:  Yeah, my main reason for  
23 asking the question was for Mr. Irby's benefit so  
24 that he understands fully the process that's  
25 involved.  But if you could show at least a diagram

1 of the lighting that you plan to do on your building  
2 for that area. As I say, I didn't see one when I  
3 looked through the plans, but if you could just  
4 illustrate what you're looking at doing, that would  
5 be fine.

6 CHAIRMAN HOOD: Any other comments? Okay.  
7 Mr. Irby, let me just ask, the alley issue, did you  
8 get some help from up here?

9 MR. IRBY: A little bit, but I'm still kind  
10 of in the dark of understanding if this were a --  
11 they're replacing a public alley with a public alley,  
12 I'm sure there would be a public, or at least I'd  
13 receive notice with respect to what the plans are,  
14 with respect to all the utilities that are back  
15 there, with respect to a private easement.

16 CHAIRMAN HOOD: From what I heard up here was  
17 very helpful to me. But I'm not the one who's asking  
18 the questions, so I'll leave that alone.

19 MR. IRBY: It did illuminate bits of the  
20 process, but my main thing is coming from a  
21 standpoint of there's an understanding of what  
22 happens when there's a public alley and a public  
23 alley. With respect to a public alley and private  
24 easement, there's all these unknowns. And the last  
25 thing I'd want myself or any of the 3rd Street

1 Neighbors to do is say, okay, we're cool with it, and  
2 then something happens down the line where oh, we  
3 didn't even think about that.

4 CHAIRMAN HOOD: But you know what's the most  
5 unknown for me, and I know they're doing a PUD in  
6 this case, but what the most unknown, what if they  
7 did a matter-of-right. That would be very unknown.

8 MR. IRBY: As far as?

9 CHAIRMAN HOOD: As far as any of it because  
10 we wouldn't be here.

11 MR. IRBY: Oh, correct. But it would only be  
12 40 feet.

13 CHAIRMAN HOOD: Yeah, but I'm just saying --

14 MR. IRBY: And they wouldn't be able to close  
15 the alley.

16 CHAIRMAN HOOD: And it could be -- what is  
17 the underlying zone?

18 MR. IRBY: C-M-1.

19 CHAIRMAN HOOD: C-M-1?

20 MR. IRBY: Yes. So, they wouldn't have  
21 residential.

22 CHAIRMAN HOOD: Yeah, and you don't want the  
23 C-M-1s did in my neighborhood, but that's a whole  
24 other argument trust me. That's a whole other  
25 argument.

1           That's actually how I ended up here, for the  
2 C-M-ls that are in my neighborhood. Okay. I'm not  
3 going to get into trash transfer stations. I'm not  
4 even going to get into that tonight because that gets  
5 me going. So, I'm not going to go there.

6           Let's see where we are. Any other comments  
7 up here? Okay.

8           Ms. Schellin, did we -- oh, did I do cross on  
9 rebuttal for you?

10          MS. SCHELLIN: No.

11          CHAIRMAN HOOD: Okay. Mr. Irby, do you have  
12 any cross on any rebuttal that you heard? I mean, if  
13 you don't, don't worry about it.

14          MR. IRBY: I'm okay.

15          CHAIRMAN HOOD: Okay. All right. Ms. Brown,  
16 you have any closing or you already close?

17          MS. BROWN: I think we can move on to what  
18 the next steps are. Thank you.

19          CHAIRMAN HOOD: Okay. Okay. Let's see if  
20 there's anything outstanding. Ms. Schellin, I think  
21 you heard the Commission, Ms. Brown, loud and clear,  
22 some things that we've asked for. Do we need to go  
23 over that list, or you all already have it together?

24          MS. SCHELLIN: Do you need us to go over the  
25 list, or are you --



1 MS. BROWN: I think it would be helpful just  
2 to make sure that we are all on the same page.

3 MS. SCHELLIN: Okay. I don't have great  
4 notes, but I'll try. Just looking back, I don't know  
5 -- I'll start with what we had from the 21st to make  
6 sure that everything was taken care of going back  
7 then. Deeper affordability, the mix of the AMI,  
8 Commissioner Turnbull asked you guys, take a look at  
9 the van spaces. Commissioner May, and I think he  
10 reiterated the same thing tonight, that he was  
11 concerned about the height, and that there should be  
12 justification of the building height and the medium  
13 density housing area, or for the medium density  
14 housing.

15 He wanted views of the building from  
16 different directions. I don't know if he got  
17 everything he wanted.

18 MR. MAY: You know, I think most of the stuff  
19 that was mentioned at the original hearing was  
20 covered on the subsequent submission. I don't recall  
21 anything being missing.

22 MS. SCHELLIN: Commissioner Turnbull, did you  
23 get the alley view that you wanted?

24 MR. TURNBULL: Yes.

25 MS. SCHELLIN: Okay. And, so tonight

1 Commissioner May, you made a statement that you were  
2 still concerned about the height, the IZ, and this  
3 being a condo building and the unknown of what was  
4 going to be built next door.

5 MR. MAY: Yeah.

6 MS. SCHELLIN: Okay. Commissioner Shapiro  
7 wanted you guys to come back with a solution of the  
8 problem of the condo building, that it would create  
9 that canyon effect. Okay. They're shaking their  
10 head yes.

11 Turnbull agrees with Commissioner May  
12 regarding the 90-foot height, if you guys could  
13 provide more information to convince them on that.

14 Commissioner Turnbull asked that you provide  
15 the maximum signage size.

16 Commissioner Miller asked if you could give  
17 more towards the IZ, he would be fine with going with  
18 the additional height.

19 Commissioner Hood asked what the public  
20 access would be once the alley is closed.

21 Commissioner May asked that you share the  
22 calculations on how you came up with the amount that  
23 was offered to Mr. Irby in return -- regarding the  
24 solar panels.

25 Commissioner Turnbull asked if you could

1 provide information regarding the lighting that was  
2 going to be provided in the alley. Or did you get  
3 your answer? Okay.

4 And then Commission May asked Mr. Irby to  
5 provide information on his solar panels.

6 MR. MAY: If he can, that's fine.

7 MS. SCHELLIN: If he can. And let me see  
8 what I have on page 2. I think, did we -- you  
9 provided the full resume for Ms. Nelson, right?  
10 Okay.

11 MS. BROWN: Yes.

12 MS. SCHELLIN: Okay. So, we can delete that  
13 off. Okay, that's all I have.

14 MR. TURNBULL: And I don't need anything on  
15 the van. That was from before.

16 MS. SCHELLIN: Right. I took that off.

17 CHAIRMAN HOOD: Ms. Schellin, can you  
18 reiterate my question, because I think it's been  
19 asked.

20 MS. SCHELLIN: About the public access to the  
21 alley, what will it be once the alley is closed?  
22 What will the public access be? Did you get an  
23 answer to that?

24 CHAIRMAN HOOD: Was that answered? I think  
25 it was answered.

1 MR. BASCHUK: I answered that, Commissioner  
2 Hood.

3 MS. SCHELLIN: Okay. So, you did answer  
4 that.

5 CHAIRMAN HOOD: I knew somebody answered  
6 that. Okay, good. And I think that's satisfactory  
7 for me so --

8 MS. SCHELLIN: Okay.

9 CHAIRMAN HOOD: -- you can take that off the  
10 list.

11 MS. SCHELLIN: So, that's it. So, how much  
12 time do you guys need first?

13 CHAIRMAN HOOD: Well, let me just say this,  
14 though. Anything you can do to help clarify Mr.  
15 Irby's issues about the alley, and as the author of a  
16 lot of the alley closings has mentioned, it will be  
17 dealt with in another forum. But anything you can do  
18 to help them along to understand what's going on  
19 would be great. If not, that other forum is probably  
20 going to be better served for you. But we'll see  
21 what we can do here. Okay.

22 MS. SCHELLIN: Okay. So, how much time do  
23 you guys need?

24 [Pause.]

25 MS. BROWN: Sorry for the length of time that

1 took. We could get this to you by Friday, the 13th.

2 MS. SCHELLIN: Okay. So, Friday the 13th.

3 MR. BASCHUK: That's not a good day.

4 UNIDENTIFIED SPEAKER: Thursday, the 12th?

5 MS. BROWN: We could do Thursday the 12th.

6 MS. SCHELLIN: Okay. So, all of those  
7 things, then, you want to do the 12th, then. Okay.  
8 Thursday the 12th. Mr. Irby, will you be able to get  
9 your solar information in by the 12th? Okay. So --

10 MR. IRBY: Yes.

11 MS. SCHELLIN: -- all the submissions would  
12 be due by 3:00 p.m. on Thursday, January 12th. And  
13 then responses from the parties to those submissions,  
14 so you guys would be able to respond to his  
15 information he provides, he gets to respond to your  
16 information as well as the ANC gets to respond to all  
17 of the information submitted by 3:00 p.m. on the  
18 19th. And need draft findings of facts, conclusions  
19 of law by the 19th, 3:00 p.m., and then we can put  
20 this on the agenda for the 30th of January for  
21 consideration of proposed action.

22 MS. BROWN: I'm going to -- if I can perhaps  
23 ask for an adjustment in the dates, and I need to  
24 consult --

25 MS. SCHELLIN: Okay.

1 MS. BROWN: -- quickly. I'm going to be out  
2 of town, that's why I just want to make sure what we  
3 can do.

4 [Pause.]

5 MS. BROWN: All right. We'll stay on that  
6 schedule.

7 MS. SCHELLIN: Okay. That's it, Chairman  
8 Hood.

9 CHAIRMAN HOOD: All right. We all on the  
10 same page?

11 MS. SCHELLIN: Yes.

12 CHAIRMAN HOOD: Okay. So, with that I want  
13 to thank everyone for their participation tonight,  
14 and this hearing is adjourned.

15 [Hearing adjourned at 9:33 p.m.]

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